

NEITHER PALACES NOR PRISONS: THE CONSTITUTION OF ORDER AMONG THE NUER

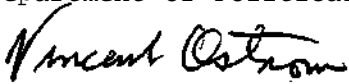
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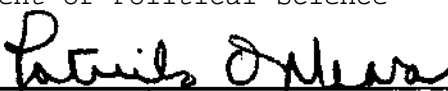
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NEITHER PALACES NOR PRISONS:  
THE CONSTITUTION OF ORDER AMONG THE NUER

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ABSTRACT

This dissertation is an effort to explain the constitution of order among the Nuer as an acephalous society. Theoretical formulations best represented by Alexis de Tocqueville's *Democracy In America* have demonstrated how principles of self-governance can be used to constitute societies that do not rely upon a single headship.

In the process of unravelling the context in which regulatory ideas marshall activities and yield an orderly way of life among the Nuer, the dissertation first describes the environmental conditions that provide the setting and the structure of opportunities in which the Nuer sustain themselves. Second, the study explores the Nuer conceptualization of their universe, where the conception of God (*kuoth*) as the source of creation is fundamental to the understanding of the institutional arrangements among the Nuer. On the basis of the belief in God and the concept of law, the Nuer develop their system of order which recognizes multiple agents with limited jurisdiction that can be called upon to resolve conflicts and take leadership when the need arises. Political processes involve diverse intermediaries whose task is to resolve conflicts or breaches of covenant where someone has offended against what is presumed to be right.

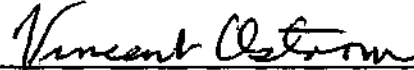
Separate chapters are concerned with the constitution of family and kin relationships, village life, cattle camps, the organization of defense and security, processes of conflict and conflict resolution, and the challenges posed by British imperialism and the constitutional commitments of the Government of Sudan to Islam and the Arabs' way of life. These challenges pose difficulties for a people who rely upon a covenantal way of life. How

these may be resolved eventually turns upon whether autocephalous societies or acephalous societies are at greater risk.

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## CHAPTER ONE

### ACEPHALOUS SOCIETIES AND PROBLEMS OF ORDER

#### Introduction to the Problem

Not so with the Nuer. . . . Their institutions are invisible. Every now and then a regulatory idea surfaces and marshals activity, then sinks out of sight, while another becomes visible in its effect upon movements of cattle and people. If they can be said to have anything corresponding to political institutions, these have absolutely no physical form, no architecture of palaces or prisons, no embodiment in piles of stones. . . (Douglas 1980: 61-62).

There is a problem of how people achieve order in human societies. References in anthropological literature acknowledge two types of order. One is the tradition of state-governed societies; the other is that of stateless societies. These are sometimes referred to as autocephalous and acephalous societies, meaning with heads and headless societies. The first type, drawing upon a theory of sovereignty, is something that we understand relatively well based on Thomas Hobbes's classical analysis. Unity of law, presumably, can be achieved through a unity of power where one man or one body of men gives coherence to the structure of law in a society.

A major paradox arises, however, in such a system. The single head is the source of law, above the law and cannot be held accountable to law by fellow human beings. Such systems have considerable difficulty coping with despotism on the part of their rulers. Acephalous societies, on the other hand, are less well understood, but do represent systems where despotism is less likely to arise. This is why it is important to strive for a better understanding of the way that acephalous societies are organized and the basic difficulties that may arise in the constitution of order in acephalous societies.

Acephalous societies tend to be deeply engrained in tradition. They work well so long as the central organizing principles of traditional ways can be maintained. Members of these societies are required to develop an awareness of patterns of order so that they can learn how to modify their organizational structures in light of the

changing conditions of the modern world. Problems may arise in accommodating to change because tradition may be destroyed by change. A puzzle to be solved arises regarding how acephalous societies work and how acephalous societies are or are not able to accommodate to change.

Stateless societies have presumably existed in Western Europe and the United States. In a well-known article by J. P. Nettl (1968), "The State as a Conceptual Variable," it is argued that Britain is a stateless society. Vincent Ostrom argues that the United States prior to World War II could be conceived as a stateless society. His argument is stated, in part, in The Political Theory of a Compound Republic (1987) and in The Meaning of American Federalism (1991). We can also see the contrast between Tocqueville's Democracy in America and his The Old Regime and the French Revolution. The first pertained to a self-governing society; the second to a society governed from the center. Ostrom also suggests that Switzerland is a stateless society. For international relations, the World Community nominally treats all of these governance systems as states.

The purpose of this study is to elaborate how the Nuer maintain order and cope with violations of rules without a head, a single source of ultimate authority. Although the Nuer institutions have sustained themselves over a long time, the temptation to ignore their viability has been understandably great. Colonial and post-colonial governments have not understood or respected acephalous social orders. Much of the policy experimentation for the last ninety years has treated these societies as though they were irrelevant and "backward".<sup>1</sup> The Nuer are considered by some observers as lacking institutions. Their social arrangements might instead, be viewed as forms of social capital which need to be understood in order to appreciate how problems of further development can be addressed (Coleman 1989).

Colonial powers sought to use a system of indirect rule and govern through local chiefs.<sup>2</sup> It is reasonable to infer then that other



governance structures might have met the requirements of facilitating economic, social, and political development without having to fit into an imperial system of control if there were an appropriate understanding of how people like the Nuer governed themselves. Even the colonial powers eventually understood that their own lack of knowledge was at the core of some of the problems they faced in their relationship to these kinds of societies. For example, the civil secretary of the British Colonial Office in urging the appointment of Edward Evans-Pritchard to study institutional life among the Nuer, said: "There can be no doubt that our troubles with the Nuer have been intensified by our lack of knowledge of the social structure of this people and the relative status of the various kinds of chiefs and Kaiurs" (MacMichael 1929).<sup>3</sup> This lack of knowledge has repeatedly been the source of conflict and misunderstanding (Sanderson and Sanderson 1984: 17).

All social orders are embedded in the shared understandings of a people and not just in buildings and visible structures. Understanding the foundations of an acephalous political order is a particularly important problem in political science. The ideas to which a people have recourse, the language they use, and the way they marshal activities are the fundamental foundation upon which their continuing existence and development is built. How "regulatory idea[s] surface and marshal activities," as Mary Douglas asserts (see head note), remains to be determined. A policy is always conceptualized in relation to some "regulatory idea". The marshalling of activity consonant with such an idea is collective action. This is why Amilcar Cabral urged that it was necessary to go back to the source in building a movement for national liberation in Africa when he said:

Culture is simultaneously the fruit of a people's history and a determinant of history, by the positive or negative influence which it exerts on the evolution of relationships between man and his environment, among men or groups of men within a society, as well as among different societies. Ignorance of this fact may explain the failure of several attempts at foreign domination - as well as the failure of

some international liberation movements (African Information Service 1973: 41).

For constructive patterns of development to occur in the Southern Sudan, it is necessary to go back to the source and assess how regulatory ideas are generated and what processes are used in marshaling activities consonant with those ideas.

### Regulatory Ideas Marshalling Activity

A tradition in much of political science is to look for a single center of supreme authority and unravel the structure of relationships that reach from the center to the aggregate structures of the larger society. A theory of sovereignty is then used as the basic organizing principle. Concepts of state, bureaucracy, and markets in societies are relied upon. In a sense one looks for capitols, palaces, parliament buildings, courthouses, and prisons. Such a research procedure cannot be expected to work very well in an acephalous society. How then can one proceed?

To understand how the Nuer people govern themselves it is important to see how regulatory ideas marshal activities to draw upon Mary Douglas's statement of the problem. How then do we proceed to unravel the context in which regulatory ideas emerge and get linked to and marshal activities. Activities themselves usually imply efforts to accomplish something—to achieve certain results. Activities thus use ideas in a context where present means are always being used to achieve some future apparent good.<sup>4</sup> There are circumstances where people develop and use regulatory ideas to marshal activities and in so doing constitute a system of order that becomes a way of life. This process of unravelling the context in which regulatory ideas marshal activities and how activities yield an orderly way of life among the Nuer people requires an extended analysis that is unfolded in this dissertation. The following features require elaboration.

### Features of Environment

We need to come to terms with the environmental conditions that provide the setting and the structure of opportunities in which the Nuer people sustain themselves, live their lives and communicate with and work with one another. Nuerland is subject to extreme but highly regular fluctuations of climate. Rainfall varies in intensity and duration in the area. Changes of the seasons are largely determined by the direction of the wind. While the north wind blows over the region, a dry season lasts for three to five months. Although the humidity is quite high, the expected rainfall at this time of the year is often less than 1.2 inches. The rainy season lasts for five to eight months. August is the wettest month. The rainy season is the coolest period of the year. Average daily temperature, however, varies between 68 degrees to 81 degrees fahrenheit.

Adaptation to the environment, thus, is a fundamental element entering into the way that the Nuer people govern their lives, the mediating factor being the cooperation enjoined by interests in cattle and livelihood in a variable environment. Nuer territorial organization is adjusted to fit the needs of living under both migratory and sedentary condition. These limitations and opportunities need to be taken into consideration in attempting to understand patterns of an acephalous ordering.

### Ordering Principles

The development and use of a common language among the Nuer reflect opportunities to communicate with one another in the various exigencies that bring people together and assign meaning to the world in which they live. Regulative ideas to be regulatory in marshalling activities depend, then, upon a shared community of understanding. There is then some more general system of expository ideas that shapes the intellectual world in which people live. We need to consider the realm

of ideas that people use to understand the world in which they live, think of themselves, and how they relate to one another and to different peoples with which they may have contact.

Nuer think of themselves as equals in a sense that they are not a caste society. However, generational and sexual differences are acknowledged. This presumption of equality is based on their religious beliefs that all Nuer people (nei dial) are derived from a common parentage. In Nuer tradition human beings are qaat kuoth, children of God. God created Lie who was the father of Holnyang. Holnyang brought forth his two sons: Ghaak and Gee. But these sons have different mothers. This implies division of the compound family of Holnyang into two segments. The principle of segmentation that has been a constant feature of Nuer society is perceived as grounded on this division of Holnyang's family. All Nuer clans claim to have come from Ghaak or Gee as their ancestors.<sup>5</sup>

Children of common parentage are presumed to think in much the same way even though specific values in particular times and places may differ. It is this attribute that enables individuals to understand one another as equals. This condition of equality is of great importance in the emergence of acephalous ordering. The regulatory ideas that make a virtue of freedom of action are derivative from the concept of equality. Individual differences exist, however, in endowments, skills and resources, but these differences are compatible with presumptions of equality that Nuer have used to constitute their society as a proper way of ordering their relationships with one another.

Equality is related to the Nuer concept of accountability. As people decide to hold others responsible for their actions, as they allow the same principle to extend universally, they create a particular kind of moral environment for each other. They expect each other to be held equally accountable. Their commitment to a system of reciprocal accountability gives them incentives to work out the fuller exegesis of

their system of regulatory principles. In this situation the Nuer are fitted to reason for fair solutions to problems without appealing to a common head. This has provided the opportunities for open discussions (and at times bitter arguments) under the shade of a tree in an effort to understanding one another and to generate ideas and regulatory mechanisms. Nuer appreciate the value of open discussions that permit them to arrive at a better understanding about who they are and how they can live productively together. People want to know what is the nature of the order in the universe to better fashion their understanding of themselves and the world in which they live.

In an acephalous order the processes of governance are built by processes of conflict and conflict resolution and made much clearer by focusing upon processes of conflict and conflict resolution. Contestations or argumentations are common at various levels of Nuer society. To outsiders unfamiliar with Nuer political culture, such argumentations might give the appearance of a lack of law and order. Maintenance of an open decision process is, however, the very essence of the processes of governance in Nuer villages and cattle camps. Every member of the village or cattle camp including women can air their views. The underlying idea of this openness is the need to understand what they are doing in these contexts. Deliberation is a process of learning from what others have to say to elucidate the nature of conflicts and how Nuer might order their relationships with one another and address the problems they have in common. This is a way of building an understanding and a way to fulfill the will of their Creator.

Although Nuer practice a common language, a single religious heritage, a shared past, the glue of nationhood for them is to be found in an individual's freedom of action. Freedom of action and reciprocal accountability are the essential ingredients for the working order of an acephalous society. Nuer believe God has given man's life and a capacity to think and act in ways that are consistent with own free

choice and respect for the same freedom of choice by others. When individuals choose to combine to form a village or cattle camp, they become kin who use their freedom of action to resolve their differences. Some individuals are "ordained" to exercise priestly and mediating roles that carry unequal authority.<sup>6</sup> Those positions are exercised, however, as a public trust accountable to other members with whom they share the bond of mutual trust in covenantal relationships. The prerogatives of positions are not to be considered as instruments of power to exercise dominance over others. They are means to resolve conflicts among members of an acephalous society.

#### Characteristics of a Governance Structure

Beyond basic ordering principles that apply to the constitution of Nuer society, we would expect the architectural patterns of Nuer institutional arrangements to specify rules and relationships that apply to particular aspects of life in Nuer society. Each of these may in itself have the characteristic features of a governance structure. These have to do with marriage, kin and transgenerational continuities, governance of village life, cattle camps, and security, conflict and conflict resolutions.

Marriage facilitates the establishment of family for the purposes of human reproduction, food production, and the establishment of the security necessary to maintain a family life. The family may be regarded as the basic unit of kinship structures. This means that the relationships of kinship ties or affinity, of any person are all connections that are traced through his parents, his siblings, his spouse, or his children (Radcliff-Brown 1951). These connections presents a complex set of norms, of usages and patterns of behavior between kindred. Kin relations among the Nuer are defined in terms of rights and duties. Where there is a duty there is a rule that a person should behave in a certain way. A duty may be positive, prescribing

actions to be performed, or negatively forbidding certain acts. The duties of A to B are frequently considered in terms of the 'right' of B. Reference to duties or rights are different ways of referring to a social relation and the rules of behavior connected therewith (Radcliff-Brown 1951). Thus, the principle of social structure is one by which the solidarity and unity of the family (nuclear or polygynous) is used to order and define a more extended system of relationships. A relationship to a particular person becomes a relation to that person's sibling group as a social unit.

Within the family there are division of generations. The parents form one generation, the children another. As a result, all the kin of a given person fall into generations in relation to him. General principles can be discovered in his different behavior towards persons of different generations. The normal relation between parents and children is described by Radcliff-Brown as one of superordination and subordination. This is a result of the fact that children are dependent upon their parents at a young age. Parents provide and care for them and exercise control and authority over them. Any relationship of subordination, if it is to work, requires that the person in the subordinate position should maintain an attitude of respect towards the other. The rule that children should not only love but should obey their parents is general in human societies. There is, therefore, a relation of social inequality between proximate (preceding or following) generations, and this is commonly generalized so that a person is subordinate and owes respect to his relatives of the first ascending generation—that of his parents. The relation between the two generations is usually generalized to extend beyond the range of kinship.<sup>7</sup>

The relation between persons of two proximate generations is important for the constitution of order among the Nuer people. In an acephalous society, an essential feature in the orderly social life is

some considerable measure of conformity to establish usage or accepted patterns of conduct. Conformity can only be maintained if the rules have some measure of authority behind them. The continuity of the social order depends upon the passing on of tradition, of knowledge and skill, of manners and morals, religion and taste, from one generation to the next. Among the Nuer the largest share in the control and education of the young falls to the parents and other relatives of the parent's generation. It is their authority that is or ought to be effective. To understand how regulative ideas marshal activities and help in constituting an acephalous way of life, it is, therefore, necessary to examine family institutions as a key aspect of the governance of relationships among individuals in the society. It is through marriage that system of family relationships are formed, generational continuities are maintained, and cross-cutting alliances are developed.

Although ties of kinship and marriage link individuals in the society, kin or lineage are not corporate, localized communities. Nuer are free to reside anywhere they please. This is made possible by the presumption of equality with reference to rules. Individuals are not penalized for living outside their place of birth and continue to maintain their genealogical ties. The effective units are villages, cattle camps, and their local communities. Village life is ordered by shared commitments to regulative ideas marshalling activities. Lineage relationships play only a little reality as a residential unit. Though a village may be closely identified with specific lineage, and there are members of the lineage living in that village, the majority of the village members usually are not of the same lineage. Like other social institutions among the Nuer the significance of lineage relationships emerges at specific occasions such as sacrifices, distribution of bridewealth cattle, and mortuary ceremonies. These are the occasions for making, re-establishing, or reinforcing covenants and covenantal commitments.



Villages are constituted to promote the security of property and the economic welfare of their members. In constituting a village individuals are able to provide themselves with goods and services that would otherwise be difficult, if not impossible, for one family to secure on its own. Common interests in the village require that individuals take into account the interests of others when considering their own interest. Taking into account the interests of others presumes that the village is held together and its affairs can be resolved in accordance with regulatory ideas which marshal activities backed up by sets of institutions that are well understood.

Cattle camps are units of governance outside villages. They are necessary because water and grazing are unavailable near most villages in the dry seasons. Villagers and their animals move to cattle camp sites along rivers and streams where water and grazing are both available. Persons who camp together are members of different genealogical groups and are not members of a common village. Each year, a family decides anew where to camp. In the cattle camps people agree to govern themselves and such agreements based on the presumption of equality are enforceable by the elders of the camps to resolve conflict in the use of common pool resources.

The common pool resources: grazing lands, water, and fishing reserves are group property. Members of lineages have rights to use these resources. The sharing of the use of common pool resources poses the need for organization and regulating patterns of use. The grass in the grazing fields are subject to depletion or subtractability. At certain thresholds of supply, the use of grass by one person's cattle subtracts in part from its use or enjoyment by others.<sup>8</sup> In other words, if the leaders of a segment of a region or the lineage permit overpopulation of the camp to use the resources associated with that cattle camp, the grazing lands, for example, will be overgrazed beyond the capacity it can carry at any one dry season. There must be

mechanisms to regulate the use of the resources to maintain a reasonable living standards for the users. Ordering the uses of these goods and services requires coordination of the demand and supply of goods and services. This poses a problem in an acephalous society where there is no single man to bring about coherence in the camp. It is, therefore, necessary to understand how cattle camps are organized and governed.

We also have the problem of how do regulatory ideas that marshal activities have to do with defending a society against the aggression from outsiders. This may require coordinated efforts for the society as a whole, that is, some central authorities of some sort may be needed. Other strategies may be possible. The Nuer have learned to defend themselves by using militias. Militias are the feasible ways in a society, where the hierarchy that is used by many societies to organize defense, is incompatible with acephalous ordering. Examination of how segmentary militias are organized against external aggression will elucidate the way regulative ideas marshalling activities have helped in the coordination of defense and security.

However, there are general conflicts of various types that affect day to day relations with one another. Conflicts occur in all human societies and people have to resolve them. Conflict is not bad. It is through conflict that people can maintain solidarity among segments and build processes of conflict resolution. Adults in conflict situations are considered equals who use their freedom to seek resolutions that are consistent with the requirements of harmonious relationships among persons in the society. The way of handling conflict need to be understood among the Nuer. This is important to learn how institutions of community are established so that the processes of negotiations are organized to facilitate the processing of disputes in the effort to achieve resolution.

Because the essential time frame of this dissertation is set in the latter half of the nineteenth century. It is important to consider: (1)

the possibility of radical transitions associated with British imperialism/ (2) the post-British political order established with reference to the Government of Sudan, and (3) what this may imply for the future. Have the rudiments of the acephalous order been so destroyed that the biologically related Nuer people no longer constitute a culturally coherent Nuer Society? In short, what does this analysis imply for the future of the people living in the Southern Sudan and what implications does that have for the peoples of African Society, especially the people of the "Sudan" region, both East and West, and for Sub-Saharan Africa generally. This is the grist for the concluding chapter where institutional analysis is related to development.

#### The Scope of the Inquiry

##### Historical Period and Areas

This study is a synthesis of library research, collection of data first-hand by means of interviews, and examination of archival resources. The study area is the Southern Clay Plains of the Sudan. The study collects observations from the Nuer in this region. The Ethiopian Nuer are included. Historical as well as contemporary data will be used. The rules governing the lives of the Nuer people have undergone many changes in this century. Constitutional arrangements changed overtime. It is a process that goes on as long as the people change their perception of their environment. Despite these changes on varying levels in the region, there is a coherent constitutional order that has applied to all Nuer regions. Local changes, therefore, are variants of more general patterns of order.

The time frame for this dissertation is 1850 to the present (1990). This is the time of Nuer migration from the Western Nuer to east of the Nile (Jal, Giet 1987). I will use the present verb tense to characterize what occurred within that time frame in order to explain relationships of conditions and consequences. So the bridewealth,

feuding, bloodwealth relationships open opportunities for shifting alliance and equilibrium conditions that can be expected to oscillate through time. We need to understand the relevant conditions, processes, and equilibria as they work in the context of this frame.

#### The Nuer Oral Traditional Texts

This study will mostly rely upon the Nuer Oral Traditional Texts and secondary sources already published. The Nuer Oral Traditional Texts are a collection of interviews recorded from the Nuer east and west of the Nile during fieldwork undertaken in 1989. In the summer of 1989 I traveled to the Sudan. For more than 3 months I visited many places including sites in Khartoum, Khartoum North, Omdurman, Wad Medani, Kosti, Renk, Hasahesa and many villages where Nuer could be located and tape-recorded in interviews. Unfortunately I could not get to the major towns in Nuerland due to warfare in the area. However, most of the people had been forced out of their villages and resided in Khartoum, Khartoum North, Omdurman, Kosti, and bordering towns for protection such as, Kosti, Medani, and Renk all of which I visited. I interviewed community leaders of specific villages, from both east and west of the Nile and within each area. Questions concerned conflicts and conflict resolutions, governing of villages and cattle camps, organization of cattle camp life, role of age-set, their conception of their universe, families genealogies, cattle and cattle exchanges, marriages etc. I also tape-recorded interviews with "specialists." These are knowledgeable persons about how Nuer village residents resolved disputes arising from cattle damaging neighbor's crops and conflicts related to the use of the grazing lands during the dry season. Historical accounts about Nuer relations with their acephalous neighbors have also been tape-recorded and transcribed.

The other key sources are found in Archives, especially the Central Record Office (CRO), Khartoum, which carries a considerable data about

the Anglo-Egyptian policy on the Nuer, covering the period from 1898 to early 1950s. The others are: Public Record Office (PRO), Sudan Archives, Oriental Library, University of Durham (SAD). They both contain important documents on various Nuer groups.

### Notes

<sup>1</sup>Acephalous societies were seen as having no history of their own. They only respond to external problems (Aidan Southall 1968: 157-168). Such societies were considered primitive and backward that needed to progress to statehood. Many scholars, until recently, saw acephalous arrangement not as another system of order. What people want or what a people think they want - their desires, preferences, values, ideals have not been subject to sensitive inquiry. Preferences in regard to political objects are not external to a way of life. They constitute the very internal essence, the quintessence of politics: the constitution and reconstitution of the way that people live their lives together (see Douglas 1980; V. Ostrom 1991; Wildavsky 1987: 3-21).

<sup>2</sup>The British courts in Nuerland were established as a vehicle to carry out multiple functions for the British colonial government. Courts were the basis of the system of judicial and executive control in the Nuerland. It was the chief's court the British colonial government relied upon for the dispensing of justice among the Nuer, for the establishment of law and order, for carrying out of all Administrative and Executive work, for promotion of trade, education, agriculture, etc., in Nuerland (Howell 1954: 2, 36-37, 66; Johnson 1985).

<sup>3</sup>H. H. MacMichael (1929) quoted in Abdel Ghaffar M. Ahmad "Some Remarks from the Third World on Anthropology and Colonialism: The Sudan," In Talal Asad (ed.) Anthropology and Colonial Encounter, London, 1973: 267.

<sup>4</sup>In a society or in Commonwealth of persons, Thomas Hobbes in his Leviathan ([1651] 1960: 56) defines power of a man is his present means to obtain some apparent future good. According to Vincent Ostrom (1992: 39), Hobbes's definition is characteristic of all forms of artisanship and, coincidentally to all forms of action: the use of present means to obtain some future apparent good. This principle applies as much to the mediations of kuar muon and to practices of other Nuer key religious and political functionaries. This is the foundation of Hobbes's postulate about human behavior. Man is perceive restless in his search of power.

Anxieties to gain power on the part of humans who are continually striving to use the present means to obtain some future apparent good implies, according to Vincent Ostrom (1992: 41) that human reflections and communication organized with reference to speech will yield knowledge. The capacity to understand one's experience, to articulate his understanding in communication, and to act on the basis of that understanding does not only produce knowledge but introduce the dimension of culture (1964).

<sup>5</sup>I obtained this information in an interview with Rev. Kang Dung on September 12, 1989 in Kost, Sudan (see Jackson 1923: no. 1, p. 72; Diu Garadin, April 8, 1975; Johnson 1980: 90).

Mediator draws upon his special mediative skills and knowledge of traditional law. This gives him some power of expertise not enjoyed by all Nuer. The power to curse those who obstruct the processes of mediation is an added source of inequality in power.

<sup>7</sup>Range of kinship is the structural distance between two persons within a kinship system. (For further reading on this subject, see Evans-Pritchard 1940a and Radcliffe-Brown 1951: 6-8.) Since the concept of range of kinship is so important for this study, more detailed description will be made in Chapter Four.

<sup>8</sup>Herders covenant before they place animals in the grazing fields as to how to govern the common pool resources. Elinor Ostrom (1990a) observes that the temptation of rule breaking is always present. But persons who have agreed to use resources in common monitor each other to enforce their rules. This is possible in close proximity, because individuals repeatedly communicate and interact with one another in a physical setting. People come to trust, what effects their actions will have on each other on the common pool resource, and how to organize themselves to gain benefits and avoid harm. In line with Elinor Ostrom (1990: 183-184), when Nuer come seasonally to a cattle camp as a result of covenanting with one another, they use the covenant as binding rules to govern their relationships.

CHAPTER TWO  
THE PHYSICAL AND BIOLOGICAL WORLDS OF THE NUER

Introduction

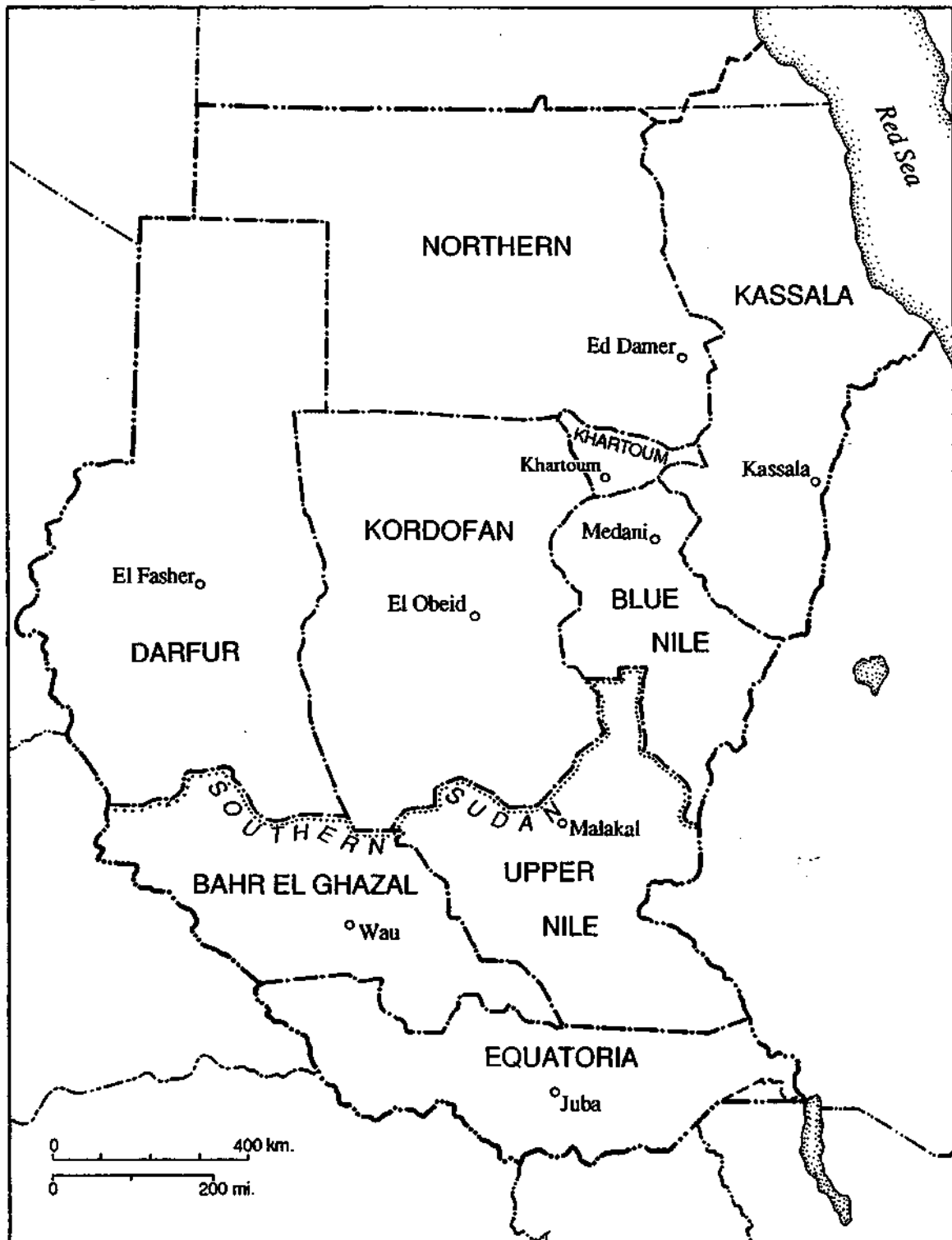
This chapter describes the major physical features of Nuerland which provide the opportunities for, and limitations on, the capabilities of the Nuer to sustain themselves successfully by relying on animal and crop production. Many aspects of this physical environment must be taken as fixed. Consequently, human organizational arrangements must in some way be fitted to these aspects of the natural world. Other aspects impose high costs on those who might use this terrain as a home.

The Nuer people reside in the Jonglei, Sobat, and Unity provinces of the Upper Nile Region (an administrative unit) of Southern Sudan. Most of Nuerland is located in the hydrologic region known as the Southern Clay Plains. The location of Nuerland in these administrative and hydrological regions is shown on the map of Sudan [Figure 2.1]. It is difficult to provide a close estimate of the population of the Nuer people as the most recent census of 1955-56 adopted a questionable sampling technique in rural areas that reduced the cost of conducting a census in a sparsely populated area. Population estimates are especially difficult when the people being enumerated move during the dry season from permanent villages located in the higher lands to the flood plains near the Nile or its tributaries and the individuals do not want to be counted.

The official census report lists the Nuer population located both West and East of the Nile at 500,000 and the total population of Sudan as 10,255,912 (Sudan Government Department of Statistics, 1955-56: Part 1). The population of the Nuer people has been roughly estimated at about: (1) 287,800 in 1917 (Bacon 1917: 1-8); (2) 247,000 in 1940 (Evans-Pritchard 1940a); and (3) 490,585 in 1952 (Howell 1954a).<sup>1</sup>



Fig. 2.1 Map of the Sudan with Provincial Towns



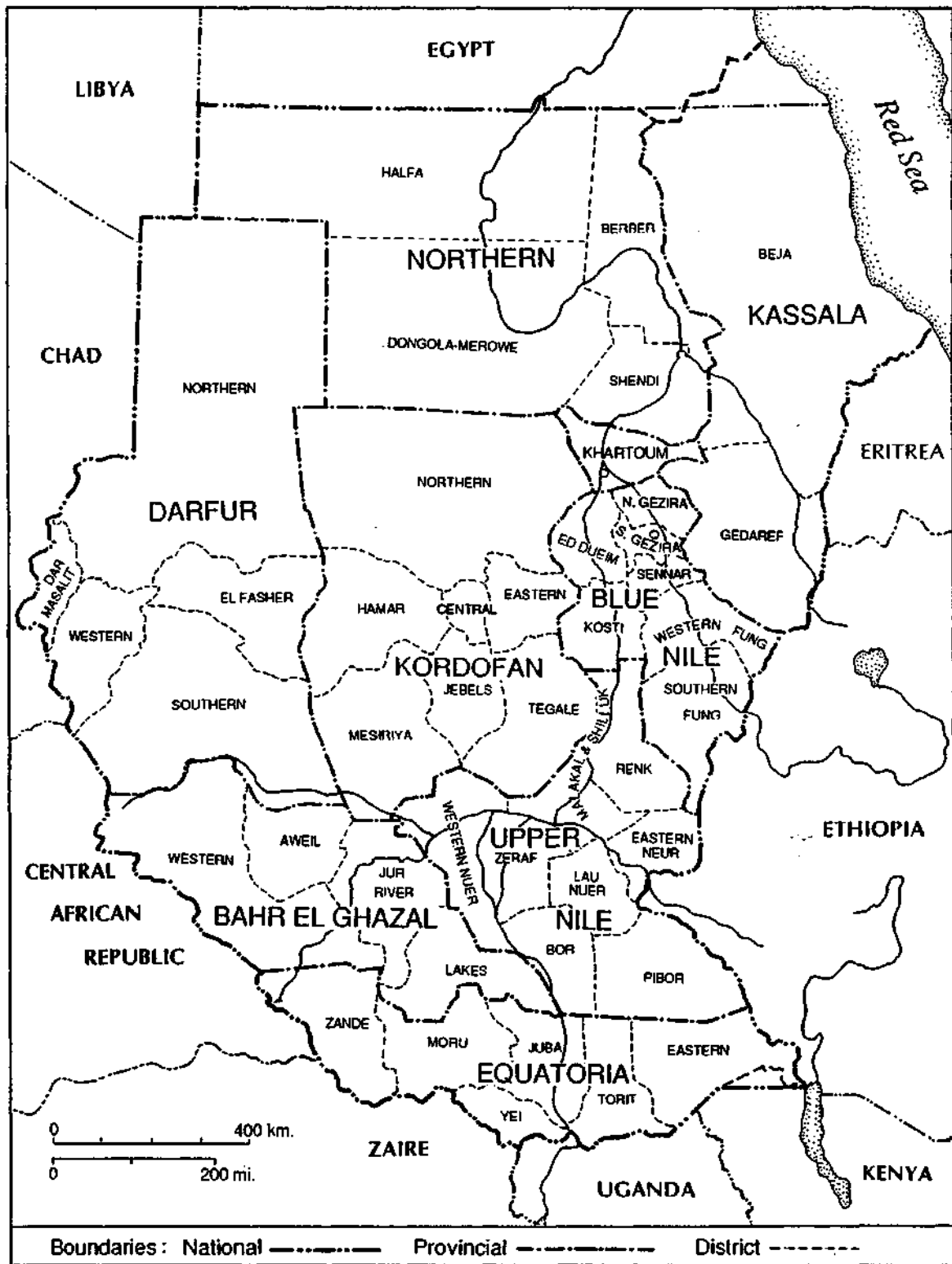
Howell's estimate provides the most suitable basis for estimating current Nuer population size. Howell's estimate was based on poll tax payers. Poll tax payers were, however, solely household heads. Wives and other adult members of the household were not included. If we assumed that each household had an average size of four persons in 1952 when Howell made his estimate, the population at that time would have been at least 1,424,000 ( $490,585 \times 4$ ). The Sudan Government has maintained that this population grows at a rate of 2% yearly. With this growth rate, the population would have increased to approximately 2.57 million persons. Thus, an estimate of the population of the Nuer people in 1990 should lie between 1.5 to 3.0 million people.

#### General Context: The Sudan

Before discussing Nuerland in particular, a general picture of Sudan, and then of the Southern Clay Plains of Sudan, will be provided so that the reader can place the physical and biological world of the Nuer into context. The Sudan lies in central Africa. It extends from Latitude  $3\frac{1}{2}$  degree North on the Southern border with Uganda at Nimule to Latitude 23 degree North on the Red Sea Coast just north of Halaib and from Longitude  $21\frac{3}{4}$  degree East to Longitude  $38\frac{1}{2}$  degree East. (See Figure 2.2 showing the Sudan and its neighbors.) It is 1,070 miles (1,722 km) from west to east and 1,245 miles (2,003 km) from north to south. It covers an area of 967,500 square miles, approximately 8.3% of the entire area of the continent of Africa (Wai 1978).

There are two significant features in the physical geography of the Sudan: the flatness of the country and the unity of its drainage patterns (Barbour 1954: 26). Of the whole area, less than 2% lies lower than 300 metres above the sea-level, about 45% lies between 300 and 500 metres and a further 50% lies below 1,200 metres. This means that there are few areas that are high enough to enjoy a markedly different climate from other parts of the country at the same latitude. Almost all of the

### Fig. 2.2 Sudan and Her Neighbors



Source: Sudan Surveys Topo. No. S813-55.

Sudan lies within the Nile Basin (Hurst 1951). Such physical unity as the country possesses derives principally from this fact.

In the absence of marked local relief in many parts of the country, the type of drainage patterns that develop is dependent on the nature of the soil or rock occurring at the surface (Barbour 1954). Where the surface is almost flat, little run-off after rain occurs. Because the terrain is largely underlain by layers of impermeable rocks, virtually no rain percolates into the ground deeper than the two metres or so that natural cracks penetrate (Barbour 1954: 31). As a result, rainwater lies on the surface, continuously exposed to evaporation in ever decreasing pools and swampy meres, until eventually most water is lost through evaporation.

As a consequence, water is unobtainable in the dry season, even in parts of the Southern Clay Plains that are flooded for several months of the year. Where the surface consists of sand dunes, on the other hand, losses from evaporation or run off are negligible, because the water soaks into the ground as soon as it falls. The availability of underground water depends in these circumstances on the distance that it penetrates into the ground. In certain areas underground water cannot be tapped because it is too deep.

The Nile is the only river in the country that regularly reaches the sea. Very few streams and watercourses in any region actually hold water all year round because rainfall is concentrated in most of the country in one season that lasts less than one-half the year (Barbour 1954: 26). The other rivers that flow continuously are those of the Blue and White Niles, fed by Lake Victoria and Lake Tana.

All other rivers are substantially reduced, dry up into pools, or else disappear entirely beneath their sandy beds in the dry weather. Their importance as sources of drinking water for human beings and animals, however, continues to be great. Without elaborate works they cannot be employed for perennial irrigation. Some of the streams,

though they never reach the Nile, make an invaluable contribution to the country's wealth because they spread out over large silt-covered deltas that are used for crop production.

Permanent sources of drinking water vary from one region of the country to the other. In the northernmost part of the Sudan, the influence of the main Nile is immediately recognized. The population is entirely clustered along its banks. In central Sudan between latitudes 10 degree and 17 degree North, where the rains are sufficient to support animal rearing and cultivation, the Nile does not provide the only basis of life. Nevertheless, both the Blue and White Niles play significant parts in the economies of the area. They penetrate permeable beds and supply underground water that is tapped by wells and boreholes. These rivers are used for irrigation to supplement the rains to grow crops during the dry season and for drinking water.

The climate of the Sudan may be described as tropical continental. The conditions vary, however, from hot desert in the north where rainfall is rare, through a belt of summer rainfall of varying intensity and duration to a sub-equatorial type of climate in the extreme south of western Equatoria Province where the dry season is only three months.

The changes of the seasons are largely determined by the direction of the wind. While the north wind blows over the Southern Sudan, a dry season lasts for three to five months. Although the humidity is quite high, the expected rainfall at this time of the year is often less than 1.2 inches.<sup>2</sup>

The temperature varies seasonally according to the latitude. The hottest season in the extreme south is between January and mid-March. Average temperatures in February and March are 82.4 and 84.6 degrees Fahrenheit respectively. In the northern desert, the hottest season begins in early May and extends to the end of September. The mean daily temperature persists above 86 degrees Fahrenheit. The mean temperatures in the Central Sudan varies from month to month and from place to place:

the month of June is 93.4 degree Fahrenheit in Khartoum and 89.1 degrees Fahrenheit in Malakal. It is also 90 degrees Fahrenheit in April and May in Malakal.

The rainy season lasts for five to eight months in the south and for one to three months in certain parts of Northern Sudan. August is the wettest month in the whole country. The annual total rainfall varies between 0.8 inches in Port Sudan and 60 inches in Yambio. The rainy season is the coolest period of the year.<sup>3</sup> The temperature, however, varies between 68 degrees Fahrenheit to 81 degrees Fahrenheit.

The other elements of climate for which information is available through the Sudan Meteorological Service include temperature, humidity, Piche evaporation, cloudiness and wind speed. Barbour (1954: 50-51) observes that histograms drawn to show the precipitation and evaporation on the same map clearly reveal that at most stations surveyed and at most times of the year the potential evaporation is much greater than the actual precipitation. The general effect is to confirm that the Sudan is a hot and arid country even though wind speeds are low by world standards (Hurst 1951; Barbour 1954). The daily rate of evaporation is extremely high.

The aridity combined with the igneous and sedimentary rocks that go to make up the solid geology of the country yields soils of indifferent fertility as may be seen in the Ironstone Plateau, the Southern Hill masses, or even the Nuba Mountains. Only where basic volcanic rocks occur, as in the Gedarif District, in Jebel Mara, or on the Boma Plateau, much better soils and yields can be expected.

The alluvial soils, on the other hand are generally of higher fertility and have a good structure (Tothill 1948b). The riverain silts are easily worked, and produce excellent crops (Green 1948). As the country's wealth and population increases, the Sudan may expect to see an expanding production of irrigated vegetables, fruit and fodder crops in these areas. The heavy clays are more difficult to work, tending to

alternate quickly between extreme hardness and waterlogging. They have proved their worth, however, whether irrigated or unirrigated, for growing grain and cotton (Barbour 1954). Due to extensive, still unexploited areas of the cracking clays, the Sudan enjoys great prospects of prosperity in the future.

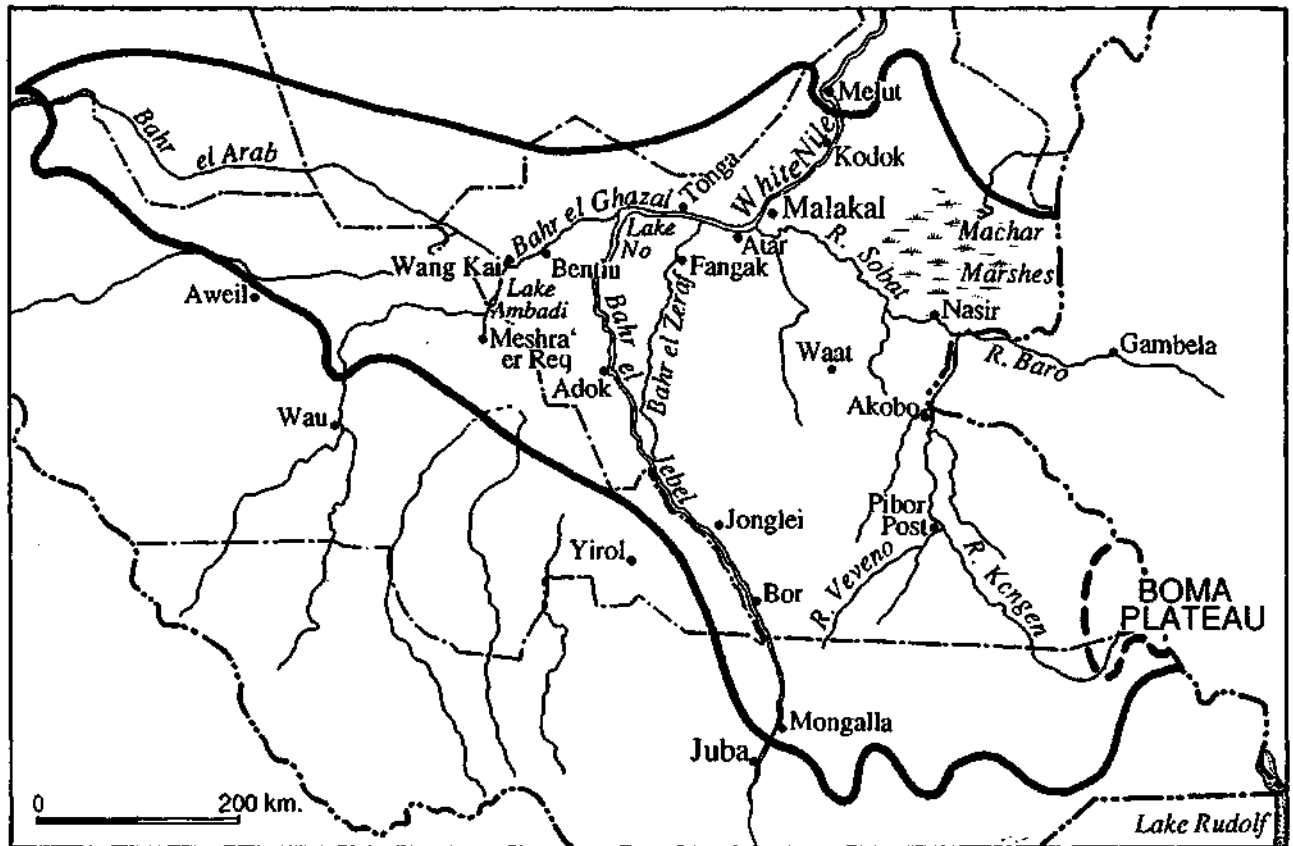
### The Southern Clay Plains

The Southern Clay Plains in which Nuerland is located is the broad alluvial plain of the Upper Nile basin, which includes all the area of heavy clay soils liable to flooding in the Upper Nile basin. They receive the drainage of higher lands to the East, South and West; the Ironstone Plateau which lies along the Nile-Zaire watershed and is dissected by streams flowing to the north and east; and the Southern Mountain masses which lie towards the southern border and rise several thousands of feet above the surrounding countryside.

The Southern Clay Plains constitute, a major climatic sub-region in the Sudan. It is located north and south-east of the Ironstone plain in the form of a large flat triangle with its corners at Lake Rudolf in South-eastern Equatoria, Renk on the White Nile, Awiel in the northern Bahr el Ghazal. (See Figure 2.3 of the Southern Clay Plains.) The principal city in the region is Malakal, which lies on the Nile to facilitate transport through the river to districts via Nile tributaries.

There are significant variations of soil texture from place to place. While the climate in Malakal is appreciably different from Mongalla in the extreme south of the Clay Plains, differences of relief throughout the region are exceptionally small. The country is extremely flat and the gradient of the Nile a bare one part in thirteen thousand. These minor differences of relief will be described in more detail in the section on the study area.

Fig. 2.3 Map of the Southern Clay Plains



Source: Barbour (1961:235).



According to the differences in water regime Nuerland may be divided into five broad types: (1) the Nile and other permanent water surfaces such as Lake No or Lake Ambadi; (2) permanent swamps along the Nile of papyrus and related vegetation, which remain flooded all year; (3) the floodplain (Nuer toch), which is inundated from the rivers for a period of four to six months every year; and (4) intermediate land, areas where flooding from the rivers is not likely, but which become flooded for several months every year because of the impeded drainage of the rain water. The intermediate land is crossed by numerous watercourses that remain flooded for much longer periods and more closely resemble the flood plain; (5) distinctly higher areas, either within or beyond the floodplain, described in the report of the Jonglei Investigation Team as "highland."<sup>4</sup> These normally escape flooding from the river and have sufficiently permeable soils to drain quite quickly after rains (Barbour, 1961: 234).

#### The Distribution of the Population

The Nilotic peoples inhabit the Southern Clay Plains. The Nuer are a part of the wider Nilotic group. The Nilotes are one of a number of language groups contained in the Eastern Sudanic family. The proto-Nilotes developed out of the Eastern Sudanic communities east of the Nile and South of the Sobat no later than the middle of the third millennium B.C. (Johnson, 1980: 54). This places the ancestors of the Nilotic people in one of the areas that several of their descendants now occupy and have been known to occupy for several centuries.<sup>5</sup>

The distribution of the population in the Southern Clays Plains is not uniform. It is divided into concentrations occupying favorable sites. The location of such sites is closely dependent on hydrological conditions. Village settlements are concentrated on the few pieces of land that remain dry during the rains and away from areas of flooding in the summer.

Starting from the north and east, there are concentrations that are listed in order (Howell 1954; Barbour 1954; Evans-Pritchard 1940). First come the Shilluk and Dinka ridges that are located on either side of the White Nile below Lake No. Second, the eastern Nuer areas are located beside the Sobat River near Nasir up to the borders of Ethiopia. The Eastern Nuerland is flanked on the West by the vast Macar swamps, a region that might provide plentiful grazing. Many people from Eastern Jikany as well as Lou prefer to move to the upper reaches of the Sobat and Baro Rivers. There is not only adequate pasture for their herds in this region but also exceptionally good fishing, and an opportunity to raise a rich crop of maize on the fertile silt left by the flood water during the dry season. The third region is the highland from Akobo, west of Zeraf Valley and up to Duk and Duk Ridge. This is known as the Central Nuer region. However, the whole area of Zeraf Valley, Lou and Jikany Doar (Eastern Jikany) is referred to generally as "Eastern Nuer," in contrast to "Western Nuer," the region west of the Nile. Western Nuer is known to the Nuer who live east of it simply as kui kiir, over the Nile. This is widely believed to be the original homeland of the Nuer.

Fourth, the highland of the Western Nuer region is divided into two geographical areas: (1) the area lying north of the Bahr el Ghazal and partly west of it, and (2) the region south of that river. The difference in terrain is not great. Although the people in the north rely on the Bahr el Ghazal itself or the rivers that flow into it, those in the south rely almost entirely on the pastures provided by the natural and seasonal irrigation of the Bahr el Jebel or by the flood waters of rivers coming in from the southwest.

Fifth, the southern area are the Nyuong, Dor, Dok, Haak (Aak), and Jagei Nuer communities. The permanent settlements and cultivations of these people are on a ridge of sandy ground which runs parallel to the Bahr el Jebel. There they graze their cattle in the dry season along

the edges of that river or along inland water systems referred to locally as the Bilnyang system. This system is partly dependent on overflow water from the Nile and partly on water derived from a different catchment area. Hence, in years when the Nile provides inadequate grazing or is inaccessible owing to heavy flooding, the Bilnyang system gives an alternative.

Sixth, North of these peoples are the Jikany Cieng (Western Jikany) whose country lies in the triangle formed by the intersection of Bahr el Jebel and the Bahr el Ghazal. Although some of them move to grazing grounds across the river during the dry months of the year, nearly all the Leek and Bui Nuer live on the left bank of the Bahr el Ghazal.

The Southern Clay Plains has the Sudan Continental type of climate. This climate has particular disadvantages in the region of ill-drained soil. There are two periods: when the soil is too hard during the hot weather and when it is swampy. When the land is hard it is difficult to cultivate and gives very little moisture to sustain plants. When it is swampy, plants suffer from water logging.

Because of the difficulties of working the land and the absence of the tse tse fly in the region, the Nuer and other Nilotic people who live in this region prefer to raise cattle. Grain, specially sorghum, maize, and variety of vegetables are grown to supplement daily diet of milk and meat.

#### The Study Area; The Nuerland

The Nuerland defined by traditional occupation lies within the Southern Clay Plains of the Nile Basin. All of the Southern Clay Plains, except Aweil District, is included in an administrative unit called Upper Nile Region. Nuerland constitutes three quarters of the Upper Nile Region. The other quarter of the region is inhabited by the Anuak, Dinka, Murle, and Shilluk peoples.

### The Rainy Season

During the rainy season an appreciable drop of 9 to 14 degrees Fahrenheit in average monthly (from June-September) temperature is recorded. This is due to the increased cloudiness, the absorption of long-wave radiation by added water vapour in the atmosphere, and the conversion of latent heat that is involved in the process of evaporation (Barbour 1961: 44). These features, combined with the cooling effect of the southwest wind, make the rainy season one of the most pleasant in the year. This is certainly to the advantage of those who have to grow and weed their crops at this season.

Late April to early October are the wet months; late September to early April are the dry months. There is a marked drop in maximum temperatures, a rise in humidity, and a drop in the average daily range of temperature in the wet months. The familiar tropical pattern of weather is a clear morning followed by a build up of clouds during the day that may lead to rain in the late afternoon or night. At times, the sky is covered completely with clouds. Rain may fall continuously for twenty-four hours or even more. Morning dew is usual during the wet weather. Dew can be quite heavy when a cool, cloudy day is followed by a clear night.

The mean annual rainfall varies. The wide variations in seasonal totals from place to place are almost entirely due to variations in the number of storms occurring, and not to any significant differences in the average amount of rain yielded by individual storms (Wahab, 1951: pamphlet 2). The variability from year to year varies according to the latitude.

### The Dry Season

The temperature and humidity of the wind are of major importance in determining the seasons of the year. The dry season begins in late September to early April but is not so cold because the sun is higher in

the sky. The days are longer, and the wind takes longer to warm up as it crosses the desert. Thus, at Malakal 81.1 degrees Fahrenheit is recorded.

The dry season is the hottest period of the year. The north wind blows as in winter, but by April and May it no longer brings cool weather. Instead it becomes extremely hot and dry as it comes from the north. In Malakal the mean daily temperature reaches 89.1 degrees Fahrenheit in April and 90 degrees Fahrenheit in May. This is the peak because the wet weather begins in the following months.

Dust storms are frequent in the north of the region towards the end of the dry season, but further South the denser vegetation reduces their severity. Relative humidity at noon is 25% in Malakal in April, while in Khartoum it records 14%. The rate of evaporation is 12.9mm. (0.5 in.) Khartoum is 20mm. (0.8 in.).

When the rains stop, water supplies near the permanent settlement are soon exhausted, because the highest and the driest sites have been selected for buildings. It becomes necessary to move to pools, lakes, lagoons, marshes, and rivers. Cattle are thus placed where receding waters of the rivers leave green and succulent grasses for animals.

#### Rivers and Flood Plains

The river system has greatly influenced the Nuer way of life.<sup>6</sup> The easy access to water and grasses for animals has made Nuerland better suited for cattle husbandry than crop production, though the Nuer people practice a mixed economy. Further, Nuer cannot live in one place throughout the year. This is because of the patterns of flooding of the major rivers, people are forced to move to the high ground. The absence of water and pasture on this higher ground compels them to move during the dry season. One of the ways that Nuer have adapted to this environment is by developing a transient (transhumant) way of life.

The major rivers include the Nile, locally known as Bahr el Jebel, which derives its water from the plateau of the Great Lakes. Its Western tributaries are the Bahr el Ghazal and Bahr el Arab, which are fed by streams flowing from the Nile-Zaire divide. The Baro River, lower reaches of which are known as the Sobat, comes from the Ethiopian Highlands; and the Pibor flows from the same direction and drains to a lesser extent the northern slopes of the plateau of the Great Lakes and the Sudan plains. The Bahr el Zerraf is another channel of the Bahr el Jebel (Hurst 1951). All these rivers flood at the time of the rains and because of the flatness of the land, the country turns into a vast morass.

When the rivers are in flood, they have no banks. The country lying on either side of the rivers is a swamp threaded with wide lagoons, often running parallel to the main channel. The Bahr el Jebel and the greater part of Bahr el Ghazal and Bahr el Arab, the Jebel and the Ghazal are almost united by surface water in the rainy season. The Bahr el Zeraf is bounded by swamps to a lesser degree, and the lower reaches of the Sobat have no swampy borders at all.

This vast plain is threaded with depressions running in all directions, often crossing one another and linking up with the main channels or rivers. While the rain is falling, the main rivers flood these depressions, making them a network of waterways which prevent drainage so that the rainwater lies in deep puddles everywhere in the countryside except for highlands. The water remains several inches deep from June till September. The rivers begin to fall about the same time as the rains decline. The blazing sun quickly evaporates the surface water, while the streams maintain their water.

Water is an important and crucial resource for both human beings and animals. Surface water comes partly from the rainfall and partly from the flooding of the rivers that traverse Nuerland. The water supply is more than adequate to make grasses flourish. As the floods

recede, animals are moved to the intermediate land for better grazing. Intermediate lands provide palatable grasses that can be burnt off to produce a valuable green regrowth. This kind of grazing is of value only as long as water can be provided from pools and khors. Along the rivers the floodplains provide further grazing, which at the present levels of animal population is quite sufficient to last until the early rains when, with the new growth of grass, grazing conditions for animals reach their most favorable condition.

There is also grain and tobacco cultivation within the flood plain areas between Gikmier and Jiok-kou and along Sobat River between November and February. When the flood recedes these areas are also cultivated. Land is prepared for normal cultivation by cutting and burning grasses and bushes at the beginning of the dry season.

#### Soil

The grasses necessary for the well-being of the cattle depend on suitable conditions of soil and water. The soils of Nuerland are heavy clays broken by the sun into deep cracks in the dry season and sodden in wet weather. The clay soil holds water and consequently enables certain species of grasses to survive the dry season months in the floodplains, and provide pasture for the cattle.

The soils of the region have been classified into two categories: periodically flooded and unflooded. The periodically flooded soils are subdivided into two further types of soil: sudd and toch. In Arabic, the term sudd means "an obstruction." This is the name given to the portion of the Nile where floating vegetation, especially Cyperus papyrus and Pistia stratiodes obstructs navigation.

The sudd soils have been developed in low areas by the continuous deposition of alluvium from the water of the rivers that enter to the Nile River. As a result of prolonged flooding these soils have a high organic content at the surface, for a depth varying from a few inches to

three or four feet. The physical composition is varied, with sand ranging from 10% to 65% and clay from 2% to 60% (Barbour 1961: 59). Surface layers of this soil contain calcium carbonate concretions. Portion of sudd soils dried out in the winter and are used by humans for agricultural and building purposes.<sup>7</sup>

Tochlands and other periodically flooded clay soils are similar. The main difference is in the length of flooding that they undergo. The former, being flooded from the river, remain moist for several months, while in the latter, flooded by local rain-water, wet and dry conditions may alternate rapidly according to the incidence of rainfall.

Clay contents are usually high, and cracking occurs in the dry weather. The potential fertility of these soils is high, because of their periodic flooding, which inhibits the breakdown of organic material. Some doubt, however, whether this fertility could be maintained if the soils were drained and brought under cultivation. They are currently used mainly for grazing in the dry weather.

The non-flooded soils are heterogeneous. They range from heavy loams, with a clay content up to 40%, to very light sands, with 1-3% clay only (Andrew, 1948). The loamy soils are of fair fertility, but have mostly suffered from prolonged over-cultivation. The Nuer do very little manuring of cultivated land. The sands are less fertile, but their good drainage makes them widely used for cultivation.

Portion of sudd soils are utilized for agricultural and building purposes, although major part it is still too wet for profitable economic exploitation at the present time. The floodplain soils are the most important for the grasses they permit to grow and the constant supply of water associated with these pastures. They help sustain the cattle tradition of the Nuer People. The heavy black clays of the Nuer intermediate and high lands are more difficult to cultivate. They tend to alternate quickly between extreme hardness and water logging.



However, research reports have shown that such soils are the most fertile in the whole of Sudan when utilized to grow food and cash crops.

#### Hydrogeology of the Nuerland

The fertility of the loamy clays, floodplains and sudd soils are crucial for the different types of food materials and grasses they sustain. But people and animals are attracted by the water associated with them. The water that supports life in the Nuerland is mainly from the vast rivers that traverse the region and the thorough irrigation they give to the country through a network of channels. There is, therefore, seldom difficulty in finding surface water (though some people have to go far to obtain it). However, not all Nuer regions are blessed with rivers and channels (near enough) that supply water for human beings and animals all year round. Lou Nuer and Gaawar, and some areas of Eastern Jikany such as Kur and Rar-Cie-Yol are regularly forced to dig wells at the height of the drought. The geological structure of the region, the nature of the solid formation and the water use patterns influence the water supplies in the country.

The Sudan lies at the zone of contact in Africa of two contrasted structural zones, the south and east where the platform of extremely ancient rocks has been uplifted above sea-level since palaeozoic times. The lower northern portion of the continent has been overlaid by numerous horizontal sedimentary rocks as a result of marine incursions dating from the latter part of the Mesozoic era (Barbour 1954: 33). In the study area the ancient igneous and metamorphic rocks known as Basement complex are never far from the surface, although they are hidden in many areas by more recent deposits of continental origin.

The Basement Complex occupies most of Central and Southern Sudan, with the Umm Ruwaba Series of unconsolidated sands and gravel lying in a hollow or based upon it. Throughout the Paleozoic and the early part of the Mesozoic Era the rocks of the Basement Complex were exposed to sub-

aerial denudation, and while certain resistance blocks such as the Nuba Mountains or the hill masses of the extreme south stood out, most of the country was reduced to a peneplain of which small remnants are now to be seen at the top of the rhyolites at Sabaloka and in western Darfur (Barbour 1961: 33).

The Basement Complex consists of a wide variety of rock types, mostly strongly folded with steep dips, and mostly metamorphic or igneous rocks (gneisses and schists, with foliated granitic rocks), but it includes recognizable bedrocks such as quartzites, limestone, greywackes, and lava, all in an unaltered or slightly metamorphosed condition. The lava beds are gently dipping non-metamorphic grits and mudstones, found only in wells and bores. They and continental sandstones of the extreme northwest of Sudan are thought to be late Primary age.

Recent research has identified the Umm Ruwaba Series that consists of unconsolidated sands and clayey sands, some gravelly. These rocks although not detected at the soil surface, have certainly been noticed by the drilling of bores to find water. Occurring in depressions, this series usually contains water, but no fossils have yet been found in it. In these depressions, the levels of ground water in some surveyed areas such as Bur Malual, Jier Gaan Liek, Thol, Muot Tot and Muot Did, of Lou Nuer area, are close to the ground. The wells are 2-3 feet in diameter and 20-30 feet deep. The water is 3 feet deep, fresh, and clean. No records are available to show the differences in the level of ground water in hot, dry weather and during the rainy months. But experience has shown that during the wet weather the level of ground water is closer to the surface than during the dry season.

#### Trees, Shrub, and Grasses

The distribution of vegetation in the study area has been closely studied. The Jonglei Survey has made it possible to distinguish

vegetation types in greater detail than the work produced for the whole country. Apart from the Boma plateau and the Cyperus papyrus swamps beside the Nile, annual and perennial grasses dominate the whole region. The tree growth is prevented by the effects of excessive water and poor drainage in the summer. Fierce grass fires in the winter, throughout much of the Nuer country, are an added problem.

On the highland, not far from the Nile, however, dom, doleb Aahars and mixed acacia species with Balanites aegyptiaca occur in the sandier sites, while where the soil is heavier, acacia species, especially siberiana, and balanites are usual. In many instances, however, these have been cut down to make way for cultivation, or to provide fuel for the Nile steamers in the days when they burned wood.<sup>8</sup> Cutting trees is currently on the increase, especially for domestic purposes without replacement.

The grass species vary according to soil and water conditions. On the highland, which drains quickly after rain, most of the grasses are annuals, with Setaria pallidifusca and Pennisetum ramosum dominant on the clay soils and dactyloctenium Aegyptium Cynodon dactylon and eragrostis the most common on the sands. These provide excellent grazing during the early rains. The fact that they later become woody and unpalatable is of little consequence because they are quickly grazed down by cattle hemmed in on the highland while the rest of the country is flooded.

The northerly part of the intermediate land studied by the Jonglei Investigation Team, generally that which is lying on the north side of the Sobat-White Nile Axis—consists principally of perennial Setaria incompressa and other grasses with a few areas of acacia-balanites woodland. These grasses have the disadvantage of being flooded for much of the time when they might give useful fodder, and so after a couple of months in the early rainy season, they cease to be of much value except as bulk fodder eaten in conjunction with the green growth of the

floodplain region, but even for this purpose they often lie too far from the sources of dry-season water to be exploited. Farther South, Hyparrhenia rufa, also a perennial, is dominant. This grass suffers from most of the disadvantages as setaria, but has the important property that, if the dry growth of hyparrhenia is burned off in the early part of the dry season, while the ground still retains some moisture, the plant produces a valuable new green growth that can be used by cattle as long as some water remains available.

Along the floodplains of the principal rivers and in the beds of the streams that meander across the plains, riverain grasslands occur that may be classified according to the length and depth of the flooding that they undergo. In the shallower areas the dominant grasses are Echinochloa pyramidalis, oryza barthii, and oryza punctata. These are inaccessible during their period of growth, flowering and seeding because of the Nile flood, only Echinochloa affords a valuable regrowth when it is burned in the early dry season. In the deep-flooded areas echinochloa stagnina and vossia cuspidata are the dominant grasses, which are occasionally found together. The former is palatable to cattle even when fully mature after setting seed, and is eaten unburned when the water recedes from it. The latter is less palatable when dry, particularly in the swampy regions.

#### Domesticated Animals and Plants

The raising of cattle is the most important economic activity in Nuerland. Goats and sheep are also kept but to a lesser extent. The cattle kept in the Nile swamps and central southern clays are those type with slender legs, small to medium-sized humps and some with long horns, which may attain the extraordinary length of 150 centimeters (5ft), and the animals are quite large. Mature beasts may attain the weight of over 400 kilograms (1,072 lb).

Little commercial use, until recently, was made of Nuer cattle. They are used for a variety of purposes, including bridewealth payments. Animals are usually slaughtered only after they are old and have lost most of their weight. Nuer animals are known locally for better quality of beef as compared to the Baggara in the western Sudan, provided they are slaughtered in good condition. This issue will be given fuller treatment in Chapter Six.

Despite the harsh environmental conditions and the accompanying hardship, the Nuer cattle show great ability to tolerate biting flies, ticks, and other insects (Khogali 1981; Barbour 1954; Evans-Pritchard 1940a). They are irritated when they are attacked while grazing by the stomoxis (waath), which is prevalent throughout the year, by mosquitoes, and by the tabanid surret fly (ruom), whose bites are exceptionally painful and draw plenty of blood and many other flies (Green 1948). During the wet months the people burn cattle dung fires in their byres (luak) to keep insects away, and pick off the ticks which get onto the beasts' bodies from the tall grasses.

The tse tse fly that transmits human and animal trypanosomes is not found in the region. But until very recently herds have been liable to decimation by such diseases as rinderpest, foot and mouth disease, and bovine pleuropneumonia. Today veterinary services have greatly reduced the losses due to these causes. However, there is a strong case for ascertaining the safe carrying capacity of the regional (tribal) grazing lands and for limiting herds if that should prove necessary. This policy problem will be considered in subsequent chapters.

Sheep, goats, and oxen are frequently sacrificed at ceremonies in the year that make meat a fairly significant item of diet. From the animals slaughtered every year it is estimated that 80-90% of the hides are cured and sold, either for export or for use within the Sudan. In 1956 the total weight of hides consigned from the region was 827 tons (Barbour 1954).<sup>9</sup>

Though cattle raising is the preferred economic activity in Nuer country, the present number and the patterns of distribution and accumulation do not permit the Nuer to lead an entirely pastoral life. The daily yield of milk from a byre may be estimated as 12 pints or one and one half pint per person may not be much to sustain a family (Evans-Pritchard 1940a: 25).

In addition, the need for cereal food to supplement their insufficient milk diet prevents Nuer from being entirely nomadic. Crop production is therefore promoted to produce grain and vegetables. Research in the region has shown that the greater part of their diet comes from the grain crops they grow (The Equatorial Nile Project, 1954: map E 12).

The principal areas of cultivation are the ridges of high lands that are free of floods. Sorghum (dura) is the staple crop of the area. There are numerous varieties of this grain with different growing periods and water requirements. Early sowing begins in April or May, with harvest in September. A second sowing is then made of jak, a slow maturing variety that ripens in December or January. A third sowing is carried out in November and is harvested in January and February. Maize and tobacco are grown along the Sobat floodplain and toch (special type of grain) in Lou Nuer. Other food crops including maize, various type of beans, pumpkins, and some tobacco, are grown near the village houses in the summer months.

Various pests attack crops in the region. The desert locust has been unknown, but the migratory locusts (locusta migratoria migratorioides) occasionally attack. Weaver birds take an annual toll when the dura is ripening. At various stages of growth guinea fowl, crows, and ostriches do much damage. Concentrated cultivation and settlement is rarely touched by game animals, but where scattered gardens or patches are left unguarded occasional damage is done by bushbuck and waterbuck. Elephants (especially the local type known as

Bor herds) and buffalos do more serious destruction, but the range is restricted. Where they are a menace guards are organized to drive them back into uninhabited areas.

### Conclusion

The Nuer people living in the Southern Clay Plains of Southern Sudan share a physical and biological world that has many strong features that affect the options for organizing their economic and political lives. I briefly summarize below the major features and how they affect the patterns of life of those living in the area.

The land is extremely flat, subject to heavy rainfall and traversed by large rivers that flood annually. Consequently, during a large part of each year, substantial portions of the land are inundated and all humans and animals must move to higher land.

When the rains cease and rivers fall, the intermediate and higher lands are subject to severe drought. As a result, people and their livestock must move to lakes, lagoons, marshes and rivers for three to five months annually.

The land has a heavy black clay soils broken by the sun into deep cracks in dry season, and sodden in the wet weather. Thus, higher lands are more difficult to cultivate. Soils tend to alternate quickly between extreme hardness and water logging.

The land is very thinly and sporadically wooded. It is covered with high grasses in the rainy season. The grass is fired to obtain green regrowth for cattle fodder in the dry season.

These characteristics interact with one another and impose constraints on the patterns of organizing economic and political life in this region. The necessity of a mixed economy follows from the physical and biological conditions of the land. The weather patterns combined with flat and clayey soils makes the construction and maintenance of roads expensive so that trading opportunities with the outside world are quite limited. Water transport also remains undeveloped. A mixed, self-sufficient local economy is thus what one would expect under these conditions. And this is what one finds with a heavy emphasis on the cattle husbandry.

The rhythm of the ecosystem divides the year into two main divisions: the wet season (tot) when the Nuer live in permanent villages and the dry season (mai) when they live in cattle camps. Camp life falls into two parts: the earlier period of small, temporary camps and the later period of large concentrations in sites occupied every year.

Irregular food supplies, the lack of a well developed road network, and the consequent absence of outside economic opportunities makes local villages heavily interdependent. As a result, local units are economic enterprises to which a certain political value is attached, instead of mere residential unit. Life in a harsh environment also produces interdependence among persons living in larger areas and compels them to develop shared interests and to accept rules of common political behavior.



### Notes

<sup>1</sup>Nuer population has been subjected to estimation and guesswork. Bacon (1917) estimated the Lou Nuer population based on his reconnaissance of the Lou Nuer country in 1916, as more than 20,000 persons. He maintains that a village contains an average population of 250 persons in Lou Nuer region. Homeland (Western Nuer) Villages with 194 persons (Kerreri 1931: 267); Lak, Thiang, Gaawar is 292 persons (Upper Nile Province Handbook, Zeraf Valley Section, 1930: 2A). The Sudan Government sponsored Rejaf Language Conference of 1928, estimated the Nuer population as 460,000 persons (Sudan Government, Report of the Rejaf Language Conference, London: 30). How Bacon (1917), Rejaf Language Conference (1928), and Evans-Pritchard (1940a) arrived at their estimates is not clear to me.

<sup>2</sup>Mean monthly precipitation and maximum and minimum temperature at eighteen representative stations. This information is obtained from Sudan Meteorological Service Climatological Normals 1921-50; 1950-65. Also see Barbour 1961: 48 records the mean annual rainfall in millimeters.

<sup>3</sup>All statistics concerning Sudan climate were obtained from the publication of the Sudan Meteorological Service. These include climatological normals for fifty-four stations, a number of rainfall maps, and a range of pamphlets on rainfall averages, wind speed, annual rainfall parameters, Khartoum temperatures, frequencies of specified rainfall amounts, statistics and average pentade rainfall (see Barbour 1961: 39). We have also obtained the actual pressures and winds from the daily weather reports published by the Egyptian Ministry of War and Marine (pp. 39-43).

<sup>4</sup>The terms "highland," "intermediate," and "floodplain" do not correspond precisely with the actual differences of altitude between the several categories. This is because the distance from the rivers attained by overflowing waters is dependent not merely on altitude but also on the effect of vegetation, since the growth of dense grass during the rains impedes the slow movement of water, and may have the result that some areas which hardly ever flood and are known as "highland" are in fact lower than others known as "intermediate land." Moreover, since the clay plain has been built up by the deposition of alluvial material, the rivers tend to flow in slight levees, so that even the floodplains may be higher than "highland" at the same latitude (see the Jonglei Area Land Classification from the Jonglei Investigation Team (1954), The Equatorial Nile Project. Map E.I; Barbour 1961: 236; P.P. Howell (1988).

<sup>5</sup>The Nilotics have been in contact with non-Nilotic peoples (see Santandra 1968: 123-158; Crazzolara 1933: SNR, XVI; 1954: 31-2, 109-138). The traces of non-Nilotic peoples are more evident in the present Eastern Equatoria and Lakes Provinces, especially in those areas now occupied by the Bari, Mundari, Atuot, Aliab, and Cic (Johnson 1980; see also Jal 1987). This might have been the first area of contact between the Eastern Nilotes and the Central Sudanic speaking peoples (Seligman 1932: 136). There is some evidence that the Nilotes now living in this are a mixture of non-Nilotic, and recent Nilotic immigrants (Johnson 1980).

\*The main rivers which greatly influence Nuer life include the Nile, known as Bahrel Jebel, which derives its water from the plateau of the Lakes: Victoria, N'Yasa, Albert, etc.; its western tributaries, the Bahr el Ghazal and Bahrel Arab, which are fed by streams flowing from

the Nile -Congo divide; the Baro, the lower reaches of which are known the Sobat, coming from the Ethiopian Highlands; and the Pibor, which flows from the same direction (as Sobat) and also drains to a lesser extent the northern slopes of the Great Lakes and the Sudan plain. The Bahr-el Zeraf is another channel of the Bahr-el Jebel. For excellent description of all these rivers see H. E. Hurst and P. Phillips (1957), The Nile Basin.

<sup>7</sup>The Equatorial Nile Project Report concluded that the sudd soils is swampy and is not useful for agricultural production at the current state (Equatorial Nile Project 1954: Vol. 1, pp. 97-127 and map 8). Momythian people of Bor District have been using this soil for a very long time for crop production and building. See Jonglei Canal Development Project (1983).

<sup>8</sup>See the distribution of the tree species in the Sudan, Khartoum: Ministry of Agriculture: Bulletin 4.

'These skins might have included non-Nuer sources. See Howell (1954a) for analysis of the origins.

### CHAPTER THREE

#### HOW THE NUER THINK OF THEMSELVES, THEIR ORGANIZATION, AND THEIR WAY OF LIFE

##### Introduction

How a people think about themselves, their relationships with each other, and their relationships with the larger world, are essential elements in what is constitutive of a people and their way of life. Common understandings are based partly on similar experiences of the past and partly on basic conceptions of universal order.<sup>1</sup> Individuals think of and justify their own constitution of order in terms of their conception of a universal order.

Conceptualizations of political order vary among different cultures. The dominance of the way people think about their own order is made more explicit when they teach their young children basic elements of their culture. In an environment where contact with other peoples are relatively *frequent*, the way people conceive of and explain their constitutional arrangement is, however, susceptible to challenge.

The choices people make in ordering societies and their organizing principles are, therefore, not uniform, although many scholars have tended for a long time to believe that there is only one way to order human societies, the hierarchical structure of organizing authority relationships.<sup>2</sup> This circumstance was primarily due to lack of understanding of the way that diverse human societies operating in different cultural environments realize their potential. Persons can order their relationships with one another based on shared ideas and the regulatory significance of those ideas in marshalling human activities. Oral historical accounts suggest that the Nuer have existed for a very long time in relative harmony without a common head. Nuer see their lives not as brutish and nasty without a supreme head but as lives of equality, freedom, and fairness. Nuer society is grounded on concepts of covenantal relationships and mutual agreements to resolve their daily

problems consistently with equality and fairness without reference to mediating authorities.

First, I shall indicate how the concept of covenant is based upon common conceptions of God as the source of man's creation. This concept in Nuer cosmology has definite influence upon how the Nuer organize their institutions and their relationships to one another. Second, I will explain the central role of the spokesman as a man of virtue in the Nuer political system. This discussion will demonstrate how concepts and political structure are harmonized. Finally, I will explain how duer developed as a means of coping with an imperial order that was corrupting and destructive of the Nuer way of life.

#### Nuer Conceptions of Their Universe and Themselves

The Nuer conception of God (Kuoth) as the source of creation is fundamental to the understanding of the institutional arrangements among the Nuer. The existence of the world and the institutions of marriage and family are explained in terms of the Nuer idea of cak, creation. Used as a noun, cak means the creation, that is, all created things. As a verb, "to create," it signifies the act of creation. Because there can be no "creation" from "nothing," there is presumed to be a source of creation: a transcendent order or a God. However, the Nuer concept of cak can also be used to refer to the imaginative constructions of men, such as thinking of a name to give to a child, inventing a tale, working out a system of rules, or composing a poem, in the same figurative sense as when we say that an actor creates a part. The word, therefore, means creation by thought or imagination, so that "God created the universe" has the sense of "God thought of the universe" or "God imagined the universe" (Douglas 1980a: 96-97; Evans-Pritchard 1956: 4-5).

The Nuer believe that things are as they are because God willed it. The heavens and the earth, the waters on the earth, the beasts, birds, reptiles, and fish were made by Him. He laid down marriage prohibitions

for man. He gave ritual powers to some men and not to others. This inequality of powers was established, as will become clear later, in order to provide a means to order relationships between individuals related to one another through a segmental family structure that is also viewed as a divine creation. Everything in nature, in culture, in society, and in men is as it is because God willed it so. Nuer think of God as the giver and sustainer of life and the one who brings death.<sup>3</sup>

The Nuer kuoth is conceptualized as neither a thing of wood or stone, nor an anthropomorphic being, but rather a spiritual entity. The Nuer do not act towards Him as though He were a man. If He is to be spoken about, or to, He has to be given some human attributes. He is the father of men, their creator and their protector. Kuoth is believed to be in the sky. He is not the same as the sky. He is just especially in the sky in the same way as men are especially on earth. He has no real physical location and no spatial boundaries. In addition, kuoth is a creative spirit, ubiquitous and invisible. He sees and hears all that happens. He can be angry and can love.<sup>4</sup>

The conception of kuoth as a protector is further elucidated in the frequent use in prayers of the word rom. This term refers to the care and protection parents give to a child, especially in caring for a helpless infant. Another concept often used in prayers, luek, literally means advice, or to guide. God is asked to luek e naath, to guide people, which confirms the presence of God. But He is also felt to be far away in the sky. He can, however, be communicated with through prayers and sacrifice. Also, a certain kind of contact with Him is maintained through the social order or rules He is said to have instituted and is the guardian.

The commitment of the people to adhere to luek kuoth, or God's laws, suggests man's obligation to create social arrangements that will provide ciaang, or orderly living, in order that the will of the Creator may be fulfilled. At base these arrangements consist of a man and a

woman united in marriage. Domestic relations are what constitute ciaang cieng, or life in the family. The birth of children gives rise to relationships between parents and children and older and younger brothers. These relationships among persons within the family and household organization are governed by rules (luek) and customary practices.<sup>5</sup>

Because the family is a key aspect in the governance of Nuer society, established family law is a part of the larger political order. Children must honor their parents and their parent's age-mates. A wife must obey her husband. A man must respect his wife and wife's kin. Younger siblings must respect older siblings, but do not have to obey them because they stand equal before their father. If an individual fails to observe the rules, luek, he not only loses the support of his kin but, it is also believed, the favor of God and of his ancestors. Retribution, in one form or another, is bound to come sooner or later.

The Nuer regulation by which a widow remains married to a dead husband, gives the rightful family great stability and durability. The domestic group, the household, may break up through the death of the father, but the rightful family, the group of husband, wife and children born of the wife, endures. The personnel of the household may undergo many changes, but the institution of the family is fixed by the payment of bridewealth, which determines who is the rightful father of any children born of the wife, whether that man be alive or dead. The family structure survives dispersal of its members.<sup>6</sup>

The position of father is lawfully predominant in Nuer society. It is through their lawful father, even if he did not beget them, that children trace their descent. They belong to his clan and enjoy the rights of that group. From him they inherit. His herd is their birthright and any cattle that would have been due to him were he still living belong to them as his heirs. Whatever social or ritual status he may have had, they also inherit. The Nuer think of a son in a lawful

family as dependent upon the father. He has no property rights independent of his father. He does not own cattle in the family herd, which belongs to the father. He has disposal of the cattle only through the permission of his father or as his father's heir.

The status of the members of the house toward one another is more or less in harmony with their sentiments. The feelings of respect and affection of a son to a father are directed towards a man who actually is his physiological and lawful father. The mutual dependence between father and son tends to promote harmony between them. It is usually the son who cares for his father in old age. Begetting sons is a form of security for the future. A father raises the son now and receives assistance from him in the future.

When a son quarrels with his father, external interference is usually minimal but depends upon the nature of the conflict. Mismanagement of cattle by a father could involve close kin in a conflict between father and son. Because of kin solidarity, relatives are concerned with each other's economic welfare and security. This also implies that the authority of the father in the household is not absolute but limited. A father, for example, cannot kill his son with impunity. All family members stand equal before their Creator regardless of their status. Family disputes are, however, usually contained within the household and resolved speedily to prevent polarization.

When a man marries a woman in the name of his paternal uncle or of a brother who is dead, the son he begets is his father brother's son or his brother's son, and belongs to a different family and potentially to a different gol, or household than that of the man who has begotten him. The legal personality of this son is not, therefore, merged with that of his genitor but with that of his dead father whose status he assumes and whose property rights he inherits. Mar (kinship) relationships continue

to be maintained, however, between the household of the genitor and the son's family.

Mar relationships including both agnatic and cognatic kin provide the stable framework of kinship structures. "Family" associations of one kind or another have independent existence. They anchor, however, an individual to some group.<sup>7</sup> If a person breaks away from one group sooner or later, they attach themselves to another group, take root in its stem and become part of its growth. Nuer conception of order emphasizes that human relationships are structured by individuals involved in society. Persons are viable agents in the maintenance of order, but they must also take into account the interconnections among members of a community and the consequences of their actions on the community. Persons are valued as individuals and treated with consideration, sympathy, and respect.

A common creation and a commitment to the laws of their Creator have important significance for the constitution of order in Nuer society. First, all Nuer are created by God, or kuoth. They are gaat kuoth, or sons of God, and stand equal before Him. Nuer think of themselves as having equal standing in constituting long-term patterns of order. Second, God has given ran, or each person's life and ability to think for themselves so that they can do certain things of their own to advance their own interests and to glorify their Creator. Third, there is the implication that the development of a group is primarily viewed as a process of mutual agreement among individuals. This further implies that the Nuer constitution is an artifact made by people to achieve important tasks and things of value for themselves.

#### The Conceptions of Egalitarian Society

The way Nuer people think of their life is reflected in the way they organized their social relationships. The presumption of equality before their Creator gives individuals equal standing in the



establishment of patterns of order. A non-hierarchical order is regarded as normal. The establishment of a family is thought of as a means by which new social issues are formed. As marriage is ordained by kuoth or God for the purpose of supporting the multiplication of human beings, human love towards one's parents is considered as acquired by learning. It is a duty of a family to the Creator to raise and care for children. Since loving and caring constitute acting in accordance with the divine will of kuoth, obedience is owed by children to parents and by wives to their husbands only if the parents or the husband have fulfilled their duty. Because all people are children of God, "love thy neighbor as yourself" implies that neighbors are ones equally entitled to a fellow-feeling of brotherhood. From this basis, non-hierarchical relationships are formed. As non-hierarchical relationships develop from the love of God and adherence to his laws, relationships among members of a family remain harmonious under conditions of mutual respect.

Orderly relationships in a wider community can be achieved by extending the love of God's children to other social relationships outside the family. So long as each individual seriously takes into account the interests of others, destructive conflicts between individuals can be avoided. If individuals follow the principle of "being in the right" (that is, conducting oneself according to the accepted code of behavior), they will also pay respect to existing social rules and authority relationships. Failing to do this is considered wrong because it incurs punishment from kin and from the supreme being and reduces the honor and prestige of the family in the society. Being in the right is the goal of character building in Nuer society, which is begun by parents at home. Individuals know that one is in the right by the support one receives from kin. This principle of "being in the right" is the root of all virtues (Douglas 1980a). Nuer religion teaches that whoever is in the right is always doing cuong or

right, but whoever is not in the right is always in the wrong and offends elders, religious leaders, equals, and his juniors. As Douglas (1980a) observes, all relationships in Nuer society revolves around the practice of being in the right. To justify non-hierarchical relationships on a basis of being in the right has fundamental implications in a society of equals. Being in the right with others relies on the competence of individuals to maintain the integrity of non-hierarchical arrangements. This authority relationship is generalized beyond family relationships.

In cases where persons in conflict cannot meet to negotiate, tensions within the structure of authority relationships are inevitable. In order to resolve conflicts among members, third party intervention by a mediator is required. The Nuer believe that mediators, as members of the priestly lineages, are endowed by kuoth with the ability to cause harm to befall those who obstruct the process of dispute resolution. Mediators were believed to be authorized by God to coerce, curse, and to ban individuals from his territory that were destructive of civil peace. In addition to their capacity to coerce, curse, or ban, mediators also were well versed in Nuer traditional law. Due to their knowledge of the law, persuasion, individual powers of and the popular belief in their powers to cause harm to come to individuals, they were able to facilitate conflict resolution and maintain law and order. Mediation by a third party works only if people believe in the effectiveness of the system.

#### The Development of the Concept of Law

The Nuer, like other human societies, order their relationships by using rules. Rules reflect the norms people use to decide which actions should be forbidden and which should be permitted or required. By forbidding and imposing limits upon all possible actions, individuals are able to achieve predictability and still exercise considerable

freedom of action. A shared set of rules orders behavior in daily life and permits stable relationships that make interdependence productive. Rules are not, however, self-formulating. The task of making rules (enforcing rules and altering rules) is a key function of governance. In an acephalous society the authority to create rules lies with the individuals who use covenanting as a method of formulating specific rules. A common understanding of rules is an important prerequisite to an effective rule of law. People must share a common interpretation of knowable rules if they are to be effective in ordering their behavior.

The absence of a single source of common authority to make rules poses a fundamental problem: how to create rules which apply equally to all members in a segmented structure of authority relationships. Rules are grounded in norms. Because kuoth has given all Nuer a set of general principles, individuals can use these as a guide when making specific rules that are applicable among smaller communities. Actions consistent with the principle of doing right are permitted, and wrong actions are not allowed. Thus, specific rules exist that guide decisions people make in resolving a given dispute. This can be observed in the structure of the legal system where nauot and cuong are recognized.

#### Nguot; The Legal Foundation of Covenantal Relationship

A substantial consensus concerning the rules that govern individuals is vital to establishing harmonious relationships among members of a community. People must understand what is allowed and what is forbidden if interdependence is to be meaningful and acceptable. People perceive conduct as compatible with customs. In other words, the spirit underlying the proper conduct has a link with Nuer cosmology. This link is the Nuer concept of nguot. The word nguot means to cut. Used as it is here, nguot means "to cut a covenant," to cut an agreement, or establish a code of behavior for the transaction of tasks valued among individuals.<sup>8</sup> It is used to describe covenantal

relationships made among men. Nquot suggests that an inviolable bond exists. The result of nquot is a commitment to an established relationship in connection with people. People negotiate and compromise to reach an agreement, but the formalizing element of the nquot commitment is essential to establishing the relationship. People involved in making a nquot commitment verbally declare the nature of the bond or agreement being made. In many cases, symbolic action accompanies the verbal commitment. These actions include the offering of sacrifice, the dividing of animals in the performing the ritual for incest purification (vang ruali),<sup>9</sup> and nquot kuen, the killing an ox signifying an agreement about bridewealth.

The binding character of a covenantal commitment is related to the terminology of "cutting."<sup>10</sup> As a nquot relationship is established, animals are "cut" in ritual ceremony. The most obvious example of this procedure is the shedding of blood in sacrifice. Depending on the types of nquot commitment being initiated, the meat of the animal is cut into pieces and divided for consumption. The meaning of the division of animal meat at the point of the nquot commitment is fundamental to the social order of the Nuer. The division symbolizes a "pledge to the death" at the point of the nquot commitment. The dismembered animals represent the curse that the nquot maker calls down on himself if he should violate the commitment which he has made. By his transgression, he would call down on himself the curses of the covenant or the rule. Thus, he might expect the dismemberment of his own body. This would be the punishment that would be prescribed by the covenant mediator designated by kuoth or God as His agent in the execution of justice. The covenant mediator or His representative oversees the process of establishing a covenant and renewing a covenant.

Once the nquot relationship has been established between individuals or groups, nothing less than the shedding of blood may relieve the obligations incurred in the event of violation of the nquot

commitment. Changing a nquot commitment requires mutual agreement, it is in this context of establishing of covenantal relationships that the Nuer concept of nquot is to be understood. Blood is significant in this context because it represents life.<sup>11</sup> Life is in the blood, and so the shedding of blood represents a judgment on life. When a breach of the bond is committed, the individual who has been wronged or unjustly deprived of his rights will be set for a fight to enforce his rights unless the community intervention makes fighting unnecessary by renewing a covenant. Sacrificing cattle belonging to the wrong doer is a method commonly used by Nuer to punish wrong doing and to re-establish a covenantal relationship.

Cuong: The Rule of Proper Conduct in Community

The concept of cuong (and duer) is derived from that of nquot. Cuong can mean "upright," for example, in reference to the upright supports of byres. It is also used figuratively to mean "firmly established," as in the phrase be gole cuong: or "may his hearth stand" (Evans-Pritchard 1956: 16). It is most commonly employed, however, to mean "being in the right" in both a forensic and a moral sense. Discussion in law cases is for the purpose of determining who has the cuong, or the right in the case, or who has the most right. In any argument about conduct, the issue is always whether a person has conformed to the accepted norms of social life. If he has, then he has cuong, he has right on his side. The individual involved is seen as doing that which ought morally to be done, that which is conformable with the nquot commitment, or good social order, in tune with the universal order. If a person has Cuong, he has observed the rules of proper conduct in community life.

This concept of cuong relates directly to man's behavior towards his Creator. It also relates to the Creator in a more indirect way, in that He is regarded by the Nuer as the founder and guardian of human morality. This does not suggest that God immediately and directly

sanctions persons for their wrong doing, Nuer believe rather that sooner or later and in one way or another "good will follow right conduct" and "ill will follow duer. wrong conduct." If a man keeps himself in the right, that is, if he does not break rules or wrong others, and fulfills his obligations to spiritual beings and to his kindred, he will avoid serious misfortunes or punishment. Evans-Pritchard observes that the Nuer who are a quarrelsome people, avoid, in so far as they can restrain themselves, giving gratuitous offense, because of the fear of God. The thought of God's heavy-handed intervention encourages compliance with the rules of right conduct. Mary Douglas (1980: 106) observes:

If a man were to refuse to pay up in the social transactions, the whole system would collapse like a pack of cards. It is no small political achievement that any Nuer to whom a cow is owing can go and collect his debt in a camp of strangers with all the immunities of law, because he was in the right (emphasis added). The pressure of cattle debts being strong, the wish to evade payment must be strong also. The possibility of fighting it out when one has had the misfortune to kill another must be more attractive than paying over full forty head of cattle.

However, social debts tend to be paid within geographical and social limits. These payments are seen as creating communities that recognize their own distinct identity and that are able to ally with neighbors to defend their rights against more distant foes. Bringing strife to a truce when balanced segments confront each other depends on the inequality in transactions between God and man. Cuong conceived of as justice and righteousness helps maintain a social order among people. The conception of the universal character of divine righteousness implies a uniform relation of God to man, and man to man, and any violation of the rights of other individuals is seen as an affront to divine will. This sense of justice and righteousness as regulative principles is consistent with the argument that non-hierarchical order among the Nuer emphasizes equality, autonomy, and individual responsibility.

Another way to understand cuong is to study trouble cases. The actual experience of Nuer under the various nquot commitments reflects

the continuity rather than the discontinuity of such relationships. John R. Commons' (1959: 531) concept of working rules of going concerns, with its emphasis on the important role of concerned officials in establishing the law on a dispute by dispute basis suggests the trouble case methodology as the appropriate method for learning what actions are consistent with cuong. Karl N. Llewellyn and E. Adamson Hoebel (1941: 20-28) argue that trouble cases - "instances of hitch, dispute, grievance, trouble" - reveal more accurately the reality of law in a culture than study of idealized normative patterns or everyday behavior. One ought by no means to ignore normative patterns or the practice of everyday behavior occurring within the constraints of the working rules. Both of these perceived "right ways" and normal ways of doing things interplay with locally sanctioned rules of law. But if regularities in human conduct are to be explained by reference to rules, then trouble cases are the way to see rules in action at the boundary points between licit and illicit action. In the end, they are the way to find out whether a stated norm is applied in practice, and if it is, how it is.

Seeking out and examining recent trouble cases arising among the Nuer reveals rules that elders had used in attempting to assess the conduct of disputants or violators. Second, the cases show that there is a standard application of who is in the right or who is more nearly right in particular cases.<sup>12</sup> However, who is in the right or who is more right, in practice, is affected by structural distance in genealogical terms. This implies that a similar act can be evaluated differently according to the actors' social distance.

#### Articulation of Conceptions in Structures

The Nuer presumption that all men are equal before their Creator poses a problem: how are laws enforced on those members of the society who deviate from the accepted norms? Because there is no paramount ruler, there is no single person or a group of persons who enforces

rules on everyone else. But if rules cannot be enforced, some people will take advantage of others. The proper application of the rules both by users (duek) and enforcers (kuar) requires impartial standards of judgment in order to maintain lawful relationships in a society. Persons are expected to make normative judgments by applying criteria of choice for distinguishing right from wrong.

The belief in equality among the Nuer supports the idea that each person is his own governor, meaning that he is accountable for his own actions to God, who is thought of as the guardian of morality, and to his fellowmen. Associating human rules with transcendental power provides a possibility of orderly relationships among people. Conceptualizing God as the guardian of the moral order poses some problems to man because there are the things of above, associated with the spirit, and the things of below, associated with men. However, the Nuer believe that the divide is bridged: God intervenes in men's affairs; the Spirit in the heavens descends to earth in rain, lightning, or works through individual persons to influence human affairs on earth. Through an individual agent, a potential link is established between God and human society. This is also the basis upon which emperors have presumed to be vicars of God: Ivan IV (the terrible) of Russia for example. For the Nuer, the power to "make a leader" or a priest is latent in the community, but for the actual priesthood to emerge, a "form-giving intervention" was required.

This intervention occurred when priestly powers were given to some lineages such as Jimem, Gatlak, and Jikul in order to permit them to mediate effectively between individuals in conflict.<sup>13</sup> Members of these lineages are known as kuar or "enforcers" of God's laws while other lineages are duek or "users" of the laws. Members of these lineages are scattered among communities in the Nuer society to provide mediating services.<sup>14</sup> The office of mediator is hereditary. The genealogical



arrangement assures an individual's participation as a user or enforcer of the law with the blessings of his forefathers.

Associated with the nquot commitment are two principles that sanction the incorporation of strangers into Nuer society and the removal of individual Nuer from his or her position of privilege. Enforcers of the law can forfeit their status (Dung 1989; Bum 1989). This principle of removal is grounded in the nature of the Nuer conception of God. Kuoth can love and He can also become angry and withdraw favor or protection. A mediator is viable only because other Nuer have respect for the holder of the office. The holder must therefore act in such a manner as to earn this respect. Users of the law can withhold respect from a mediator who abuses his office secure in the belief that God will do likewise. The mediators' curse will no longer be feared. The principle of removal does not alter the genealogical position of the person concerned.

Through incorporation into existing lineages, peoples of any origin can become Nuer in the fullest sense.<sup>15</sup> This implies that Nuer society is made up of collections of people of different origins.<sup>16</sup> Incorporation is accomplished through rituals of adoption by which a person's status is changed from that of a foreigner to that of a person of full standing with equal rights and privileges with the adoptive parents. From this point onward, all children born to the adoptee become heir to all the rights and privileges in the adoptee's lineage. The adoptee's line now stands as legitimate heir to the genealogical benefits given to the original line.

#### The Ruic Naath; The Spokesman as a Model of Virtue

The Nuer recognize that special personal abilities to articulate problems and make normative judgments about who is or is not in the right are important to maintenance of their political order. Spokesmanship is seen as a quality vested in a "God-fearing" person who

is able to maintain or restore the ngquot relationships between individuals. A spokesman (ruic naath) does not impose himself or enforce settlement of disputes by his personal prerogatives but reveals the law to individuals and groups. He speaks to the people, he cannot order them. Howell (1954a: 27-36) observes:

There is no verb in the Nuer language meaning "to order," and the imperative is not used with any sense of authority behind it. To get another man to perform some task in his behalf, the Nuer must first draw attention to some special relationship between them, whether it be real or fictitious. It is an appeal to the mutual obligations inherent in kinship and is expressed in kinship terms. "Gat mar," or "O kinsman," is the preface to any request which might otherwise take the form of an order. By this I do not mean that the imperative is never used, but it is used only to persons with whom the speaker has an actual and constant relationship, and usually only when the speaker is a senior kinsman. When telling a foreman woodcutter, for example, to order his men to cut down certain trees, the District Commissioner, allowed greater license than others, will use the imperative, but the foreman will pass the order on in more euphemistic terms and include himself in the effort to be made. This is merely an example of the exceptional independence of character of the Nuer and their refusal to admit superiority or domination.

A Nuer household is believed to be able to govern itself without outside interference. To protect rights threatened by other householders, households rely on the assistance of other kin. This implies self-help arrangement (Barkun 1967; Douglas 1985: 64). But whenever there is really a free-for-all, there is a possibility that the strongest will prevail regardless of whether it was in the right. The operation of the elementary principle of self-help usually produces great disparities of wealth and power. Among the Nuer, the strongest does not win for three reasons. First, wealth in the form of cattle, goats, and sheep is distributed fairly evenly among households. Cattle are given in bridewealth by each family in accordance with their means and are receive'd by each family in accordance with the number of their daughters of marriageable age. (See Goody and Tambiah 1973: 13, concerning the "leveling function" of bridewealth.) Second, there is no accumulation of power. Individual liberties have not been limited so as to allow power to accumulate with a single person or a body of men for

the sake of the "good" order. Third, feuding resolves disputes and allows mutual adjustments between groups. Conflict, by creating regular patterns of alliance formation, serves as a functional substitute for a central government. It is in conflict situations that higher levels of organization becomes visible when regulative ideas are acted upon for marshalling activities in the society.<sup>17</sup>

The belief that individuals are social creatures who are capable of molding their own social context in the Nuer conception of order, opens up the possibility of developing an alternative system of political leadership. Because diminishing the equality of members in a group is perceived as corrupting, a spokesman must be able to maintain the unity of the group by the consent of its members.

#### Community Spokesmen and Custodians

Other political functionaries play important roles in governing Nuer society. (A summary of the discussion of the principal roles which follow can be found in the accompanying table.) The Nuer recognize two major types of tasks that must be performed in order to sustain their society: one is mediating between man and man; the other is "subduing" the earth. There are consequently two types of priests in Nuer society: the kuar muon (earth custodian) and wud ahok (cattle custodian). Again, the representation of divinity, which is the role of these custodians, is exercised by diverse individuals scattered among Nuer communities.

An earth custodian (kuar muon) has priestly power derived from a divinity referred to as the divinity of the flesh (Kuoth Rieng). The custodian's responsibilities are to control the earth and its productivity and to promote the welfare of those who lives on and by the earth (Jackson 1923: 89; Schilde 1947: 161; Evans-Pritchard 1934: 34; Howell 1954a: 43). The earth custodians mediate between disputants in conflicts concerning rights in land, grazing, water, and are called in

Table of Key Political Functionaries<sup>18</sup>

Title	Translation	Principal Functions
Guan Buthni	Head of the lineage	(1) Leads bridewealth negotiations (2) Conducts mortuary and colwic ceremonies (3) Settles blood-feuds (4) Incorporates foreigners (5) Initiates age set (6) Severs kin ties to allow intermarriage or cohabitation (7) Authorizes the building of new byres (8) Acts as master of ceremony in division of inheritance and property (9) Acts as spokesman of the lineage as a corporation of segments
Kuar muon	Earth Custodian	(1) Controls the earth (mun, gen. muon) and its productivity (2) Gives the slayer sanctuary (3) Negotiates disputes about homicide, adultery, and incest (4) Performs sacrifice to enable normal social relations to be resumed (5) Rehabilitates the slayer (6) Administers oaths
Wud Ghok	Cattle Custodian	(1) Guards the well-being of the cattle <ol style="list-style-type: none"> <li>prevents cattle disease</li> <li>treats sick cattle</li> <li>increases the fertility of the cattle</li> <li>resolves disputes concerning pasturage</li> <li>regulates the movements of cattle</li> </ol> (2) Regulates the Age-Set System <ol style="list-style-type: none"> <li>decides when a new age set should commence and close</li> <li>performs sacrifices to open and close periods of initiation</li> <li>names the age set</li> </ol>
Ngol (Kuar Tang, Guan Tang)	Custodian for Defense	(1) Controls tactical organization consisting of age sets (2) Decides strategies in war (3) Advises on the safety of warriors in war
Guan Thoi	Water Custodian	(1) Blesses the water (2) Ensures that there is an abundance of fish (3) Ensures that people will be successful in catching fish (4) Facilitates the crossing of crocodile infested waterways (5) Determines when to fish fish reserves
Kuar Yiika	Custodian on Family Affairs	Responsible for resolving special problems of death that occur under unusual circumstances. If a man abducts a girl or a man runs away with another man's wife and the woman or girl dies during this period, it is the <u>kuar viika</u> who is called to determine how to resolve this problem in an equitable fashion.

cases of homicide (Dung 1989; Evans-Pritchard 1943: 44; Jackson 1923: 89). Homicide implies that the soil has been polluted with blood, which may explain why the earth custodian was an indispensable participant in the rituals of atonement and reconciliation. His ability to curse and to ban, which are a threat to any person obstructing the rightful course of his peace-making duties were believed to have divine origins. The earth custodian's powers like those of the enforcers of the law are hereditary. Neither the earth custodian's lineage nor the cattle custodian's lineage were original settlers (diel.) of the land. Neither are ever dominant lineages of their areas. Thus, the earth custodian and the cattle custodian do not have the same extensive kin-ties with other lineages in a particular region. As members of neutral lineages, they are able to mediate disputes between the dominant lineages.

The cattle custodian (wud ghok) belonged to one of a number of lineages who were believed to have special abilities to cure cattle diseases. Conversely his curse can adversely affect the health of a man's herd. The cattle custodian was also responsible for regulating the social processes of the age-set system. He was responsible for opening and closing the initiation periods and, thereby, creating distinct age sets. Age set membership ranks people in order of seniority, equality, and juniority so that wherever a man may be, he knows what other men he must treat with formal respect and from what other men he should receive this respect. For this to be possible, there has to be a clear line drawn between successive sets. The cattle custodian's role in defining age sets derived from the fact that initiation into an age-set system altered the relationship of young men to cattle. Initiated young men were forbidden to milk cows. However, the defense of cattle from outside predation by animals or humans is an important connection between the cattle custodian and the age-sets. The priestly powers, economic, and military importance of a cattle custodian added to his hereditary prestige, provides such a man the opportunity of

acquiring the greater political status of ruec (spokesman). Although the abilities of the cattle custodian are, however, thought to be more limited than those of the earth custodian, in both cases they are derived from the same principle: an hereditary and inherent virtue which is implicit in all men of the priestly lineages, active in some, strong in only a few, and manifest in the deeds and, above all, words of the priestly positions (Johnson 1980).

In Nuer thought, man has a unique responsibility to "subdue the earth." This subduing involves the realization of all the potential within creation that might offer glory to the Creator.<sup>19</sup> To accomplish this, there are specialists frequently called Kuaar (chief) or guan (owner or custodian) who have the hereditary abilities to perform certain activities on behalf of the entire community. Guan buthni is the key spokesman of a lineage as a corporation of segments. He helps in the resolution of conflict in the lineage. Guan thoi (water custodian) has the ability to assure the safety of water when members of a community fish or cross a body of water. The Nuer people that he assists can expect to catch more fish. Guan tang (custodian for defense) plans offensive and defensive warfare. Kuar viika (custodian for family affairs) mediates arguments on death and injuries which occurred to an abducted girl or a married woman by another man. These abilities are confined to people of certain clans, and again, as with the priestly clans, only a few people within the clan actually practice the regulatory activities though, theoretically, the ability is inherent in all members.<sup>20</sup> These custodians can be identified by the objects most often used in their regulatory activities, or by some natural element associated with their ability as shown in the Table of Key Political Functionaries.

In order to maintain an ordered life, the Nuer rely heavily on multiple agencies for resolving disputes among members of their communities. The representation of the divinity is fragmented and

distributed among members of several lineages scattered through many villages who function as mediating agents. Each of these persons can take decisions without reference to another center of authority.

#### Minimal Government

The traditional Nuer political system has no single recognized chief to run it and no exclusive judiciary to control it. Persons are divided among political units without any single administrative hierarchy of officials and without any single person to direct all of the common affairs of the society. Although they lack the machinery of centralized government, this does not lead to mere anarchy and indiscriminate violence. There are forms used to maintain lawful order among the Nuer. For individuals to maintain harmonious relationships among themselves, depend upon common understandings and rules that enable each person to relate himself to others in productive ways. The operation of the society depends upon the capability of individuals to form stable expectations about the behavior of other members by knowing the rules of the community. However, many scholars assumed that Nuer, because they do not have a centralized government, have no rules to govern themselves. They have rules. Rules are built upon the foundation of language. If words are to work in promoting social harmony in an acephalous system, some arrangements must exist for formulating them, determining their application, and enforcing relationships in accordance with working rules (Commons 1959: 531). These are the relationships that are identified with governmental institutions in the broadest sense.

Among the Nuer, the members of a single gol (homestead) always recognize the authority of their senior member. If the gol is perceived as a self-governing unit and if the authority of the senior member is considered sufficient to establish rule-ordered relationships, it is clear that the family institution is, both in theory and practice,

capable of ruling itself. This logically follows that the idea of minimal government may be consonant with the Nuer way of life where there are multiple decision structures without a single person monopolizing the prerogatives of governance. The concept of minimal government may be a convenient way of preserving the visibility of the individual in the governance of his or her affairs.

The Nuer gives support to the concept of minimal government in two ways. First, there are rules and a common understanding of these rules. Persons are conscious of the existence of rules as rules. For example, to kill is an offense. Second, certain persons function as leaders because they are respected. These are elder members of the community. People will listen to what they say because of their age and wisdom. Others have recognized priestly powers that are not shared by all members of the community. Certain ceremonies can be performed only by these men. By performing ceremonies, acting out rituals, they are exercising decisions in relation to the persons involved.

The autonomy of individuals has profound influence in the design of institutions in an acephalous society. There was no integrated bureaucratic structure to handle public issues. Individuals, family institutions, and voluntary associations were, therefore, left to regulate their own local affairs. This permits individuals to work with other members of the society to resolve their problems instead of waiting for an external authority to take action.

#### The Codification of Nuer Law

To understand how Nuer have mediated conflict over time, it is necessary to know what sets of rules concerning wrong-doing have applied in different historical periods. I will first define what is meant by the Nuer concept of duer and then explain how the Nuer originally provided for remedies, enforced obligations, and punished wrong doers.



Second, I will examine the effect of the imposition of British concept of law on the Nuer way of life.

Duer; A Code of Rules for Punishing Wrong-Doing

Although a nguat commitment provides luek, rules for ordering conduct, Nuer accept that human beings can make wrong decisions that lead to wrong-doing. In order to maintain lawful relationships when an individual's behavior deviates from the acceptable, a way must be found to stop unacceptable behavior and to bring it into conformity with accepted patterns of conduct. The word duer needs to be defined. It means "a fault"; the verb duir means "to be at fault." Like similar words in other languages (for instance, English, Arabic, and Swahili), duir has both the sense of missing a mark aimed at — throwing a spear — and also of a dereliction, a fault that is characteristic of retribution. Any failure to conform to the accepted codes of behavior towards a member of one's family, kin, age set, a guest, and so forth, is a fault that may bring about evil consequences as the result of either a curse that is voiced or a silent curse generated by anger and resentment. The misfortunes that follow are regarded as coming ultimately from God, who supports the cause of the man who has the cuong, the right in the matter, and punishes the person who is at fault.

There are two punishments for duer, which reflect the type of fault committed. Repercussions from a religious fault such as the breach of an interdiction or the neglect of some spirit may be avoided by expressions of remorse and a sacrifice. The Nuer believe that sacrifice without remorse is meaningless. Repercussions stemming from wrong-doing of a political nature can be avoided by the payment of reparations. The fact that the consequences of a duer can be stayed by contrition and compensation indicates that the results of wrong-doing are not perceived to be automatic (Evans-Pritchard 1956). There is a moral, some uncertainty, and an alterable element involved in the situation. This

is made clear by another circumstance. In estimating the number of cattle to be paid in compensation for the misfortune that has occurred, the earth custodian takes intent into account. The Nuer distinguish duer and guac. The concept of duer normally implies that the fault committed was deliberate, though this is not always the case. Guac means a mistake, an unintentional error. It implies that the action was incorrect but inadvertent and that a person may ask to be excused. The fact that the action was not deliberate, to some extent, alters the circumstances. This is evident in cases where damage and compensation are involved. The manner of discussions and the amount of compensation depends on whether the slaying was premeditated or accidental. The difference in the weapon used was also a qualification. The Nuer consider the use of a fighting spear as an indication of intention. The Creator is thought to take intent into account in breaches of moral law. However, in the Nuer scheme of things, men have to accept the consequences of their actions whether they are deliberate or not. Certain acts are always a fault.

#### The Way of Mediating Conflict

The maintenance of acephalous order is the function of multiple agents with limited jurisdiction in resolving conflict. When a Nuer feels insulted or wronged, he does not take advice or seek arbitration, he prepares to fight. Threats may yield counterthreats. Hostility easily escalates to destructive fighting that breaches the covenant or the peace of the community. The openness of Nuer decision processes affords recourse to multiple agents who seek to do justice and maintain the peace of the community by finding means to resolve conflicts when parties to a dispute cannot settle it peacefully themselves.

A neutral mediator with the capacity to sanction is a necessary feature of an effective dispute resolution mechanism. Among the Nuer such a person is available in kuar muon or earth custodian. He is a member of a lineage with the power to curse or to ban from the territory

the individuals obstructing efforts to settle disputes. Disputes were argued before ad hoc assemblies of the acknowledged leaders of the kin groups involved. Conflict resolution involved compensation through the payment of cattle and the rate of compensation, as well as the time it took to be paid, depended on the local availability of cattle.

Agreements were reached and compensation enforced according to the willingness of the kin groups involved to reach a settlement. This willingness was often affected by the closeness of the kin relationship between the groups, the existence of other contemporaneous disputes between the groups, and the threats of physical retaliation made by the victim's group against the lineage of the wrong doer.

A judicious use of the threat of banning or cursing enabled an earth custodian to get groups to meet and to agree to a settlement. In addition to the threat to curse or ban, the earth custodian's power of persuasion and knowledge of traditional law were also important in the settlement of disputes (Howell 1954a: 28; Barkun 1968: 129). As some offenses against a person - homicide, adultery, and incest - also involved spiritual "sin" (duer) which must be removed before a case could be completely settled, the earth custodian's other duty was to perform the necessary rituals of spiritual cleansing. Thus, the settlement of many cases involved both the negotiation of reparations and spiritual atonement. It is necessary to emphasize that the acts of spiritual atonement are necessary to any permanent settlement of conflict.

Sacrificing cattle was required to prevent the occurrence of a misfortune or sin, to appease an angry spirit, or to curtail or to get rid of a misfortune which has already occurred, as in times of plague. On all these occasions Nuer believed God intervenes, or may intervene for better or more often for worse, in the affairs of men, and His intervention is always dangerous. To accomplish atonement for the breach of a covenant, a cow must be sacrificed. A cow is important to

Nuer who, in fact, consider it nearly the equivalent a human being. Thus, the payment for life-taking is made through bloodwealth cattle. The institution of restitution for a life taken in bloodwealth cattle has its counterpart to bridewealth cattle as establishing the kinship bonds for the creation of life in succeeding generations. The effective functioning of the multiple agents with limited jurisdiction in resolving conflicts is important for the maintenance of equality and autonomy of individuals and the renewal of covenantal relationships.

#### Complementarity in Segmented Structure

Complementarity facilitates order in segmented structure of authority relationships. The acephalous system is made up of many units that are formally independent of each other. However, they take each other into account through the processes of competition, cooperation, fighting, and conflict resolution.<sup>21</sup> Although members of what was formerly a single polygynous household may have as a result of fission become separated, the relationship between the members remains unchanged as persons of common origin. They maintain exchange relationships. These kinship links are the essential ingredients that make it possible for these segmented groups to resolve their conflicting interests. Despite conflicting interests, Nuer perceive that the segments would be better off by taking into consideration the interests of other segments and by resolving disputes through negotiation and compromise.

Taking account of the interest of others means that Nuer segmented groups are held together as coherent communities of interest and all their affairs are managed through their joint acceptance of regulative ideas which marshall activities in the society. These regulative ideas marshall activities, when they are acted upon, may be considered to form the constitution of the community and to embody the common understanding. The common understanding is the concurrence of the people of the community rather than the will of a single superior.

However, rivalry and contestation exist among the segments. People who live adjacent to each other have more in common to quarrel about than those who live away from each other. Competition over scarce resources such as land, grazing grounds, water and fishing reserves lead to fighting.

When rivalry is expressed in fighting, there are limits which bound the fighting. The nearness and distance of relationships between the persons in conflict influence the use of different weapons. When people who are closely related or who live in close proximity fight they are not permitted to use spears. Homicide, which may result in a fight with spear, is wrong within a community because it can lead to the disruption of the economy and security of a community. Only clubs and sticks can be used to fight close kin. When fighting with distant persons in the defence of the integrity of the community, the use of spears is permitted. Thus, complementarity in segmented structure of authority relationships implies varying degrees of communities of relationships. The shared interests of adjacent segments facilitates maintenance of a larger constitutional order among the Nuer.

#### Formalization and Corruption of the Nuer Law

The duer or the rule for punishing wrong-doing, was codified at the insistence of the British Imperial authorities. Although they were unaware of many of the institutional arrangements that helped maintained Nuer society, the British did recognize that the Nuer society was rule ordered. The imperial authority chose to recognize the Nuer customary law of duer for use in the new British-style courts that they introduced. If the new courts were to adjudicate on the basis of duer, it had to be written down. Administrators who were not familiar with the concepts of cuonq or duer and the underlying shared understandings in the community also could not carry out their responsibilities without the written code. In their case, the purpose of written codes was to ".

. . enable administrators and chiefs . . . to discuss common interests, and ensure some consistency in administrative policy" (Howell 1954a: 1). These written codes can be found in Howell's A Manual of Nuer Law, which was put together in 1954. The written codes are known as nguot Fangak, or laws made in the town of Fangak. They are known by many Western scholars as penal law.

Nguot Fangak is a list of mandates from the colonial administrators (including native chiefs) and includes penalties for specific offenses. It is a single standard of behavior. It is used by the officials and chiefs as a code. In short, duer is a collection of pre-defined behavioral rules that exact obedience to the accepted patterns of behavior in the community. When duer appears in written form, it is used as a basis to evaluate people's behavior and to punish those who fail to follow the correct form. Duer, by definition, only refers to penal law. This classification shows that duer is, in fact, more of a supportive legal code than a challenge to the traditional way of right behavior. The model of proper conduct implied in duer can be identified with the principle of cuong. The punishments applied only to those who had acted in ways that did not conform to accepted patterns of behavior.

#### The Conceptual Conflicts between Cuong and Duer

The Nuer traditional rules of cuong and duer are complementary in their work of maintaining social order. However, there are important conflicts between the two since the creation of the written codes. In British courts, the method of punishing wrong doers by requiring that they compensate their victims was replaced by a method that exacted punishment on the perpetrator (Makec 1988: 12). The establishment of the British-style court system and the appointment of chiefs, conflicted with the Nuer scheme of things in several ways. First, before the creation of the chief's courts, the village assembly, that is, the village council of elders, the religious leaders, and the age-groups played significant roles in the administration of justice. The creation

of chief's courts drastically curtailed the ability of these bodies to play their traditional judicial roles. Second, physical confinement as a method of punishment was contrary to the principle of compensation. In a society that punished deviations by requiring payment of cattle to repair the damage, physical confinement was not an accepted practice. In addition, the application of physical confinement means that jail facilities and machinery for monitoring this type of punishment are required. Nuer chose not to develop such facilities and institutions. They relied upon banishment rather than imprisonment. They believed confinement would result in suffering and would generate bitterness on the part of supporters of the victim and undermine harmony in the society.

The Nuer also challenge the application of nouot Fangak in the chiefs' courts because it was not concerned with the spiritual aspect of life. They maintain that it is the spiritual aspect of man that maintains proper behavior. In other words, it is the mind that guides men's behavior. The force that prevents men from committing crimes is the fellow feeling of brotherhood, that is, of covenantal relationships. If the doing of justice and righteousness were not developed in men, Nuer cosmology presumes that men will disregard moral judgment. As a result, the lack of spirituality is thought to lower one's moral fibre and his will power to resist evil temptations. They argue that every religious law and ritual is not an isolated pattern of behavior; they contribute in some way to an individual's actions. They believe that no written law and no amount of punishment will prevent people from deviating from the accepted pattern of conduct unless the spirit of respect for the spirituality of each person is inculcated in their hearts and minds.

The Nuer realize that a man can make unintended errors as well as deliberate ones. This implies both ignorance and potential to learn. With greater moral understanding, men can avoid external restrictions

being imposed on them and become responsible to doing right as they act in relation to one another. Constituting order in a society requires the development of a fear of God and a sense of shame for being a wrongdoer (Reth 1989). A social order solely based on penal law and punishment has no moral foundation to build upon. When people know the grounds on which to conduct disputations, they will use the written law to further their self-interests at the cost of others. To the Nuer, conflict resolution is grounded more on a conscience of doing right, repentance for doing wrong, renewing covenantal relationships in a spirit of reconciliation and compromise. Mutual trust among people is an important ingredient for self-governance. Written law is inflexible. Once an imperial government proclaimed a law, a government must strictly follow it to build credibility. Human society is too complicated to be ruled by unalterable law. The Nuer, in dealing with one another as already noted above, have to take into serious account the intention of the perpetrator and other relevant factors concerning their behavior. The existence of written codes disjoined from appropriate processes of governance in ongoing communities of relationships inevitably restricts the flexibility of inquiry, moral reflection about how to re-establish binding relationships with appropriate affective ties, respect, friendship, brotherhood, and affection mediated by custodians who seek to sustain the bonds of covenantal relationships.

#### Ng'uat Fangak Becomes Nuer Law

For the "foreign" rulers who had to re-organize the governing of the Nuerland within the Sudan, the concept of cuong became difficult to realize in a large and extensive political setting (Howell 1954a: 225-230). This is because there is a lack of purely objective criteria for the idea of cuong. The need to unify laws in order to govern the many autonomous units of Nuer society was paramount in the drive to use written law to order an acephalous society under "alien" rule, acting in accordance with a principle of indirect rule.



The conference of Nuer chiefs held at Fangak in 1948 was called by the colonial authorities to evaluate the drafted rules. The chiefs thought that the threat of physical confinement would be an important additional tool in achieving cuona. These chiefs were handpicked by the British authorities and so were more obliged to accept what had already been decided. Nuer were expected to adapt and to adjust to the new ways of doing things.

Adopting the written duer as Nuer law had several consequences for the constitution of order among the Nuer. First, the Nouot Fangak as it is locally known, was accompanied by a secularization of the Nuer system of governance. Persons with priestly powers were removed from the governance system in the process of implementation of the change from leadership with priestly powers to secular leadership. Kuaar muon and wud ghok were regarded as kuiur (magicians) and foreign to Nuer society. Instead, persons were appointed as kuar who were perceived as gat wee, meaning citizens of the area. But, in fact, these were the secular leaders belonging to the dominant lineages. The assumption of imperial authorities was that prophets and priests were of foreign origins and usurped power from the citizens, and they had to be eliminated. Traditional leadership and ordinary people opposed this change, but the colonial government prevailed and imposed secularization and westernization.

Second, the individuals designated as gat tut or head man of an area, sought to acquire a warrant (a license), possession of which enabled the recipient to become a member of the native court. Court membership was now viewed as a rich prize, a quick avenue to wealth and power. This is largely the reason for the extraordinary demand for warrants among the Nuer lineages. The presumption was that the person appointed as chief must have a warrant because his authority over his people is insufficient without a warrant. This scramble for warrants led to the appointment of many "chiefs." In the process, the "ungodly"

were exalted and this led to changes in Nuer society in the evolution of both law and political organization as a system of governance and, ultimately, leading to a basic transformation of the social life.

Leaders were seen as having two separate roles functioning in an alien administrative structure and in Nuer society. While the administrative structure was very much a part of Nuer life, in many ways it was never fully absorbed into Nuer society, and became increasingly separated from religion.

### Conclusion

The system of Nuer governance was shaped by the conceptions Nuer hold about themselves, their universe, their relationships with each other, and their relationships with other people who may come into contact with them. These cosmological conceptions shaped the structure of the institutions which are essential to understanding how Nuer society was constituted as a way of life. Nuer perceived themselves as qaat kuoth or children of a common Creator and therefore inherently equal. The role of individuals within the social and religious system is an active one - of doing right; of being responsible for one's actions. Nuer had clear ideas about what it was to be in the right. Because they shared the same conception of God and God's law, and the same ideas of what could go wrong and how to set it right, they had the possibility of building covenantal relationships.

Covenantal relationships were grounded on the conception of nquot as a code of behavior. Persons entering into a nquot commitment contended with one another over the terms and conditions of an agreement as meeting the conditions for being in the right. Discussion enabled the parties to understand the nature of the bonds being made with one another. Symbolic action, such as rituals and sacrifices, accompanied the verbal commitment. The division of the meat of the sacrificial oxen symbolized a "pledge to the death" to keep the nquot commitment. The

dismembered animals represented the curse that the nouot maker calls down on oneself if one should violate the commitments that have been made.

Covenantal relationships are, however, also subject to being breached. Nuer, like other human beings, committed wrongs even though they strive to do what is right. Their moral code continually placed them in ambiguous and conflicting situations. They should fight to defend their rights, but they must not shed human blood: this is an example of the moral constraints within which they continually acted. Their daily lives were filled with circumstances that might lead them to breach their covenants.

There was, then, the matter of re-establishing covenantal relationships. God provided a guide to right living – the right way. Nuer sought to be faithful to God and God's law. That faith was manifested in a commitment to living in a right way with one another. The problem of doing wrong, of breaching covenantal relationships, required repentance, acknowledgement of wrong doing, a search for reconciliation, and the renewal of the covenant which was ritually sealed again with blood.

Nuer understood that the violation of covenantal relationships was dangerous because it open ways for the intervention of kuoth (God) into man's affairs. The adverse consequences of a violation of a covenantal relationships might be avoided by expressions of remorse and a sacrifice in order to re-establish covenantal relationships. The rubbing of ashes on the back of the ox to be sacrificed was an act of substituting the life of a beast for the life of a man, an identification of man with beast, sacrificer with victim. Repercussions stemming from wrong-doing of a political nature could be avoided by payment of reparations. A fault of inadvertence might not have such serious consequences as a deliberate wrong, but might nevertheless entail grave consequences.

Despite the absence of a clear center of authority and ruling bureaucracy, a process of governance went on. There were regulative ideas at work — being acted upon — which were constitutive of a way of life. The spiritual permeated the cultural and social. Individuals could call upon numerous persons possessing priestly (spiritual) powers to mediate sets of covenantal relationships — to tie the spiritual to the mundane (worldly) in the building and renewing of covenantal relationships. The core ideas, then, were a covenantal cosmology, building covenantal relationships, a watchful concern about the breaching of covenants, and an enduring effort to renew and re-establish covenantal relationships whenever breaches occurred. This type of society was viable as a self-organizing society. British imperial rule, even when accompanied by commitment to indirect rule was disruptive, because law is conceived as apart from the covenantal commitment to guard against breaching the covenantal relationships and renewing and re-establishing those relationships whenever breaches occurred. The concept of covenant and a covenantal way of life are so integrally related to one another that to have the one without the other would be destructive of Nuer society.

Notes

<sup>1</sup>A cosmological view refers to basic presumption about a universal order.

<sup>2</sup>Most of the other Nilotic peoples have organized themselves quite differently than the Nuer. The Sudanese Nilotic peoples includes: Anuak, Mursi, Dinka, Mandari, and Shilluk (see Raymond Kelly 1985b: 157-225; Evans-Pritchard 1940a: 111; Marshall D. Sahlins 1961: 322-24; Peter J. Newcomer 1972: 5-11; Maurice Glickman 1972: 585-87; Aidan Southall 1976: 463-91; Schnhardt 1958: 110-31; Douglas Johnson 1980: 53-120; Gabriel Giet Jal 1987: 1).

<sup>3</sup>Nuer do not believe that God causes anyone's death but rather that he can be angry and allow angry "spirits" to cause harm. Father Crazzolaro (1953) reported that the Nuer told him that if God kills a man or destroys property by lightening, He has only taken what was His, what was His right.

<sup>4</sup>The source of this information is an interview with Rev. Kang Dung on September 12, 1989 in Kost, Sudan (see also Mary Douglas 1980a: 107; Evans-Pritchard 1956: 18-20).

<sup>5</sup>The Ciang (sing.) naath is the customary practice of Nuer. Ciang (pi.) are customary practices of Nuer people. Naath literally means "the people" and has an ethnocentric overtone. They are "the" people of the area.

<sup>6</sup>information obtained in an interview with Riel Gatluak on September 13, 1989 in Kost, Sudan; and Riek Kerjok on September 27, 1989 in Khartoum (see Evans-Pritchard 1951a: 49-65).

<sup>7</sup>There are a variety of family associations among the Nuer. The most important groups besides simple lawful (nuclear) and compound families, they are vicarious and leviratic families. Vicarious family is made up of a wife married to a man who died without a male heir and a husband closely related to the dead person and their children. Leviratic family is made up of a woman and her children and a brother of a dead man inheriting the wife of his brother to continue to bear children in his name. Leviratic marriage also prevents the breakdown of relationships between the two covenanting families. For more information on the variety of family associations, see Evans-Pritchard 1951a: 49-65.

<sup>8</sup>The concept of nguat-cutting process relating to the establishment of covenantal commitment manifests itself throughout the ancient languages of the middle East, North Africa, and most of Africa South of the Sahara. See Dennis J. McCarthy 1963: 53; Erich Isaac 1961: 447, "Circumcision as a Covenant Rite," suggests that the calling of heaven and earth as witnesses to the covenant in Deut. 4: 26 relates to the "cutting" of a covenant by means of allusion to the Babylonian creation myth, which involved the cleaving of a primeval being to form heaven and earth. The concept of covenant is used in two senses here. The first is covenanting between God and man. This covenant is characterized by fundamental inequality between God and man. God promises to give man protection from evil and man to obey God. This is the theological meaning of covenant. See Exodus 2: 24; 3: 16, 17; 6: 4-8; Ps. 105: 8-12; O. Palmer Robertson 1980. The second use of the concept of covenant as cutting an agreement between man and man is perceived among the Nuer as marked by equal standing of these parties to the covenant. The terms

and conditions of the covenant have to be understood clearly by the parties and they are enforceable in human terms.

^ouno ruali is the cow sacrificed for purification of closely related persons who committed an incestuous act. The cow is usually cut in half, one part with each of the parties involved symbolizing shedding of blood if you repeat the prohibited act.

<sup>10</sup>For a full presentation of evidence, see Dennis J. McCarthy 1963: 52; Evans-Pritchard 1956: 107-200; Genesis 15: 18.

"Sharon Hutchinson has ably described the life blood relationship as Nuer see it and the political implications of that connection. See Hutchinson 1988: 184-193.

^Information was obtained in an interview with Rev. Kang Dung on September 12, 1989 in Kosti, Sudan (see Douglas Johnson 1980: 127-140).

<sup>13</sup>An interesting comparison is found with the Levites of the tribes of Israel. God appoints them as priests and judges of these tribes (Numbers 1: 47-54). They are not counted in the census of Numbers which is used for the tribal political divisions. God gives them no territory but scatters them throughout all the tribes. But, while receiving no territory, they are allotted cities (Numbers 35: 2-8). Especially fascinating is Numbers 35: 6, "The cities which you give to the Levites shall be the six cities of refuge where you shall permit the manslayer to flee."

"Among the Western Nuer, only a few lineages provided the various peoples with land priests or men of cattle; Gatleak originated from Leek, and Jimem originated from Bui Nuer, who were the most likely sources of both (Douglas Johnson 1980: 100; Kang Dung 1989; Evans-Pritchard 1935a: 45-46; Evans-Pritchard 1956: 292; Crazzolara 1953: 11-12). Gatleak priests are now found among Jikany and Lou Nuer. Jimem are also found among Lou.

<sup>15</sup>A captured foreign boy of non-Nuer descent, if adopted by his captors, counts as a son, and he cannot marry into their lineage. The reason is when the captured boy marries, his captors will contribute cattle to the marriage payments for his wife, which gives them a claim to some of the cattle that will come in when his daughter eventually marries; it is impossible for them to marry a girl at whose marriage they are entitled to claim cattle - it would be an incestuous union. The rule by which they forgo sex gives them a claim to the cows due to kinfolks. This applies when a girl is adopted, her adoptive kin perform a religious rite and say, "she will become our daughter and will receive her bridewealth cattle." The cattle of her bridewealth give her kinship, and with it the right to receive the cows due to the paternal aunt on the marriage of her captor's sons. Marriage is forbidden between her descendants and the descendants of those kinsmen in virtue of her bridewealth for several generations.

<sup>16</sup>Gea and Ghaak are the principal ancestors of the Nuer. From them most of the Nuer clans are believed to be descended. Not all Nuer clans can claim direct descent from Gea or Ghaak. Stories of origin while associated with Gea and Ghaak clearly show an origin outside ancestral Nuer (Johnson 1980: 88). This is the case with Jimem, a priestly lineage, the Jikul, the Jidiet and Kakar and the Gaawar of Gaawar clans. In each case the ancestor is invited into the Nuer settlements and is incorporated through some rituals into the existing kin structure. See

Douglas Johnson 1980: 88-89; Mary Douglas 1980c: 80-81; Evans-Pritchard 1940a, 1951a; Magai Gai 1988; Thomas Maiit 1988.

<sup>17</sup>The Nuer contributes a negative example to the theory of the state. See Max Rheinstein 1967; T.M.S. Evens 1978: 100-16; Elman Service 1975; Aiden Southall 1974; Henri J.M. Classen and Peter Skalnik, eds. 1975; Rang Dung 1989.

"Titles are different for different regions but mean the same thing. For example, kuar muon is known in some areas as kuar tuac, the leopard skin chief; wud ohok (and not wut ghok) is called kuar ghok; ouan thoi is also called kuar vier, kuar bieth or kuar tuoi. One must be careful in describing the positions by using these titles. Jackson 1923: 89 mentioned that among some Nuer segments, the office of kuar muon and kuar tuac were different. This highlights the confusion in titles. It is one "office" described by different names in different sections of Nuer society.

<sup>19</sup>The cosmological conception of "subduing" the earth to the glory of their Creator can be said to have led to massive assimilation of their neighbors who do not acknowledge the same worldview. Raids and land appropriation can be considered to result from this conception.

^According to the Nuer the original priests were Gea, Ghaak, and Kir who have been reported as the ancestors of all Nuer, except the incorporated Nuer. See Douglas Johnson 1980: 53-120; Gabriel Giet Jal 1987: 13; Riel Gatluak 1989; H.C. Jackson 1923: 69-74, "Legendary History," Khartoum: Central Records Office (CRO), Dakhliia 112/15/99; Evans-Pritchard 1933: 125-126; Evans-Pritchard 1954: 139.

<sup>21</sup>Vincent Ostrom's (1991: 199-244) The Meaning of American Federalism and its treatment of cooperation, competition, conflict and conflict resolution is ways of achieving coordination in a covenantal society.

## CHAPTER FOUR

### MARRIAGE, KIN, AND TRANSGENERATIONAL CONTINUITIES

#### Introduction

In an acephalous society, family institutions are key parts of governance arrangements among individuals in the society. It is in the process of family formation that kinships and cross-cutting alliances are formed. Individuals must develop their own methods of: (1) resolving conflicts among individuals, (2) punishing those who do not behave according to the rules generally accepted in a society, and (3) developing ways of insuring commitments to the long-term arrangements necessary for productive undertakings. The family is one of the major institutional arrangements used by the Nuer to achieve these objectives.

The institutions surrounding the negotiation of a marriage union have been described in the published works on the Nuer as if these were simply rituals without much relevance to the governance of Nuer society. Many non-Western societies' use of bridewealth, and the processes of negotiating a marriage are described as a series of steps taken in a ritualistic manner. Little effort has been made to go below this surface to try to understand how regulative ideas marshal activities to help Nuer families solve many of the problems they face in developing peaceful and productive relationships among themselves. Building alliances that extend beyond the immediate family unit is a major problem for highly individualistic societies.

Explaining how the Nuer build a system of rule and rule-ordered relationships through the medium of marriage and kinship, and how these relationships are maintained and perpetuated from one generation to another is the purpose of this chapter. In considering the marriage union as part of the constitutional order of the Nuer, I will first describe the formation of a lawful marriage. To do so one needs to go back to common understanding of how Nuer perceive the basis of marriage in their realm of ideas. This is important because the Nuer marry by



the family, and the kin of the groom transfer many cattle to the kin of the bride. Second, their kinship system links Nuer together in an orderly arrangement of interactions by which particular customs are seen as functioning parts of the social machinery. I will try to explain how the network of ties of kinship are organized and how they work. Finally, I will explain how Nuer society reproduces itself over time.

### The Formation of Marriage

In order to understand the regulative ideas of the Nuer concerning marriage and the methods used to marshal actions consonant with those ideas, it is important to conceptualize marriage as a rearrangement of social structure. Social structure is any arrangement of persons in institutionalized relationships (Radcliff-Brown 1951: 43). As a result of a marriage, certain existing relationships are changed. New social relations are created between the husband and the wife, between the wife and the husband's relatives and also, between the relatives of the husband and those of the wife, all of whom have an interest in the marriage and in the children that are expected to result from it. Marriages, like births, deaths, or initiations at puberty, are structural arrangements that are constantly recurring in human societies. They are moments of the continuing social process regulated by rules and custom.

Marriage union is not based on romantic love between two individuals, although physical beauty as well as character and health are desirable in a mate. The affection that exists after some years of marriage is the product of the marriage itself conceived as a process, resulting from living together and cooperating in many activities, especially in the raising of children.<sup>1</sup>

Among the Nuer, also, other common customs need to be understood as well. First, marriage is established by an agreement between two sets of persons, the kin of the groom and the kin of the bride. It is

an alliance between the two sets of kin based on their mutual interests in the union itself and its continuance, and in the children born of the union who will be members of both kin-groups. An understanding of the nature of alliance is essential to understanding the Nuer kinship system. Second, the Nuer distinguish, like other societies, between a lawful marriage and an irregular union. In a modern state system, a marriage is lawful only if it is registered and licensed by the state. In acephalous society a lawful marriage by which children who will be born are given "legitimate" status in the society requires a series of transactions and formalities in which the sets of kin, those of the husband and those of the wife, are involved. The making of a bridewealth payment to the bride's family is an essential part of the establishment of the lawfulness of a marriage.

#### The Foundation of Marriage Union

In Nuer beliefs, the institution of marriage is "ordained" by God. Man and woman are joined together to establish cieng, human family for the main purpose of dieth, reproduction of human kind to glorify the Creator. "Sexual activities are from their earliest manifestations given the approval of cultural values. They are from the beginning associated with marriage. It is the chief ambition of a youth to marry and have a home (fool) of his or her own. When a Nuer speaks of marriage, he means a home. Having a home symbolizes success and responsibility" (Evans-Pritchard 1951). Sexual activities are associated with the fulfillment of divine will. Even in childhood, it is clear that marriage and the birth of children are the ultimate purpose of the sexual functions.

Children start playing at marriage from the time they begin to walk. They make cattle byres (lueek muoni) and huts of sand, and mud oxen, bulls, and cows, and with these conduct bridewealth negotiations, perform marriage ceremonies, and play at domestic and conjugal life. In

its earliest expression, sex is associated with marriage, and the first sexual play occurs in imitation of domestic routines of married life. It occurs in response to cultural, more than an instinctive, urge.

#### Cuong Thok Duel; The Perpetuation of the Family

The Nuer tradition that expects individuals to produce children to perpetuate their lineage should be viewed as evidence of their strong feelings about marriage. As is the case in many other societies, marriage is conceived of as a means by which human beings reproduce their kind as ordained by their Creator. Nuer custom holds that a union that has not been blessed with a child cannot be maintained. Not until a child has been born is the husband accepted by his wife's people as one of them. He is then the father of their daughter's child, and, through the child, he acquires kinship with them. Until this happens, the husband continues to live with his parents.

There is anxiety about the birth of the first child. The husband and wife are anxious to produce a son who will become a link in the lineage, or a daughter who will bring cattle to the family when she is married. The parent's of the wife and their kin are anxious because they cannot, without risking complications, dispose of the cattle of the marriage until the birth of a child cements the union. Bridewealth cattle cannot be invested in other capital because they might have to be returned to the husband's family.<sup>2</sup>

#### Individual Autonomy and Parental Control

Among the Nuer the individual assists in maintaining the acephalous order by being an independent and actively participant in the governance of his own affairs. The perception of individual autonomy is grounded upon the presumption of equality of individuals in the society. The teaching of the young encourages independent action. As boys reach the age of seven, they are attached to the luak (byre) where major family decisions are made.<sup>3</sup> Initiation to manhood is a major step

towards individual autonomy and responsibility. The initiate is given a gun or a spear symbolizing that he is now a warrior. He is required to observe the etiquette that is associated with manhood. For example, he must not milk cows. These steps are necessary but not sufficient to establish his manhood in Nuer society. A Nuer is considered a "man" when he has married and has assumed the responsibilities of running a home and taking independent decisions.

Marriage among the Nuer is considered as a means of establishing individual autonomy from the control of parents and other senior kinsmen. A married man ceases to be dependent and becomes his own master. When a man marries, he establishes a home of his own of which he is head. He will have his wife, byre, herd, garden, and children. He makes decisions within his home and takes responsibility for those decisions. A home as a decision unit in the society at the same time exists in close cooperation with other units. The generation of male heirs is important because daughters are not heirs to their parent's wealth. They inherit from their husbands. Independence and individual responsibility are inculcated in the young at an early age.

#### The Processes of Lawful Marriage

Matrimony among the Nuer is brought about by payment of bridewealth and observation of procedures. In a society where the individuality of the persons seeking attachment is strong, the marriage procedure begins when the young man and girl concerned give their consent to the marriage. Grounding a marriage in the consent of both parties is considered a requirement for its success. The second step is the process of negotiation and payment of bridewealth cattle by the groom's family to bride's kin. Once the cattle negotiations are concluded and certain ceremonies have been performed, the marriage process is considered complete. The process of distributing the bridewealth cattle among the bride's kin is mainly the responsibility of

the father of the girl who apportions the cattle according to predefined rules.

### Courtship and Choice

The young are free to choose their own spouses so long as they avoid certain categories of kin. These categories of kin establish the rules of incest. Girls are arbiters of behavior, and the severest sanction of a breach of good form is their disapproval. Evans-Pritchard (1951) says that the threat of disapproval is a powerful incentive for making a young man to be generous, respectful to his elders, dutiful to his parents and kinsmen, hospitable to guests, industrious, and brave. The girls on their side are also anxious to earn the good opinion of young men by correct behavior in the home and in society. It is entirely up to the girl to accept or reject a man's proposal of marriage. Sometimes a girl herself makes the marriage proposal:

The girl can do this by going with some companions of her own set to the kraal of her lover and driving away several head of cattle to her father's home. Her father and brother understand what she wants when they see her bringing the cows. If her kin disapprove of the young man they will send the cattle back. If the kin like the young man and his family, nothing will be done to return the cows. After several days have passed and the cattle have not been returned, the young man and his family will know that the girl's family are willing to discuss the matter (Evans-Pritchard, 1951).

A father would not risk refusing his daughter's wish when she is in love with a man, even if he is not rich, because she can run away from home or hang herself.

The practice of Kap dep is another way in which a girl can make a public proposal of marriage. During the dry season young men in each cattle camp take their favorite oxen to parade them, led by their younger brothers or sisters, round neighboring camps, while they (rauke ka duarke) chat poems behind them and make graceful leaps to attract attention. A girl who loves a young man may on that occasion seize his ox and remove its lead. She keeps the cord and attaches a metal ring to it. Its owner later sends a younger brother to fetch it. This is

tantamount to a proposal and acceptance of marriage, and if the young man's family has enough cattle the betrothal ceremony takes place soon afterwards.

#### Negotiation and Bridewealth Payment

The initiation of a marriage entails a number of different transactions in which cattle, sheep, goats, and other items are transferred from the groom's to the bride's family (Evans-Pritchard 1940; Kelly 1985a). Additional livestock are required to provide ceremonial feasts at various points in the proceedings. However, a major component of the transaction is the bridewealth cattle, a negotiated quantity of animals that are given to the bride's kin by the groom's before she takes up residence with the groom in his community (Kelly 1985a; Evans-Pritchard 1951a).

The bridewealth payment is apportioned among the bride's family and certain designated close kin in accordance with the preexisting rules of division. These designated kin are ii cungni, the "people of rights" who have definitive claims that are recognized in law and custom and voiced at the time the bridewealth payment is negotiated.<sup>4</sup> These kin based allotments are also inherited and are consequently undiminished by deaths among the members of the bride's kindred. The customary size of bridewealth payments is thus largely determined by the number of recognized claimants and the number allotted to each (Kok 1989, Kelly 1985a). These considerations define the general framework of the transaction.

There is, however, as Raymond Kelly (1985) points out that there is scope for considerable variation within this framework. First, the specification of claimants and quantities due each one is not uniform throughout Nuerland but varies from region to region. Second, each Nuer region is independent in delineating both "ideal" and "acceptable" rates, effectively defining a range of appropriate payments rather than a single, set value. Third, actual payments vary within this range in

accordance with the availability of cattle to the groom's family and kin. Bridewealth negotiations are thus concerned with determining the precise number and kind of cattle to be transferred, taking into account the customary claims and expectations of the bride's kin, on one hand, and the economic circumstances of the groom's family on the other (Kok 1989, Kelly 1985a; Evans-Pritchard 1951a).

#### The Process of Distributing of Bridewealth Cattle

Cattle are the most valuable assets that Nuer own. The distribution of bridewealth cattle is an important means of maintaining ties of kinship.<sup>5</sup> Distribution is organized according to two principles: (1) equality in the distribution of bridewealth cattle, and (2) fixed apportionment to appropriate persons of right.

There is equal division of the bridewealth payment between the bride's paternal kinsmen (including her father) and her maternal kinsmen (including her mother). The total bridewealth payment is usually 40 head.<sup>6</sup> Of the 20 animals that go to the father's kin, 10 remain with the father (or his sons) and 10 are divided among his family (his parents, brothers, and sisters). Of the 20 head of cattle that go to the mother's kin, 10 remain with the mother (or her sons) and 10 are divided among her family (her parents, brothers, and sisters). The equality principle in distribution reflects the concept of equality of relationships between the patrilineal and the matrilineal kin of the groom and the bride.<sup>7</sup> Equally important, the principle of equal distribution of bridewealth cattle implies a jointness of endeavour in the business of marital alliances. Two kin-groups are both equally responsible for the success of a marriage and the raising of the children produced by the union.<sup>8</sup>

The second rule is that the cattle are distributed in fixed proportions between three groups. These groups are the bride's immediate family, her father's family, and her mother's family. The bride's father and mother each receive 10 head of cattle, which are

known as the ghok dieth, the cattle of parenthood. The families of the bride's father and of her mother each receive 10 head of cattle, known collectively as the crhok cungni rar, the cattle of the outside claimants, that is, those who are outside the bride's nuclear family.

The bridewealth payment and its distribution to many people is of great importance to Nuer constitutional order. (Some of their significance will be considered in the section on cross-cutting alliances.) Peace and order between different lineages is easier to uphold if the marriage union is successful. The marriage payment is, therefore, a form of marriage insurance. Nuer rules requiring that a woman's relatives refund her bridewealth cattle at the time of her divorce gives her kin a direct interest in preventing the breakdown of the marriage. Refunding cattle already invested in a variety of productive activities is often difficult and thoroughly disruptive. Another deterrence is the possibility of losing the right to children unless a fee is paid in cattle. This means that the children born of the union after the breakdown of the marriage belongs to their maternal uncle until six head of cattle per child is paid as (ruok) a fee.

Payment of bridewealth means more than marriage insurance. Through the payment of bridewealth and the performance of certain ceremonies, the lawful transfer of dap ciek (the "value" of a woman's child-bearing capacity) from a woman's father to a husband is effected. A marriage gains recognition only when power over a daughter is surrendered by her father and acquired by her husband through the payment of bridewealth cattle. Among the Nuer, an unmarried woman is in a position of dependence. She lives with her parents who protect her. If she is killed or injured her parents or kin can claim damages. After marriage responsibility for her protection passes to her husband and his kin. The ritual known as luonv dep, loosing the rope, symbolizes the bride's release from her father's homestead to the groom and his kin. If she is killed or injured by third party, the husband and his kin



claim an indemnity. The woman's kin, however, retain the right to protect her against ill treatment by her husband or his kin.<sup>9</sup>

The transfer of dap\_ciek (value of child bearing capacity) is the central feature of the Nuer marriage transaction. A lawful marriage gives the husband and his family certain rights in relation to his wife and the children she bears. The husband acquires the right to expect the performance of certain duties by the wife at the same time he accepts duties towards her. The husband's duties are to cohabit with his wife regularly and contribute to the economy of the family in those tasks that require not only strength but also absence from home. The wife on her part is tied to the daily chores of the home: preparation of food, cleaning the home, and caring for children. The husband also acquires rights over the person of his wife. As indicated earlier if anyone kills or injures her, or commits adultery with her, he may claim to be compensated for the violation of his rights. The most important right the husband acquires, however, is control of the children that the wife bears. A Nuer marries because he wants children. A woman's ability to bear children is critical to the establishment of the marriage. If a wife proves barren her kin return the cattle to the husband and the marriage ends.

Marriage union is conceived of by the Nuer as an alliance between two kin-groups. Nuer understanding is that marriage as a stable, ongoing system of order must be transformed from contractual arrangement into kinship relationships through the birth of children. It is through the children that the husband and wife are united, and the two families are also united by having descendants in common. The instrumental function of marriage exchange was and is still the creation of order via the network of alliances among different lineages and with non-Nuer people.

### Cross-Cutting Alliances and Constitution of Order among the Nuer

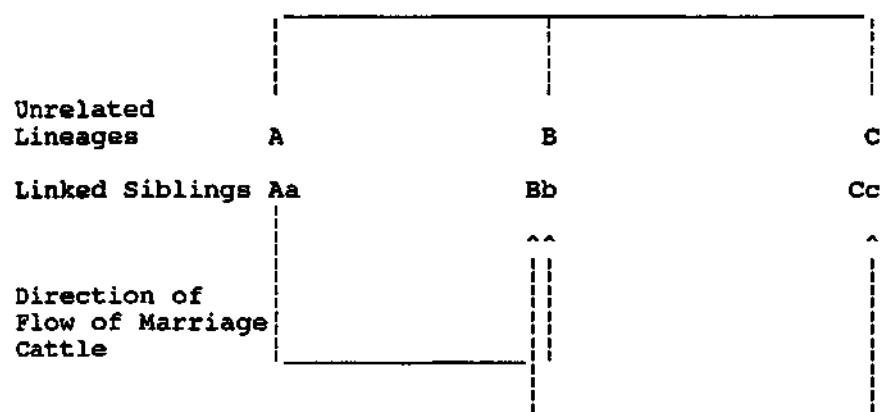
In an acephalous society, marriage exchange is to be understood mainly as creating and sustaining a stable, ongoing system of order. A series of actors had to be satisfied that each party to the marital relationship will keep an agreement and meet its obligations. The obligation to provide many marriage cattle and to distribute them to various individuals is intimately tied into the process of building long-term relationships of diverse sorts. These diverse relationships enable disparate persons to act jointly with one another to accomplish tasks that could not be accomplished as well by individual extended families acting alone.

#### Marriage Exchange and Network of Alliances

The rule governing the bridewealth transaction is that for cattle transferred a woman capable of child-bearing is received. The transaction can be regarded as an exchange and as such establishes an alliance between two lineages. It differs, however, from an impersonal purchase and sale, which, once it has been completed, leaves behind no obligations on the part of either the buyer or the seller (except the claims based on a warranty). The idea of covenant is presumed to be the backdrop of the conceptual context of this exchange. Bridewealth cattle may, in certain circumstances, such as barrenness on the part of the woman or the man or divorce, be returned or repaid with their increase. The Nuer maintains a close watch on his cattle and follow the increase of his herds until the wife's second or third child by which time the marriage is thought to be secured. The bridewealth cattle are usually allocated among a variety of capital investments by those who have received them. In many cases they are used to obtain a wife for a male relative. Marriage sets up a network of relationships between sets of kin. These relationships are shown graphically in the Figure 4.1.

Figure 4.1

## Formation of Network of Friendly Alliances



Upper case letters refer to male siblings. Lower case letters refer to female siblings. Source: Radcliffe-Brown (1951: 52).

A, B, and C stand for different lineages that are not related in any way to each other so that the rule of exogamy does not forbid marriage between them. A and a are brother and sister from the same mother as are B and b, C and c. A marries b and makes a bridewealth payment that is used to obtain a wife (c) for B. The fact that cattle brought in by the marriage of b provides cattle for a wife of B "links" these two siblings for the rest of their lives. The bridewealth payments establish a series of special personal relations between b and B, A and B, b and c, and A and c. These relations are defined in slightly different ways in the different parts of Nuerland. I will briefly consider three types of relationships to show how these constructions are multiplied and used.

The network of relationships in the figure above shows B as the "linked" mother's brother of the children of A & b, while b is the "linked" father's sister of B's children. Among the Nuer there is a **special relationship between A and c, the wife B married with cattle**

provided by A. When the daughter of c is married A can claim a heifer from c with which to secure a wife for himself or his son.

The particular relationships I have just described between lineages and families are to be continued in succeeding generations. A family's obligations are inherited. There are also sets of rules that regulate the continuity of alliances. One set of rules prevents disruption of the existing relationships. A son of A cannot marry a daughter of B or any woman related to c, and a son of B cannot marry a daughter of C. This because these people are considered related. When the daughter of B is married, b will receive a cow as paternal aunt. Any marriage would be considered incestuous because of this transfer of cattle. A son of B will by right receive cattle when the daughter of C is married, so they are prohibited from marrying. There are, therefore, established chains of connected families. The trust and affection generated by family ties make it easier for the families involved to resolve conflict peacefully and to transact business with one another. A more detailed discussion of the continuity of family relationships will be provided in the section on transgenerational continuities.

#### The Quest for the Alliances

Marriage alliances among families are sought by the Nuer for many different reasons. Alliances reduced the incidence of feuding between clans and lineages in Nuer society. They generate trust and confidence between disparate people so that they can carry out mutually beneficial relationships between themselves. The relationships among networks of people bound by patterns of reciprocity constrain and guide the choices that individuals make. They place limits on the capacity of each member to decide independently in order to coordinate key tasks within the alliances aimed at mutual interests. As John R. Commons (1950: 21) wrote, "an institution is collective action in control, liberation, and expansion of individual action." Harmonious relationships between

members of various Nuer regional groups are facilitated by the creation of alliances via marriage exchange.

Prior to marriage exchange between any two lineages or regions in the society, interlineage or interregional warfare, raids, and theft of cattle were common.<sup>10</sup> Nyuong Nuer were notorious raiders. The Eastern Jikany and the Lou Nuer fought constantly over the use of Nyading and the toich (grazing land) along the River Sobat and its tributaries. Although the use of spears in fighting is allowed between unrelated persons, it is a sin to kill kin. The institution of marital alliances formed between foreigners, that is, members belonging to different lineages or regions is a way of turning hostile persons into allies. Marriage exchange provides every person involved with friends and allies. Disputes among kin are largely resolved through negotiation and compromise. Reparations for damage are used to settle conflict among allies. Thus, alliances integrated wider communities of mutual interest and greatly reduced interregional as well as interlineage warfare and raiding. Alliances facilitated the resolution of problems by persuasion and negotiation between members of different lineages.

Building alliances is also a means of facilitating collective decision making about common problems confronting the individuals entering into these alliances. Nuer families are dependent upon the cooperation of adjacent groups for the success of their productive activities. Resources for cattle are scarce and widely scattered, and neighboring groups have to share these resources. Nuer pastoralists must move about to take advantage of the sparse seasonal rainfall, and, in these migrations, they necessarily passed through each other's grazing areas. Threats of noncooperation or hostility can result in a breakdown of the migratory patterns upon which all depended. Individuals can achieve economic well-being only if certain prerequisites are fulfilled in the way that institutions order relationships among diverse groups. To ensure the maintenance of

orderly relationships, institutional arrangements must be fashioned so that members find themselves under obligations to discharge certain duties that promote the welfare of others.

The establishment of a network of mutual, long-term expectations directly implies a quality of jointness about certain endeavors. It logically follows that the individuals must be able to sustain ordered relationships if they are to benefit from alliances. Each individual must take into account the strategy of others when assessing personal choices. Failure to take the choices and actions of others into consideration can result in error, conflict, and failure. Those who are to cooperate successfully, must trust others to cooperate and act predictably, in a way that will give assurance that their investment in joint enterprises will be beneficial. Given the benefits to be gained and the difficulties that are involved requires a high level of self-governing capabilities to manage difficulties and tensions embedded in marriage exchange relationships.

Among the Nuer, marriage exchange creates a self-executing arrangements. This means that the marriage union itself contains measures—systems of governance—that are capable of guaranteeing enforcement without the intervention of external authorities. There are also in existence some set of priests who can be called in to mediate disputes over adultery and incest between members in alliance. In conflict which does not require religious cleansing, age sets leaders and elders were able to resolve such conflicts. Thus, there is little need of additional executive and legislative action to create legal obligations under the marriage exchange.

#### Organization of Kin and Their Obligations

To understand the Nuer kinship system and how it works, it is important to understand the Nuer conception of themselves and the way they are expressed in social structures. The components of a social

structure are human beings, and a structure is an arrangement of persons in institutionally defined and regulated relationships. The social function of any feature of a pattern of relationships is its relation to the structure and its continuance and stability (Radcliff-Brown 1950: 82). In order to continue to exist, kinship must "work" with some measure of effectiveness. Kinship relationships must provide means by which persons can interact and cooperate without too many serious and destructive conflicts. Tensions and potential conflict exists in all human social arrangements. In an acephalous order, for a kinship system to work well it must provide methods for limiting, controlling, or resolving such conflicts or tensions and for meeting the economic and security requirements of the individuals involved.

The kin relationships of the Nuer are defined in terms of rights and duties. Two persons who stand in a particular kinship relationship with each other have specific duties toward each other. A duty may be positive, allowing certain actions, or negative, forbidding certain conduct. Kinship obligations, thus had the status of customary rights and duties. A system of kinship can, therefore, be viewed as an institutional arrangement that enables persons to live together and cooperate with one another in an orderly way.

The way the Nuer kinship system works reflects the cosmological conceptions use in design of the institutional arrangements in the society. In their past, the Nuer People had to create and act upon the organizing principles that were to be used to fashion the constitution of a social order. It is on the selection, method of use, and combination of these principles that the character of the structure of an acephalous ordering depends. Analysis of the Nuer kinship system must therefore be in terms of the organizing concepts and their application. These organizing ideas have been elaborated upon in Chapter Three of this study. In trying to understand the Nuer kinship system, I will first examine the polygynous household, which is the

fundamental unit among Nuer. The household is a primary arena for the expression of age and sex roles, kinship, socialization, security and economic cooperation where the very stuff of culture is mediated and transformed into action. Second, I will consider the obligations of kin.

#### Household and the Span of Significant Kinship

A polygynous household is formed when a man marries two or more wives who bear his children.<sup>11</sup> Polygynous marriages were also means to maintain a pattern of population in a feuding society. Polygynous marriages implies fewer males and more females. For individual to enforce or to preserve his rights, fighting occurs. Men are more frequently killed. There are many reasons for people who live close to each other to fight. They fought about a cow, animal trespass incidents, a man struck another's little boy, adultery, abduction of girls, theft of cattle, and so on. When a Nuer is wronged, he does not complain to obtain redress from the traditional authorities but challenges the person who had wronged him to a duel and the challenge has to be accepted. It is only when kinship or age-set status inhibits an appeal to arms does a Nuer hesitate to utter a challenge. While there are many children, males are being killed off. These killings lead to feuding between communities and between regions. The balancing of large families is treated in regard to feuding. This is a recognition that institutional patterns work out not only in building social networks, but they also affect aggregate population patterns. Family and kin relationships have their counterparts in feuding and warfare that create population patterns. Therefore, feuding and warfare are integral part of Nuer population that emphasize polygynous marriages and child bearing.

In a polygynous family the difference between full children of the same father and mother and children of one father by different mothers



is generally socially important as already discussed with reference to the place of complementarity in segmented structure of authority relationship. The household continues to grow by the birth of other children; it undergoes partial dissolution as the children leave the family after marriage. After the death of the parents, the eldest son becomes the "father" of the household primarily to see that the unity of the family is maintained and that all the unmarried brothers are assisted in marrying as they would have been were the father still alive. The Nuer patrilineal extended family is formed by sons remaining in their father's lineage, bringing their wives to live with them, so that their children also belong to their father's clan.

Nuer at an adult age belongs to two families, to one as son and brother, and to other as husband and father. It is this connection that gives rise to a network of relations linking any single person with many others.<sup>12</sup> However, kin relationships are not of the same order as family relationships among Nuer. An individual Nuer does not think of his father, mother, brothers, and sisters as ii mara de or kin. They are members of ii gole or family, the intimate circle which he sees as something quite distinct from kin. Anyone to whom an individual can trace a relationship of any kind or to whom he understands that he stands in a certain category of relationship without knowing its degrees of nearness or distance to establish the exact point of relationship, is in the wider sense of Nuer concept of mar, kin to him (Evans-Pritchard 1951a). This means in fact, as will be clearer later, that everybody in his village and those with whom he has dealings in the cattle camps and outside these institutions are either true kin or are in one way or another treated as if they are.

The categories of individuals one can have as kin are limited in number (and they have definite arrangements to any person). The Nuer perceive that there is a pattern of kinship relationships and that it can be described without reference to any particular person as an

abstract system (Evans-Pritchard 1951). Where there is no one to fill one of the recognized kinship positions, it is recognized that the actual configuration of kin does not correspond to the ideal configuration. Nuer attempt to make the actual configuration conform to the ideal by substitution.<sup>13</sup> Each Nuer polygynous household maintains a large number of relationships that are viewed by members of the family as important to their well being and security. The importance of having a large number of kinsmen is reflected in proverbs, for example: "I want to have kin, even in the devil's house." Proverbs explained why kinsmen are needed: "Kinsmen are teeth," or "kin are a defence," a view echoed by observers.<sup>14</sup> A man is esteemed and his alliance courted in proportion as his family is numerous. Numbers of prospective affines is often a factor in marriage strategy. In other words, a large circle of kin is the primary form of wealth. So when the marriage of a girl is being mooted, enquiries are made first about the number and quality of her relatives; discussion of the bridewealth only comes afterwards.<sup>15</sup> As will be made clearer later, such considerations loomed large in conflict between families. Large families enjoyed supremacy in their district in conflict situations.

If there is general agreement about the importance of kinship ties, some uncertainty exists among observers about the span at which they remained significant. Evans-Pritchard (1951a) claims that ties are respected beyond the tenth generation, by which he probably meant beyond the range of fourth order of relationships. For Douglas (1980c: 87) the family in the Nuer sense extends to the third and fourth generation, while Rundial (1989) and Bum (1989) thought that by exchange of cattle the Nuer family extends to the fourth generation.<sup>16</sup> These differing opinions reflect variations among Nuer groups. Some families maintained shorter or longer periods of effective kinship ties measured in terms of negative prohibition of marriage and exchange of bridewealth. It is difficult to say exactly where this span of significant kinship is for

all Nuer sections. Hutchinson (1988) says that the Eastern Jikany's prohibition against marriage extended only to the third generation.<sup>17</sup>

#### Household Organization and Formation of Lineages

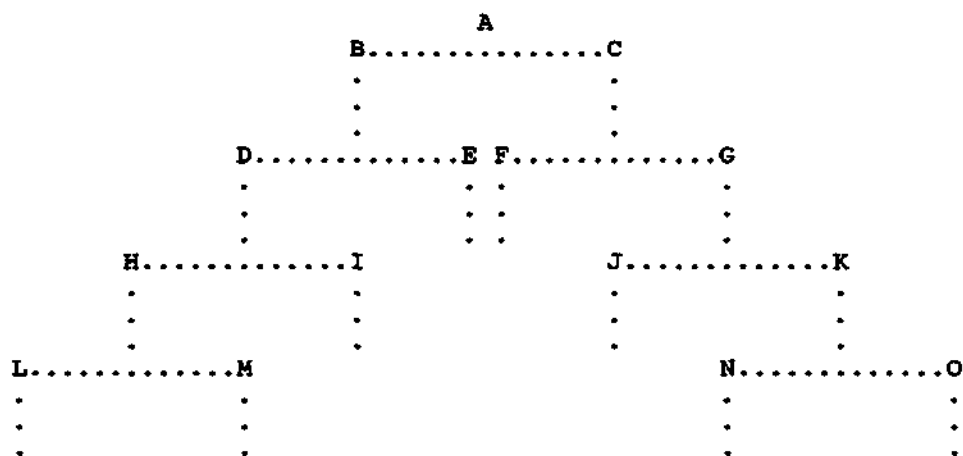
In order to reckon the kin of a person, his descent is traced back to his four grand parents, his eight great-grand-parents. All descendants of these ancestors through both females and males are his (ii mara de) cognates. In each generation that an individual counts backwards, the number of ancestors is double that of the preceding generation, so that in the eighth generation a person will have eighty four ancestors (Radcliffe-Brown 1951). There must be a limit to counting ancestors. Nuer count only to eleven generations for important social purposes (Douglas 1980b: 62-63).

The other way of ordering kindred among the Nuer is the concept of agnation. Cognates are agnates if they are descended through the male line from the same male ancestor. The Nuer emphasize agnatic kinship, that is unilineal descent through males. The consciousness of being members of a social group with a common ancestor, shared symbols, corporate rights in territory, and within the limited range of nuclear kin, they have a common interest in cattle exchange. These factors and others such as spear-names which are shouted out at ceremonies, honorific titles by which people are sometimes addressed, and reciprocal ceremonial relations pull the children of their wives to the father's side (Evans-Pritchard 1951a). These persons are known as oaat ouanlen, sons of paternal uncles. Thus, the system of surnames descend in the male line. Gaat nyiet, children of daughters, is another broad division of kin. These are the persons related to a man through his female relatives married outside the household organization. They are the individuals who provide the social cement for cross-cutting alliances. It is upon these bodies of kin that the security of persons and of property in Nuerland rests.

The significance of unilineal principle lies in its use in defining lineages. It identifies persons with common ancestry. Nuer lineages are thought of as deriving from a polygynous household. They can be differentiated by reference to the founders themselves or of their mothers. The typical lineage structure is conceived of as being present in the structure of polygynous family and in the distribution of houses in the homestead it occupies. This is why a lineage is generally known as thok duel, the "door" of the house of (name is usually given) the founder. The formation of lineages is sketched in Figure 4.2.

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Figure 4.2  
The Formation of Lineages




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Source: Evans-Pritchard 1940a: 193.

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In Figure 4.2, clan A is segmented into maximal lineages (thok dueli) B and C and these are divided into major lineages D, E, F, and G. Minor lineages H, I, J, and K are segments of major lineages D and G, and L, M, N, and O are minimal lineages that are segments of H and K. The smallest genealogical unit Nuer consider a lineage (thok duel) consists of the descendants of ancestors from three to five generations

removed from the elders living descendant (Douglas 1980). An entire clan organization can be viewed as a genealogical structure, and the letters in the diagram represent persons from whom the lineage and its segments trace their descent and from whom they often derive their names.

A branch (kar) of a lineage is itself a lineage. A lineage of ten generations may include two or more branches of nine generations and one of these may contain two or more of eight, and so on (Radcliff-Brown 1951; Evans-Pritchard 1951a). A lineage of several generations logically includes dead as well as the living. A lineage group (of living persons) that is socially significant may itself consist of smaller groups, and it may itself be part of a more extended group of related lineages. These structures are made up of brothers and the children of their sisters. These groups have an internal organization determined by sex and order of birth. Its members, however, are of one flesh and blood, and the Nuer make use of this solidarity between brothers and sisters. Brothers ought to exhibit affection and ought to cooperate and interact without destructive conflict. This unity of brothers is used to build wider structures through marriages.

#### Clan and Wider Community of Interests

A Nuer clan is a group of individuals who trace their descent from a common ancestor. Nuer observe a rule of exogamy that forbids marriage between two members of the same clan. Where a clan is divided into lineages, it is only to the smaller group that the rule of exogamy applies. An individual normally gains membership in a clan by birth. The Nuer tradition of adoption is another way of gaining membership in the larger group through the adopter's family. Where a man is adopted into a patrilineage, thereby abandoning his membership of the clan into which he was born, his children belong to the clan of his adoption, not of his birth.

The clan and lineage are groupings of an individual's relations. In the Nuer kinship system, the members of an individual's own clan are his own agnatic kin. The nearest to him are members of his own lineage. The members of his mother's clan or lineage are also his kin, through his mother. The appropriate classificatory terms for these kin are nar (maternal uncle), malen (maternal aunt), gatnar (son of paternal uncle), gat malen (son of maternal aunt). He is forbidden to marry any woman of his mother's patrilineal lineage. The members of his father's mother's clan and his mother's mother's clan or lineage are also recognized as relatives. Members of his wife's clan or lineage are all treated as relatives by marriage. The Nuer concept of clan as a system of lineages provides pattern of organization that divides the Nuer into regions.<sup>18</sup> The clan, therefore, is more clearly defined territorial unit than lineage.<sup>19</sup>

Among the Nuer, the network of kin and the protection that it provides are extended by means of age set organization. Links are created between persons of the same age. The rule against marrying the daughter of an age-mate reflects the closeness of the relationship.

#### Obligation, Rights, and Duties

For ties of kinship to continue in existence, it must enable individuals and families to achieve certain goals. The unilineal lineage groups of the Nuer perform important corporate functions in organizing marriage, exchanging cattle in marriages, aiding each other in the payment of bloodwealth, settling disputes, and handling external conflicts by negotiation or armed combat.<sup>20</sup>

Among the Nuer, the genealogical relationships are defined in terms of rights and duties. In a society where customary rights and duties are the same for all members, a balanced exchange of goods and services between the kin on the father's side and the kin on the mother's side is maintained in certain important activities including

marriage. Although feuding affects paternal as well as maternal kin, the paternal kin, however, take the most active part in it. Paternal and maternal kin are from different lineages and have different network of relationships within which to address the problems of homicide and vengeance. Their common interest is the children born of the union in which they have common descent. They are not normally party to decision making processes in each other's territory, but they help each other when it is necessary. The problems of homicide and vengeance are commonplace among the Nuer. Being related in the system of polygynous marriages has already been discussed. I will further elucidate these relationships to feuding obligations.

#### Individual and Kindred Obligation

The close kin of an individual among the Nuer are those of paternal uncle and maternal uncle and their sons. A paternal uncle's obligation to assist his nephew to marry is an important feature of Nuer kinship system. As already noted above that the payment of bridewealth to kin is an obligation which involves the very principle of kinship and may in no way be avoided.<sup>21</sup> The entitlement to bridewealth cattle on a girl's marriage implies a moral obligation to contribute cattle, although fewer than those received to help his brother's son to marry. This obligation depends for its strength on personal relation and availability of cattle to pay. The paternal uncle may not discharge his obligation, and the uncle does not thereby forfeit his bridewealth rights on the marriages of other sisters. Nevertheless, shared communities of understanding would censure a paternal uncle or his son were he to refuse to assist. The obligation on uncles is considered weightiest when they are from the same mother with the father, live with or near him, and are on friendly relations with him. A half-brother of the father, especially if they live in different villages or districts, may feel that he has done all that should be required of him if he gives a cow or a heifer on the marriage of one of his half-brother's son.

It is understandable that individuals who live together have many opportunities for quarrelling and that their common interests, especially in regard to cattle in which they all have rights, provide occasion for it. A Nuer is bound to his paternal kin from whom he derives aid, security, and status, but in return for these benefits he has many obligations and commitments. Their often indefinite character may be both evidence of, and a reason for, their force, but it also gives ample scope for disagreement.<sup>22</sup> Duties and rights easily conflict. Moreover, the privileges of agnatic kinship cannot be divorced from authority, discipline, and a strong sense of moral obligation all of which are irksome to Nuer. They do not deny them, but they kick against them when their personal interests run counter to them (Howell 1954a; Evans-Pritchard 1951a).

A man looks for assistance from his mother's brothers when he wants to marry. If mother's full brother gives him two or three cows to help him get a wife, they are good relations, and may make further contributions on the marriage of the younger sons. As in the case of paternal half-uncle, a maternal half-uncle considers that he can only contribute a beast for the marriage of the first born son and the marriage of younger sons should be the responsibility of his younger brothers.<sup>23</sup> A maternal uncle is not obliged to contribute to his sister's son's bridewealth. If he refuses to aid, he cannot be deprived of cattle on the marriages of the young man's sisters. Any assistance he may give is regarded as an act of friendship and not a return for the cattle he receives. The only cattle the mother's people are obliged to pay to her sons are a male and a female calf, which in eastern Nuerland are known as the qhok iookni, the cattle of the ghosts (Evans-Pritchard 1951a: 163). This claim becomes due when the mother has reached the menopause.



### Balanced Exchange Relationships

A deliberate balance between patrilineal and matrilineal is maintained by the Nuer in many different types of transactions. The equality of rights and duties toward each other are emphasized on certain formal occasions, especially when a marriage is being discussed. As noted earlier in this chapter, when a girl is married the bridewealth is distributed among the following categories of kin in addition to the parents themselves: guanlen, father's brother, wac, father's sister, nar, mother's brother, manlen, mother's sister, quandong, father's father and mother's father, and mandong, father's mother and mother's mother.<sup>24</sup> When a man is killed and cattle are paid in compensation, the cattle are divided among the kin according to the same principle used when dividing bridewealth cattle. When an elephant is killed its tusks, or the cattle obtained for them by exchange, are divided among persons standing in the same set of relationships to its slayers.<sup>25</sup>

Cattle are distributed according to the cung, entitlements or rights, of each class of the kin listed above. It is not easy for outsiders who are not familiar with the order of division of meat by age to tell at any particular moment to which person a share will be given for two major reasons. First, more than one person stands in a certain category of relationship to a bride, a slain man, or a slayer of an elephant. Second, the person to whom the share was supposed to go had he been alive is dead, and his right has been inherited by his sons. The right of relationship is an important right. Rules awarding bridewealth rights are the most rigidly formulated rules governing kinship relationships and are adhered to tenaciously. A head of a household may fail to fulfil the more fluid customary duties to kin without endangering the bonds of kinship. However, refusal to give a man the bridewealth cattle to which he is entitled is viewed by the Nuer as a violation of kinship obligations. The consequence of this act, cuts a man off from his kin altogether. The breakdown of (mar) kinship

relationships is further considered in the section on notion of right and rightdoing.

The classes of kin, in addition to the above, who are entitled to receive marriage cattle are clearly defined by their representation in the distribution of sacrificial meat at marriage ceremonies and other important feasts among family and kin. There are variations in the allocations in different parts of Nuerland, but the same kin are everywhere represented in distributions. The ideal distribution of sacrificial meat is usually described by citing the portions of an animal to be given to category of kin. Symmetry is maintained in the distribution to patrilineal and matrilineal kin: the right hind leg is the right of the father's brother and the left hind leg is the right of the mother's brother; the right foreleg is the right of the father's sister and the left foreleg is the right of the mother's sister; and so forth.<sup>26</sup> The allocation to uncles is further differentiated by defining whether the recipients are full or paternal half-brothers of the father and mother. Individuals entitled to meat may be dead or absent, but that right passes to the son or brother of the deceased. On these occasions age sets and representatives of collateral lineages or ji buthni also have rights in sacrificial meat.

The importance of this balance of the patrilineal and matrilineal kin in various activities in the constitution of social order among the Nuer is that a man always has a choice of several homes. If he does not care to reside with his paternal kin, he can attach himself to the home of other male or female kin. It is generally towards his mother's brother's people that he turns to when he is not happy with his paternal relatives. Individuals are conscious of this option or this pull away from the paternal kin which is personified in a maternal uncle. It signifies not only a balance between paternal and maternal kin within the kinship system but also a balance between the lineage and the

society which contains it-between the lineage system and the total social structure.<sup>27</sup>

#### Feuding Obligation and Rules

Feuding (ter) arises when a person has been killed, but no compensation has been paid by the killer and his or her kin. The kinsmen of the victim avenge themselves by killing a member of the killer's family or lineage if compensation in cattle was not made. Feuding is subject to law (Evans-Pritchard 1940a: 160-161; Middleton and Tait 1970). Rules stipulated circumstances in which vengeance might properly be taken. These included: (1) when a close relative had been killed, (2) when a woman had been dishonored, (3) when there had been a transverse killing. A transverse killing was a killing that occurred in the context of inter-clan conflict where the enforcement of compensation was impossible. For example, enforcement of compensation for a slain person between Gaawar and Lou Nuer clans had been problematic in the past and transverse killing was practiced until the prophetic period of 1870s when the principle of compensation became enforceable.

Feuding had to be accepted in principle by a community, at least in the initial stages. If members of a community did not sanction a blood vengeance, it was virtually impossible to carry out the disputing processes because the persons involved would be denied support and protection. Once a person had been killed both, the family of the victim as well as that of the killer understand that they are in a state of war. Both parties to the dispute understand who is involved and who is not involved in the dispute. Hostile intentions are nearly always made very clear, because a vengeance killing without sufficient warning are regarded as reprehensible.

Persons engaged in a feud are expected to take prescribed actions that not only publicized their state of enmity but also reveals that they realize that the current situation was sinful and dangerous. These actions include holding religious purification rites, slayer leaving his

beards to grow, the killer deserts his homestead, and placing him under the protection of an earth custodian (kuar muon) until the compensation is paid and the funeral ceremony performed. For people living in close proximity and eager to live in peace with one another, a prompt settlement of a feud is the best way to prevent the escalation of conflict. Any delay in resolving the conflict increased the chance of an escalation of the dispute.

The feuding obligation is related to the kinship structures. How binding this obligation is on kin depends on the genealogical distance between the parties concerned. In Nuer society, a clearly demarcated group exists based on patrilineal descent. There is a close parallel between the kin participating in the giving or receiving a bridewealth and those who are involved in the giving and the receiving of bloodwealth. Many scholars refer to a tightly organized vengeance group but they differ as regards the boundaries of these groups. This is consistent with the idea of the span of significant kinship that has already been discussed. According to Wicjal Bum (1989), the obligation to pursue vengeance extended to relatives to the fourth generation. Nyang Rundial (1989) referred to the involvement of kin to the fourth and even the fifth generation.<sup>28</sup> Feuding obligation continues for generations in the sense that the two parties cannot marry between themselves and cannot share common grazing and water resources if there is no acceptable settlement. The boundary was the third generation, and when more distant relatives and clients were usually regarded as immune. The rule in this area is hazy.

Confusion on this point may have been accentuated in the course of the nineteenth and early twentieth centuries as the nature of feuding itself changed, but it did exist, reflecting genuine ambiguities as well as providing scope for duplicity and special pleading (Jal 1989; Wilson 1988). The span of significant kinship within which vengeance must be exacted are "regulated by deeply rooted custom," but the application of

such rules to particular cases varied according to the local context (Howell 1954a: 51: 52).<sup>v</sup> The difficulty of knowing who is a legitimate target in ter (feud) was overcome by the requirement that the man who has killed another may not eat or drink until his blood has been let by a kuar muon.<sup>30</sup> The belief that a slain man's blood will "avenge" (cien) and its accompanying dangers of nueer (pollution) reduced the likelihood of covering up the deed. A proverb tells us: "nueer keeps people vomiting out the truth, you can't hid the fact that you have killed a man". By his own actions, the killer is easily identified.<sup>31</sup>

The duty of avenging a murder or other injury fall on the nearest able-bodied male relatives of the victim. Stephen Wilson (1988) observes that this obligation is strongest on the part of those who are the closest relatives of the victim. This is similar to the Nuer. Sons avenge the killing of their father. Brothers are expected to avenge slain brothers. Beyond the first degree of kinship, the pursuit of vengeance most frequently involved cousins acting alone or in concert with other closer kinsmen. Cousins of the slayer are also frequently selected as targets by those pursuing vengeance. A less commonly but significant category is that of sister's sons avenging mother's brothers, but sister's sons are also potential victims of transverse vengeance. Mother's brothers too, are involved in avenging sister's sons, presumably where they are of the right age. In-laws are included within the circle of close relatives upon whom the duty of vengeance primarily fall.<sup>32</sup> The vengeance obligation, therefore, followed the concentric circles of kinship, being strongest at the center and weakest at the periphery, as one might expect. People feel most obliged to avenge those on whom they most depends. These persons are not necessarily kin, and there is some evidence that residential proximity itself is of some significance in determining the weight of obligation (Howell 1954a; Wilson 1988).

Transgenerational Continuities and Social Order

As indicated in Chapter One, the continuity of a constitutional order depends upon the ability of a community of people to transmit traditions, knowledge and skills, manners and morals, religion and cosmologies, from one generation to another. Nuer believe that in order for people who live in close proximity and to transact activities in common, a set of regulations and rituals must exist for the continuity of social order. In order to explain how Nuer maintained their way of life, I will first describe the generational divisions. Second, I will describe how regulative ideas which marshal activities are enforced in regards to rights and duties among the kin.

Generational Divisions and the Continuity of an Acephalous Order

Some measure of respect between persons of two or more proximate generations is required for social order. This is the purpose underlying the organization of Nuer society into age sets. Age-set is based on initiation process which takes place every ten years, to provide social and political stratification of individuals into successive groups, each with a given name. Age-set system is regulated by hereditary cattle custodian (wud ghok) who control the opening and closing of initiation.<sup>33</sup>

From the point of view of an individual man all other men in his society are formally classed as seniors, equals, or juniors (Evans-Pritchard 1951a: 173-75). The division corresponds roughly to three generations: the older, his own, and the younger. To seniors he must show deference, with his equals he is on free and easy terms, and from his juniors he expects deference. Women are incorporated into this system as daughters, sisters, or wives of members of a particular set. Age sets occur such that one generation is equal to multiple age sets. Sexual intercourse with the wife of a man belonging to one's father's age-set is regarded as an offence amounting to something resembling

incest. The marriage to a daughter of a member of one's age set is also prohibited by rules.

Every person in Nuerland can be addressed as father, mother, brother, sister, son, or daughter by reference to their position in the age-set system. This "kinship" transcends lineage and clan boundaries. Everybody in Nuer society is, in one way or another, kin to everybody else, and the word mar, kinship can be used in this connection: mar rica, age-set kin (Howell 1954a; Evans-Pritchard 1951a). The use of relationship terminology for a person within the age set system has important implications for the constitution of social order in Nuerland. The age-set system like Nuer language and religion takes all Nuer people as a unit, while kinship system tends to fragment them. This solidarity may account for the informal use of kinship terms among the Nuer because terminology of address of the age-set cuts across that of kinship. For example, one man may be the genealogical paternal uncle or grandfather of another, but, if he is of the same generation, he is his age-set brother and they would address each other as brothers.

Contradiction between the two systems (kinship and age-set) is avoided by the assimilation of the values of both to those of the family by the use of the family relationship terms. Although one may not know whether a man is addressed as "father" in virtue of his place in the kinship system or in the age-set system, it could never happen that a term appropriate in the one would be inappropriate in the other (Evans-Pritchard 1951a: 175). Nuer address all very old persons as grandfather and grandmother, persons of one's parents generation as father and mother, and persons of one's own generation as brothers and sisters. Others are viewed as sons and daughters. This usage is quite independent of either kinship or age-sets. It is merely a courtesy extension of the family terms to all person to enhance communication, sympathy, and understanding.

## Enforcement of Rights and Duties

Kin make mistakes and deny each other rights. There must be ways of enforcing the rights and duties if the kinship system is to continue in existence. Wrongdoing here are deviations that are enforceable with limited recourse to outside help.<sup>34</sup> Major ways of enforcing rights and duties include the notion of rightness of an act, nullification of marriage, and premarital procedures that requires fulfillment of certain conditions before marriage can take place. There are circumstances in life that depend upon ritual as a way of formalizing and emphasizing relationships, thus, emphasizing the binding quality that bore upon potential enforcement. These applied to birth, giving name, and death ritual. These are ways of acknowledging important events and occasions in a life cycle. The point is that those patterns are important in ordering relationships in the lives of people. They involved rule-ordering and governance structure that got built into the lives of people.

The Notion of Right and Rightdoing

Elders within a kin-group resolved disputes between its members and persons from other groups. Most cases arise because of offenses against individuals and failure to fulfil kin obligations. Some scholars insisted on the extent to which self-interest moves a man to fulfil his obligations. This does not deny that a Nuer enjoys doing what he and his fellows feel to be right. Recognition of the rightness and wrongfulness of particular sides in a dispute is an essential criterion for arriving at normative judgment among the Nuer.

It is accepted that a man ought to obtain redress for certain wrongs. If after a case is debated, after they have listened to all sides and all witnesses, the elders find that somebody has been wrongfully denied his right, meaning somebody has failed to performed his kinship duties, the wrong doer is ask to pay the cattle due to a



relative. If the wrong doer refuses to abide by the decision of the elders at the village level, he can go to the council of elders at the district level. If the council at this level confirmed the village decision and the individual continue to refuse paying cattle due to his kinsman, this refusal cuts him off from his kin group because relatives will support the man who is right.

To break with his kin means that he can no longer claim rights in bridewealth or bloodwealth or sacrificial animals. If he is attacked his kinsmen will not support him, and he knows that if he was killed they would not avenged him. He becomes an outlaw—outside the protection of law. But to deny kinship with any close kin, maternal as well as paternal, was a misfortune. A man who wrongs a kinsman is a shamed, and he may incur a curse and ghostly vengeance. These consequences tend to oblige the Nuer to fulfil their kinship obligations and duties.

#### Nullity and Premarital Procedures

Nullity was one of the sanctions available for marriage which political or religious authorities desire for one reason or another to prevent. Because persons who conduct marriages could make mistaken judgement about the kinship relationships that would foreclose marriage, invalid marriages could be concluded. The technique of punishment or voiding the marriage so entered was to back up whatever marriage policies were sought to be implemented.<sup>35</sup>

The premarital procedures requiring public ceremony preceded by publicity and eventually payment of bridewealth cattle should be considered as a method of formalizing and enforcing individual rights embedded in the way of marriage in the society. This method of enforcing marriage policies and kinship relationships have been effective in the past. The many requirements, such as negotiation over the payment of the bridewealth cattle, compulsory ceremony at different stages of marriage, payment of bridewealth cattle, and the distribution

of cattle, that need to be met by the parties to the marriage before a marriage can take place indicates the extent to which Nuer regulate marriage formation, as opposed to contenting themselves with the promulgation of rules which prescribe desirable behavior but which have no real sanctions.

In an acephalous society these requirements are contrived to identify problems cases, and to prevent marriages in violation of the rules concerning who may marry whom and reduce the need to resort to the use of coercive force to enforce violations of marriage restrictions. The celebration of marriage depend upon the compliance with whatever conditions the bride's kin deemed important.

#### Ritualizing the Legitimacy of Birth

In Nuerland birth of a child born of a union is an important event in the life of kin-groups involved in a marriage. The ritual related to birth was a way of emphasizing the binding quality that bore upon enforcement. Birth was publicly acknowledged. Cognates bring goats, sheep, calf-ox for kier (expiatory offerings), especially at the birth of twins.<sup>36</sup>

After the birth of the first child, two cows were paid to the groom's family, one was given by the father's side of the bride and the other was paid by the mother's side. These payment were known as the "cows of the spirit" (ghok joghni). They were confirmation of the marriage as symbolized by the birth of the child. The payment was accompanied by a ritual that symbolized the removal of the prohibition of the two families eating and drinking together and the necessity of wearing tuac (cat-skin) in the presence of relatives-in-law (Howell 1954: 113).

#### Giving Name and Its Importance

Names after birth is full of symbolism. Names concerned not only the child but his father and kin and mother and her kin.

Names, whereby men acquire an idea of a thing which one would imagine ought not to perish, are extremely proper to inspire every family with a desire of extending its duration. There are people among whom names distinguish families; there are others where they only distinguish persons; the latter have not the same advantage as the former (Montesquieu 1949: Book 23, Ch. 4).

Names, among the Nuer, were bound up with person's identity and with the continuity across generations. After childbirth, a child was named by its father. This is a critical assertion of fatherhood. Father's name was taken as the surname. This has a lot to do with the potential enforcement of rule regarding rights and duties within the extended family system. If an unmarried girl's child and its physical parents suffered disgrace it is because the child is not named by its father.

Among the Nuer, a name is to emphasize the separateness and individuality of a person. The presumption of equality had not permitted change of a woman's name to that of her husband. In marital relationship, the equality of husband and wife is preserved in the law of names. Dead persons are remembered in their names. This is an important aspect for understanding their sentiments. Individuals would want his name never to be forgotten as long as his lineage endured and in that sense he would always be a part of the lineage. To ensure the survival of the dead in their names, Nuer practice the customs of levirate and vicarious marriage.

Widows are neither remarried nor inherited but continue till death to be married to their dead husbands to whose names they continue to bear children begotten by their dead husband's brothers. The custom of vicarious marriage also ensures that every man must have a son who will be called after him. If a man died before he has married or before his wife produced a male child, one of his brothers or other close kinsmen must marry a wife for him. In theory, therefore, every man has at least one son and through this son his name is forever a link in a line of descent.

The Nuer are interested in the survival of the self in the name—not just survival in the children. This explains the fact that Nuer do not care to call a son by the same name as his father and even show aversion at the suggestion that one might do so. If the father and son were to bear the same name, there would arise, in the course of time, some confusion in the recitation of a genealogy.

#### Death and Mortuary Rites

During the death ritual or mortuary for removing the debt (jiak) which Nuer felt to be due on account of the death, a large groups of cognates and their families were expected to attend, along with the sons-in-law, sisters' husbands, and fathers<sup>f</sup>-in-law of the deceased, if he were a mature man. Nuer feel that there might be a misfortune that hangs over them and the death that had occurred was only apart of it. It was viewed necessary to clear the whole debt before any further evil came to them (Kerjiok 1988; Evans-Pritchard 1949a: 56). In addition the Nuer felt that if the dead was not appeased by mortuary ceremony, he might return in anger to fetch the living especially his wives, children, and cattle (Evans-Pritchard 1949a: 56).

The Nuer considered sacrificing a cow that is still giving milk to the spirit of an old man that held a position before his death in the community as important in order to make him feel contented. In the Nuer society, to kill a cow is the greatest sacrifice they can make. An animal must be killed from each wife of the dead by one of her sons or by some kinsman on behalf of her house. After the cattle were killed, the meat is divided among the kin. It is prohibited for the age-mates of the dead person to partake of the meat of the animal sacrificed at the mortuary. It is considered dangerous even for them to smell the cooking meat. People are seated to listen to the speeches given on the occasion. I have reproduced a speech of a guan buthni on a real occasion as recorded by Evans-Pritchard (1949a: 59).

God, now you have given us badness, or is it simply the lot of creation? (Is the death you have sent us a special evil designed for us or has the dead man merely suffered what soon or later come to all created things?) Now you have taken so and so (he names the dead man), now he has become one of your people, turn about and take him right away. We who are left in the world, give us rest. Let his children who remain in the world be at peace. He is not finished, his children will carry on his name. In the future they will bear his name Let no further evil befall us.

The guan buthni now turn to talk to the dead man: So and so, my brother (or my father if he was a much older man), now you are one of God's people. Do not forget us, let it be your habit to speak (on our behalf) to your Father (God). When we go into the bush let us tread on (poona) wild rice (the softest of grasses, hence: let us avoid all dangers of the bush). Let us bear children. May all evil be taken away from us now and may we remain in peace. The guan buthni addresses God: God, and you ghosts. You, God, made man and you made death. (You have said) you, man, I made you only that you might perish. God, it is your world. You have shown us death this year. Now we here, we go about with this debt, there has been no laughing with happiness for us this year, you have given us mourning. God, turn about and take away the man you have taken. Breathe on us with favourable breath fku ko ngok ni vie mi goal. You took this man, take also this ox of his together with him. He addresses the ghost once more: and you, so and so, are you now in the great cattle camp (of the dead?) Where are you, our father? Where are all the people of our home? Ehi It is the camp to which we all go at last....You who have gone before do not close your eyes to us. You are a man of God. May there be nothing further bad for us to see.

Guan buthni reflected deeply upon human life and destiny and the transience of all living things. Mortuary ceremony, among the Nuer, provides a forum for the related kin to state any grievances they had in their hearts towards one another. If he did not do so now that kind of a problem would not be considered in the future. This was an occasion for amicable settlement of family and kinship quarrels.

A ritual symbolizing assumption of new life would be performed by guan buthni. Guan buthni would make three new clay fire-stones, placed on them a new cooking pot in order to cook porridge. Symbolically the old fire in the dead man's homestead would be put out, the old clay fire-stones collected, thrown into the bush and underneath the pot a new fire started (Evans-Pritchard 1949a). When the porridge was cooked, the guan buthni ladled it out with a new gourd-ladled into a new gourd-dish (Evans-Pritchard 1949a). All utensils are new and a pot of beer is

provided for libation. As each elder rise to speak he dips a gourd-ladle into the pot of beer and pours a libation to the ground.

When the last speech finished Evans-Pritchard reports that everyone in the ceremony stands and quan buthni dips (dhur), or wild rice, into a gourd full of milk and sprinkle the people with it. This repeated many times until everyone is spatter. Butter is brought to smear on the backs and chests of those present and on the dead man's spears. Persons who wear mourning cords is called to come forward and the quan buthni cut the mourning cords and carry them into the bush and threw them away. Afterwards the porridge is distributed and eaten. Also the quan buthni makes a symbolic division of the dead man's possessions. The possessions are, however, divided in the presence of quan buthni immediately following the ceremony.

The mortuary ceremonies are concluded by all the people shaving their heads, and on this account the ceremony is often known as the muot, the cutting. The cutting of the hair of the kin symbolises the cutting off of the dead from the living just as in the marriage ceremonies, the rite, known by the same word muot, by which the bride's hair is shaved off, symbolises the cutting of the ties between her and her family and kin. The intention of mortuary ceremony is to cut the dead from the living. The dead man has to be given the full status of ghost and persuaded to accept it so that he would remain as a ghost and not try to return to the living (Evans-Pritchard 1949a; Gattuak 1989).

### Conclusion

Marriage union is to be understood as a means of establishing an ongoing system of order in an acephalous society. Family institutions are an important part of the way Nuer govern their relationships with one another. It is through marriage that wide-ranging cross-cutting alliances are created. Individuals, who have no central mechanisms for conflict resolution have developed their own ways of: (1) resolving

conflicts among individuals, (2) punishing those who do not behave according to the rules generally agreed to in a society, and (3) developing ways of insuring commitments can be made to long-term arrangements necessary for productive undertakings. Family institutions are one of the major institutional arrangements use by the Nuer to achieve these objectives.

Marriage involves the transfer of cattle as bridewealth from the groom's family to the bride's kin. A number of reasons have been offered, but the most important is that it distinguishes a lawful marriage from an irregular union. In a society where there is a central administration, a marriage is lawful if it is registered by a person licensed by the central authority. Only children born of such a union are considered legitimate. In an acephalous society a marriage by which the children who are born gain "legitimate" status in the society requires a series of transactions and formalities in which two kin-groups, those of the husband and those of the wife, are involved. The transfer of bridewealth cattle is an important prerequisite for the establishment a lawful marriage. The lengthy process of negotiating the terms of the marriage exchange serve to help each party develop a better understanding of the other.

Marriage is considered by the Nuer to be an alliance between two disparate bodies of persons based on their mutual interest in the marriage itself and the children expected of the union, who will be the kin of both parties. Over time, Nuer marriage rules create multiple memberships and solidarities across communities. Overlapping memberships minimize the cost of conflicts and also reduce the opportunities for majority to dominate a minority. It enhances exchange relationships by turning potentially hostile non-kin into friendly allies who can benefit from interdependence. Thus, cross-cutting relationships promote peaceful coexistence in a culture in which local resource scarcities were common. For example, the cattle population

regularly exceed the carrying capacity of Nuer pasture land in dry years. The shortage of pasture can lead to violations of grazing rights that can engender armed conflict both among the Nuer and neighboring groups. People who depend on access to each other's resources must have some means of working out cooperative agreements if the full potential of the endowments within each group's jurisdictions is to be enjoyed. If such agreements do not exist, it will mean that groups will be in constant conflict about access to resources. Without police and other regulatory mechanisms, people can find themselves constantly at war.

The Nuer kinship system provides an important means of regulating the relationships among individuals. Relationships between patrilineal and matrilineal are balanced in formal activities. Households are an important part of the system. They are a key arena for the expression of age and sex roles; they are the basic kinship units in which children socialized, security is ensured, and economic cooperation occurs—where the very stuff of culture is mediated and transformed into action. Decisions emerged from the household as the result of processes of negotiation, compromise, conflict, and conflict resolution. Decisions to marry, to move to the cattle camps, to build a byre, or to migrate are made in the context of a family, because such decisions affect the lives of family members. A polygynous household is stratified and segmented. The man is the household head in charge of the management of cattle and other resources. However, a household is associated with other families within a unilineal lineage. Among the pastoral Nuer, lineages perform important corporate tasks such as sharing resources, arranging marriages, and paying bloodwealth. Elders and age sets leaders within the genealogical group are used to mediate and resolve conflicts. Where it is not possible to resolve conflicts within the group, the problem will be referred to more senior kin. Some cases such as homicide, adultery, and incest are handled by an earth custodians who



have special powers to ban and to curse. In these cases, the decision of the earth custodians are considered impartial and final.

The intergenerational transmission of knowledge, skills, manners, morals, religion, and tastes is the means by which the continuity of acephalous ordering among the Nuer is assured. The means of passing on knowledge and values is the family and conformity to established usages. **This conformity is maintained by enforceable rules. Among the Nuer the largest share in the control and education of the young falls to the parents and other relatives of the parents' generation. Enforcement of the rules is assisted by the conception of right and rightdoing, premarital procedures, and rituals also serve to enforce conformity. Sanctions for nonconformity are imposed by elders at all levels of segmentation. The deprivations imposed on rule breakers would include social reprobation, the loss of the approval and the respect of kin and neighbors, and the loss of the privileges that the individual possesses as a member of a community and that the community possesses as part of a given Nuer clan.**

Notes

<sup>1</sup>Nuer believe love is built by learning how to sit down and discuss problems and to accommodate individual differences. For further discussion of this aspect (F.S. Frank 1987; Radcliff-Brown 1951; Evans-Pritchard 1951a).

<sup>2</sup>The underlying purpose for this rule is discussed in the section devoted to giving name and its importance. For further discussion of this rule is found in Radcliff-Brown 1951 and Evans-Pritchard 1951a.

<sup>3</sup>In some parts of Nuerland a boy is attached to luak at the age of 6 or 7. This depends upon the availability of older boys in the household who could teach him about what boys are suppose to do.

<sup>4</sup>Many persons on the groom's side and kin on the bride's side attend the bridewealth negotiations. The following positions within each family are represented:

.....

Groom and Bride's Kin

.....

Guan buthni (master of ceremony)

Father

Brother by the same mother

Brother by a different mother

Father's elder brother by the same mother

Father's brother by a different mother

Father's younger brother by the same mother

Father's sister

Mother

Mother's elder brother by the same mother

Mother's brother by a different mother

Mother's younger brother by the same mother

Mother's sister

Father's best friend

Witnesses from both sides

(see Evans-Pritchard 1951a: 76; Howell 1954a: 92; Raymond Kelly 1985a: 119; Gatluak 1989; Kok 1989).

<sup>5</sup>For the maintenance of kin relationships these cattle exchanges are made by the Nuer as long-term rights. They do not end by the death of the parents, they are inherit by their sons (see Kok 1989; Gatluak 1989; Howell 1954a: 92; Evans-Pritchard 1951a: 76; Kelly 1985).

<sup>6</sup>The distribution of bridewealth cattle may not be identical in all sections of all Nuer regions. There might be shifts here and there of an ox or calf or heifer but the balance and proportions would be the same as recorded here (see also Lutlut Kok 1989; Raymond Kelly 1985a; Evans-Pritchard 1951a: 75-76).

<sup>7</sup>I obtained this information in an interview with Lutlut Kok on August 13, 1989; Riel Gutluak 1989 (See Evans-Pritchard 1951a: 75-76).

<sup>8</sup>It is the children that create the kinship bond between two groups and that generate the ties of affection. The failure of a marriage will hurt them equally. Cattle will be returned to the husband by the bride's kin. The divorced woman's second marriage will be regarded as second rate. The number of bridewealth cattle will be reduced to half of the bridewealth cattle that would be paid if she were still a girl. The groom and kin who might have contributed cattle to the marriage may not get back all their cattle. Some would have died of natural diseases and others are hidden. The consequence is that the man may not be able to remarry for a long time.

<sup>9</sup>Ill treatment of a woman by her husband is considered as a legitimate reason for dissolving marital relationship among the Nuer. It is, however, difficult to prove that a woman has been ill treated by not providing her food, clothing, or sexual services. Physical beating is often justified and can be argued as to whom is in the right.

<sup>10</sup>I obtained this information from Sayed John Wicjal Bum in September 1989 in Khartoum.

<sup>11</sup>Barren men marry and his wife or wives would bear children with one of his brothers or an outsider and the children would be his children. A barren woman remains with her parents and makes her house close to the parents. She cannot be married because she would not bear children to any man.

<sup>12</sup>The first order of relationships is that of parents and child, husband and wife, brothers and sisters, and between older and younger children (Radcliff-Brown 1951; Evans-Pritchard 1951a). Relationships of the second order are those traced through one connecting person such as those with father's father, mother's brother, stepmother (father's wife), sister's husband, brother's son, wife's father, etc. Those of the third order have two connecting links, as mother's brother's son (gat\_naru), father's sister's husband (cio\_wacdu), and so on. It is possible to go to fourth, fifth, or nth order. In each order the number of relationships is greater than that in the preceding order. The strength of the relationship is indicated by the number of cattle given as bridewealth payments and the gifts that are given when needs arise. The network of relationships includes both mar (cognatic) relationships and relationships resulting from marriage, a person own marriage, and the marriages of his relatives.

An important characteristic of a kinship system is the range over which these relationships are effectively recognized for social purposes of all kinds including wealth distribution, group control of a common property, related segments combining forces against external aggression, bloodwealth payment, etc. The differences between wide-range and narrow-range arrangements are important for understanding different kinship systems (Radcliff-Brown 1951). The Shilluk system of the present day, for example, is a narrow-range system. Although a wider range of relationship, to second, third, or more distant cousins, is recognized, there is no obligation to distribute cattle or goats to these kin at the time of a marriage. Nuer, by contrast, have a wide-ranging system. An individual may have several hundred recognized relatives by kinship and by marriage whom he must treat as relatives.

<sup>13</sup>A process of openly adjusting genealogies so that history would accord with the current distribution of authority has been described in J. A. Barnes 1967; L. Bohannon 1952: Africa XXII, no. 4; I. G. Cunnison 1959; R. F. Murphy 1967: 167-70; Edward Evans-Pritchard 1951a.

<sup>14</sup>I obtained this information in an interview with Lutlut Kok and Wicjal Bum on September 18, 20, 1989 in Khartoum. Persons who have observed are many and include Evans-Pritchard 1951a; Howell 1954a; Stephen Wilson 1988, Douglas Johnson 1988; Mary Douglas 1980, etc.

<sup>15</sup>I obtained this information in an interview with Lutlut Kok and Wecjal Bum on September 18, 20, 1989. This requirement of a large family is common among other nilotic peoples (Ezckiel Kutjiok 1989, Magai Gai 1988) and mediterranean societies (see Stephen Wilson 1988).

<sup>16</sup>The variations in the span of significant kinship has a lot to do with each lineage and internal management of relationships. As previous chapter indicates, ouan buthni has the function of performing certain rituals that would permit inter-marriage or cohabitation between individuals who were otherwise considered improper spouses. Reasons given that permit marriage usually have to do with the descent of one of the parties. For example, one of the parties may be of Dinka or Anuak ancestry and that can be overlooked for the purposes of marriage. Major source of this information is interview with Nyang Rundial 1989 and Wicjal Bum 1989.

<sup>17</sup>The shrinking of the span of significant kinship in Eastern Jikany might be ascribed to the widespread of Christianity.

<sup>18</sup>A Nuer clan is here understood to mean a region of the Nuer people who live within a common territory such as Lou, Gaawar, East Jikany or Jagei Nuer. A clan is segmented into lineages and lineages are further segmented again and again until the smallest local community or village (see Evans-Pritchard 1940a, 1951a; Rad Cliff-Brown 1951).

<sup>19</sup>A lineage is not a residential unit. It is wealth distributing arrangement (see Mary Douglas 1980b; Evans-Pritchard 1940a, 1951a).

<sup>20</sup>People who live in one village treated each other as kin although they may not be of common ancestry. Anybody who has some dealings with you is treated as kin.

<sup>21</sup>Among those of us raised in Nuer society one learns from a young age that Paternal Uncle is expected to contribute cattle in the marriage of his brother's sons. This custom was confirmed in an interview with Riel Gutluak in Kost, Sudan and Lutlut Kok 1989 in Khartoum 1989 (see Evans-Pritchard 1951a: 158).

<sup>22</sup>When a brother is dead, he leaves his brother to care for his son and to see that they get married to maintain his lineage. This means the paternal uncle assumes the father role and the boys are expected to submit to him.

<sup>23</sup>There is an arrangement that the maternal uncles contribute marriage of sisters' sons according to the birth order of sons and that to the uncles. Elder maternal uncle (full or half maternal uncles) contribute cattle to the marriage of first born son of his sister. This is followed in the subsequent marriages. This rule may not be applicable in all cases but deviation is usually resented and cases can be shown (see Riel Gutluak September 13, 1989; Lutlut Kok 1989; Evans-Pritchard 1951a; P.P. Howell 1951).

<sup>24</sup>This balancing of relationships is grounded upon the Nuer presumption of equality of relationships between parties to a marriage or family producing children. Paternal and maternal uncles are equally responsible in the success of their kin (see Evans-Pritchard 1951a; Howell 1954a).

<sup>25</sup>Elephant meat is not subject to the rules of division that apply to the distribution of meat of the sacrificial cow. Individuals get what they can (see Howell 1945a; Evans-Pritchard 1951a).

<sup>26</sup>Among the Nuer, one of the key responsibilities of a young man is to learn the rights that guide the distribution of meat. Thus a boy raised in Nuer society to manhood is expected to know the way meat is distributed to kin and non-kin (see Evans-Pritchard 1951a; Wicjal Bum September 1989, Riel Gatluak September 13, 1989; Lutlut Kok 1989).

<sup>27</sup>The covenantal tradition underlies the balancing of relationships between paternal and maternal kin. It is grounded upon Nuer religious conception that gives a person an equal standing with one another. the relationship between the lineage system and the total social structure is further elucidated in Chapter seven on defense or segmentary complementarity.

<sup>28</sup>I obtained this information in an interview with Wicjal Bum and Nyang Rundial on September 1989 in Khartoum.

<sup>29</sup>I obtained the information mainly in an interview with Riel Gatluak on September 13, 1989 in Kosti, Sudan; Sayed Pal Riek on August 25, 1989 in Khartoum; Manaseh Abraham on September 15, 1989 in Khartoum.

<sup>30</sup>A person who has killed someone may not eat or drink until ca bier or his blood has been let out by earth custodian in a ceremony. The ritual is known as bir. A sharp knife or a fish-spear is taken and the arm of the killer scratched therewith until blood flows (Wicjal Bum 1989; Gatluak 1989; Howell 1954a. The Nuer believe that the performance of this ceremony should neutralized the potential spiritual contamination in the blood of the slayer when the blood of the slayer and that of the dead met in the earth (Hutchinson 1988: 211-236).

<sup>31</sup>I obtained this information from interviews with Kor Can on August 26, 1989; Yoal Dok on September 26, 1989; Gai Majoak on September 2, 1989 (see Hutchinson 1988).

<sup>32</sup>The information was obtained in interviews with Thigin Banak on August 25, 1989; Wicjal Bum on September 2, 1989; Pal Riek on August 25, 1989 in Khartoum.

<sup>33</sup>Between the opening and closing of initiation, boys were initiated at the age of 16 and ceremony called gar was held every year by families with boys who were initiated in that year. Evans-Pritchard 1940a; P.P. Howell 1948b; Douglas Johnson 1980; Giet Jal 1987: 383-385.

<sup>34</sup>Homicide, adultery, and incest which require intervention from an earth custodian will be discussed in more detailed in Chapter 8 of this study.

<sup>35</sup>I obtained this information in an interview with Thigin Banak on August 25, 1989; Thoan Teny on September 17, 1989 in Khartoum (see Mary Glendon 1989: 55-66).

<sup>36</sup>After birth of twins, kinsman do not visit a home of another kinsman who has begotten twins. Without something to sacrifice. Expiation (kier) is to remove the "impurities" that may bring death (nueer) to the twins.

## CHAPTER FIVE

### GOVERNANCE OF VILLAGE LIFE

#### Introduction

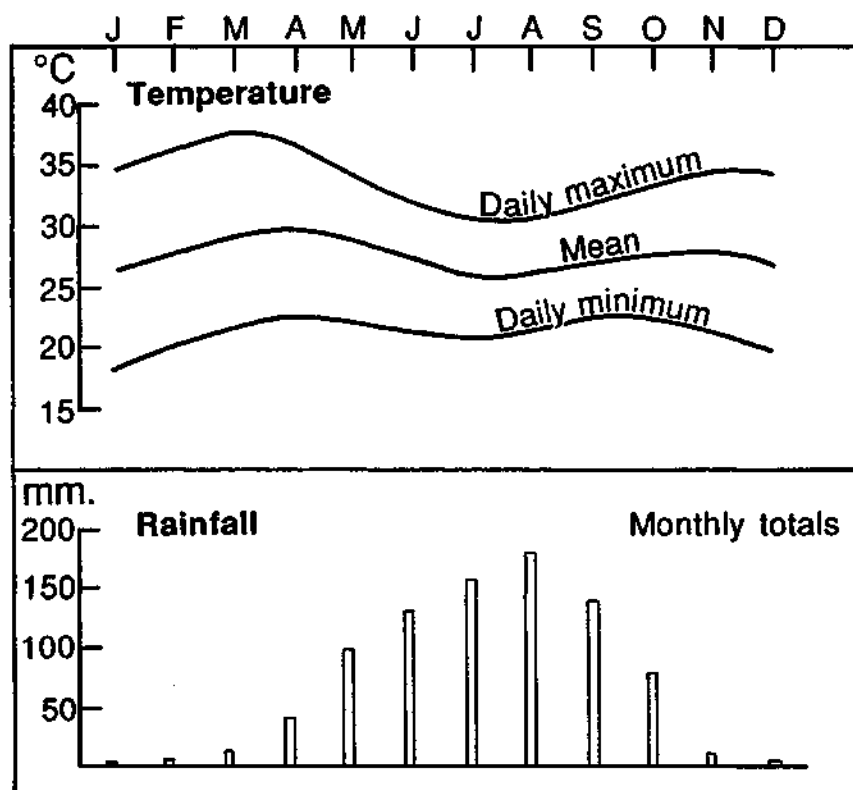
The problem addressed in this chapter is how the Nuer governed themselves in their villages. A Nuer village is the smallest enduring body composed of families linked by interdependent relationships. The elders of the village are regarded as the representatives of the villagers in matters of common interest to the villagers. The fact that relationships among the villagers are relatively harmonious means that Nuer are fairly effective in coping with problems of proximity and collective action.

In considering how village life is regulated, I will first consider how the Nuer conceived of their villages. Second, I will describe the structure of governance arrangements in the villages. In the last section, I will examine how Nuer coped with the problems of proximity and collective action in an acephalous system of order.

#### The Concept of A Nuer Village

Seasonal and lunar changes provide a Nuer with physical conditions around which he organized his life. The characteristic backward and forward movements from villages to camps, is the Nuer's response to the climatic variation between seasons of rain and drought. In the Southern Sudan the year (ruon) has two major seasons, tot (wet) and mai (dry) (Barbour 1961; Evans-Pritchard 1940a). Tot (rainy season), which extends from about the middle of March to the middle of September, roughly corresponds to the beginning of the rains, although it does not cover the whole rainy season (see Figures 5.1 and 5.2). Rain may fall at the end of September and into early October, and the land is still flooded in the months that belong to mai (dry season) half of the year. Mai commences at the decline of the rains and covers the period roughly from about the middle of September to the middle of March. The Nuer

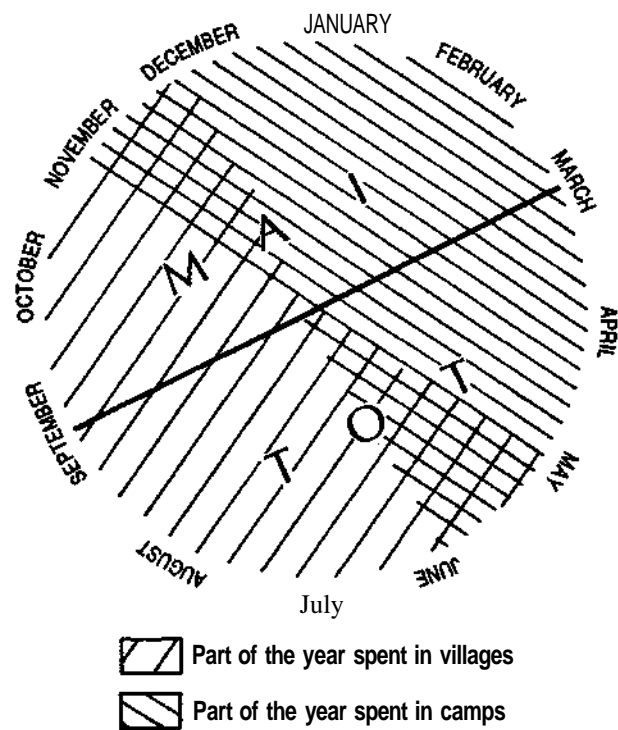
Fig. 5.1  
Temperature and Rainfall  
Estimates for Nuerland



Source: Physical Department of the Egyptian Government.



Fig. 5.2 Cycle of Nuer Life



Source: Evans-Pritchard (1940a: 99).

classification summarizes their way of looking at the movement of time, the direction of attention in marginal months being as significant as the actual climatic conditions.

In the middle of September, Nuer turn towards the life of fishing and cattle camps and feel that village residence and agriculture lie behind them. They begin to speak of camps as though were already in existence, and long to be on the move. This restlessness is even more marked towards the end of the dry season when, noting cloudy skies, people turn towards the life of villages and make preparation for striking the camp (Evans-Pritchard, 1940a: 95).

Marginal months may therefore be considered as tot or mai, because they belong to one set of activities but presage the other set, for the Nuer concept of seasons is derived from social activities rather than from the climatic changes which determine them (Evans-Pritchard 1940a: 96; Barbour 1961). A year is to them a period of village residence (ciaang cieng) and a period of cattle camp residence (wee mai). It is, in a general sense, a conceptualization in terms of activities that have peculiar significance to them.

The movements of the heavenly bodies other than the sun and the moon, the direction and variation of the wind, and the migration of some species of birds are observed by the Nuer (Jal 1987; Johnson 1980; Evans-Pritchard 1940a) but they do not regulate their activities in relation to them nor use them as points of reference in season time-reckoning. The factors that defined seasons are those that control the movements of people: water levels, changing vegetation, and the movement of fish. The needs of the cattle and variations in human food supply translate environmental changes into the social cycle of the year, and the contrast between modes of life at the height of the rains and at the height of the drought provides the conceptual poles for reckoning time (Kok 1989; Bum 1989; Evans-Pritchard 1940a).

Besides these two major seasons of tot and mai, Nuer recognized two subsidiary seasons included in them, which are transitional periods between them. The four seasons were not rigid divisions but overlapped (see Figure 5.1). Nuer count tot and mai as halves of their year, but

they also speak of the seasons of ruel and iiom. Ruel is the time of moving from camp to village and of clearing and planting. It extends from about the middle of March to the middle of May, before the rains reach their peak. Ruel is considered as part of tot, the period of full village life and cultivation. Jiom, meaning wind, is the period in which the north wind begins to blow and people harvest, fish from dams, fire the bush, and form early camps, from about the middle of September to the middle of December. It counts as part of mai proper when the main camps are formed. These divisions must not be regarded too rigidly because they are not exact units of time but rather conceptualizations of how ecological conditions and social activities fit together.

The Nuer year is composed of twelve lunar months. Most adults know the names of the months. It is not possible to equate each Nuer name with an English name, however, because the Roman months have nothing to do with the moon. In the list of months below, the Nuer month is usually covered by two English months equated to it and tends to coincide with the first.

.....

Table 5.1

The Relationship between Nuer Lunar months and Roman Calendar months

<u>Path</u> (months of) <u>Mai</u>		<u>Path</u> (months of) <u>Tot</u>	
<u>teer</u>	Sept-Oct.	<u>duong</u>	Mar.-April
<u>lath-bor</u>	Oct.-Nov.	<u>quak</u>	Apr.-May
<u>kur</u>	Nov.-Dec.	<u>duat</u>	May -June
<u>tiop-in-dit</u>			
	Dec.-Jan.	<u>kornvuot</u>	June-July
<u>tiop-in-tot</u>			
	Jan.-Feb.	<u>paivietni</u>	July-August
<u>pet</u>	Feb.-Mar.	<u>thoor</u>	Aug.-Sept.

Source: Kok 1989; Jal 1987; Evans-Pritchard 1940a.

.....

Specific activities are associated with each month and are sometimes reflected in the names of the months. For example, in the month of kur (November-December) Nuer make the first lal (a dam across a water channel to prevent fish from getting into the main river) and form the first cattle camps, and, because one is carrying out these activities, it must be kur or thereabouts. Similarly in duat one leaves the cattle camp to return to the villages, and since people are on the move, it must be duat (May-June) or thereabouts. Consequently the calendar of activities remains stable and throughout Nuerland there can be a general agreement about the name of the current month and the activities associated with it.

#### The Structure of a Nuer Village

In order to understand the constitutive character of Nuer villages, it is necessary to determine the structure of village institutions and the way they order relationships among people. A consideration of the institutional arrangements gives us an understanding of how the Nuer cope with the problems of proximity and neighborhood that exist in all societies. First, I will defined what Nuer cieng means because the way it is understood influenced the structure of a Nuer village. Second, I will describe the authority relationships of the segmental family as the basic unit in the constitution of a village. Third, I will examine the acephalous structure of the Nuer village as a whole.

#### Meaning of Cieng

When a Nuer speaks of his cieng (village), his dhor (hamlet), his gol (household), etc., he is conceptualizing his feelings of structural distance, identifying himself with a local community, and, by so doing, distinguishing his own from other communities of the same kind. An understanding of the concept of cieng will give us an appropriate insight into one of the most fundamental characteristics of Nuer local

groups and, indeed of all social groups: their structural relativity.

Evans-Pritchard (1940a: 136) observes:

What does a Nuer mean when he says, "I am a man of such and such a cieng? Cieng means "home", but its precise significance varies with the situation in which it is spoken. If one meets an English in Germany and asks him where his home is, he may reply that it is England. If one meets the same man in London and asks him the same question he will tell one that his home is in Oxfordshire, whereas if one meets him in that county he will tell one the name of the town or village in which he lives. If questioned in his town or village he will mention his particular street, and if questioned in his street he will indicate his house. So it is with the Nuer. A Nuer met outside Nuerland says that his home is cieng Nath, Nuerland. He may also refer to his tribal country as his cieng, though the more usual expression for this is rol. If one asks him in his tribe what is his cieng, he will name his village or tribal section according to the context. Generally he will name either his tertiary tribal section or his village, but he may give his primary or secondary section. If asked in his village he will mention the name of his hamlet or indicate his homestead or the end of the village in which his homestead is situated. Hence if a man says "wa ceingda", "I am going home", outside his village he means that he is returning to it; if in his village he means that he is going to his hamlet; if in his hamlet he means that he is going to his homestead. Cieng thus means homestead, hamlet, village, and tribal sections of various dimensions.

Thus, the variations in the meaning of the word cieng derive from the root source of the word. As already noted in Chapter Three, cieng (village) comes from the word ciaang or life in the community. The community in which each Nuer live is a compound community. There are different levels of association within and across village communities. He lives in his cieede (his home) with his wife/wives and children. He is also a member of his household (gol), hamlet (dhor), and his village (cieng) as well as the larger society. At each of these levels he interacts with different people of different degrees of genealogical distance. Rules ordering each level of relationships are different from each other. Chapter Four of this study has emphasized the character of structural distance (see Figure 4.2) in its application to lineages and age sets. An understanding of the structural relativity of the word cieng is necessary in order to see the relationships of the various social groups that composed a village. Individuals hold multiple memberships that cut across groups. These overlapping relationships

tend to confuse persons not acquainted with the social structure of the Nuer.

**A man is a member, for example, of his region in its relation to** other regions, but he is not a member of his region in the relation to his segment of it to other segments of the same kind (Evans-Pritchard 1940a: 137). Similarly a man is a member of his regional segment in its relation to other segments, but he is not a member of it in the relation of his village to other villages of the same segment. A characteristic of any segmented group is its tendency towards fission and separating itself from political segments larger than itself. Thus, political values are always, structurally speaking, distinguishable. They are relative and dynamic. These relationships can be conceived of as tendencies that conformed to certain values in certain situations, and the value is affected by the relationships of the persons who comprised the situation. The underlying idea is an important principle of Nuer village structure: the smaller the local group the stronger the sentiment uniting its members. The sentiment among members of a segment, for instance, is weaker than the sentiment among members of a **village that is part of it.**

#### Segmental Family

A Nuer village is organized on the basis of segmentary lineage systems in which there is a diel (dominant) clan to furnish a mar (kinship) framework on which political aggregations is built. The largest political and territorial body is made up of a village (cieng). Each village is composed of homesteads consisting of a byre (luak) and houses. Each homestead may contain a simple family group or a polygynous household. This household is often referred to by the Nuer as gol, a word that means "hearth". The cieng is further divided into hamlets (dhor), which consist of a group of homesteads and the gardens and grazing land surrounding it. The name of each dhor is derived

either from a local landmark or from the name of a senior kinsman living there. A hamlet is generally occupied by close kinsmen, often brothers, and their households. This kind of group is considered a joint family.

Joint families (fthok dueli) or lineages provides the conceptual framework of the village structure. A village comprises a local community, linked by common residence and by a network of kinship and affinal ties. Members cooperate in many activities including providing for collective defence and regulating the use of common property resources.

#### Acephalous Structure of a Nuer Village

The way villagers think of their way of life is reflected in the political structure of a village. The Nuer love of autonomy and individual responsibility had a great impact on the design of the village constitution. A constitution based on the individual adjustment of behavior is considered the normal way of organizing life in Nuer villages in order to achieve mutual gain. Because the village is not conceived simply as a portion of a genealogical hierarchy, the organizational structures of governance must be designed around the principles of equality, autonomy, and individual responsibility.<sup>1</sup> This does not contradict the important role played by age in Nuer political arrangements.

An individual's age and generation do carry some political significance. As earlier chapters indicated, people are ranked according to their birth order. Older generation are treated with formal respect. In a village that is not based on kinship alone, age-set organization helps people to relate to one another. An individual who assists other members of the community with cattle when they are in need and whose personality commands respect can become a leader in the village. A person can gain prestige from a reputation for prowess in fighting in his youth, for skill in debate, or for ritual power, which

Nuer believe is inherited. A man who has built up prestige in these various ways may be able to build it up further by forming marriage alliances with similarly placed men in other villages. Others may attain their positions in the first instance through similar alliances.

Every village maintains a council of elders made up of household heads who are responsible for the normal running of the village. Elders decide when seasonal moves are to be made and where cattle camps are to be formed, negotiate marriage contracts, advise on questions of exogamy, perform ritual of sacrifice, and assist in the reestablishment of covenantal relationships. Decisions are made by consensus among council members often after long debate.

Because the village is part of a wider society and there are inter-village conflicts to be resolved and coordination to be achieved, the eldest member of the village council or another such representative coordinates village activities with the outside world. Neutral persons are invited to mediate conflicts that can upset the harmony within a village and between neighboring villages where there are frequent contacts.<sup>2</sup>

However, age by itself does not give a man a political position. He must have other qualifications, such as being dil, a descendant of the founder of Nuer society, or having wealth or both. Those elders who have influence are known as diel, the descendants of the founder of a clan or a village. Dil (pi. diel) is a member of the dominant clan in each regional group. By virtue of his membership in that group, individual members has a slightly "superior" social position. This is not a ruling clan, however, and the enhanced prestige is indefinite. The clan has no hereditary leadership; a genealogically senior member does not automatically rank higher than other persons in other clans or lineages in a village. Dil is sometimes known as ruic (spokesman) or tut wee (head). Ruic is used in a wider sense to refer to a custodian or a social leader such as guan buthni. The man who serves as ruic is



usually a leader both of his own nuclear family and his late father's family. However, in order to gain social standing in a community, he must also possess sufficient cattle to be able to attract young kinsmen to join the village. He must also be of good character and possess abilities to bind people.

The acephalous nature of the organization of each village is an essential condition for the maintenance of equality and individual autonomy. The emphasis on equality and individual responsibility or accountability makes the concept of right relative. The concept of relative right is consistent with authority relationships that are legitimized by a covenantal relationship rather than by subordination. The law acquires publicness and justness as it passed critical scrutiny in an open society that allowed debate over the formulation of rules and the application of rules to determine who is in the right or who is more right in a dispute. However, in order to facilitate the administration of justice a number of customary precautions are instituted.

First, as previous chapters indicate, crucial matters affecting village residents are discussed in an assembly of all villagers before the elders or custodians can take actions on their own. Once a decision is reached by the assembly, the elders and custodians are required to implement it. Elders are also differentiated by age. The junior elders are those persons whose children have been initiated or are about to be initiated. They always served as auxiliaries to the senior members of the council in implementing the decisions of the assembly. The senior elders are those whose children have all been initiated and whose senior wives are no longer bearing children. Every adult male can become a member of the council of elders in time. Second, the voting rule in council meetings is majority. Since the late 1930s written rules have been available to the village council to prevent arbitrariness. The imperial authorities that had come to recognize the customary law as the

rules applicable in the village can intervene to check the power of village leaders.

### The System of Governance of an Acephalous Villages

#### The Problems of Proximity

People who live in close proximity to one another have a lot of "inconveniences" that come with proximity. A village is usually self-sufficient in seasonal resources such as cultivable land, grazing, water resources, and fish reserves. Within a village everyone counts as kin. At the level of the hamlet, there is a sense of common interest, but also more sharing, and more quarreling and sharing, than between communities. A quarrel with people in far-distant communities is less likely to develop, for the more people have to do with each other, the more cause there is for quarrel. Both intentional and unintentional problems will develop among people simply because they live in close proximity. In addition, a scarcity of resources use in common may also lead members of a community to compete with one another for access. Maintaining social order in an acephalous village requires that conflicts due to proximity and joint use of resources be resolved.

#### Common Use of Natural Resources

The Nuer considered lands, water, fish reserves common properties. The Nuer are divided into clans. Rights to portions of Nuerland are divided among the clans. Rights to resources are further subdivided among lineages. Each lineage has its own cultivation land, pastures, water supplies, and fishing reserves. Members of lineage alone had the right to exploit the resources.<sup>3</sup> A village holds the right to regulate use of a portion of the land and water resources owned by the lineage group with which the village is identified. Individuals can also hold some rights in resources as a private property. They held rights to use and to transfer to heirs resources such as farmland, livestock, wells,

and pools. The technology that renders these resources productive, including byres, granaries, plows, and hand tools are also held as private property. The precise nature of the private property rights in resources depend on customs relating to the acquisition, use, and social transmission of certain resources and technologies within the village.

The general rules in regard to land are that all cultivated land, well water, and pools surrounded by cultivated lands has a proprietor, and that claims to these resources can be publicly affirmed, disputed, and enforced. Though the village might allow some limited inheritance and exchange of rights in resources, it forbids the permanent alienation of land. According to this rule, individual rights holders can not sell their rights in land or water.<sup>4</sup> Holders of rights in cleared gardens and water wells can sell these rights in order to compensate themselves for their labor in developing the land and sources of water supply.

In an acephalous village, Nuer households linked by alliances constitute autonomous units of governance. Households both consume as well as help produce public goods and services that includes the choice, interpretation, and enforcement of rules that regulate the use of natural resources and local security from outside attack. These cooperative activities transformed the "inconveniences" of nearness and potential threat of competitive resource use into the strength of the village through the use of the covenantal tradition to support the mutual mobilization of material resources. The resolution of the problems of proximity and collective action depend upon the readiness to contest ideas and to understand the limits of individual autonomy.

#### Scarcity and Proximity

Villagers do not rely only on their own territory to meet their needs. While people try to do so, they can not due to the differential in endowments of resources, the uncertainty of rainfall, the risks of flood, and so on. Thus, people have to conduct transactions beyond their village borders to meet needs they can not satisfy locally.

Although land and water transport are not well developed, trading activities in cattle, ivory, grain, and dried fish are carried on. Because the constitutional arrangements encouraged exchange relationships among villages, village life among the Nuer remained a contractual arrangement between individuals. It is reasonable, therefore, to expect that villages might further achieve coordination through regular market activities to overcome problems of proximity.

Pastoralism has its own problems which tends to defy market or market-like solutions. The relative freedom of villagers coupled with the need to meet their requirements for security and economic well being frequently result in efforts by Nuer villagers to expand the physical size of lineage land holdings and to construct alliances, especially the frontier communities. When they were successful, their efforts resulted in increases in capital (cattle), human population, and land taken from non-Nuer neighbors. Live cattle are culturally defined as items of exchange that may legitimately be accumulated and held in reserve for anticipated bridewealth payments (Kelly 1985). Polygyny, vicarious marriage, and the provision of wives for one's sons insures that all households will need cattle for such payments. Nuer households are thus regularly engaged in the accumulation of cattle for exchange purposes (Kelly 1985: 247; Evans-Pritchard 1951a: 56)<sup>5</sup>. As Raymond Kelly (1985) observed this has several important consequences.

First, as regards cattle, the productive process is largely governed by exchanged-based rather than consumption-based strategies. Second, exchange requirements push production to a level well beyond that required for subsistence purposes and engenders the accumulation of surplus productive capacity. Third, surplus cattle held in reserve for future payments must of course be fed. Grazing requirements are thus significantly expanded. This dynamic creates grazing shortages that cannot satisfactorily be resolved by herd reductions, since the latter are antithetical to the accumulative goals of production for exchange.

Territorial expansion thus represented the only solution that was consistent with the exchange-based organization of production.

Many lineages and villages expanded their territory and their population at the expense of neighbors. The consequences of Nuer success in expanding pasturage was that the Oinka people (and Annuak) had to accept resettlement and common use of grazing resources. The Nuer expansion underscored the failure of lineages or villages to provide mechanisms restricting individuals' unceasing appropriation of land, cattle, and people. It was only after the emergence of the prophets in the 1800s that coordinated use of the grazing lands in the frontier communities were made effective (Johnson 1980).

#### Animal Trespass Incidents and Complementary Neighborliness

Where operational policies are worked out through covenantal relationships, the handling of village affairs takes into account the interests of many. The reconciliation of conflicting interest is achieved through discussion. A willingness to cope with problematical situations rather than to presume that someone has the responsibility to resolve problems that arise in one's relationships to others is one characteristic of the Nuer. A Nuer is knowledgeable about affairs in his local community, and he becomes aware of the resources that can be drawn upon in coping with a wide variety of problems. Concerted action through kin groups and age groups is sufficient to address many local problems. Problems such as homicide, adultery, and incest required enduring arrangements relying upon some potential for coercion exercised in limited forms of collective choice and collective action. Even in such situations, the covenantal character of Nuer society implied achieving consensus as the basis for the organization of efforts that contributed to the functioning of a village. A covenantal tradition brings people together on behalf of interests shared in common with one another rather than requiring them to form winning coalitions to achieve dominance over others.

Competition and rivalry existed and leads to fights inside villages and between villages. Fights or vendettas within villages are caused by boundary disputes, trespass, and property damage. Most inter-village conflicts stemmed from disputes over land. The boundaries between villages have always been very uncertain. This uncertainty is a real calamity, because it gives rise to fights in which all too often people are killed. Sometimes such disputes are comparatively simple ones over the boundaries of contiguous settlements. More often, however, two or more villages shared rights in territory situated far away from the main settlements. Conflict over the use of these had a long history that continued into the early twentieth century. In addition, in wet season villages, stray cattle can damage crops in another's fields. Cultivated fields among the Nuer are not usually fenced (Howell 1954: 184), a fact that implies that active herding is required.

The rule regarding trespass is that the owner of domestic livestock is liable, even in the absence of negligence, for property damage that his animals cause while trespassing. In the villages, residents are consciously committed to an overarching norm of cooperation among neighbors (Ellickson 1986: 657-675). Most residents resolved trespass disputes by applying norms that are consistent with this norm. The norms of good neighborliness are enforceable because, villagers dealt with one another on a large number of fronts, and most residents expected those interactions to continue far into the future. In sociological terms, their relationships are "multiplex" not "simplex" (Kidder 1983: 7078). They interacted with regard to grazing their animals, utilizing a water supply, fishing, constituting joint work parties, arranging marriages, exchanging goods, organizing wedding and ordinary dances, playing children, constituting cattle camps, and herding. Where population densities are low, relationships with each neighbor looms larger. Thus, any trespass dispute with a neighbor is

almost certain to be but one thread in a rich fabric of continuing relationship.

The norm of cooperation also suggests that neighbors should put up with minor problems, especially when they perceive that their future interactions will provide adequate opportunities for settling old scores. However, there are individuals who do not adequately control their cattle and may not care about their reputation or good neighborliness. To discipline such deviants, self-help retaliation is employed. It is difficult to estimate how frequently a villager actually resort to violent self-help. Nevertheless, fear of physical retaliation is undoubtedly one of the major reasons for avoiding wrong doing. Other means of disciplining deviants is to seek reparation for damaged property from the council of elders.

#### Rule Enforcement

The acephalous order in Nuer villages depends upon the actions of autonomous individuals who pursue their interests in ways that grant reciprocal respect for the autonomy of others. In order to promote their common interest in maintaining a village, residents established standards of conduct. These standards are enforceable as rules of law by and for individuals who voluntarily covenanted with one another to form governing structures. Officials (elders, lineage leaders, custodians, age-set leaders, etc.) entrusted with rule enforcement are expected to discharge their responsibilities according to the concept of legal equality (equity).

Members of the village enforce rules through a variety of different instrumentalities rather than through a single leader or group of leaders. Power and authority are diffused and the various people exercising this authority are a check on each other. Everyone exercised some governing authority in the community. Within a village, rule enforcement is relatively easy because there is a common understanding

of the procedures, and all residents are known to each other. The individual villager conducts himself in accordance with the "range of permissible leeway, and the range of actively protected leeway" (Llewellyn and Hoebel 1941). The village is, however, also a part of a larger society. Members also interact with outsiders. These contacts with outside persons are of a significant influence upon rule enforcement in the village. Villagers are linked by a dense network of relationships to other members of a lineage and a clan as well as to other allies and friends. Reinforcement for rule enforcement can come from kin or friends living outside the village if the residents are not able to provide equitable solutions to local problems.

To ensure that legal equality is guaranteed, the notion of right and rightdoing was the basis for evaluating individual behavior in the village. Provision for intermediaries is the key to guaranteeing the legal equality of villagers.

The law is used to convey the concept of individual responsibility. It works to reinforce the non-hierarchical social structure of the society. Because power is shared in the village, the people who enforced the rules of the village are the same persons who are constrained by these rules. In order to sustain self-governance, certain common beliefs supporting the enforcement of rules necessary to the constitution of order in Nuer society are indispensable. But common beliefs alone are not sufficient. It requires the continuing exercise of those capabilities that are essential for the operation of acephalous systems of governance. Such systems are not self-generating. Otherwise, the maintenance of freedom of action and equality in human societies would not be problematical.<sup>6</sup>

The viability of Nuer village democracy largely depends, therefore, upon individuals knowing both the appropriate limits to and the proper exercise of individual responsibility and equality so that each can participate in the governance of their own communal affairs. When



enforcing the rules, the villagers are, themselves, convinced by the arrangement of rule enforcement of the value of freedom and equality in maintaining mutually respectful and productive relationships among those who are also the authors of the rules. The fusion of common beliefs and rule enforcement makes viable both the governance of village life and the autonomous behavior that applied throughout Nuer society. In the following sections, I will first examine how the arrangements for rule enforcement and family ties reinforced each other. Second, I turn to a consideration of how the Nuer enforced rules to cope with the problems of neighborhood.

#### The Lineage Custodian and the Enforcement of Rules

Although the Nuer village is self-organizing and self-managing, it is not self-sufficient. The presence of a member of the lineage endowed with priestly powers and skills is necessary for rule enforcement in a village. The elders and community custodians are responsible for rule enforcement within their villages and resolving conflicts that do not involve religious cleansing. If the enforcement of a rule is not feasible within the village, the guan buthni of the collateral lineage will be called upon to adjudicate. Incidents of homicide, adultery, and incest required religious cleansing. Where an earth custodian is not available in a village, an earth custodian or his representative from outside the village is to be sought in order to perform the necessary purification ritual and to adjudicate the conflict. Conflicts over pasturage or the trespass of stray animals required the intervention of a cattle custodian.

The fact that many conflicts are left to each village for adjudication further reinforced the acephalous order in Nuer villages. Even in cases of homicide, adultery, and incest where an earth custodian is involved in mediation, the opinions of the elders and other notables in a village are always an important factor in the decision. Cases are

argued in a public arena in the presence of kin, supporters, and those who simply wanted to watch the process of litigation. The decision is influenced by the openness of the arena in which the case is being heard and by the presence of many people.<sup>7</sup> Where the mediator functions impartially, rule enforcement normally favors the person who is in the right or who is more right in the case. An earth custodian acts as an agent in response to requests from villagers and elders to impose punishment on rule breakers.

#### The Management of Nuer Cattle

Although cattle are collectively owned by members of families and to some extent by the lineage, those who exercise general rule enforcement authority in Nuer society regulate the redistribution of cattle.<sup>8</sup> The elders, for example, are the principal participants in both sacrificial invocations and major cattle-transfer negotiations. This gave the household heads greater control over the world of the Nuer than they would have had if cattle were only used as a standard of value and a medium of exchange. Control of cattle transfers is one of the most important sources of power in Nuer society. The power of elders over their juniors and women, therefore, depended largely upon the general efficacy of cattle sacrifice and exchange (Hutchinson 1988; Evans-Pritchard 1956; Kok 1989).

The use of cattle as a medium of exchange and as objects of bridewealth exchange effectively transformed man's fundamental need for woman's procreative powers into a broadened and deepened dependence on other men (Hutchinson 1988).<sup>9</sup> The success of bloodwealth negotiations depended entirely on the wide-scale acceptance of cattle for judicial reckoning. Because cattle and women are so closely identified in Nuer culture and because almost every dispute is in principle resolvable with the transfer of cattle, the person who regulated the redistribution of cattle wielded considerable power.

Cattle exchange bound the greatest of Nuer aspirations-the desires for life, health, fertility and peace-with-kuoth or God. Cattle, as objects of spiritual dedication and sacrifice, are the principal media through which this covenant is continuously negotiated and affirmed (Evans-Pritchard 1940a: 271; Hutchinson 1988; Kok 1989; Bum 1989). The Nuer regard cattle sacrifice as a potentially effective mechanism for eliciting divine support. The exclusion of the younger generation from bridewealth negotiations and sacrificial invocations served to enhance the authority of household heads at the same time it intensified feelings of dependence.<sup>10</sup>

Without cattle, a man was effectively barred from participating in two critically important activities: the negotiation of political alliances through cattle exchange, and the supplication of kuoth through cattle sacrifice (Hutchinson 1988). Cattle are in a very real sense the source of political power in Nuer society. In the process of enforcing rules regarding the distribution of cattle, senior household heads exercised considerable power over critical areas of life including human production, alliance, and descent.

### Religious Beliefs

Members of an acephalous society like members of any society must devise ways to enforce rules. The religious beliefs of the Nuer helped them to enforce rules. Insight into the religious beliefs of the Nuer comes from studying their concept of God, sin, expiation, and forgiveness by sacrifice (Evans-Pritchard 1956; Douglas 1980a, Beidelman 1971: 375-434). "Pollution of the earth by bloodshed would hardly be a credible danger if it did not figure on a list of many other sins regularly seen to entail illness and death if not expiated" (Douglas 1980b: 71). Personal misfortune, according to the Nuer, can result, for example, if one person has injured another, even though the injury does not generate formal compensation and restitution. The offender is still

liable to be punished because, as Gluckman (1960) states, bad feeling is charged with mystical danger if not repaired.<sup>11</sup>

There are two ways of punishing rule breakers. One is inflicting misfortune through a curse. In this way the incentives for forceful appropriation are reduced, for material gains are made at the cost of generating duer, fault (or pollution), which in turn can lead to one's death or misfortune. As Douglas states: "beliefs support the moral order." Another way of punishing deviants is the conviction that private acts can have public consequences. The occurrence of nueer, collective misfortunes, for example, provoked inquiries into unresolved private grievances and undisclosed misdemeanors. Drought, plague, sudden death, backache, or series of other lesser disasters might suggest the existence of an uncompensated wrong. Beliefs covering collective misfortune thus help to vest personal property rights more securely. For example, to kill a man but not confess to the killing is a heinous offense in the eyes of Nuer, because it placed kin on both sides in jeopardy.<sup>12</sup>

Thus the religious beliefs of the Nuer altered the perceived gains to be made from cattle theft, rape, and robbery (Bates 1983: 13). They provide a kind of impersonal punishment for wrongdoing and afford a means of supporting the accepted system of morality. These beliefs are of importance to Nuer society where the costs of enforcement are high. People live in scattered mobile communities making crimes difficult to detect and proof of homicide, adultery, incest, or theft difficult to adduce. Lacking a supportive structure of beliefs, the Nuer system of governance might have failed to prevent persons from relying on the constant use of force.

Religious beliefs provide a basis for the development of impartial standards of moral judgment that can be used by the custodians and other intermediaries to maintain acceptable conduct. These standards are

necessary because the Nuer desire workable arrangements that can afford them a social order that is consistent with equality and individual responsibility.

### Village Militia

All Nuer villages maintain a regular police-like force, usually consisting of men too young or inexperienced for other positions. This police force (ngueni) is a component of the village militia (ream cieng). The militia are established to maintain lawful relationships within a village and to protect against external aggression. Although the force is used by the village to enforce local rules, negotiations and compensation are used more commonly than physical force to enforce rules. The threat to use violence is more important in rule enforcement than the use of violence itself in the community.

Each village is allied to other villages by common genealogical ancestry or through marriage contractual arrangements. These kin and allies can be called upon to come to the aid of the village in time of crisis. Because of this network of kinship relationships and alliances, Nuer households and villages, in large part, feel secure from disturbances from within and attack from outside. Kinship groups—and simultaneously residential groups, since kinsmen generally lived near by and neighbors are considered kin—can be thought of as a series of nested groups that are an important source of association, security, and trust.

### Conclusion

The Nuer conceptualized their village life in terms of the annual cycle of activities for which villages and cattle camps are the focus. Their year is divided into tot (rainy season) and mai (dry season). Tot is the season where they live in villages and carry out cultivation activities. Mai is the season spent in the cattle camps and fishing. Tot and mai are each divided into two seasons according to the nature of

different activities within the major seasons (tot or mail. Ruel (from mid-March to May) is the time when people leave the cattle camps for villages, prepare gardens, and plant grain seeds etc. before the full tot proper begins. Ruel is part of tot. Mai (middle of September-Mid March) is the season spent in the cattle camps. The Nuer have a calendar of twelve months and each month is associated with specific activities that are suggested by the name of the month. A Nuer village is conceived of as egalitarian in structure whose purpose is to protect individual's life, property from floods, and to facilitate the joint exploitation of commonly owned natural resources.

Individuals are the basic units of analysis, but Nuer do not act as atomistic individuals. Village communities are richly nested assemblages of associations based on kinship ties, alliances, and residential location. Nor is there an absence of authority figures. Households heads, elders, custodians, age-sets, and other social leaders are authorized to take decisions that imposed sanctions on others. There is no single hierarchical structure but multiple, concurrent and loose hierarchies of relationships among these figures, and they hold their positions and exercise authority by virtue of the trust others place in them.

The Nuer cope with the problems of proximity by applying the norm of cooperation among neighbors. The norms of good neighborliness are enforceable because of the fact that members of the villages were dealing with one another on a large number of fronts, and most residents expect those interactions to continue for a long periods of time far into the future. The villagers interact with regard to grazing their animals, utilizing a water supply, fishing, playing children, constituting joint work parties, arranging marriages, exchanging goods, organizing wedding and ordinary dances, constituting cattle camps, and herding. Thus, any animal trespass incident is considered but one thread in a rich fabric of continuing relationships. The norms, further

suggests that neighbors should put up with some inconveniences, especially, when they perceived that their future transactions will provide adequate opportunities for settling old scores.

Notes

<sup>1</sup>Among the Nuer, villages are made up of people of different genealogical ancestry, although the ideal is that close kin of a common ancestor are to live together. The Nuer have always felt they are free to live anywhere they choose. If a man is unhappy, his family sick, his herds declining, his garden exhausted, his relations with some of his neighbors uncongenial, or merely if he feels restless, he moves to a different part of the country and resides with some kinsmen there. However, it is seldom that a man goes alone, for brothers are a corporate group and, especially if they are sons of one mother, stick together for economic reasons. Frequently, as a result of quarrels, a group of brothers will leave a village and settle elsewhere.

<sup>2</sup>In the past the Nuer recognize two kinds of political community. Every Nuer believes that if he kills any other member of his clan he has committed a wrong that ought to be compensated. But if a Nuer kills a fellow Nuer whose home is so far away that his kin cannot make any trouble because of the distance, nothing much may happen. This was the case between Eastern Jikany and Lou Nuer before the emergence of Prophet Ngundeng Bong in the 1860s who introduced compensation between the two regions for homicide. The idea was that the people who would avoid the pollution of death would not be on visiting terms anyway, and the people who ought to pursue vengeance will be out of reach.

This was a rule that everyone recognized, and it was a rule that applied to the relations between Nuer regions and their relations with other non-Nuer peoples. It was a rule about what ought to be done if one man, by using force in defense of his own interests, killed another. The duty of vengeance and the duty of standing by your kin were rules about how force is to be used to meet this situation. But there existed also the community of people whom a Nuer expected to be meeting constantly, and which included members of his village, his close kin and their spouses and children, and his affines. These were the people among whom it was important that peace should be kept, and between them the conventions come into play that prevent people from ruthlessly pursuing their rights even when their cause is clearly just. This must be seen as a political community in narrower range, and if this view were taken, it is possible to say that every Nuer belongs to two political communities with different values, even if not with different rules.

lights might be classified in the following manner (Shipton 1987: 52, n.9, originally cited in Netting 1991).

- a. Rights of use, including hunting, grazing, cultivation, collection of water, wood, minerals, etc., passage, building, and residence. The accompanying rights of disuse may include those of fallow, or of the holding of reserves for future family expansion.
- b. Rights of transfer can include those of inheritance, gift-giving, lending, swapping, mortgages, rentals, sales, and other contracts.
- c. Rights of administration can refer to allocation or withdrawal of use rights, dispute settlement, regulation of transfer, management of land for public uses, and "revolutionary" or "ultimate" rights, e.g., for collecting royalties, tributes, or taxes.



These rights may vary along scales of time (for what period the right can be exercised), exclusivity (degree to which rights may be shared), and agent (the right exercise by an individual, a collectivity, or a corporate group).

Usufruct is in general sense a property right, defining who has the right to use a resource in a certain way (Netting 1991: 41).

<sup>5</sup>I obtained confirmation of this assertion in an interview with Lutlut Kok on August 24, 1989; Tap Lia Kon on September 2, 1989. Both interviews were conducted in Khartoum.

<sup>6</sup>The maintenance of an acephalous order requires the continuous practice of liberty. An acephalous order should be conceptualized as deliberate, that is, it takes a lot of hard work to maintain it. Self-generating systems may come into existence without those involved intending this. Such possibilities may exist. However, a great deal of deliberateness may be required to establish an acephalous order where the individual is first his own governor and where complementary opposition is use to check his power (see Vincent Ostrom 1990b: 257-267).

<sup>7</sup>In an open community arena, the disputing process is more accessible to both disputants and publics. Under these circumstances, interests of a broad public or particular groups will constrain the ways in which litigants, supporters, and third parties can transform a dispute (see Mather and Ynguesson 1981: 797).

<sup>8</sup>Nuer conceive of the ancestor of a clan, and likewise the ancestors of its component lineages, as having possessed a herd. The descendants of which have had, and continue to have, though distributed among different families, a constant relationship with descendants of their original owners and are still thought of as one herd. This ancestral herd is a fiction, for the cattle are being constantly dispersed and replaced by others at marriages, but conceptually it is an enduring collectivity. There is ideally a constant attachment, the clan and its herd forming a joint community down through the generations (Lutlut Kok 1989; Wicjal Bum 1989; Evans-Pritchard 1956: 258).

<sup>9</sup>The decision making power to transfer dap Ciek (The "value" of a woman's child-bearing capacity) from a woman's father to a husband is an important part of regulating cattle distribution. This aspect has been discussed in pages 90-91 in this study. (See Hutchinson 1988; Evans-Pritchard 1951; Kok 1989).

<sup>10</sup>Hutchinson (1988) maintains that women and the younger generation of men are excluded from participation in cattle sacrifice. This may not be totally accurate as far as women are concerned. Men are generally heads of households, and older men in a family usually, but not always, make sacrifices on behalf of the family. Women who are leaders of their families have also been reported to sacrifice cattle (Wicjal Bum 1989; Nyang Rundial 1989). Sacrifice is understood here as (1) the decision to offer cattle for sacrifice, (2) the lam vang or to invoke and rub cattle-dung ashes lightly on the victim's back with her right hand. Invocation states the intention of the sacrifice and matters relevant to it. Women who have been possessed by kuoth sacrifice cattle to their kuoth. Nyaruac Kulang of Jagei Nuer is a case in point (Wicjal Bum 1989; Riel Gatluak 1989).

<sup>n</sup>This information was obtained in an interview with Kang Dung on September 12, 1989 and Riel Gatluak on September 13, 1989. Both interviews took place in Kosti, Sudan.

<sup>12</sup>I obtained this information in an interview with Lutlut Kok on August 24, 1989 in Khartoum; Riel Gatluak on September 13, 1989 in Kosti, Sudan, and Riek Kerjok on September 27, 1989 in Khartoum (see Evans-Pritchard 1956: 297)

seeing that their family members and animals get a sufficient supply of water, grass, and fish to meet their needs. Herding cattle jointly is of potential advantage to all households. The scarcity of grazing pasture during the dry season requires cooperation among disparate persons. The need for orderly access to water and fish also makes it necessary for persons to develop arrangements for mutual benefit. If everybody disregards others, it would be difficult, if not impossible, to take advantage of the grazing and water resources because these resources cannot be easily divided. Uncoordinated behavior could easily generate conflict and destruction.

Persons who voluntarily come together to form a cattle camp come to be considered as kin and use their freedom of action to resolve conflict arising from their joint use of resources. They agree among themselves to conduct their affairs according to a code of behavior based on covenantal relationships. They resolve most of their problems peacefully drawing upon the good offices of elders and custodians. Persons voluntarily agree to provide labor as required by mutual understanding about authority relationships in a cattle camp and consent to be bound by the rules and customs concerning a particular cattle camp. All members of the cattle camp are treated equally in regard to access to resources and the distribution of the burdens of herding and other services. With agreement over the rules as part of organizing life in the community, no single resident can function as a holdout and still derive benefits from an association of cattle owners in a cattle camp without assuming a proportionate share of the burdens of the cattle camp, herding, and security.

If an adult refuses to honor a part of an agreement, he is denied the services common to the other members of the herding unit. For example, where persons in a camp agreed to herd their animals jointly, that is, watering the animals, moving them in search of better pastures, safeguarding them from wild animals and cattle thieves, an individual

who failed to fulfill the terms and conditions of common understanding will be dropped from the herding association. That is, he will be asked to herd his own animals alone. It can be very costly for a single household to herd its own animals by itself. Camps, like villages, are organized under terms and conditions that grant privileges and impose restrictions. All individuals who have agreed to herd cattle together during the dry season camp become and remain members so long as they continue to meet their obligations. The rules of the camps, like those of the villages, recognize the authority of the elders and custodians or, in the absence of such leadership, members chosen by "hand" (vote) to assess labor or other contributions for the provision of services for the mutual benefit of the group.

The rules regulating the distribution of herding responsibilities and other necessary costs in a cattle camp need to be considered from a constitutional perspective where the likely results of such rules and regulation were estimated prior to choosing a particular structure of cattle camp organization. Individual members as equals accept rules they make and that take individual preferences into consideration. The presumption of equality, among the Nuer, means that an individual is considered the best judge of his own interests. Individual preferences affect their social choices. The rules, therefore, provide structures for articulating and aggregating demands in the absence of market prices and translate demand into decisions about what services are to be procured. Because these rules are seen as fair and the costs of services are borne by the households that are the beneficiaries, individuals have an incentive to preserve the patterns of organization of the cattle camps that provide joint services.

#### The Structure of a Nuer Cattle Camp

For an understanding of the constituent elements of a Nuer cattle camps, it is important to consider the structure of cattle camp

institutions and how they order relationships. Elucidation of the institutional arrangements provides insights into how members of a Nuer cattle camp handle the problems of access to common property resource which Nuer face in all their cattle camps. First, I will describe the cattle camp because the way it is organized affects the structure of a cattle camp. Second, I will consider the political organization of a Nuer cattle camp.

#### Cattle Camp and Movement

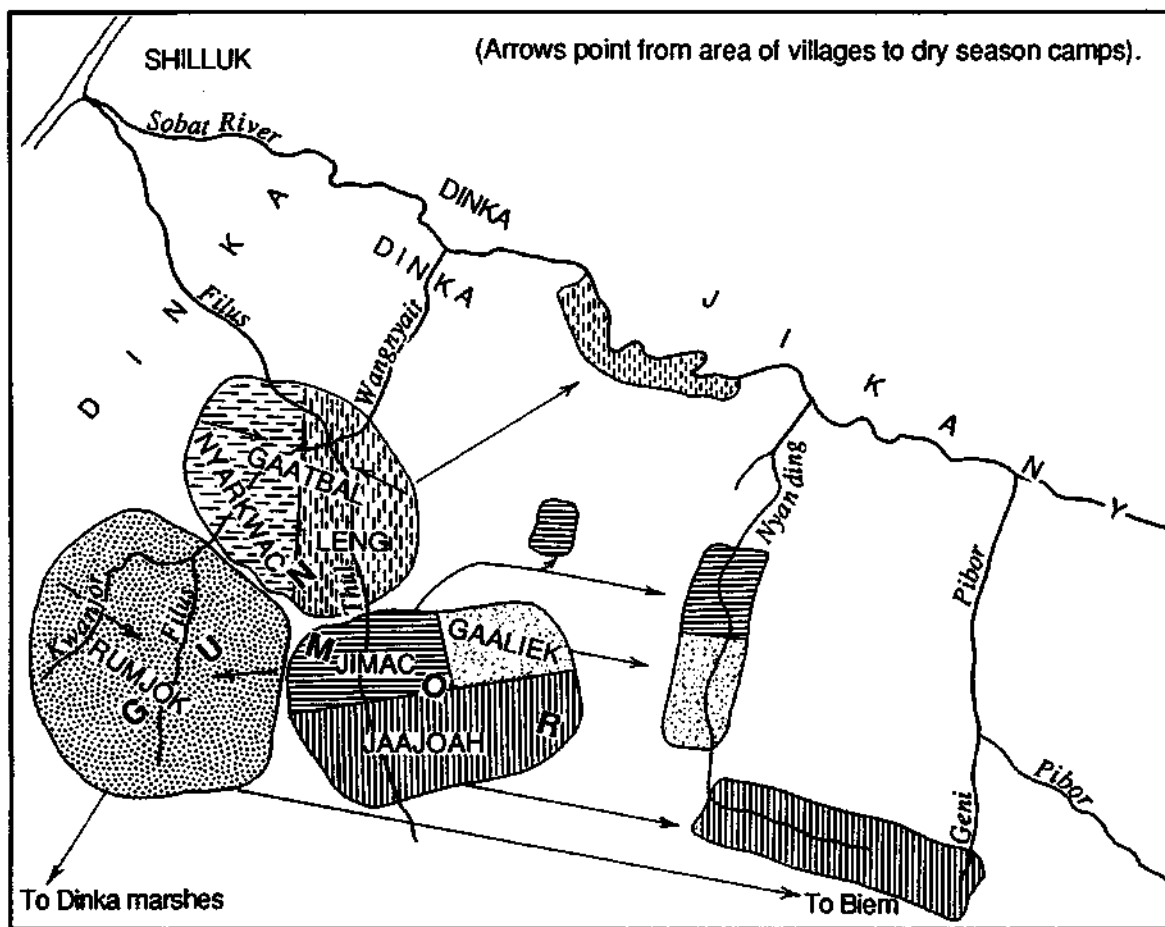
A cattle camp that households of a village form in the dry season and which members of neighboring villages participate, is known as wee. While wee has the meaning of a cattle camp in contrast with cieng, village, both words are used in the general sense of local community (Evans-Pritchard 1951a). Wee with fixed boundaries are frameworks for use by members of a regional section during the dry season. The lineage (thuk due l) is the ideal cattle camp unit.<sup>1</sup> A large cattle camp is named after the dominant lineage in it or after the village who occupy it, and small camps are sometimes known by name of an older person of importance who founded it or who has erected his windscreen there.

A cattle camp should, in ideal circumstances, consist of close kin; they should camp together, move together, and look after their herds together. This ideal is continually thwarted by individual self interest and changing relationships among lineage members. The social composition of a camp varies at different times of the dry season from the people of a hamlet to the people of a village, or of neighboring villages. Men sometimes camp with kinsmen living in cattle camps other than those of their own villages. However, a camp, which is a mobile unit, always has a nucleus of close kinsmen. Camps consisting of one lineage are rare, however. There is a great deal of intermingling, and it is the exception rather than the rule for close agnates to travel as a block unmixed with more distantly persons.<sup>2</sup> Most Nuer move from

villages to cattle camps on foot, except those who live along rivers where food materials and items of exchange, such as ivory can be transported by canoe. Nuer do not use horses, mules, or oxen as beasts of burden.

As the dry season advances, when the pools have dried up and intermediate grazing grounds are exhausted, or fishing becomes poor, the camps are moved to other sites. In Lou Nuer region, the early cattle camps are located in thornwood forest, where Balanites aecrvtiaca (special tropical trees) is abundant but, in many parts of Nuerland, especially to the west of the Nile, they are established on stream banks to facilitate fishing. These early cattle camps (wee iiom) are usually small and are inhabited by only a few kin. Small cattle camps generally come together to form larger ones that become the (wec\_mai) permanent cattle camps.<sup>3</sup> Wec iiom may move several times before members arrive at a permanent camp site. The dry season movements to permanent cattle camp sites where water and grazing are expected to last the summer months is an annual event. However, the extent of such movements varies from one region to another. The Lou Nuer stay inland during a wet year around deeper pools that hold water through the dry season such as, Muot Tot, Muot Dit, Pading, Padoi, Kuong Kuong, Nyirol, etc. If they are forced by lack of sufficient water and pasture to leave the area, the Gun primary section moves north to Kur Mayom on the banks of Sobat and southwest to the floodplains of the Bahr el Zeraf in the Twic Dinkaland.<sup>4</sup> The Jimac of the Mor primary section moves northeast to the Laang's grazing lands at Nyading. The Gaatleak moves to the Wangkac's grazing lands in Kuanylualthon region. Nyak and Both sections move to Geni and certain grazing areas along the Akobo and Pibor rivers. (See Figure 6.1 for the villages and dry season camps of Lou Nuer sections.) Disputes occur if members of the Lou Nuer move to these grazing grounds. The grazing lands along the banks of the Sobat river are claimed by the Eastern Jikany Nuer, and the Lou's occupation of Akobo, Geni, and Pibor

Fig. 6.1  
Map of the Villages and  
Dry Season Camps of Lou Nuer Sections



Source: Evans-Pritchard (1940a: 56).

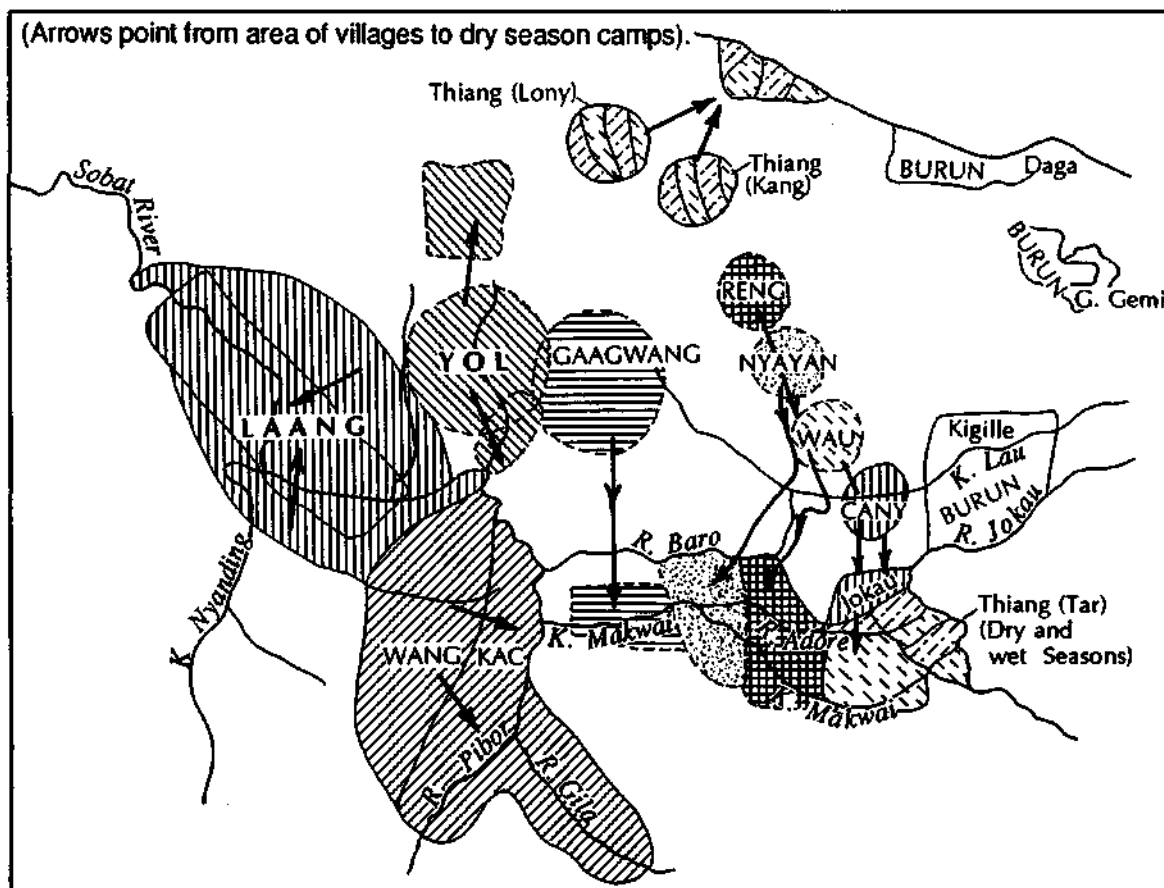
are disputed by the Anuak and the Murle. Their move to the southwest is viewed as trespass on Dinka grazing grounds, so they move to these sites only when it is absolutely necessary and when arrangements are made with the communities who claim and manage these resources.

Nuer sections that have permanent sources of water and grazing do not need to move so much. Most of the Eastern Jikany claim and operate water resources. Nevertheless, they all fall back on rivers or marshes to establish camps before the dry season is far advanced. The motives for such moves are their interest in fishing. Evans-Pritchard (1940a: 62) reports that the three primary sections of the Gaajok move as follows: the Laang concentrates on the Sobat, the Wangkac moves southeast to the banks of the Pibor and Gila, and the Yol either camps near the junction of the Wakou and Sobat or northwards along the edges of the Machar swamp. The Gaaguang moves to the western end of Khor Makuei. The Gaajak primary sections move as follows: the northern Thiang sections (Kang and Lony) go to the Dajok river while the southern Thiang section (Tar) and the Reng, Nyayan, Wau, and Cany sections camp on the banks of the Baro, Jokau, Adura, and Makuei, mainly in Ethiopia. (See Figure 6.2 for the villages and dry season camps of the Eastern Jikany Nuer sections.)<sup>5</sup>

The three Zeraf river communities move to Bahr el Jebel and Bahr el Zeraf and streams flowing into these two rivers. (See Figure 6.3 showing the direction of movement in the dry season of the Zeraf communities.)<sup>6</sup> The Gaawar who live on the left bank of the Zeraf river build their villages on high ground near that river and do not have to move far in the dry season (Gai 1989; Evans-Pritchard 1936b, 1940a). The Western Nuer mainly camp on inland streams that are not far from their permanent villages. The Karlual primary section of the Lek people mostly concentrates first on the Loogh stream and afterwards on the Cal and Wangtac, all of which link up with the Bahr el Ghazal.<sup>7</sup> The Dok camps near pools in the beds of Bilanyang streams (Bum 1989; Howell



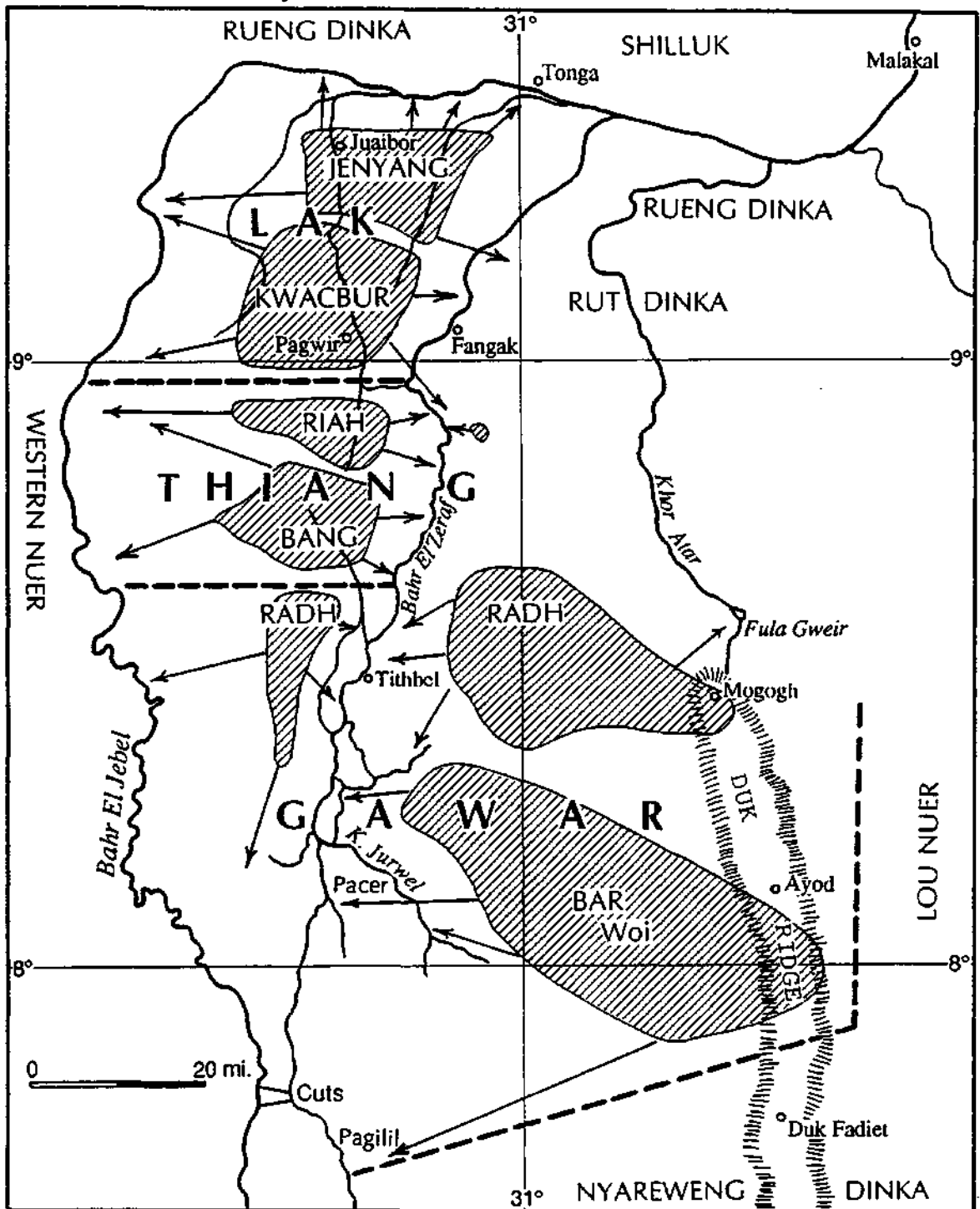
Fig. 6.2  
Map of the Villages and  
Dry Season Cattle Camps of  
the Eastern Jikany Nuer Sections



Source: C. L. Armstrong & Evans-Pritchard (1940).

Fig. 6.3

Map showing the direction of movement in the dry season of the Zeraf communities.



Source: B. H. Lewis & Evans-Pritchard (1940).

1954a) .<sup>8</sup> The Western Jikany move to the Jikany marshes at the edge of the Bahr el Ghazal.

Although the members of local communities of the rainy season tend to be the same as members of local communities in the dry season their composition is different. The people of a cattle camp live in a more compact group than the people in the village. In addition to living in compact groups, in camp life there is more frequent contact among its members and greater coordination in the use of common property resources.

#### The Settlement of a Cattle Camp

Residential patterns in the cattle camp follow the same pattern used in the village. The cattle camp is composed of several clusters of residential units. Each cluster is made up of several summer huts and geuni (windcreens). One windscreen represents one household and may be associated with several huts according to number of wives a household head has. In any cattle camp a few windcreens (geuni) are generally adjacent to one another. Such a group is a distinct unit with its own section of the common kraal. The members of this unit constitute a joint family and cooperate in many activities and share certain goods and services.

Men and boys generally sleep at the geuni; women with younger children and girls use the huts for sleeping. Older men, however, sleep in katni. Kat (sing.) - a hut that contains a hearth. Huts, geuni, and katni are built to last through the dry summer months and to give persons protection from the rains in ruel season months of April and May. Walls are constructed of a mixture of wood and grass and are plastered with a mixture of mud and cow dung. They are roofed with grass that will not leak when it rains. Geuni are made of grass and held up by wooden poles. These camp constructions are erected a few yards from the water source, generally in a semi-circle or in a line with their backs to the prevailing wind.

Although cattle provide food it is usually not sufficient to meet household needs. Food supply is a problem to residents, particularly, those who camp far away from permanent villages where the grain supply is stored. Food shortage is worse during an extended drought because people may stay longer in the camp than the normal months of the dry season to continue to graze their animals and also to harvest water plants.

#### Extended Drought and Harvesting Water Plants

During an extended drought (defined here as deficiencies of rainfall), forces herders to prolonged there stay near rivers, lakes, pools, khors, streams, and other watercourses. It is along these bodies of waters palatable grass can be found for livestock and also to harvest water plants to meet their needs for food. People are not able to find edible roots of plants on land. Most of the roots use for food are usually identify by their leaves and flowers in the wet season. These plants are annuals which lose their leaves after the rains as a means of protecting themselves from the heat (Pratt and Gwynne 1983). People, therefore, depend upon water plants to supplement their food supply.

Different regions of Nuerland have different types of plants which supply fruits and roots. Water lily fruits are, among the Nuer, the most popular food. They are found in almost all lakes, pools, khors and streams. There are two types of foods taken from water lily. The fruit is found in the roots in the ground and dug out by hand or hoe. The best fruits are obtain when they are still flowering. The roots are baked and flour is made out of it for porridge. It is eaten with or without milk. The other type of food obtain from water lily is from its flower, especially when it is still in the bud (yi-el). The seeds are dried and pounded into a flour. Porridge is also made out of this flour. Miek is a root found along shallow waters. After harvesting it, it is boiled and eaten. Tomtom (a plant similar to sugar cane) is

found on banks of rivers in Nuerland. It is sugary and people like it at all times and it provides some energy.

### The Political Organization of a Cattle Camp

#### Network of Relationships and Shared Interests

A cattle camp is segmented into clusters of windscreens which represents segments of related persons by kinship or by marriage. Heterogeneity of interests may be reduced by segmentation of the cattle camp. This allows household units to conduct their own affairs, and yet be connected to the cattle camp community through the network of relationships and shared interests.

Within each of these segments everybody is known and it is usually easier to mobilize efforts for camp improvements and to protect themselves and resources from intruders. In each cluster of the extended family, the senior man exercises a measure of authority. "Authority" is based on age and generation. He mediates over problems among the members of the immediate family.

Although each cluster of windscreens is independent from others, they coordinate their activities with members of other groups or clusters through councils of elders and age leaders to resolve conflicts that arise from the use of common resources. The cluster can organize and control the activities of its members because of the small size. Each member of the extended family within the group knows the rules. If an adult deviates from the acceptable behavior, the act will be known by everybody else and the individual will be severely frowned upon by the members of the community, isolated, denied assistance, or outlawed by his kin group. Because of the segmentation of the cattle camp into smaller groups of related households where everybody knows everybody else, free-rider problems are not serious. A shared community of understanding is a strong and sufficient to achieve mutual monitoring and enforcement.

### Convocation of Assemblies

Decisions about larger cattle camp affairs are arrived at by agreement in a meeting of all separate units. Public participation is the very essence of Nuer cattle camp life. Every member of the cattle camp attends a camp meeting. Everyone is allowed to air his or her views. Indeed no interested party could be refused to attend the meeting. Generally, however, the elders' opinions predominate. It is in these types of meetings that policies in respect to the protection of water, the grazing problems, the fishing, and security matters are discussed, decisions are made and implementation is monitored. These decisions are enforced by the councils of elders, age set leaders, and custodians.

Beyond a cattle camp, there are other cattle camps who trace their origin from a common ancestor. When cases of common interest arise, councils of the cattle camps involved will be summoned. However, a convocation of assemblies of two or more adjacent cattle camps is infrequent, being held only when it was necessary to take common action against some external enemy, to offer common sacrifice, to get rid of some 'abomination',<sup>1</sup> or to attempt to settle an internal dispute which, if allow to continue can likely disrupt the community (Banak 1989).<sup>9</sup>

### Custodians and Priests

Custodians and priests are involved in the governance of the cattle camp, especially in regulating fishing in rivers and streams, lakes, and pools especially in protected waters. They can also be called in to mediate problems about adultery, incest, and homicide. In order to understand what takes place a brief description is necessary.

There is a spirit called buk, also known as buk man deang, buk the mother of (the air-spirit) deng. As Evans-Pritchard (1956: 45) observes this female spirit, known throughout the Nuerland, is associated with water: rivers, pools, lakes, and streams. It is kuoth yier, a river-spirit. This association of water with buk gives rivers and other

bodies of waters a general spiritual significance for all Nuer. Nuer make a variety of sacrifices to buk. They offer first-fruit of their dura (sorghum) and make libations to it in streams. When somebody is sick they make sacrifice to it on the banks. They also throw beer and tobacco, and a bound goat or sheep as well, into the water as offerings when they are engage in large-scale fishing, praying that they may be protected from injury by crocodiles, water snakes, bones of fish, sharp shells, and lost fishing spears.

Before Nuer set off for any large-scale fishing, the custodian for water or his representative in a cattle camp makes a sacrifice and people sing hymns on account of the spirit associated with rivers and streams. This song is known all over Nuerland and people sing it also at mortuary ceremonies.<sup>10</sup>

. . . Buk, mother of deng, the ants (the Nuer) ransom their lives from thee, mother of dengkur, the ants ransom their lives from thee. We give thee red blood. The ants of deng are simple people, they do not understand how their lives are supported. Let all the people of the cattle camps bring tobacco to the river.

The general idea of this hymn is that buk protects the people from the dangers and gives them life. Protection and life are given to them in exchange for oblations of animals and tobacco. It is when this ceremony has been performed that people are permitted to fish in the protected water. Fishing before such ceremony is done, is a violation of acceptable conduct. It is viewed also as an affront to divine will. It is believed a rule breaker will soon or later meet misfortune in the water.

Breaching this understanding can subject individuals to punishments. The family is held responsible for the acts of their member. It is the family, Nuer believe, that has failed to teach norms of right conduct to their member. The family can be isolated, denied assistance, respect, banned or cursed by a custodian for water. Acknowledgement of guilt usually mitigates the severity of the punishment. Because rule breaking is an affront against kuoth,

sacrifice has to be made to appease buk the mother of (the air-spirit) deang. A ram or steer is sacrifice on a bank of a river or stream. The animal is provided by the household of the rule breaker. The ceremony is performed by kuar thoi or his representative. The association of kuoth with water and punishment resulting from violation of the rule protecting water tend to make Nuer conform to the rule in respect to fishing.

#### Governance of the Nuer Toich

Nuer cosmology gives prominence to individual right to own property. The belief in an individual right to own property is considered by them as the basis for the principle of being in the right in a case. Dungda, my thing, dunqdu, your thing, and dunqdan, our thing, are concepts organizing the way persons act toward one another in an acephalous system of order. Harold Demsetz (1967: 347) gives a working definition of property rights.

Property rights are an instrument of society and derive their significance from the fact that they help a man form expectations which he can reasonably hold in his dealings with others. These expectations find expression in the laws, customs, and mores of a society. An owner of property rights possesses the consent of fellowmen to allow him to act in particular ways. An owner expects the community to prevent others from interfering with his actions, provided that these actions are not prohibited in the specifications of his rights.

Demsetz is discussing personal property rights but this definition can be expanded to include group property rights as well. Property rights give the holders of such rights certain presuppositions as to the actions of others. They also give others presuppositions as to the actions of the right holders. These presuppositions help persons devise strategies when they are interacting with respect to the resources over which the rights are defined. The specific form of the rights does proscribe certain actions and enhance other actions.

It is through the system of property rights that a mechanism of rightdoing and wrongdoing can be determined by both the law users and



the law enforcers. It is the right of the right holders to restrict others from claiming benefit to a resource over which the individuals have clearly defined property rights. Being in the right depends upon the recognition of the right possessed by another.

In a cattle camp where many families congregate, there are three majors problems: the problem of regulation of toichlands, the preservation of rights in cattle, and coordination of teamwork in a cattle camp. These issues will be discussed in turn.

#### The Problems of Governing Toich

Regulation of toichland (summer grazing land and water source) requires cooperation among users. Absence of cooperative arrangement will affect relationships among households in a cattle camp. Where there is common use of a resource is accompany by decrease in value for its potential users. The problem of patterns of use becomes one of the critical consumption functions performed by household units. This is why there are multiple agents with limited authority to resolve conflicts between households arising from use of common property resource and take leadership responsibility when need arises. Otherwise, problems of overcrowding and conflict among users can lead to the degradation of cattle camp life. In the following sections, I will discuss exclusion and internal governance of Nuer toichland.

#### Exclusion

The feasibility of excluding others from a resource is directly related to the willingness of some to bear the cost require to accomplish the task. Property rights acquire effective meaning only when the cost of denying access is worth bearing. If it is not worth bearing, it won't be done. Nuer like other rational human beings will not enter into conflict without regard to the costs. If a person perceives the costs of defending his claim to outweigh the benefits, then it is reasonable to assume that he will forfeit his claim. The

relationship between closed access and the willingness of people to exert efforts to exclude others is clearly illustrated by common use of water from the natural rivers in Nuerland.

Rivers are considered by the Nuer as gifts of kuoth. No one individual or community is believed to have exclusive right over its water and fish. The water of the Nile, the Sobat, the Bahr el Jebel and that of other rivers drunk by the Nuer and their animals are viewed as a free good supplied by nature making exclusion from the resource unthinkable. An individual may water his/her animals in these rivers without prior consent of other individuals. Fishing in the rivers is not subject to regulation by any group but by the clan concerned through the institution of a water custodian.

The land through which a river traverses may be claimed by several different lineages and this fact can and does limit access to rivers. Water controls the location of a cattle camp. Cattle are able to travel many miles to water but they must drink. Those who claim a portion of land upon which there is water determine who may camp near the water supplies and who is refused access to their land. However, the presence of others along a natural watercourse, too long to permit individual control, means that the exclusion of outsiders must come through some sort of an understanding among those already on the ground. Such an agreement has not been possible among the Nuer who live along some of the rivers. Thus, the watercourse is used by anyone.

If exclusion of others from enjoying benefits from a resource is worth bearing the cost, Nuer will risk their lives to do so. Water rights to lakes, pools, streams, and other surface resources follow the principles of segmentation of regional structure. Persons who cannot reach perennial rivers like the Barh el Jebel, Sobat, or Zeraf and claims no lakes, pools, etc., can use these resources only on prior permission of other right claimants. Disputes over the use of pools, lakes, and streams, especially, in dry years when they dried out early

in the year, often arise and may lead to quarrels and fighting (Howell 1954a). Willingness to exclude others can be explained by the value attached to the bodies of waters and fish they contain. Value of water is also influenced by its scarcity.

#### Water; Fishing

The governance of a toichland involves the attempts to prevent overcrowding and the grazing capacity of the resource by regulating the admission to the cattle camps that in turn will reduce the number of livestock and controlling the fishing in protected water. In a cattle camp, there is also the internal governance problems of preserving of the property right of each resident of the cattle camp in cattle as the animals mingle in the grazing ground. This issue is considered in the following section. I concentrate here on regulating use of grazing and water sources.

Sharing use of sources of drinking water that contain fish of many edible species which supplement the diet of the Nuer in the dry season requires rules for regulating the different uses. This will likely reduce potential conflict among the different uses made by any members of the cattle camp. There are effective rules that Nuer have devised to limit who can fish, where, and when. The rule systems have minimized violence and help create common understanding and prevent non-encroachment among themselves. The first rule of allocation use to resolve disputes over who can use resources in a particular territory for fishing or grazing is one that assigns rights to lineages based on traditional conquest. This rule divides water sources according to the segmentation of regional structure. Strangers use water and related resources only with prior permission of the owners/users.

The second is the protected water rule. Because fishing is a source of water pollution in Nuerland, fishing in protected water is coordinated by the elders, age set leaders, and custodians. Ruel (April and May) is the season for fishing in protected waters around a cattle

camps because rains are expected and the supply of water will be supplemented by rain water thereby reducing any serious deterioration in the quality of drinking water for members of the cattle camp. This restriction does not apply to fishing in rivers with running water such as the Bahr el Ghazal, the Bahr el Jebel and their tributaries, the Sobat, Gile, and Zeraf. The system is relatively easy to monitor and enforce because people live close to each other in a cattle camp. It has existed for centuries. Violations of protected water rule are dealt with by the cattle camp elders, age set leaders, custodians, and priests.

Within the lineage territory, there are pools, lakes, and lagoons which are not covered by protected water rule and people fish there. Such body of waters is usually not very close to a cattle camp. As the dry season advances a great number of fish are "imprisoned" in lakes and lagoons from which there is no outlet. As the water dries up, fish are confined to a smaller and smaller expanse of water and are killed by individuals using barbed spears and long harpoons (Evans-Pritchard 1956). At the end of the season, by battues in which gaffs and basket traps may also be employed as means of fishing. Thus, fishing is fairly consistently productive throughout the dry season, its yield increasing somewhat in the battue period and rising to a second peak at the commencement of the rains in April and May.

#### Grass: Overgrazing and Boundary Disputes

In large and permanent camps cattle graze on marsh plants that abound in numberless depressions and make good milk. At the beginning of rains in May, they are able to return to their villages. The few cattle Nuer possess, the vast spaces they can exploit, and their movement from one range to another ensure that there is nowhere serious overgrazing. Because there are rarely acute shortages, both in the intermediate and toich lands the boundaries between regions or regional segments are not closely guarded.

In certain circumstances, however, such boundaries become essential and their violation may then cause conflicts that often result in violence and bloodshed. Sometimes there is an unusual shortage both of grass and water and people who have normally allowed the intrusion of outsiders less favorably provided than themselves, turn upon them and demand their withdrawal. Epidemic of some contagious disease such as rinderpest or contagious bovine pleuro-pneumonia makes exclusion of others necessary. Fear of the spread of disease compels the owners to guard their boundaries more closely. Bringing contaminated cattle into an area recognized as the exclusive right of other segments, where strangers are only allowed on sufferance, is a particularly serious infringement of grazing rights and leads to hostilities unless strangers promptly withdraw. Although fights have not been infrequent and boundary disputes are a common cause of blood-feuds, disputes of this nature are often settle peacefully by the council of elders, age sets, and custodians.

#### The Household Economy

The organization of production is affected by cultural rules, codes, and the division of labor within Nuer society. This implies that at any one time Nuer have a common understanding of what productive tasks should be done by members and how household labor is to be mobilized and economized by cooperative arrangements. The driving of the cattle to the cattle camps in the dry (jiom) season and again bringing them to the villages in the rainy (ruel) season, and the joint herding of the animals in the vast open range, are activities that involve positive economies of scale for the Nuer household. Jointness of endeavor in these activities makes the aggregate costs lower than when each household carry them on alone.

Nuer households are characterized by pooling their labor to transact certain mutual tasks. Most hunting, and much of the fishing, require more participants than a family can muster. Family takes turn

to herd animals owned by a group of persons instead of each family-providing a guide for its own herd. It is difficult, if not impossible, for a family to look after its cattle, calves, sheep, and goats, as well as to attend to the children and the tasks of kraal and kitchen. Cooperative arrangements are devised by the households in order to minimize costs.

The individual activity spheres are known in relation to one another and to existing kin groups. Most of the labor connected with the flocks and herds falls to the men and boys. Men water cattle at the lakes, pools, or rivers. Boys water calves, goats, and sheep. Only men hunt, and they and the boys do by far the greater part of the fishing (Jal 1989; Bum 1989).<sup>11</sup> Women collect wild fruits and roots. The work of the summer huts, geuni and katni is shared equally between men and women, sons and daughters help their mothers and the husband his wives. Most of the daily tasks of the home, especially the preparation of food by churning, pounding, grinding, cooking, and brewing, are exclusive privilege of women. Men manufacture, most of the weapons, working tools, tethering cords for cattle, and ornaments they use themselves. Women make utensils and ornaments they use. No man may milk the cows. This can only be done by women and uninitiated boys.

Monitoring of grazing to maintain health conditions of the herd is a mutual function of both adult males and females in the household. The movement of the livestock is closely guided by the male members. In grazing the livestock concentrate on quite small patches of high quality grazing. Because the Nuer have milk as the main item in their diet, women who milks the cows will immediately noticed, through variations in milk yield of fluctuations in the nutritional status of their livestock. Such very close monitoring is much more difficult in pastoral systems oriented to meat or wool production.<sup>12</sup> To avoid depletion of grass, water, and the tragedy of the commons, the Nuer adjust stock numbers to meet their needs.

The role of women in Nuer household economy has important implications for constitutional order among the Nuer. Woman's exclusive role of milking cows combined with her roles of processing milk products and cook make her the center of family and household. (Milking cows is discussed on the section on teamwork.) However, many cattle a man may possess, he is helpless without a wife or mother or sister to milk the cows. Thus, Nuer group themselves around a milkmaid who serves the herd. This central position a wife has in Nuer economy, like the central position she has as a mother in the lineage structure enhances her status in the Nuer society.\* Here again also her position in this respect as in the other tends to break down narrow family exclusiveness and to draw closer to her husband his brothers and close paternal kin.

#### Joint Herding and Rights in Cattle

Cattle are owned by families. While the head of the household is alive he has full rights of disposal over the herd, though his wives have rights of use in the cows and his sons own some of the oxen. As each son reaches the age of marriage he marries with cows from the herd according to birth order. The next son will have to wait till the herd has reached a reasonable strength before he can marry in his turn. When the head of the household dies the herd still remains the center of the family life till all the sons have married because it is a common herd in which all have equal rights. When the sons are married, even though they are free to settle anywhere of their own choice within the territory of their lineage, they, their wives, and children generally live in adjacent homesteads. In the early part of wec jiom a joint family of this kind living in a circle of windscreens around a common kraal, and in the permanent cattle camps form later in the dry season one finds them occupying a distinct section in the lines of windscreens.<sup>13</sup>

Herding the cattle is the responsibility of men in the joint family. Women take care of dairy and help in the cleaning of the kraal, drying of the cattle dung, and watering the calves. The father or elder brother see to it that everybody takes care of the job assigned to him or to her. In the wet season each household herds its own cattle and performs its domestic and kraal tasks independently and at different times. In a cattle camp these activities are done in common.

Nuer men take the cattle to pasture after they have been milked in the morning. Then spends the day watching them graze, driving them to water, and bringing them back to camp. If another man takes the cattle to the pasture, others remain in the kraal to make tethering-cords, water and care for the calves, clean the kraal, dry the cattle dung for fuel, and other related tasks. When the cattle return in the evening they tether each animal to its peg with cords made from the skin of dead animals. A man knows each animal of his herd and of the herds of his neighbors and kinsmen: its body and tail color, shape of its horns, its ear marks, facial features, the number of its teats, the amount of milk it gives, its history, its ancestry and its progeny.

Knowledge about individual animals/in the herd, especially the distinctive marks, is crucial for identification of ownership of cattle. When many cattle graze on unfenced grazing lands, some means of identifying of mature animals as well as calves is needed. A number of rules have been instituted to assist individuals to safeguard his ownership rights in animals. They include: (1) rules about the marking of animals; (2) rules controlling breeding-better breeding stock means better milk cows; and, (3) rules about the management of calves. These rules are enforceable by the household elders, camp lineage heads, custodians, and age sets.

#### Cattle Marks of Identification

Marking cattle is a widely practice methods use by Nuer to assist in the identifying the owners of cattle. The marks are made by cutting



one ear or both ears of the animal in a special way. One style of marking is supposed to be associated exclusively with each household. It is usually known by neighbors and villagers. Another method of marking is (ngat), the shaping by cutting of the horns of young bull, destined to be castrated later. They will grow in a shape that reflects the preferences of the owner. The operation (ngat) is performed towards the end of their first year. The animal is thrown and held down while its horns are cut through obliquely with a spear. They grow against the cut. The marking rules protect cattle owners in case their animals stray. Individual are required to drive away all stray animals. The underlying idea is that cattle will return to their proper place of residence if they are made to feel comfortable.

In a village containing a small number of cattle, the requirement of marking is sufficient because all markings are known by all members of the community. The task of finding strayed animals is not a serious one. When cattle stray, the individual household head and his sons will search the village and neighboring villages to locate the animals. He will also send word to the other members of the village about the missing cattle expecting that some one will inform the family of the whereabouts of the animals. In addition to the marking rules, the rule against cattle stealing is enforceable within the village and gives the individual adequate protection for his animals. However, for members of a cattle camp, this is not good enough. First, markings are not universally recognized in the whole region. Identical marks can be used by members of different households from different villages within the region; there is no rule against this. Choosing a particular marking style is not viewed as a means of stealing others' property rights provided that it is not within the same village or adjacent villages. An individual's stock mixes with the thousands of animals belonging to other residents of different camps. The job of retrieving his property is not possible for an individual without the cooperation of others. As

the size of the herds increased in the camps and mingled with those of neighboring and distant districts, the need for other method of indentification arises.

Tail and facial rules have been added to protect owners. The Nuer agree that, although the color of the bodies of cattle are not identical, they are not obviously dissimilar. However, the color of the tail of a cow is distinctive from one another and, therefore, the color of the tail of each cow is used as a distinguishing mark. The structure of the face of each animal is also different and is also a mark of distinction. These rules can be affirmed and enforced in the council of elders of a cattle camp.

#### Control of Breeding

In a cattle camp there are other problems including the control of breeding. Nuer prefer to use the calves of their best milk cows as stud bulls so that they are more likely to breed good milk cows from them. Because cattle are not raised for meat, Nuer emphasize the importance of the genealogy of bulls, particularly on the side of the cows that produce more milk for the family. Because cross breeding to improve the quality of the cattle from exotic animals is not possible, Nuer differentiate their animals through experience. Controlling the blood lines of a herd is easier in a small village where close herding is possible. In an open grazing area, controlling bulls in order to maintain a special breed of milk cows has been one of the most difficult problems the Nuer have faced. Owners of "low-grade" cows enjoyed the advantage of running them on the same range as that occupied by a herd of "pure bloods," whose owner the latter finds the inevitable graded down by the presence of the scrub bulls of his neighbors. Because the owner of the low quality stock has as good a right to any part of the grazing lands as the owner of a high-grade stock, there is no way to prevent such an outcome. The cattle camp association has never fully

solved this problem. In this regard, the acephalous ordering, as many critics have noted, turned out to have levelling-down effect.

Some sort of regulation as to the quality of the bulls in a cattle camp is necessary. It is currently estimated that there is one adult bull to about every thirty adult cows.<sup>14</sup> The herd owner who keeps the bulls up to a number sufficient for good breeding purposes usually finds that he is supplying service to those herds in the camp that are lacking in breeding stock. A rule requires that each member of the camp supply one bull for stated number of cows. Each member owning a bull is required to keep his bull or bulls tethered to be released in the camp at specified times. Nuer allow calving at anytime of the year, but, in practice, only a few calves are born early in the dry season between October and January. This means cows are bred in the dry season.

The enforceability of the rules controlling breeding have not been fully satisfactory for the Nuer. Bulls are not used only for serving cows. They are symbol of courage and have ritual significance. Even a man with less than thirty cows will likely own a bull. It would be extremely difficult to persuade him to give it up. Tethering a bull is not a sufficient means of controlling breeding because cattle from different herds graze together. Circumstances do maintain some limit on the number of bulls in a herd. First, a very large number of steers and oxen are needed for marriage exchange and sacrifice. The Nuer tradition treats bulls unsuitable as a part of bridewealth payment and for sacrifice. For these reasons, many bull calves are castrated. Second, bulls are seen as a nuisance to the cows, and their number is always kept to the minimum. Third, bulls fight constantly within a herd and with other peoples' bulls. Because bulls are not discouraged from fighting unless they belong to the same herd, bull fights are often the cause of fission and migration of lineages. People tend to voluntarily reduce the number of bulls they keep in order to avoid some of these problems.

### Keeping the Calves Separate

Determining the owner of stray calves is a difficulty in all pastoral communities. The decision as to the ownership of the increase in the herd rests wholly on the fact that a calf will follow its mother and, no matter how large the herd may be, a cow will know her own calf (Osgood 1929: 134). The calf is given the mark or brand of the cow that they are following, such being all the proof necessary to establish the question of ownership. If, however, the mother has died or the two had been forcibly separated, the ownership of the calf cannot be established easily.

In Nuerland, small calves are housed in byres in wet season villages, and tethered in a hut or under a shade tree in dry-season camps. They are watered in the morning and during the afternoon, and boys bring them grass, especially poon (*Oryza Barthii*), which is fattening. They begin to accompany the older calves to pasture in about their third month, under the care of herdboys of the joint herd, and are kept apart from their dams by being driven in the opposite direction to that taken earlier in the day by the adult herd. The calves are marked at about the third month. They join the herd when they are about one year old. This resolves the problem of calves getting lost and preserves the increase of the herd.

### Teamwork

In the cattle camp cattle are herded jointly because it save time and energy. Guards from individual households watch the herds in turn. Residents of the cattle camps are forced by circumstances into relationships that necessitate recognition of common interests, obligations, and interdependence. Cooperative activities are not confined, however, to resolving problems concerning ownership that arise among the members. The business of raising cattle is exposed to serious dangers from without.

The property of individuals is at some time or other threatened by those common enemies including cattle thieves, predatory animals, and shirking. Teamwork by the households involved is imperative. Much of the significance of the cattle camp associations is due to the fact that only through very close cooperation can individual households secure adequate protection against these dangers. Failure results in a loss of animals and the individuals is accountable to the herd association for the damage. I will first discuss cattle theft. Second, I will describe protection from animals predators. Third, I will consider how Nuer prevent shirking. Because one of the major objectives of herding is to obtain milk, I will examine who takes care of milking and milk products.

#### Cattle Theft

Theft of cattle by neighbors merely because an individual covets them is rare. The stealing of cattle from other clans is viewed as an act of war. There are two reasons why cattle theft is rare. First, it is difficult to hide the theft unless the thief flees to some other region. Second, neighbor or kinsmen do not do such things as steal property because the "natural working order" calls for mutual aid in time of need. There is a shared understanding that stealing somebody's animal will meet with violent retaliation if the thief is discovered. The force of common mores sometime compels a thief to return stolen cattle if he wishes to continue residence in his own community.

There are occasions when a man will steal another man's barren cow or ox and kill it for its meat, motivated by greed or hunger (Howell 1954a: 201). This is known locally as luc (slaughtering an ox secretly) and is considered a grave offense. According to traditional rules governing this kind of cattle theft, compensation amounting to ten head of cattle is required (Gatluak 1989; Howell 1954a: 201).<sup>15</sup> Restitution in the form of an equivalent value is not considered sufficient to appease the feelings of the persons who had suffered the loss. The Nuer are consciously applying the idea of deterrence in setting such a high

level of damages. Another related offense is to appropriate someone else's cow and try to disguise the fact by altering the ear marks on the animal. In such a case, the animal in question would usually be returned or another like animal substituted. In addition a bull-calf is paid as compensation to satisfy the wronged owner. The principle of compensation applied in cases where cattle are stolen and secretly eaten by the thief is applied also in the case of sheep and goats. The traditional scale of compensation for the latter is six head of cattle (Howell 1954a: 201).

The other source of theft has been from the neighboring Murle who believe that all cattle in the region belonged originally to them. The Nuer and the Dinka are viewed as people who have stolen cattle from the Murle (Gatkuoth 1989). The taking of a Nuer cow was, thus, seen by the Murle as an attempt to return stolen property to its rightful owners. This problem gradually intensified since the early 1930's as the Murle acquired firearms. The seriousness of this danger required that the Nuer organize themselves for mutual protection in their own localities. Each household cluster in a cattle camp is usually armed for immediate action. Only by constant vigilance on the part of a developed organization, operating in all the camps, would it be possible to protect the large accumulation of vulnerable herds. The need for mutual aid against theft is an added force bringing the Nuer into cattle camp associations and kept them there, in spite of conflicting interests.

#### Protection Against Predatory Animals

The threat of wild predators such as lions and hyenas also require the members of a camp to cooperate. As indicated in Chapter Five, labor costs can be reduced by employing fewer guards for a large joint herd containing all the adult animals of a cattle camp instead of requiring each household to employ a guard for their own animals. Cooperation among households in the conduct of the cattle camp in the use of the common resources, in the protection against theft, and predatory animals

has resulted in the maintenance and growth of good will among members. Denying access to a camp, however, is necessary to prevent the overcrowding of a cattle camp to a point where cattle owners become a burden upon one another in destroying the economy of life in the cattle camp. Where everyone suffers from the effects that neighborhood brings, a sense of community and solidarity are destroyed.

If a cattle camp is not reasonably populated can have some adverse effects, especially in response to an attack by predatory animals and raiding party of hostile people. Such raids have been occurring in the frontier districts bordering Murle since the beginning of the twentieth century. In such communities firearms have become the appropriate weapons for fighting predatory animals and defense against raids. Skills in the use of these weapons is locally acquired through training. Trainers could be hired from bodies of the retired soldiers, police, and prison warders locally or from the neighboring oromo of Western Ethiopia where the guns were originally obtained by the Nuer and Murle.

#### Preventing Shirking

The system of reciprocity is an important ingredient in sustaining credible commitment for collective action. Sharing of food, pooling and exchange of labor, especially, in certain hunting, fishing, herding, horticultural, and agricultural operations, are highly valued forms of aid which are given conditionally. Without them the individual would generally be materially much worse off and in some cases unable to subsist. So, individuals are faced with the threat that if they do not conform with the acceptable conduct, a person or persons would lose the benefits they obtain as members of the cattle camp. The deprivations against rule breakers includes social reprobation, unpopularity, loss of approval and respect of neighbors, and loss of the privileges which the individual possesses as a member of a camp and which a cattle camp possesses as part of a larger social group.

The force of all these sanctions is relative to the position in the social structure of the persons concerned. Social obligations are likely to be more binding on persons not only related by blood or marriage but closely associated in the activities of day-to-day life in the cattle camp. Loss of rights and privileges is greater in such circumstances. Generally, the closer the relationship, expressed in terms of kinship, in association by common residence, and economic cooperation, the greater the need to abide by accepted modes of behavior.

Preventing shirking will be difficult if the group is large. Size of the group is crucial in mutual monitoring. The size of the cluster of windscreens within a cattle camp is, among the Nuer, small in order to maintain effective participation and performance in the affairs of the group. Everybody in a camp is known by every other person. They all know the rules. Population increase will pose a problem for effective mobilization of resources. In this case, there is a tendency for dividing the group into small segments.

Because the cluster size is small and everyone knows the rules and knows that the members of a cattle camp will be around for a long period. Identification with a cattle makes a person also susceptible and vulnerable to the gossip of a camp. These practices make monitoring less costly and conformity to rules high. If there is a violation of accepted conduct, the elders of cattle camps, age sets, custodians, and priests deal with such problems.

#### Milking Cows and Milk Products

Milking is performed twice daily by women, girls, and uninitiated boys. Men are forbidden to milk cows unless, there are no women or boys present. If a man milks a cow, he cannot drink that milk. He may die of nueer, pollution. In the process of milking, the calf is loosened and with its tethering-cord round its neck runs at once to its dam and begins butting her udder (Evans-Pritchard 1940a).<sup>16</sup> This start the flow



of milk. The Nuer hold that if the calf is not first to suck the cow will hold up its milk. They do not pat the udder with the hand unless the calf is dead, for this is considered bad for the cow. When the calf has sucked for a little it is pulled away and tethered to its dam's peg. The girl now milks the first milking, known as the wic.<sup>17</sup> When that round is completed, the calf is again loosened and the process is repeated. Second, milking is known as tip indit, the greater tip (Kok 1989; Gatluak; 1989; Evans-Pritchard 1940a). There are only two milkings, as a matter of practice among the Nuer, but if the cow is known to produce much milk at the height of her lactation period the calf may once more be loosened and a third milking called tip intot, the lesser tip, be taken (ibid). The first milking takes longer time and produces more milk than the second, and the second more than the third. The morning yield is greater than the evening yield. The yield is five to seven pints of milk.

Part of the daily yield is kept for making cheese, and if there are several cows in lactation one may be reserved for cheese making. Milk for churning is drawn into a different gourd to that used for the drinking milk. It is then transferred to a churning gourd in which it stands for several hours, the acid that remain from the previous churning curdles the milk (Evans-Pritchard 1940a: 63). After standing it is churned by a woman, or girl, who sits on the ground with her legs stretched in front of her, and, raising the gourd, brings it down with a jerk on her thighs where she rocks it a few times before repeating her actions: a simple but lengthy way of churning. A small quantity of water is poured into the gourd when the curds are beginning to form to make them set well and to increase the quantity of whey, and some ox's urine may be added to give them consistency.<sup>18</sup> When they have formed, the woman pours the milk into a cup-shaped gourd and scoops them out with a mussel shell into another gourd vessel which is hung up in a hut. The whey, mixed with fresh milk, is mainly drunk by women and boys. Every day they add the supply of curds and now and again stir some ox's urine with them to prevent them from going bad. They may add to the supply for several weeks before the final boiling over a quick fire, which turns the curds, lieth in bor, into solid deep yellow cheese, leith in car. After boiling for a time, the liquid is poured into a gourd and the oil on top is removed, to be used as a flavoring for porridge. The cheese is put in a round gourd and air is excluded by a coating of cattle dung to keep in good condition for months. The cheese is stored in the hut (Evans-Pritchard 1940a: 63).

Sheep and goats are also milked in the mornings, but little importance is attached to their yield, which is drunk by small children

and not used for dairy work. The woman milks and the kids and lambs finish what is left in the udders. Because they run with their dams at pasture, an evening milking is not taken.

#### Rule Enforcement

People may violate the rules to advance their own interest in disregard to the interest of other persons. Individuals will attempt to fish in protected water even though it is prohibited by the rule of the cattle camp. If rules are violated and cannot be repaired, others will do the same thing and the water will be polluted and the well being of residents in the camp will be undermined. Teamwork in herding depends on the understanding that members involved will carry out their responsibilities and must be accountable for failure. The cattle camps depend upon their own capabilities to resolve any conflicts arising from using resources in common and develop methods for providing the goods and services they need.

Collective responsibility works also to promote the unity and continuity of the members of a cattle camp. Residents of cattle camps claim and operate resources, herd cattle on common grazing land, and pool resources in fishing, and defense. Mutual aid is also characteristic of Nuer cattle camps. Herdsmen who are not necessarily related but considered themselves kin by virtue of residence in the same village sometimes grouped together into "companies," for the purpose of jointly using dry season pastures. Neighborly aid is provided on special occasions. Drinking milk together and sharing somebody's catch of fish are regular event. Aid might also be given on a more regular basis in cases of need. This solidarity is expressed in social obligation to help one another and to promote their common interests.

In a cattle camp, persons (and households) are presumed equal; no one outside can command. However, members of the camp are disposed to cooperate to promote self-interest. Rules are enforced, as in the

village, by a variety of persons including elders, age sets, custodians and priests. In the following pages, I will first describe how claim and operation of a natural resource is used as a means of rule enforcement. In the remaining sections, I will consider how members of a Nuer cattle camp cope with the problems of rule enforcement.

#### Collective Resource Ownership and Rule Enforcement

Collective ownership of key resources by a lineage should be viewed as a means of rule enforcement. It reduces the risks individual members of a group must face. Elevated grazing areas in a village, for example, are exposed to the danger of floods, thus threatening residents of nearby villages with severe losses. Collective ownership of a larger surrounding territory provides residents with a escape from flooded area without requiring that they enter a stranger's territory. Similarly, in the Clay Plain of Southern Sudan where rainfall in any given year is highly variable from place to place, a herder would face high risks if he were bound to a relatively small piece of land.

Members of related households also share in the camp individually produced output in order to reduce risks. Output sharing is a strategy that is employed when aggregate production of milk, fish, and grain is close to subsistence requirements and when variations in production cannot be predicted. Savings in herd management costs by exploiting economies of scale is another advantage of group membership. The camp is a device whereby a group of individuals can provide a number of public goods and services that individuals can not provide for themselves. These goods includes the security of life and property and economic well being of the individuals concerned. By combining efforts, camp residents can realize mutual benefits.

Membership in a camp, from the individual Nuer's point of view makes sense only when, at least over the longer run, individual family benefits are considered good enough. This calculus is basically no different from the one that the shareholder in a corporation employs.

This calculus is often reinforced by carefully designed rules that link individual inputs and benefits, in order to keep the members interested and not to dilute their incentives to cooperate in rule enforcement (E. Ostrom 1983).

#### Exchange Relationships

Individuals maintained connections with other members within a cattle camp and across camps through exchanges of goods and services. A cattle camp is not only a governing unit but is also a trading center that brings disparate peoples together (Johnson and Anderson 1988: 6-11). Individuals in the past bartered steers for ivory, heifers for grain, dry fish for grain, giraffe tail's hair with steers or heifers, spears, fish spear and many other items of goods with equivalently value objects. The emergence of money has even broadened the kinds of goods and services that can be bought and sold in the cattle camps. Douglass North (1976) observed that the development of a commercial economy was a significant factor that broke the barrier of manorialism and led in many cases to the emergence of an integrated nation-state. He further notes that the development of a commercial economy was possible only when the government could protect the property rights of merchants. Merchants also were organized to protect themselves. The early empires, for example, were organized in reference to armed trading posts that became fortresses. The British East India Company was a trading company chartered by the Crown. Among the Nuer, provision of this protection is afforded by governance of the camp life as is done in the Nuer villages since the inception of their way of life as a civilization.

Persons who covenanted to camp together understand the guiding stipulations of what it means to be residents of a cattle camp. They rely upon themselves to provide protection for their property rights. This protection is afforded to other persons from different camps, so that the desire to carry out transactions is feasible among adjacent camps and limited only by the distance a person can travel.

A Nuer cattle camp is one of the formal trading centers in the network of exchanges that operate within a particular group and bind together people of different genealogical ancestries. Many centers have grown up with the recent establishment of settlements due to the increase of human and livestock populations, others have a longer history. Access to trading centers is an important feature of Nuer household economy. Behavior inconsistent with civil peace is punished by elders, age sets, and custodians in each cattle camp.

Various modes of transport have been used to carry foods and other goods. People carry goods on their heads for distance for sale in camps where they think they will gain more out of that good. Those who live close to the river, use canoes to peddle their goods from one place to another. The other means of transport is reed boats. Reed boats is an old means of transport among the Western Nuer and the Zeraf communities. They can be assembled to carry several tons of ivory, grain, dried fish, building materials, wood and other miscellaneous items.

#### Cattle Camp Militia

The youngest age-set has been responsible for rule enforcement in the cattle camp and for protection of cattle from wild animals (Gai 1989). This arrangement is found in most cattle camps. The absence of police from the governance system was an important reason for the development of cattle camp settlements among the Nuer. Cattle theft has been serious problems for the frontier camps (Kok 1989; Gatkuoth 1989).

From an early age, every male Nuer carries a weapon for self-defence and rule enforcement within and across communities. The youngest age-set (nguetni), performed the functions of a police unit and every armed, able bodied person in a camp or a village acts as a member of a militia of the settlements. Still, in harmony with acephalous tradition of the Nuer, the police authority have been limited to immediate occasion of the incident in the cattle camp. The militia is vested with the power forcibly to ward off aggression as well as rule

enforcing within a camp. It restrains men from inopportune fishing, preserve order on wedding dances and other ceremonial occasions. The command function is organized according to the age set within the cluster of windscreens.

The nquetni exercise authority when the collective interest is at stake. Their duties in keeping the peace in the convocation of the assemblies is also equally important as that of regulating the cattle camp generally. Thus, the cattle camp militia's duties in connection with assisting in disputes settlement, punishing rule breakers, and maintaining order in the camp make the camp safe for everybody. Because water pollution as we shall soon describe, cattle, robbery, and wild animals have been the greatest threat to the economic and social well being of the members of the cattle camp, everyone play a role in the organization of the militia. Creating a collective organization of herders and a militia affirm the value attached to a voluntary association in an acephalous order.

### Conclusion

The Nuer have means of solving collective action problems encountered by people living in a cattle camp without reference to a single center of authority. Individuals repeatedly communicate and interact with one another in a cattle camp physical setting. This closeness enable them to learn to trust each other and to work as a team. Cooperation and teamwork in herding, fishing, and maintenance of rules of conduct are perceived the only way for them to survive. They understand what effects their actions will have on each other and on the cattle they herd and common property resource they depend upon. Thus, the Nuer have organized their cattle camp life in smaller groups within the cattle camp to reduce heterogeneity of interests. The segmentation allows the household units to conduct their own affairs, and yet be connected to the cattle camp community through network of relationships

and share interests. This arrangement help them to gain benefits and to prevent actions that will lead to a decrease in the total wealth of the community and the productivity of its resources.

Within each of these segments everybody is known and it is usually easier to mobilize efforts for camp improvements and to protect themselves and resources from the outside aggressors. In each cluster of windscreens of the extended family, the senior man exercises a measure of authority based on age and generation. He mediates over problems among the members of the household. Decisions about policy guidelines of larger management problems are arrived by agreement in a meeting of all separate units. Custodians and priests can be call in to mediate problems in respect of homicide, adultery, and incest.

The camps are permanent institutional arrangements in the sense that, at the same season each year, the same households tend to congregate together. Because individuals have lived in such situations for a substantial periods of their life time and they developed shared norms and patterns of reciprocity, they have built institutional capabilities for self-governing and self-managing of common property resources and other related social dilemmas in cattle camps.

Although the institution of cattle camp is non kin, the rights to regulate access to the grazing land, water, and fishing pool is, however, claimed by a lineage. There are members of the lineage in any cattle camp, but these persons are usually outnumbered by non-members of the lineage. Persons who voluntarily come together to form a cattle camp are considered as kin and use their freedom of action to resolve their conflicts arising from the joint use of resources. They agree among themselves to conduct their affairs according to a code of behavior based on covenantal relationships.

A common understanding of the mutual interest of diverse individuals in a common property resource facilitate voluntary compliance, but temptations exist—more fish are perceive likely to be

found in protected water. As people live close to each and interest coupled with the interest in collective welfare, sufficient mutual monitoring warrant that deviation from acceptable conduct will be noticed and enforce by elders, age sets, and custodians.



Notes

'Some clan have no land or wec of their own. This means that these people have no village or cattle camp site known in their name. The priestly lineages are examples of these people. They are scattered among other lineages to mediate conflicts among dominant lineages and have no village or land of their own.<sup>2</sup>

This fact has been observed by the author who have himself lived and helped in the establishment of cattle camps for many years.<sup>3</sup>

No record exists of cattle camp populations. Howell (1954a) estimated that the populations vary from a hundred to several thousand persons with animals population ranging from 5,000 or more than 10,000 head of cattle. (See Jonglei Canal Investigation Team, 1954.) David Chang (1989) thought that, among the Gaawar Nuer, Howell's estimate was reasonable but thought was a conservative estimation.<sup>4</sup>

Yoal Dok Koryom, former governor of Upper Nile Region (1989) and a citizen of Gun primary section of Lou Nuer, told me in an interview on September 12, 1989 that most of cie-Dak and cie-Jaak sections in most years camp with Twic Dinka and that some of Gaat Bal section camp with Gaawar Nuer. Conflicts have been occurring among these peoples but these groups have inter-married so that most disputes are resolved peacefully by negotiation and compromise.

<sup>5</sup>The source of this map is C.L. Armstrong but I quoted the map from Evans-Pritchard (1940a: 59).<sup>6</sup>

From B. A. Lewis but originally cited by Evans-Pritchard 1940a. I obtained the information about the movement of the people from interview with Magany Gai in October, 1988 in Atlanta, Georgia.

<sup>7</sup>I obtained this information in an interview with Rev. Thomas Malit in October, 1988 in Atlanta. Malit is from Lek Nuer.

<sup>8</sup>I obtained this information in an interview with Wijal Bum on September 2, 1989 in Khartoum; and Koryom Jal on August 24, 1989 in Khartoum.

<sup>9</sup>I obtained the information from an interview with Thijin Banak about the council of cattle camp as it operates in the 1980s. He said the council meets upon request by senior elder in any one of the camps to discuss matters of administrative importance between camps. The body meets when members think it is necessary. They give orders for grazing, formulate regulations for the joint control of fishing, and deal with matters of economic welfare and security of the cattle camps. Similar arrangements in conflict situations are also observed in other acephalous societies (see Magai Gai 1989 and Felix K. Ekechi 1989).

<sup>10</sup>The author participated in the singing of this hymn and many more when people go for large scale fishing and in prayers when some body is sick. It is sung also on ordinary occasions by the priests or hymns leader of the camp in order to remind people about kuoth and obligation to follow rules. This has to do with the strong temptation of fishing in protected water (see Evans-Pritchard 1956: 45-56; Interview with Riek Kerjok in September 2, 1989).

<sup>11</sup>Where there is a river, people do not use waat to separate drinking water for people.

<sup>12</sup>I obtained this information from an interview with Koryom Jal of Lak Nuer in September 1989 in Khartoum and also from Wicjal Bum of Dok Nuer and former Executive Director of Jonglei Province in October 1989 in Khartoum (see also Evans-Pritchard 1940a).

<sup>13</sup>This information is from personal observation and was confirmed in an interview with Lutlut Kok, Wicjal Bum, Gatluak Gatloa on September 3, 7, and 11, 1989, respectively. For further reading see Evans-Pritchard (1940a) and Howell (1954a).

<sup>14</sup>I obtained this information in an interview with Lutlut Kok and Wicjal Bum on September 3 and 7, 1989 (see Evans-Pritchard 1940a) and Howell (1954a).

<sup>15</sup>Additional information obtained in a private communication with Riek Kerjok in 1988 in Juba, Sudan.

<sup>16</sup>Most adult Nuer have gone through the process of milking cows. It is a necessary skill in Nuer society that an individual must learn in order to serve your seniors, especially in the early camps where, in most cases, only unmarried male and uninitiated boys go. It is the uninitiated that does the milking and even processing milk product.

<sup>17</sup>Nuer do not milk cows until after the calf can eat grass. Even then only wic is milked. Full milking takes place after the calf is released to graze with older calves. What is left in the udder after the calf is used for human consumption. (see Evans-Pritchard 1951a; Lutlut Kok 1989).

<sup>18</sup>Nuer say that urine of a calf will not provide the needed consistency and does not give the flavor. It is like water and lack the substance or the acidity contain in the urine of a mature ox.

CHAPTER SEVEN  
THE ORGANIZATION OF MILITIA

Introduction

It is a simple matter to understand how defense is organized in a polity governed as a state attempts to monopolize the use of force. A state uses hierarchy as the basic principle for organizing its defense. Because force is not monopolized by anyone in an acephalous society, it is more difficult to understand how defense is organized. It is the task of this chapter to explain how defence as a means of procuring security is organized in Nuer society. I begin by describing how Nuer achieve military capabilities. Second, I examine how the militia works to provide security and defense.

Achieving Military Capabilities

In order to understand how Nuer defend themselves, it is necessary to understand the structure of the Nuer segmentary militia. The conceptions Nuer hold about their relationships with one another affects the way the militia are organized. Individuals are presumed to be equal. This concept of equality is compatible with the development of active individual participation in the defense of a segment of Nuer society.

In describing how military capabilities are achieved in Nuer society, I will first describe relevant early childhood experiences. Second, I will consider the ritual of gar (cutting) and its importance. Third, I will examine how military capabilities are mobilized.

Some Experiences of Childhood

Every Nuer boy must learn what is required to defend himself as well as his own and his family's wealth and good name. The preparation of a child for future responsibilities begins at an early age. When a child has learned how to play and run in an independent fashion, the

lobes of his ears are pierced (mut). This may take place anytime from the age of four or five onwards. The operation is carried out by his mother or elder sister. There is no ceremony for this. When the child reaches the adolescence, he or she wears a ring made from the tail hair of a giraffe on festive occasions.

When the child is eight to ten years old, an operation for the removal of his or her lower front four teeth takes place. This tradition is thought to have originated as a means of feeding persons afflicted with lockjaw. The operation is performed on both boys and girls. It is done by a man who is skilled in removing children's teeth. The specialist pushes a nail-like knife down underneath the tooth and then forcibly pushes it out. Because this causes severe pain, adults have to hold a child down while the operation proceeds. There is no stigma if the child cries. Crying here is not associated with cowardice that will affect the character of the adult individual. After the lower teeth have been removed, a boy assumes responsibility for herding calves. This is considered important experience, because much of his life is to be spent in herding animals.

Nuer boys begin learning how to use weapons from the time they begin to walk. Boys play at fighting and engage in actual battles with sticks and clubs that take place between groups in a village or a camp. In such fights, the idea is to learn how to position your shaft held in the left hand in order to protect your head or chest from your opponent's club. The club is held in the right hand, and the blows are mainly aimed at the head or the chest of the opponent. These weapons are used in fights with closely related persons where the use of spears and guns is not allowed.

Training in the use of the spear involves learning how to spear something near or far away and to riec (dodging the spear). Boys use dura stalks to practice spearing and dodging spears. Young boys first see spear throwing and dodging spears (riec) performed by older brothers

who practice this with their peers in the village or camps and then try it themselves when they are older. Groups of boys using spear shafts (tonq, pl.; tang, sing.) sometimes fight other groups from different lineages or adjacent villages or camps occasionally serious injuries are sustained. Boys also learn riec in dances where adult males demonstrate this warlike skill. This type of preparation is necessary to the survival of the boys once they reach adolescence. Once a boy has been initiated, he becomes a warrior and has to fend for himself against experienced persons in battle.

This kind of early training has made members of Nuer militia renowned for their ability to use the spear. Nuer conquests were carried out with bone and wooden spears, iron spearheads being scarce among the Nuer during the nineteenth century. The Dinka, who suffered the most from the Nuer's eastward expansion and conquests, are reported to have possessed more iron spearheads than the Nuer (Johnson 1980: 102).

#### Transition from Childhood to Adulthood

Some Nuer rituals, such as initiation, which have not been identified by past studies as being part of the training of a warrior, can, in fact, be seen to contribute to the acquisition of particular skills and personal attributes necessary to a successful warrior. In the following sections, I will briefly describe the ritual of gar around which so much of the life of a Nuer male is built. I will explain the importance that the tolerance to pain demonstrated in the concept of gar plays in preparing a child to assume adult responsibilities.

#### The Meaning of the Ritual of Gar

The gar is significant both in a general political and religious sense but it also marks changing social status from adolescence to manhood. Gar symbolizes inclusion in the covenantal community established through gar (initiation) arrangements by adult male members

of Nuer society. Gar is a sign of the covenant. As such, it brings members of different lineages into a special relationship with one another and binds them into fellowship with people of the covenant, physical descent alone is not sufficient to become a Nuer. A male must be marked (gar) in order to participate in the group of those who have been initiated.<sup>2</sup>

The purpose of the rite of gar, in Nuer understanding, is both the propagation and the protection of Nuer society. A number of factors relate the rite of initiation to the question of propagation and protection. It is a general rule that all Nuer males of reasonable age (16-18 in the past) must be marked before they can marry. Neither women nor boys can bear spears, this means they do not go to war and also they do not perform sacrifice to God.<sup>3</sup> For these reasons, gar has significance with regard to the propagation and security of Nuer society.

In Nuer thought, gar is intended to have a religious as well as a political dimension. This suggests that gar should not be considered purely as a national badge, representing only a physical relationship in the age set system among the Nuer. Indeed, gar serves as a national

badge. But it also indicates the status of a man in relation to (kuoth) God as well as man's status in relation to other persons in Nuer society. It is the initiates that make sacrificial (lam) invocation, the initiates (as compared to boys) are expected to follow a certain code of right conduct grounded in a mature understanding of God's laws in order to serve God and to strengthen Nuer society. The outward sign symbolizes the inner refinement of a life based on (wud) reason and love. If (kuoth) God.

#### The Operation and Objectives of Gar

The actual operation of gar (cuts) consists of cutting six marks

across the forehead. The operation is performed by a man known as gaar (marker) who is skilled at the task. There is no special class of such

men, but one who is noted for particular ability may be referred to as gaar, a skilled person in the markings of boys. Gaar uses a small sharp knife for the cicatrization. Initiation begins when the boy's head is shaved clean. All ornaments are removed. Each boy digs a hole from four to six inches in diameter and about six or eight inches deep (Jackson 1923). The earth that is dug out of the hole is pulverized and spread around the hole so that it will absorb the blood. When he is called, each boy lies down with the back of his head in the hole. The gaar kneels beside the boy and begins to cut. He starts at the center of the forehead and extends the cut to the ear. The woe dhol (first cut to remove boyhood) is made just above the eyes, then the remaining cuts are made parallel to it until they are six in number. Then the man moves over to the left side and, kneeling there, repeats the same process (Jackson 1923). He then returns to the right side and makes sure that all the cuts are deep and continuous at the center of the forehead.

A boy is told to lie absolutely still, for a show of fear on his part is ridiculed by girls, women, and other members of his age group. If he moves while the gaar is operating, it will mean that the gar (the cut) will not be straight. For the rest of his life, the crooked scar will be a constant reminder that he flinched while the cuts were being made. The blood from the incisions passes along the cuts and drops into the hole. The wounds are washed by means of a feather of any kind of bird dipped in cold water (ibid.). If the knife cuts too deeply and arterial bleeding sets in, the fur of a wild cat's skin is applied to the wound in order to stop the effusion of blood. The gaar (the marker) does not leave the boy until he is certain that the bleeding has completely stopped.

Initiation has several objectives. The first is to make initiates unafraid of the spear or blood and to accustom them to bearing pain (Jackson 1923). The second is, to create age sets and to train young

in the rules of conduct governing the relationships between initiates and non-initiates on the one hand and between the members of parent age-sets on the other. This implies the grading of age sets, which is discussed in a later section of this chapter.

#### Aggregation of Age Sets

Nuer boys initiated in a number of successive years are aggregated into a single age set (ric). There is a four-year interval between the end of the series of annual initiations that create one age set and the commencement of the series of initiations that will create the next.

The interval is known as the time when (ca ngom kaap) the knife is brought up. At the end of that interval it is said that the (ngom ca noong) the knife is brought out and boys can be marked again. The cattle herdsman of each region controls the creation of age sets by opening and closing initiation. When he is about to cut the age sets, the herdsman circulate information through couriers to all the herds of a region.<sup>4</sup> The number of years an age set runs before it is cut is variable. However, the evidence shows that ten years between the commencement of one age set and the commencement of the other may be regarded as the average period (Jal 1987: 383; Evans-Pritchard 1940a: 3).

Age sets are organized independently in each region. If a new age set is started in one region, the other adjacent regions will follow the same pattern (Evans-Pritchard 1940a). In this fashion, the names and periods of age sets in neighboring regions are the same. Even though in different parts of Nuerland the names and periods of initiation are not the same, a person moving from one region to another can easily figure out what age set is comparable to his own.

#### Segmentation of Age Sets

Each age set is internally segmented into two or three divisions. A group of men inducted in each two year initiation period is given a



istinctive name. Although an age set is composed of divisions that are given different names, all members of the age sets are known by the first word in the name of the first division. Names of other divisions are not used. Figure 7.1 shows the internal divisions of age sets in and Western Jikany regions.

Figure 7.1

## Subdivisions of the Age Sets in Lou and Western Jikany

.....			
	Lou Region		Western Jikany Region
tut	Thut indit Muothjang Lilcoa	Lilnnyang	Lilnyang Lilcoa Lilcuath
Boiloc	Boiloc indit Golyangkakeat Laibuau	Ruob	Ruob Nomalith
Maker	Maker indit Nguak	Wangdel	Wangdel Wathear
Guong	Guong indit Carbuoi Nyamnyam	Tangkwer	Tangkuer Karam
Luac	Luac indit Karam Camthoari	Rol	Rol Pilual
Lith	Lith indit (in bor)		
Gac	Lith intot (in car) Cayat (Pilual)	Juong	Juong Majaani
Rial	Rial mac		
mac	Rial mac indit Kuek koryoam	Bildeang	Bildeang
.....			

Source: Evans-Pritchard (1940a: 252-253).

.....

Members of each divisions see themselves as exclusive units in relation to the others. The divisions assist in the mobilization of resources, especially in war time, but also to solve more mundane problems. The names of subdivisions are, however, rarely heard today.

In a case of luac indit, or karam, one hears Luac, the name of the age set to which both divisions belongs. The name of the senior division of an age set is distinguished from the name of the entire age set by the word indit (the greater). Thus, Thut indit, refers to the elder division of Thut age set.

### Mobilizing Military Capabilities

Decision making authority is distributed in Nuer militia in accordance with many of the regulatory ideas discussed earlier. Nuer institutions that distribute power widely rather than concentrating it in the hands of a few foster collective identity and openness in the development of defensive capabilities. The creation of complementary opposition and alliances prevents smaller segment from being disadvantaged.

Defensive and offensive forces can be organized at the level of the household, the village, the cattle camp, the district, the regional section, and with other peoples beyond regional boundaries. In accordance with Nuer tradition, elders or household heads, age sets leaders, custodians, priests, and prophets are expected to serve as trustees for their communities. These institutions are important for the operation of the segmentary militia. The following sections elucidate the role they play.

### Household Heads

The head of a household is the leader of the smallest fighting team. The household team is composed of the household head and his sons. Sometimes the sons of the head's married sisters may also live in the household. The team leader organizes the training of the boys within a family, makes cooperative arrangements with other related teams, and resolves conflicts that can weaken the solidarity of the members of a family. Harmony in a team is required for defending their members' lives and property from hostile groups.

Each male in a household is structurally defined in relation to every other male; his status is determined by his birth order. Birth order is also important in determining succession to the leadership of a family team. When the head dies or can no longer effectively lead the fighting team, his eldest son or oldest brother assumes the leadership. If the birth order yields a poor fighter, he will be replaced by another more capable brother.

The team is unified by a common interest in defending their lives and their wealth (cattle and land-based resources). It is also held together by a common agreement on the rules specifying how decision-making authority over security and defense is to be shared and how compensation for persons killed in the course of hostilities will be paid. Because courage is considered the highest virtue, a man's courage earns him a leadership position of some kind in his community in the sense that he is respected. Should a man be killed in war, his kin will provide compensation or avenge him. They will also ensure that his name is perpetuated by securing a wife in his name who will produce children named after him.

The implementation of these kinship obligations have important political implications among the Nuer. Individual Nuer have to be ready to defend their rights with force. They risk maiming or death when they start a fight. The confidence that kinsmen will not let your name be forgotten reduces the social consequences of death. Fear of what will happen to his family and his own good name will not stop a man from laying his life on the line. He knows his family will be cared for, and his name will be compensated for, or avenged, and perpetuated (Douglas 1985: 84).

#### Cordinating Teams of Teams

When leaders of teams, who are elders of extended families, age set leaders, custodians, and priests in one village, have decided on war, information about the pending hostilities is circulated by means of

couriers to neighboring elders, age set leaders, custodians, priests, and prophets. Information concerning a war that is contemplated is only circulated among older men and other key personalities in different communities who take decisions on this matter and who are regarded as less likely to allow the enemy to learn of the plan.

Once the custodians of defense (ngul) who control tactical organizations consisting of age sets and who decide on war strategy have

declared at which time the hostilities will start, all the men in each village, cattle camp, or in tertiary sections, are summoned to a meeting informed of the decision and war plans are made. The

war drums are then beaten, and the young men gather with spears and shields at mobilization points within 24 hours. The purposes of the drumming is to speed up mobilization of the militia. Using couriers to

inform everyone would take too long. There are two main reasons for

is used to announce war and the other to announce weddings

and ordinary dances. If a wedding is to take place, the people of a

village, a cattle camp, a district know about it before the drumming

begins because the marriage settlement is openly and freely discussed by

all local inhabitants. In the absence of any information about a

marriage, the villagers or residents of a cattle camp who hear drumming

know that the young men are to assemble for a more serious purpose

(Jackson 1923). The men notice at once the meaning of this style of

drumming and prepare for war by bringing their shields, which they do

not carry at festive gathering such as a dance or wedding,

Mobilization of a Nuer militia is influenced by two major factors,

First, the size of the mobilization area is necessarily limited by the

distance individuals can travel to participate in a deliberative

assembly that makes binding decisions for the military unit. Second,

the covental commitment to defend one's village, cattle camp, or

districts helps the rapid mobilization. Members are armed and ready to

move to mobilization points for further instructions from the leaders.

At the mobilization point, field tactics and war formation are discussed.

War tactics were well-suited to Nuerland, which is flat. What ridges exist are low, providing few defensible barriers; they cannot be considered commanding strategic positions. The pattern of warfare in the region consists of a rapid attack and a rapid retreat (Johnson 1980: 103; Bum 1989). The Nuer adopt a flexible battle formation. They usually advance in three parallel columns, the center column trying to engage the enemy. The flanking columns encircle the enemy. It is a formation which maximizes their ability to make quick attack and to cover their own retreat (Johnson 1980: 103; Evans-Pritchard 1940a: 128).

### Prophets

Several prominent prophets from different regions have held leadership positions as warriors and have succeeded in coordinating activities with one another to check foreign aggression (Johnson 1980; Sanderson and Sanderson 1981; Holt 1954). These included Ngungdeang Bong (1850s) and his son, Guek Ngungdeang (1890-1920s), of the Lou Nuer. Deng Laaka, a contemporary of Ngungdeang, was a military leader among the Gaawar Nuer as well as a prophet and earth custodian. All prominent prophets among the Western Nuer, including Kulang Ket, among the Jagei Nuer, Buom Diu, among the Dok Nuer, and Gatluak Nyak of the Nyuong Nuer, were renowned as warriors (Johnson 1980: 406). Both Buom and Gatluak had gained their military reputations before becoming prophets.

These leaders are known among the Nuer as buuth rem (leaders of their regions).<sup>6</sup> Buth rem is a fighter engaging in violence himself rather than a manager directing the employment of violence by others. A Nuer "officer" both directs the fighting and participates in the fighting. The essential quality of the warrior is courage and bravery. Associated with this is a close bond that exists between the buth rem and other team members. This closeness is mainly due to the fact that

each and every fighter recognizes the ability of the buth rem and participated in selecting him as their leader.

Another factor contributing to the emergence of prophets as military leaders and coordinators of large-scale war against foreigners is the Nuer belief that the kuoth nhial (air spirits) are associated with war. The Nuer believe the air spirits, which are another way of thinking about God (kuoth), accompany warriors into battle.<sup>7</sup> The prophets are chiefly regarded as the media through which God directs the battle. Before Nuer set off for war, their prophets make a sacrifice and sing hymns to the spirits of the air, while the warriors, kneeling on one knee and with the points of their spears resting on the ground, sing the responses (Evans-Pritchard 1956: 45). The same posture is adopted by warriors at all ceremonial occasions. People, often led by the prophets, sing hymns of praise and supplication to the air spirits on the occasion of sickness or other troubles.

### The Problems of Security and Defense

#### Organizing for Security and Defense

There are problems of security at many different organizational levels in Nuer society. Households in villages or in separate clusters of windcreens in cattle camps share land and water resources. If households come into conflict with each other, the members of each family must be prepared to defend themselves. Members of households or villagers or cattle camps may, upon occasion, need the assistance of others in protecting their lives and property. Kin groups or political units like villages, however, vary in size. The small size of a political unit increases its vulnerability to aggression by more powerful opponents.

Segmentary complementarity is one way Nuer resolve this size dilemma. When giving support is necessary, related teams or segments can aggregate sufficient forces to defend themselves against an

overpowering segment. Each of these segments is composed of lower-level genealogically related units that combine can forces to defend their joint interests. Nuer can thus enjoy the advantages of both the large regional organization and the small independent segment. If insurrection occurs in one of the segments, other segments can be mobilized independently to stop the disturbances. If corruption arises in some part of Nuerland, remedies are usually sought through alternative segments of the society. The grounding of segmentary complementarity in genealogical structures and the freedom of action of individuals provide the Nuer with the ability to combine in large numbers against external forces and to cope with internal conflict.

Although segments at different levels of organization can combine to thwart aggression, segments also fight among themselves. However, a few basic rules govern behavior within a region and also across regional boundaries. First, individuals have a right to demand compensation for injury. Second, aggressors are obliged to pay compensation in cattle. Because of the high value placed on vengeance as a principle, among the Nuer, multiple agents with limited jurisdiction are authorized to resolve conflict and take leadership in mediating peace in the community.

All Nuer recognize the right to vengeance where compensation is not paid. The vengeance group is composed of the militia of the segment to which the injured party belongs. The size of the militia depends upon the relative positions of the aggressor and the victim within the existing lineage structure and the number of allies and friends each side can muster. Because of the great distances involved, the membership of the militia is rarely drawn from above the level of the region.

#### Household Security

In Nuer tradition, homesteads are open, not garrisoned as are homesteads in the northern Sudan. In a Nuer household, the household

luak (byre) and the kraal are located in front of the houses where each wife and her children sleep. Each house has an open space containing a buor (cooking screen) in front of which cooking, the pounding of grain, and churning take place. Each household has a garden behind the buildings and open grazing land located in front of the byre. This property, including open spaces, are resources that must be defended.

Cattle are the chief source of strife among households. Nuer raid one another for cattle. Evans-Pritchard (1940a) reports that the Leek raid the Western Jikany, the Rengyan, and other Western Nuer peoples. Bok ghok (cattle theft/raid) is common along the boundaries between the Lou and the Gaawar, and along the borders between the Mor of the Lou Nuer and the Gaajok of the Eastern Jikany Nuer. Bok ghok is also common along borders of other regions. Bok ghok implies "civil war" among regions. The war of Lueny Yak (kur lueny yak) between Gun and Mor primary sections of the Lou Nuer was caused by this practice. Within a region fighting also frequently results from disputes about cattle between individual households in the same village. On the issue of cattle, close kinsmen can fight, and homes can be broken up.

Cultivation land, grazing land, and water sources are resources a household must defend because they are vital to the survival of a Nuer family. More importantly the prestige and honor of the family must be protected by responding with appropriate force against attack. Crimes against persons such as rape, abduction, and pregnancy not followed by marriage can also cause fights between households. Members of a household must be able to protect all their resources from raiders. The absence of a credible use of force against raiders can invite further raids and trespasses on household property.

A Nuer family is, however, always attached to *ji mara du*, a kin group. From this association, individuals secure mutual assistance, security and defense, and other means of existence. Gol, as noted in earlier chapters, refers to the cattle-dung fire kept burning day and



night in the center of the byre. It also refers to the smallest local community that is larger than a single polygynous family. A gol consists of at least two or three byres, and the huts of two or three polygynous families. Each of these extended families constitutes the smallest fighting team larger than the family. The heads of the families that compose a gol are commonly brothers or a man and his married sons.

Each household unit also has its allies and related individuals outside their cieng (village) who can provide support if the household or gol are attacked by an overpowering group. An attack on one gol will produce some significant reactions in other parts of the village, in other villages, and in the districts inhabited by persons related to the victims. For example, if A attacks B gol and inflicts heavy damage on life and property, B will activate its alliances and will retaliate with equal or greater force. A will activate its alliances in response. Because of the heavy interdependence among individuals, the security network of a Nuer household is complex.

Nuer are considered by many scholars who have studied them to be prone to fight at the slightest provocations. Nuer do not, however, live in continuous turmoil. Because Nuer are contentious people does not mean that they lack a social order. In fact, the results of contestation and argumentation are that order and predictable relationships emerge rather than the expected chaos. Dueling and disputing practices induces prudence in the relations between persons who regard themselves as members of the same group. Persons claim rights because there are rules protecting those rights. The costs of conflict also need to be seen in relation to investment in mediating efforts to reduce or confine overt conflict. Rules are the most important instruments used by individuals to define and protect individual rights. Establishing order by reference to rules generates

predictability in relationships. In disputing, Nuer recognize rules as a means of ordering relationships among persons of equal standing.

#### Defense of the Nuer Village

Hostilities can result when a village's control of its common property resources is challenged. Common property resources are crucial for the survival of a pastoral community in Southern Sudan. Nuer pastoralism cannot be sustained without the resources of the toichland that supplies water, grass, and species of edible fish. Residents of a Nuer village cultivate common land, use common village water supplies, supplement their diet by fishing in common fish reserves, graze their cattle on common pastures, and herd their cattle in a common cattle camp during the dry season.

Although grazing areas are claimed and operated by different lineages, right claimants of each grazing areas invest few resources in herding. In fact, no problems arise if cattle cross grazing grounds to obtain the best grass and water provided they stay within the lineage grazing land or in an area where the prior consent of right claimants has been obtained.

The violation of grazing rules, which most often occurs when grass or water are in short supply, can, however, lead to destructive conflict. The right claimants must exclude others from area by force if necessary. The harder others try to secure benefits from a property over which they hold no rights, the more effort is required by those who hold rights to the resource to maintain exclusive access to the benefits. If the return from the resource is worth the cost of the necessary effort, defensive people will fight to maintain it. If the return on the property right is not worth the effort, the Nuer will not act so as to risk any loss of life.

Residents of Nuer villages are part of larger bodies of people. If a group or a village cannot defend itself, neighbors in adjacent villages come to their aid to maintain the integrity of the village

under attack. Individual villages are linked to a multitude of people in other villages by ties of differing strength. The readiness to accept strangers in villages or cattle camps underlies the clustering of persons around the dominant lineage. Individuals who agree to live in a village or a cattle camp consider each other as kin even though no genealogical or marriage relationships exist. The covenantal arrangements are treated as law and enforceable. Relationships become the bonds that regulate their conduct. Shared age sets membership is an important cross-cutting link among persons. Other ties, even though they are primarily relationships between individuals, have a political significance for large-scale group relations. Marriages between lineages have implications beyond the families immediately concerned. Broadening the ranks of supporting allies is one of important reasons for the existence in Nuerland of marriage agreements between families.

Because it is by nature unexpected, defensive fighting is usually organized by local communities. Collateral segments within a region can support or reinforce each other if necessary after news of the attack has reached them. Offensive wars in which one Nuer village attacks another, for purposes of conquest, has no place in the Nuer scheme of things. Such conquests are not allowed by the mediation and compensatory schema. If it were to occur it would meet resistance. If such aggression comes to dominate, Nuer culture would be destroyed.

#### Cattle Camps and the Scarcity of Natural Resources

Shortage of grazing land is a major problem for Nuer pastoralists. Some groups such as the Lou Nuer are forced to move into Eastern Jikany territory for grazing and water during the dry season. The rights to grazing lands and water pools in the area are claimed by different households or lineages. The Burjuok cattle camp is, for instance, located in an area claimed by the Wang secondary section of the Gaajok region of the Eastern Jikany Nuer (see Figure 7.2.).

Figure 7.2

## Gaaajok Region of Eastern Jikany Nuer

.....

Laang Primary Section. Thior secondary section  
 . Duong secondary section  
 . Kueth secondary section  
 .....

Wangkac Primary Sect.. Mitnyaal secondary section  
 . Wang secondary section  
 . Nyathoal secondary section  
 ...

Yol Primary Section . Puot secondary section  
 . Kual secondary section  
 . Yic secondary section  
 . Cam secondary section  
 . Kuol secondary section  
 .....

.....

Source: Jal (1987); Evans-Pritchard (1940a).  
 .....

Grazing areas and the water sources associated with them are common goods belonging to a community by its capacity to exclude others. These resources can be conceptualized as goods that are "packaged" within appropriate community or lineage boundaries so that others outside the boundaries are excluded from their use (V. Ostrom 1989: 156). In this way, Lou Nuer communities that live nearby communities of the Gaaajok and/or the Gaawar Nuer, may be denied use of grazing land and water claimed by the Gaaajok or the Gaawar Nuer. To avoid costs some lineages are forced to give access to grazing land and water to those who need it.

In addition cattle populations owned by Nuer communities regularly exceed the grazing resources controlled by these communities in dry years. In each dry season the resulting shortages of pasture characteristically lead to violations of grazing rights that engender armed conflict both among Nuer groups and between the Nuer and the bordering Dinka. Each cattle camp must use force to protect its claims to the resources required by its inhabitants. Failure to do so will result in the suffering of both human beings and their cattle.

District and Regional Divisions

A district is a cluster of villages bound together by common interests and geography. Relationships are characterized by competition, fighting, and conflict resolution. Competition over scarce resources such as land and water source sometimes lead to destructive conflict. Crimes against persons, which include adultery, incest, and homicide also generate violence.

There are, however, social bonds among district residents and members of primary sections of a region that restrain violence. These include the principle of exogamy, the willingness to accept strangers into a district or a village, the clustering around (dil) dominant lineage, the ready acceptance of the priestly sanctions of a common mediator, shared age-set membership among villagers, and attendance at feasts and ceremonies. These social bonds link members of one village with members of other villages within a district. Many of these ties extend beyond the tertiary levels.

If a fight occurs between villages within a district or in adjacent districts, any of these links can be activated in order to allow discussion of the problem with a view to resolving the conflict. The segmentary militia are also restrained from carrying on a fight or a feud by the segmentary complementarity of force, by the fact that the Nuer are exogamous, and by the covenantal arrangements that uphold the ideals of mediation. Because Nuer society is exogamous, both disputing parties have kin, allies, in addition to age set members living among the opposition. These people are expected to press for a peaceful settlement of the feud and prompt payment of compensation cattle. A mutual fear of ritual sanctions such as the pollution of the earth or the fear of committing a fault against God and fellow men as well as the fact that they draw water from the same pool, and graze animals in the same pastures lead the principal adversaries to seek to negotiate a settlement of their differences to prevent breakdown of peaceful

relationships. Given the Nuer understanding of God, these sanctions are feared. Normal village life and the interaction among villages essential for the welfare of the residents cannot go on while militias of adjacent segments are in a state of feud.

#### Regionalism and Collective Security

Each Nuer region has a territory that contains natural resources that are used according to specified rules. The segments that constitute a region combine in the face of an outside attack. However, a Nuer region is part of larger Nuerland. The way Nuer think about themselves as a unique community, their relationships with one another and their relationships with other people has a great impact on how they perceive their defense and security arrangements. Their sense of uniqueness as a people is based on some basic bonds in their way of life.

Without a common understanding and the consciousness of participating in cooperative enterprises, the closeness of individuals in the Nuer society would not be possible. A community of individuals dissolves into a disorganized aggregate with no cohesion. Shared understanding among the Nuer grow from a history of common experience, enhanced by a common language resulting in common expectations (Kiser and Ostrom 1982). Nuer cannot constitute a society without coming to an understanding of who they are and how they can maintain their way of life.

The Nuer believe that they are (gaat kuoth) children of a common Creator. The unity of the Nuer is analogous to the unity of the (luak kuoth) church of God. It is a union (duol naath) of the faithful in the workings of (cak\_ghoa) the Creator of the universe. Segmentary complementarity is possible only on the basis of an inner unity in love (nhok) to serve God. Thus, religiousness, the common lifestyle, and the fate of the Nuer always exist together. Every connection or link such as blood or marriage relationships and good neighborliness has a

religious foundation, leads to collective interest, and is defended by able-bodied males.

The other crucial idea related to regionalism and collective security, among the Nuer, is the principle of service to God. The Nuer strive to do the right thing in order to realize God's will. The flat cungni) is the most general expression of the ontological essence of the Nuer (Evans-Pritchard 1956; Frank 1987). They consider it as the highest normative principle of social life. Cunq (rights) are grounded in the right of individuals to fulfill obligation to serve God. Persons of disparate segments unite against non-Nuer aggressors to maintain the peace of God. Equality of persons, among the Nuer, is seen as the demand for equality of service. As the earlier chapters indicate, the Nuer concepts of flat cungni) make up the social order. This follows the Nuer conception of freedom of action of individuals.

The task of defense is the highest goal to which the behavior of the Nuer is directed, and a goal for which their lives are often given. The peace of households, villages, cattle camps, districts, and the Nuer people is perceived as the peace of God. Disturbance of that peace is disturbing kuoth (God) and must be resisted. The commitment to the service of kuoth is expressed in many ways in Nuer society.

There are other affinities that make common military action possible against non-Nuer. Nuer have a homogeneous culture, a common language, and all live in a continuous stretch of land running from west to east across the Nile. There are no isolated sections. Their common language and values permit ready inter-communications between regions. Their feelings of superiority, the contempt they show to all their neighbors, and their readiness to fight them are also a common bond.

Commonalities of the Nuer are symbolized in a common fashion. The spear is a symbol of a commitment to the defense of the peace of God.<sup>8</sup> Nuer regions can suppress internal differences in order to unite in the face of external aggression. Actively feuding sections of the Lou Nuer

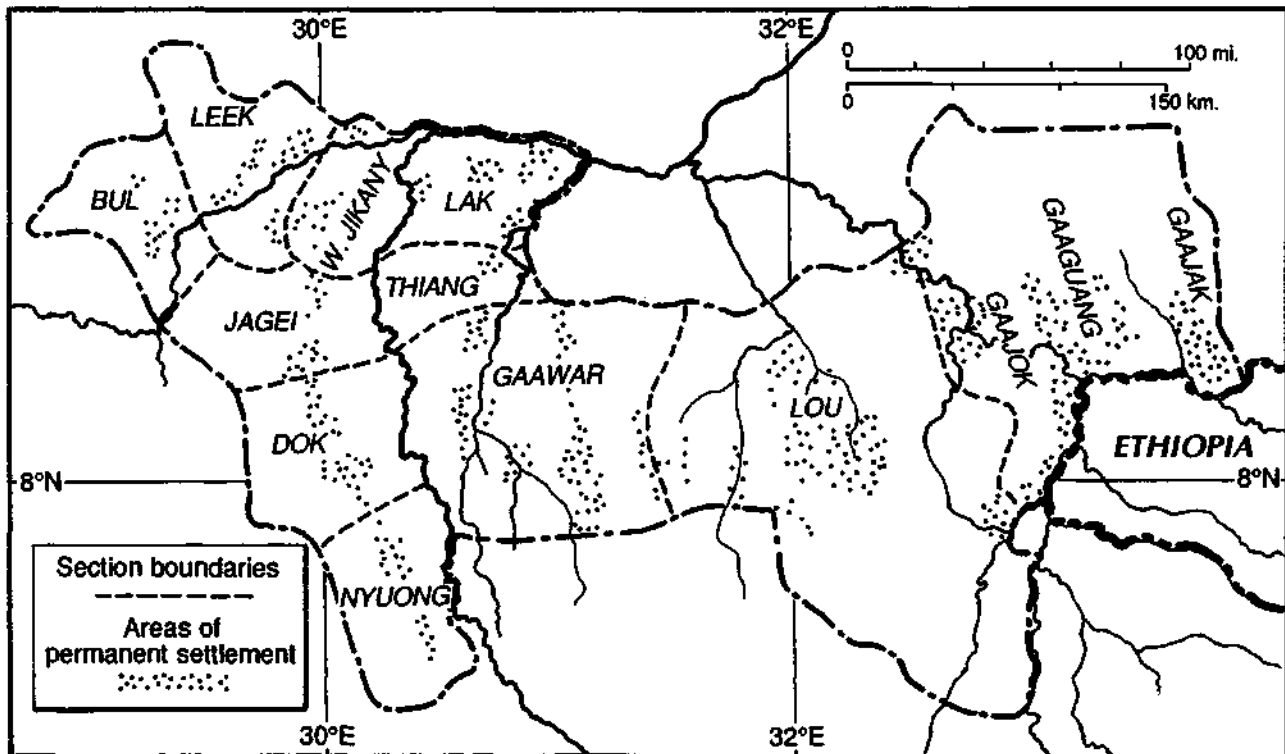
stopped hostilities to join in a counter-attack against the Anuak, when the latter penetrated deep into Mor territory in 1911 (Kelly 1985a). Shared membership in age sets is a bond among adult males. Gar, initiation, is, thus, a national badge that symbolizes membership in a covenantal community. Age-set arrangements facilitate the movement of persons across regions. If a man migrates from his region, he can at once fit himself into the age-set system of the region of adoption. Age mates must support each other in time of trouble. Nuer warriors believe they will be cursed if an age mate dies because he has been abandoned in the face of danger. The obligation to assist an age mate is consistent with the Nuer concept of service to kuoth and to ones fellow man.

Successful use of force by a non-Nuer group against any one Nuer region is perceived to undermine the peace of God among the Nuer. The belief in a common Nuer destiny imposes, then, a normative requirement: loyalty to the Nuer commonwealth. The operation of the Nuer commonwealth requires cooperation. It is this cooperation what makes it possible to describe the operation of the Nuer militia as a system of teams of teams.

Nuer regions (and groups within regions) combine forces in defensive warfare. Inter-regional cooperation is used to address an existing or potential conflict with one or more other regions or outside aggressors. Nuer conflicts with bordering Dinka are mostly carried out by members of a single region. Kelly (1985a: 159) reports that the Lak, Thiang, and Gaawar jointly participated in some of these attacks, and the Lou and Gaawar in others. Evans-Pritchard (1940a: 121) also observes that the Leek, Jagei, and Western Jikany combined in raids on the Western Dinka and the Lou and Eastern Jikany in raids on the Anuak. These instances are consistent with central features of Nuer segmented structure of authority relationships and point to the importance of



Fig. 7.3  
Nuer Regions



Source: P. P. Howell(1954).

segmentary militia organizational characteristics in accounting for the Nuer capacity to mobilize forces in larger numbers.

The combinations of teams are based on shared interests to procure security for the segments involved and for Nuerland as a whole. By combining their military forces, they are able to create a larger force to defeat invaders than one region would be able to create alone. The combined military forces of segments within a region are coordinated by Nuer prophets, with assistance and cooperation from household heads or elders, age set leaders, and custodians. Dayiomni (minor prophets or priests), elders, age set leaders, or custodians lead the component segments. (See Figure 7.3).

#### Limiting Shirking

Individuals working together as a team can accomplish tasks that cannot be accomplished by individuals acting alone. Good teamwork, among the Nuer, yields stability and security for Nuer families. Preventing shirking is necessary, however, for the continued success of teamwork. If there is no accepted means of preventing shirking, individuals will do what they want, disregarding common security and defense requirements. The quality of teamwork will eventually decline, and, in turn, the welfare of the members will suffered.

Among the Nuer, the active participation of each member is an important source of success. It is necessary for members to monitor each other's performance to prevent shirking in order to maintain a high level of participation in teamwork. Responsibility for monitoring performance is assigned to members of a household, household heads, age set leaders, and buuth rem (leaders of the fighting teams). Mutual monitoring and enforcement is possible because people fight in units composed of members of villages or cattle camps. The village and the cattle camp contain the same peoples at different times of the year, which are relied upon for large scale conflict. These village or camp

groups are small enough so that individuals know each other and can monitor each other's behavior. There are costs for individuals who attempt to shirk.

Cooperation is usually preferred to shirking on the basis of self-interest and the interest of one's family. If one villager does not fight, others may decide not to fight. If villagers do not defend their interests, all will loose. It is in the best interest of all able bodied adult males in a village to cooperate to ward off external aggression. Most members of a community want their village to continue to be viable and their way of life to be maintained against disturbances. A variety of factors do affect individual calculations, however. In a small group one individual makes a greater difference than he or she does in a large group. Joint sacrificing and shared age-set membership also reinforce the commitment of members to a group.

Coordinating the activities of segmentary militia requires trust and experience. Elders, age-set leaders, and prophets are perceived to have the necessary experience to prepare them for the serious business of war. The basic skills learned from earlier childhood are made perfect by practice in fighting through the years. These persons are also believed to be able to guard against momentary passions and irrationalities that might place a community in unwarranted danger. In the following sections, I will describe the different ways the Nuer organize the monitoring function to prevent shirking. First, I will explain the significance for Nuer defense the common sacrifice and the shared spear name. Second, I will consider how social proximity and belief in a transcendental order help in monitoring. Third, I will examine how shared membership in age-sets prevents shirking.

#### The Joint Attendance of Sacrifice and Spear Symbolism

Among the Nuer, the unit of moral control is the group that sacrifices together. Joint attendance at feasts and ceremonies means shared experience and accountability. Sacrificing cattle is one of the

ways that the Nuer put pressure on each other and recognize claims. Persons who have covenanted for joint sacrifices travel long distances to attend funeral, purification, or peacemaking ceremonies. Claims are reinforced when persons make the effort to travel across country to attend and honor sacrificial rites. Religion as mentioned in earlier chapters, is one of the media in which people communicate with one another and require that deeds support sentiments. One's presence at sacrifices signals a community of interest and is part of what legitimizes claims to cattle or wives or both. Nuer religion, as Mary Douglas (1980a) observes, is a double set of accounts: it enables people to hold each other accountable to a common commitment in rituals that testify to their right-mindedness; it also provides a balance sheet on which their relation to God can be assessed.

A large number of associated persons within a region are brought together by attendance at feasts and ceremonies. These activities are of general importance to the Nuer whether they are in a village or cattle camp in the same district or in another region. The joint effort of creating a Nuer society provides the incentive to resolve problems that undermine its peace and stability. Sacrifice is all about what it means to be a Nuer and to defend a way of life. There is a sense of moral obligation towards one's fellow man, an obligation that decreases as structural distance increases. But there is always a consciousness of obligation towards the members of a region as well as those within a district who share a common spear name. Members of these institutions are committed to covenantal arrangements to serve God's will. This nquot commitment is best express in disputes between groups. In warfare, a man is obliged to aid any man with whom he shares a common (mut) spear name. Not to do so is viewed as a failure to discharge an obligation.

Unity in sacrificing is grounded in prior agreement on what the spear symbolizes. The word mut means a "fighting spear". Mut can also

refer to the battle group. The spear is a symbol of strength (buom) in collective effort. This becomes clearer when we consider the origins of the spear name. The Creator of all clan spears is thought to be wiu, which is another Nuer name for kuoth, or God, (i. e. there is only one God). In this broad and symbolic sense, the word mut, defined as the battle host, identifies the clan with God conceptualized as the Lord of Hosts (Evans-Pritchard 1956: 246). The association of the spirit wiu is essential in the constitution of clans. Thus, there is a community of understanding grounded upon the transcendental order. Conduct of persons is ordered by shared commitment to regulative ideas (wiu) marshalling activities when they are acted upon for collective defense.

God is invoked by the clan through the spear of the ancestor held in the hand of one of his descendants offering an animal in sacrifice to God. Thus, the spear symbolizes the submission of kin and clans to God's peace. There is a sense of common bond in the spirit of the spear as the symbol of God that makes men willing participants in the militia as a means of realizing whatever peace can be realized consistent with a right ordering of life.

#### Social Proximity and Transcendental Order

Living close to one another reveals shared values of individuals. Factors influencing choice of residence include security, the availability of food for the family, and grazing and water sources for the animals. A village or a cattle camp is considered as common enterprise for the common good of the persons involved. This shared interest must be defended by cooperative efforts. Shirking undermines teamwork and must be limited by mutual monitoring. To make interdependence possible, it is necessary that persons have shared interest of some sort. The categories of relationships, however, give the Nuer only a base upon which to build relationship but within a conceptualization of some transcendental order. Behind every relationship between an individual and an association of persons lies

the force of spiritual bonding and an inner unity that acts through this relation among the Nuer. The militia will not fight in coordination with one another or with other segments if the men fighting are not welded together by a feeling of solidarity, if they are not intuitively conscious of themselves as members of one segment, one district, or one Nuer people. This unity of collective spiritual being is the foundation on which the militia is based in Nuer society. This transcendental bonding enables a person to systematize his or her social contacts and so to have the security of living in an ordered world.

The constitution of each segment consists of a network of interpersonal kinship ties that connect all its members to one another and directly to a transcendental order. Living together within the bonds of this transcendental order provides rules for enhancing harmony and security among people. Proximity forces persons to develop common rules to promote their mutual interests and also to protect those interests from aggression. In order to live together, people have to follow rules. One of the rules is to defend a common way of life. Shirking upsets the relationship of trust among people, and the damage must be repaired by social sanctions. For example, running away from a war is considered a breach of covenantal undertakings among people to defend the peace of God. An individual who flees may be banned from the territory.

In Nuer society, courage and bravery are assigned a high value; a coward is despised. A person who does not endure the (gar) initiation rite must prove their worth in a fight otherwise the stigma of cowardice remains for the rest of his life. It is difficult for such a man to find a woman to marry. Cowardice is considered incompatible with the Nuer conception of individual worth. A person who cannot defend himself, his family or help his in-laws in a fight is seen as irresponsible. The Nuer also believe that a man who cannot fight with wutni (men) prefers kor man (fighting with women). The reputation of

wife-beater is most shameful, and no father can knowingly allow his daughter to marry such a man. It is difficult for such a man, if not impossible, to rise to any social position of prominence in Nuer society. Due to the stigma of incompetence and cowardice he cannot build friendly relationships of any kind. He is seen by his paternal kin as someone who is unreliable in times of a fight with members of an opposing group.

The stigma of cowardice also affects relationships with other families in a village or cattle camp. A man's failure to contribute to the defence of a village, cattle camp, district, regional section or the Nuer people means that the respect and prestige of his family will suffer. A father is blamed for the failures of his son, unless the father's competence and skills in war are known to be good. If the father is not to blame, the traits will likely be ascribed to the family of the mother of that particular son. Indeed, a son might migrate, if he is not banned, to his mother's brother's lineage because in his mother's brother's lineage he can shirk.

Conflicts in a mother's brother's village are view as belonging to a different lineage in which one is not directly involved. In this context, a Nuer can escape immediate accountability for not participating in the defence of that community. This is, however, always a temporary solution because, eventually, he will be asked to participate in the defense of his mother's brother's lineage. Within a village or in a patrilineage, it is better to comply with the requirement to fight to the end rather than to face the loss of respect and be treated as a coward.

#### Age Set Configuration and Shared Membership

The shared age set membership promotes mutual understanding, joint association, trust, and sympathy. The key processes in the Nuer age set seeks the creation, identification, and implementation of shared values. A Nuer age set is an embodiment and instrument of governance. There is

a comradeship between age-mates that springs from a recognition of the common experience of having shed their blood together during cicatrization. Gar creates a bond of brotherhood. It also symbolizes a covenant between adult males of different ages. Members of a junior age set are expected to show respect to members of senior sets. Their deference to which can be seen more clearly in war situations.

Whenever there is a fight, a column of warriors is a combination of different age grades, especially the junior elders and the youngest age group. They fight side by side in village or camp units. Arrangements are affected by the exigencies of fighting situations. Junior elders are expected to give "command" or, rather, give guidance. Their directives are followed because of their age and experience within the Nuer age-set structure. For a breach of approved patterns of behavior, including shirking, the sanctions include disapproval, denial of respect, and withdrawal of assistance.

The age-set institution affects the ways in which individuals and groups become activated within and across segments. As time passes, each age-set group changes its position in relation to the whole system, passing through points of relative juniority, seniority, and levels of skill and courage (Jackson 1923: 145-150; Jal 1987: 383; Evans-Pritchard 1940a: 257-260). This mobility of successive age-sets groups is peculiar to the system and is a necessary characteristic for it is an institution based on the succession of generations. The mobility of groups through the age-set structure and their changing position in it should not be allowed to obscure the constancy of its structural form and its effectiveness in ordering life's activities within a segment.

### Conclusion

The organization of segmentary militia reflects the way Nuer conceive of their relationships with one another. Force is not monopolized by any single person. Defence is organize in teams of



teams. Polygynous households form themselves into teams of militia for their own defense. The collective choice processes in which power is diffused and widely share rather than concentrated in the hands of a few, involve institutions that foster collective identity, openness, and contestation with respect to security. Nuer defensive capabilities depend on broader processes of competition and coalition formation, within the bonds of a transcendental order, that prevents any segment from being permanently disadvantaged.

A household is an institution for training young boys for future responsibility in a segmentary militia. A knowledgeable citizen is one who is familiar with the rules of appropriate behavior in conflict situations. The family is responsible for teaching children the meaning the rituals of gar as well as their responsibilities to kin and age set members. Because there is no central power to supply equipment to recruits into the militia, each household provides its members with fighting equipment such as sticks, bones, spears (and guns). The decentralized supply of weapons and food is an important means of preserving individual freedom of action and family control over its members.

The structure of Nuer authority relationship reflects the segmentation of Nuer regions. Nuer regions are built from smaller segments constituting military units. This is necessary due to the wide dispersal of the Nuer, but it also serves to maintain the rule of active personal participation in the teamwork of fighting. Warriors from different households constitute a team that can act alone or in concert with other teams. When a group is attacked by an overpowering segment, the related segments combine forces to ward off the aggression.

Security and defense among Nuer households, villages, cattle camps, regions, or Nuerland as a whole is maintained by a team of warriors composed of one or more teams. The complementarity of the segmentary militia based on a common understanding is a key to the security and

stability of the Nuer. A pattern of defense organization that would be appropriate for a household team is not fully appropriate for the village, cattle camp, region, or for Nuerland that involve larger scale warfare. Larger teams are coordinated by the buuth rem who have distinguished themselves in warfare.

Notes

\*Mut can also mean "spear."

<sup>2</sup>Nuer women play a crucial role in warfare. They help in carrying spare spears, food, wounded, and water for the fighting men. Women also sacrifice animals to God. A woman may not slaughter the sacrificial animal. This is understandable when we think of the spear as representing strength and masculinity. Who slaughters the sacrificial animal among the Nuer does not reduce the importance of the offering. She gives also sacrificial invocation with her mouth and sometimes with the spear if she chooses to do so. The iron head of the spear is a modern invention. Sacrificial invocation is done in the past with a spear made out of wood and bones and does not require a lot of strength to carry.

<sup>3</sup>I obtained this information from an interview with Wicjal Bum on September 13, 1989; Riel Gatluak on September 27, 1989 in Kosti, Sudan (see Evans-Pritchard 1956).

<sup>4</sup>The elders and other citizens maintain the calendar for closing and opening periods of initiation. It is not only the cattle custodians who keep the dates.

<sup>5</sup>The names of the age sets are not included because they are irrelevant to understanding the Nuer age set system. For lists of names of age set see Evans-Pritchard (1940a: 251); Giet Jal (1987: 383). The order of age set is ill-remembered. Informants do not remember the order in the same way. It is, however, important to note that the names of the age sets are not the same in all Nuer regions. Adjacent regions tend to have the same names.

<sup>6</sup>Buth rem is not necessarily a prophet or a priest. A person who has distinguished himself as a skill warriors and has the ability to bind people can become a buth rem.

<sup>7</sup>Kuoth (God of heaven) and Kuoth nhial (air spirits) are both names for God. The spirits of the air are not thought of by the Nuer as independent gods but in some way as hypostases of the modes and attributes of a single God (Evans-Pritchard 1956: 49).

<sup>8</sup>Most Nuer lineages do not possess an actual spear, only spear-names. Two Nuer clans, however, have been identified in published work as possessing actual spears. The Gaatgankir who trace their origins to the Anuak (Gabriel Giet Jal 1987) and also to the Dinka (Evans-Pritchard 1956: 241) possess a mut wiu to which a mysterious origin and power are attributed. The Gaatgankir believe that the spear was held by Kir, the ancestor of the clan, when he was cut out of the gourd in which he was found (see Douglas Johnson 1980; Gabriel Giet Jal 1987; Evans-Pritchard 1940a). The spear is also associated with the air spirit wiu, who is regarded as being in some sense immanent in it. The Thiang Nuer are also said to have an actual mut, called the mut baar Thiag.

## CHAPTER EIGHT

### CONFLICT AND CONFLICT RESOLUTION AMONG THE NUER

#### Introduction

Conflict occurs in all human societies. What differs is how people deal with conflict. It is the task of this chapter to explain how the Nuer manage processes of disputing. Mechanisms for resolving conflict enable a society to maintain its cohesion. Its viability depends upon effective methods of conflict resolution. Constant disputes will break down a society if there are no ways to handle them because a society needs a considerable measure of peace and order in order to be able to develop its resources. Social groups with a long history such as the Nuer must have effective ways of resolving conflict. An understanding of how the Nuer resolve their disputes will provide an insight into how an acephalous political system works to govern themselves.

In this chapter, I will first describe the Nuer conception of conflict. Second, I will consider the major types of conflict and the arrangements for their resolution. Third, I will examine how conflicts are mediated.

#### Conflict as Contestation and Argumentation

People who are engaged in a dense network of relationships have ample opportunity to violate the rights of others intentionally as well as unintentionally. Their passions make them prone to commit wrongs even though they know what is right. A Nuer thinks in terms of right (cuong) and wrong (duer). Cuong is defined as the right way of conduct of members in a community. Departure from the right requires that somebody takes action to right the breach or duer. Duer has two meanings: first, it is a wrong when a person actively violates the right of another. Second, it also a wrong when a kin refuses to honor his or her obligations. By his membership in a kin group, a Nuer has acquires both rights and obligations.

When a Nuer feels he is wronged, he points to a breach of right or an insult. Where the claim is denied by the person accused, who may make his own counter claim on his own behalf, the dispute takes the form of an argument in which each party supports its case by appeal to rules. A Nuer who feels he is in the right does not seek advice or arbitration. He challenges the man who wronged him to a duel. A person is unlikely to be caught unaware as to whether or not to accept the challenge. It is difficult to refuse a challenge without serious loss of face among the Nuer. The challenge and response to it can be considered as a reformulation of a dispute into a public discourse. This means a stage of a social relationship in which conflict between two parties (individuals or groups) is asserted before members of a community or a third party (Gulliver 1969: 14). The assertion may take the form of club fighting (duai), chest pounding (pat loc), side slapping (pat rang ran), or singing a poem of his ox (tuar). These disputatious or contentious acts afford the disputants as well as the people in a community opportunities to inquire into the conflict with a view to processing and resolving the conflict. This concept of a challenge is mistaken by Evans-Pritchard (1940a: 151-152) for retribution.

Contestation and argumentation help people to learn from one another what somebody else has to say about the problem they are facing. Open deliberation is appreciated by Nuer because it permits them to come to terms with conflict and conflict resolution. This is how they learn how to live together. The disputants tell their side of the story to the other members of a community. Resolution of a conflict comes about as the consequence of learning from what another person has to say about a conflict. Disputation and contestation are accepted as part of the "nature" of things in Nuerland. The posture of independent, aggressive self-reliance is encouraged from childhood and disputes often end in violent confrontation unless dispute processing is rapidly put in place in accordance with the notion of who is in the right.

Mediating conflict requires an understanding of the nature of the conflict. Nuer distinguish disputes between those problems that turn on rights in material things such as cows, land, water, from those that involve rights in persons such as adultery, abduction, rape, and homicide. The latter are more difficult problems to settle and require more enduring means of conflict resolution. The Nuer system of classifying offending behavior emphasizes the social context in which it occurs. That is, how an act is interpreted, or what reaction follows it, depends on the relationship and interests of the persons involved in a conflict. The closer the relationship between the contestants, the fewer people will be involved, the less severe the retaliatory action taken, and hence the easier the settlement (Epstein 1974). Conversely, the greater the structural distance of a conflict—the more distant the relationship between the contestants—the greater the number of people involved (persons taking sides in the disputes), the more severe the retaliatory action taken, and the more difficult the settlement.

A quarrel in Nuerland is of direct concern to the groups to which the disputants belong. Nuer segments are autonomous from one another, and their relationships are characterized by competition, conflict, and fighting. Vengeance is an appropriate mode of redress for any injury sustained at the hands of somebody from a distant clan. This is because the force of law is not the same for all Nuer, rather it weakens with the structural distance between parties to a dispute. At the outer edges with the people not committed to the group, the will to deal justly with all Nuer is checked by natural obstacles, physical distance, and the need to travel. However, everywhere in Nuerland, a complex system of cross-cutting links and exchange relationships hold physical violence in check. Hostility among Nuer is tempered also by the spiritual bonding of the transcendental order. This is reflected in many ways as earlier chapters indicate. Elders, age set leaders, custodians, and priests recognize that the interests of their

communities are not achieved through fighting and are able to call for amicable resolution of disputes by payment of cattle in compensation. Fighting, however, is still a viable means of achieving redress.

#### Types of Conflicts among the Nuer

Different types of conflict occur at different levels of social organization in Nuer society. This poses a critical problem in a society without a central mechanism for conflict resolution. Each decision unit mediates conflict within its jurisdiction. This suggests that conflicts are resolved in different ways in different contexts. In order to explain the different types of conflict and how each is resolved, I will first describe disputes arising from matters of honor. Second, I will examine conflicts within a family. Third, I will consider conflicts between families in a village. Fourth, I will turn to discuss conflict over the use of water in the dry season. Fifth, I will briefly examine conflicts arising from the sharing of a cattle camp between primary divisions of a region and by other people across regional boundaries. In the last section, I will describe the problems arising from abuses of priestly neutrality and the case of the slave trade.

#### Matters of Honor

The notions of honor and shame generate serious disputes but also assist in conflict resolution in Nuerland. The Nuer conception of God is reflected in the idea of honor and dishonor. God is the Creator of man and has given man the capacity to think in order to do the right to glorify His name. A Nuer see himself as the guarantor of morality, rectifier of disturbed balances, and the power that reinforces the right in order to protect the sacred person of man in the image of God. Honor depends upon his will, his worth as a person. The role of man as

guarantor of morality does not ignore the muc kuoth (divine grace). It is the fulfillment of the will of God that man defends.

The perception of the ultimate source of the sacred within each individual brings honor into the sphere of Nuer religion. It is in this sense that a person's honor is viewed by the Nuer to be sacred, something more precious to an individual than even his own life, of which it is considered the epitome. "Rather death than dishonor!" is the ideal expression of this sentiment, whether on the battle field or in the boudoir (Peristiany and Pitt-Rivers 1992: 2). Nuer perceive that honor is owed to God. Honor must be protected by force if necessary and by the acceptance of danger and hardship among equals. Nuer see that individual and family honor must be preserved even if all else is lost including life.

The opposite of the concept of honor is the idea of dishonor or shame (poc). The counter part of shame is the Nuer idea of cany. Cany means to despise. Any conspicuous breach of morality or decorum is shameful in Nuerland, as when a man steals or is rude to his father or mother. Poc also describes a derogatory situation that can be corrected only by performing an act of honor to cancel out the offence that caused it. In an extreme situation, dishonor can only be washed away by blood, that is killing. Dishonor or shame in this sense is differentiated from misfortune.<sup>1</sup> Misfortune occurs in the act of fulfilling the requirement of honor and implies no moral or social disapprobation (Howell 1954a: 23).

#### Nuer Notion of Honor and Possession of Arms

The significance of honor and shame, among the Nuer, is made more clear when different types of conflict are more closely examined. First, male honor demands that men be armed at all times. For a long time the spear has been for a Nuer man an object of necessity. Today it is common to see a Nuer in rags carrying an expensive rifle and a spear. He does not want to part with the spear even though a gun can do more



harm than the spear in warfare. This is because the significance of the spear is moral, not merely utilitarian. It is not the spear itself, nor its possession, that is stressed but the activities associated with it: war, dancing, and herding. The uses of the spear itself and the evaluations of its uses as an index of social personality are blended, so that the spear is not just a weapon but also something that stands for a very complex set of social relations.<sup>2</sup> It is, therefore, the Nuer belief that the right to carry spears (or arms) is one of the prerogatives of members of a free society where everyone is accountable for his or her own action.

The tradition of arming men is strengthened by the instability that the Nuer experience in their land. Governments seek to license or to ban the carrying of arms, but the ban is rarely complete and not effective. The possession of firearms, spears, and sticks means that quarrels can quickly lead to serious violence and killing. But this does not often happen among the Nuer. Arms are used as deterrence, and the rules do not permit their use without an acceptable reason.

The notions of honor are attached to the possession of spears. Boys are given their first spears as a sign of coming into manhood and of the handing over by one generation to another. It is not just a spear but a new status that he is being given. The boy becomes a man, a warrior, and soon becomes a husband and a father. He can now participate in feuds and wars; he also can engage in dances (rau) and displays with oxen, both of which among the Nuer are martial exercise as well as play intimately associated with courtship.<sup>3</sup> Male prowess in the use of weapons is demonstrated in hunting as well as in direct conflict with other men.

Second, challenge and insult, as Chapter Seven indicates, play a crucial part in disputes. Because they are always armed, men are at all times ready to enforce rules when they are violated. Nuer society expects men to do so, and failure to enforce rules is considered a

dishonorable failure to discharge an important duty. It is punished by withdrawal of confidence. For example, Thiwat Kuany and Ruot Yuol fought in 1978 because Ruot Yuol called Thiwat Kuany gat jio (a bastard). Ruot Yol was seriously wounded in the fight. Kuany and Yuol had other young men had been playing a card game known as weat, and Yuol lost. Yuol accused his opponents of cheating. Kuany responded that that was not the case, and Yuol countered with the abusive words.

Ignoring an insult could be interpreted as a sign of cowardice on the part of Kuany, although the insult also could be taken as a joke. But Kuany and Yuol were not in a joking (leng.) relationship.<sup>4</sup> The village Gok, where the conflict occurred, is composed of two small but opposing segments of Lungngor lineage. These groups are competitors in almost everything. Anything such as an abusive name could be construed as an insult to the honor and prestige of the other group and must be countered with an honorable act to repair the damage.

#### Female Honor and Dispute Resolution

The honor of men is intimately associated with that of the woman related to them by blood or marriage. Therefore, a man is obliged to see that the honor of his wife, sister, daughter, and his close female relatives is respected. It is also the case that, if their honor is [compromised, sisters and daughters cannot be married to reliable families. Female honor is articulated in a variety of ways: general [comportment, adequate fulfillment of female roles, sociability; and it can be attacked or questioned in as many ways: by gossip, by physical [violence, and others. Its essential expression is, however, sexual. Disputes arising from an attack on female honor may be grouped into the following categories: first, those involving unmarried woman, where a [dispute may be provoked by seduction and particularly by pregnancies that are not followed by marriage; second, by disagreements in bridewealth cattle, and third, by abduction and rape.<sup>5</sup>

Girls in the Nuerland are taught in their early years that sex should occur only within the context of marriage, bearing children, and establishing a home.<sup>6</sup> Once a girl has been compromised, particularly if she is pregnant, pressure is brought on the man concerned and his family to marry her. Violence can ensue if marriage is not agreed upon by the parties involved.

There are circumstances where seduction is, however, not followed by marriage or violence. In cases where a close relationship between seducer and seduced precludes marriage, recourse to blood vengeance is also inappropriate. For example, Luk Kueth was reported to have had illicit sexual relations with Mary Bigoa, a daughter of his relative in the small village of Wee Wukau in 1978-9.<sup>7</sup> The resolution of the problem was to regard it as a religious wrong, a sin, automatically calling for special retribution attended by an extraordinary purifying ritual. A form of violence was, however, also involved in settling this case. Sacrificing the "best" animal of the seducer was a violent expression of disapproval by the community of this behavior between close relatives.

Conflict involving married women is less prevalent than that involving unmarried women.<sup>8</sup> Married women, like girls, are free in their contacts with men. They are not confined to their houses as are the women of the Islamic communities in northern Sudan. They move about among men and speak freely with men. Affronts to wives meet generally with violence. Proven or presumed adultery by a wife is usually settled by divorce provided that the woman involved has no children.<sup>9</sup> Rape is another act that dishonors a woman. The Nuer react violently to rape or abduction, therefore, such activities are rare in Nuerland.

#### Relationships within a Family

Conflict is present at varying levels of intensity in Nuer families. There is both love and hate among the closest persons within

the household, and this is increased by the fact that family ties carry political, economic, and social relationships. Emphasis upon the unity of members of a household in defense against aggression obscures conflict within a family. Killing within a family is anomalous. It cannot be avenged. Rather it is considered a religious wrong requiring a purifying ritual.

To elucidate the issues underlie the recurrent problems existing in Nuer household arrangements, I will examine intrafamilial conflict and its context more closely by considering specific relationships—between parents and their children, brothers of different mothers, relationships among affines and so on. Some of these relationships are more fraught with the potential for contention than others.

#### Parents and Children

Although adult sons establish their own homes when they marry, parental influence on them is still considerable, especially when they live nearby their parents. Fathers and sons work together in major family projects and defend their common interests. Sons are strongly obliged to avenge their fathers. Conflict between fathers and sons is rare because it is highly unacceptable behavior. Sons are taught to honor their parents and persons of their parents' age group. The father's position among the Nuer is lawfully predominant. It is through their father that children trace their descent and sons inherit wealth.

Conflict does, however, occasionally occur between fathers and sons. Where a conflict occurs, it is usually related to matters of material things or how resources are used. When the father is perceived to be threatening the family's interest in the allocation of wealth, sons will intervene to prevent mismanagement of the family resources. A father's decision to marry more wives using the accumulated cattle, when his sons are of the age to marry, can cause dissatisfaction in the household. He could be told in a meeting with his sons that the cattle should instead be given to the older son for his marriage. If the

father does not listen to his sons, the dispute over the allocation of cattle is reported to the father's brothers who are asked to intervene in order to resolve the problem. Once the fathers' brothers are involved, the problem is mediated and usually resolved through discussions in favor of the sons.

Ties between mothers and sons are close and mainly affectionate. Cases reoccur in Nuerland where sons defend their mothers from their fathers who is a woman beater. Cases of conflict are also common where a son assumes or attempts to wrest control of the family economy from widowed mother or where a senior son neglects his responsibility to support his mother and her younger children. For example, Pal Mut, age 19, was the eldest of three children in the care of a widowed mother, Nyabiel Reth.<sup>10</sup> Instead of helping his family, he dissipated its resources by taking provisions from the house and even by selling livestock. His mother reprimanded him when she caught him taking milk from a diar lei (milk container), a fight developed between them, and he injured his mother. The fight was reported to Pal Mut's paternal uncle who rebuked the young man told him to assist his mother in supporting the younger children.

#### Brothers of Different Mothers

Solidarity among brothers is valued in Nuerland and contributes to their success in defending their common interests. Armed conflict between sets of brothers is common among the Nuer. In 1977, Bol Ruac abducted Nyak Garejani Dar with the assistance of his brothers, Kek Ruac and Kac Ruac; Tap Lia Kon, their cousin, also helped them. Tap reported that their intention was to force the family to allow the girl to marry Bol Ruac.<sup>11</sup> The two families eventually agreed to established a union. Cooperation between brothers does not, however, preclude the fact that there exist rivalry and conflict. Quarrels among brothers often occur in the context of the use of family property. Brothers own cattle in common and they live together before they are married. This living

together provides an added reason for conflict, especially when they are of different mothers.

Although brothers are taught that brothers are one because they belong to one father and one lineage, there is an element of envy, jealousy, and hatred between the sons of different mothers who share a common father. Competition between wives for use of most of the scarce resources of the household leads to this latent bitterness among brothers. Each woman wants to have more cattle for the use with her children; she wants more milk to make cheese than other women. She wants more attention from the household head. The division of cattle in the household usually reflects the number of children for which each wife has to care. Because all wives do not have an equal number of children, the one that has more children is allocated more cattle for milk and this can engender envy and jealousy among other wives who charge their husband with favoritism. The jealousy (tie\_1) of the mothers is transmitted to their sons and is reflected in the sons' behavior towards their brothers from other women. The problems of tiel (jealousy) and competition over household resources are not satisfactorily resolve in Nuerland. As long as polygyny, which remains the ideal form of family, exists quarrels among brothers of different mothers will persist in Nuer households.

#### Relationship among Affines

In Nuerland, in-laws are regarded as members of the family. They cooperate with each other in the exigencies of life. A bride who has many kin is often preferred to one who has more cattle because, through the institution of alliance, kin of the groom can gain access to more labor and protection. As indicated in earlier chapters, affines help each other in a variety of ways. Brothers-in-law easily get involve in each another's conflicts by giving support in difficult times.

Despite high levels of cooperation among affines, conflict does occur. From among the many potential types of disputes among affines, I

have chosen the major disputes relevant to the constitutional order of the Nuer to describe here. Conflict is especially between affines who live close to each other. Because marriage negotiations often include hard bargaining and involve an exchange of honor as well as bridewealth, the affinal relationship is charged with tensions and potential discord (Gatluak 1989; Wilson 1988: 148). The direct form of affinal dispute is that between husbands and wives. A woman may return to her parent's home claiming persistent ill-treatment from her husband. The problem is usually discussed by the two families involved, that of the groom and that of the bride, to find a solution. If the family of the bride supports her decision to leave her husband, then she may do so. The bride's father returns the bridewealth to the husband's family.

If a wife leaves her husband after the birth of their first child, his kin may decide to claim the return of all the bridewealth, except for six head of cattle, which are retained by the maternal uncle of the child in order that the father retains his rights in the child. These six animals include the two of "the hairs and the skirts" (cattle for the services the women had given while with her husband), are kept by the family of the wife. The other kinsmen of the wife must give up their portions of the bridewealth. By this procedure the wife is divorced and can remarry. Wives may also be sent back to their parent's home for a variety of other reasons including difficult personality traits, such as extreme inquisitiveness, nagging, and grumbling. In 1978, Kulia Riak married Nyakuoth Dup, but after a few months the woman was sent back to her parents by her husband where she gave birth to a daughter. In discussions concerning how much bridewealth should be returned, the central problem was the uncertainty as to the paternity of the child, which according to Kulia was prenuptially conceived.

In Nuer society, bridewealth gives rise to all kinds of dispute among affines. The number of bridewealth cattle is arrived at by negotiation between groom and kin and kin of the bride. The agreed-upon

cattle are usually paid in installments. This method of payment provides plenty of opportunity for disagreement even after the bargain is struck. Some persons on the side of the groom may not readily pay their contributions on schedule. They do not refuse to pay but plead a lack of cattle even if there are animals available that can meet the obligation. The eldest member of the family of the groom mediates conflicts such as this. If cattle are available, the man refusing can usually be persuaded to pay his contribution for the marriage of his kin. Refusal to pay strains the relationship with the groom and undermines kin solidarity.

Affinal relationships are also adversely affected if the man or woman cannot bear children. In such a situation the kin, especially the bride's will agree to a divorce and let their daughter marry somewhere else. If, however the husband is an old man and the marriage was arranged because the man has lots of cattle or in order to create a political alliance, the girl may be compelled to stay with her husband. But in most cases of male impotence, the man will allow his wife to take a lover and bear him children who are lawfully his children according to the Nuer custom governing family relationships.

A sexual element can also be a factor in conflict among affines because the affinal relationships place men and women who are not married in a situation of close proximity. Persons are tempted to carry out illicit sexual intercourse with unmarried women, which is considered wrong. The parents want their daughters properly married because the purpose of sexual congress, among the Nuer, is the creation of children. The parents' attitude is a reflection of their desire to see daughters lawfully married so that they may acquire cattle for their sons's marriages. Parents do not tolerate any attention from an outsider that is likely to compromise a daughter's chances of making a suitable match with a man who has cattle.



If illicit sexual intercourse is actually realized, the brothers of the girl will fight the man who committed the wrong, unless he agrees to marry her. If the seducer has no cattle, or if he is not even the man in line to marry in his family, this type of conflict confuses the relationships within the man's family. Such a problem can cause the split of a village or cattle camp. One of the families directly involved may leave the village or camp in order to avoid fighting that could involve many people and families. But moving away is not a resolution and, in fact, complicates the process of mediating conflict and resolution in the future. The members of the man's family usually agree that their son marries the girl to prevent the disruption of relationships.

#### Conflict between Cousins, Uncles, and Nephews

Gaatquanlen (cousins) are expected to support each other. Cooperation among cousins is expressed in many ways. They fight together, avenge each other, and aid each other in the payment of compensation in case of homicide or injury. Among the Nuer, cousins are supposed to live in one village and move to the same cattle camp in the dry season.

The closeness of cousins also generates conflict. Cousins render each other services such as loaning equipment, helping in repairing buildings, herding animals, and defending against distant foes. These cooperative activities can bring about disputes. Maluel Kueth borrowed an axe from his cousin Puot Bungjak to cut building poles (koi) in a nearby forest. Maluel Kueth later refused to return the axe on the pretext that his cousin owed something to pay for the damage done by Puot Bungjak's cattle. When Puot Bungjak went to the byre of Maluel Kueth to get his animals, a fight occurred in which Puot was injured. Puot Bungjak raised the issue of his axe to the elders.

When the village elders looked into the case, they found that Puot Bungjak was negligent in taking care of his cattle, sheep, and goats and

that his animals destroy not only Maluel Kueth's crops but also those of other villagers. The decision to resolve the dispute, however, is to appeal to the kinship sentiment and to emphasize the need for harmony. In the end, Maluel Kueth returned the axe to Puot Bungjak, and Maluel Kueth refused any payment for the damage to the crops.

Uncles and nephews quarrel more frequently than cousins. Nephews have many contacts with paternal uncles. Quarrels between uncles and nephews are related in many cases to cattle. Uncles are one category of persons who are obliged by tradition to contribute toward the bridewealth for the marriage of their nephews. When their nephews' sisters are married, uncles receive a share of the bridewealth. It follows that when the brothers of the girls are marrying, the uncles are obliged to pay some cattle towards the marriage. Sometimes an uncle refuses. In 1967, Tut Mut Wunbil was to marry Nyadel Ding and when Tut Mut asked his uncle, Rundial Wunbiel, for his contribution he refused saying that he did not have cattle. When this case was reviewed by close relatives, the elders of the family supported Tut Mut Wunbiel and asked Rundial Wunbiel to pay his part. In many cases, uncles meet their obligations, especially those born of the same mother as the father of the nephew concerned. Refusal to comply with the decision of the elders means breaking (mar), the kinship relationship. This can be costly because everyone else will support the party who is in the right in the case.

#### Conflict in a Village

In many Nuer villages, conditions of land scarcity and continuous production to support a population maybe absent. Where there is no shortage of either land or trees and there have been no vested agricultural interests in any parcel of land for an indefinite period, the principles of land tenure are not clearly defined. The rules that do exist simply refer to the right of an individual to live and earn a living in a village rather than to rights in specific resources. This

Means that, while each village has a defined territory, it is the active cultivation of land that confers rights of use on the cultivator. A garden that is left fallow for longer than two to five years is regarded as abandoned and may be reoccupied by anyone from the adjacent village. The community attempts to protect the rights of cultivators from damage to their crops by stray animals. Herders who use water from pools or wells without prior permission from right claimants are guilty of trespass.

#### Trespass and Stray Animals

The destruction of crops by stray animals is a problem of long standing. Resolution of the problem is complicated by the tradition of common rights in grazing land. Pasturing takes place on land subject to common grazing rights, and villagers attempt either to restrict the access of non-lineage members or find ways of accommodating strangers. As noted in earlier chapters, the violation of grazing rights, especially in the dry season, usually results in conflict. Fellow village residents are guilty of trespass as often as are outsiders.<sup>12</sup> Damage of crops occurs most often during the rainy months because the animals are, in most cases, left to fend for themselves without any supervision. Unattended animals inevitably cause trouble from time to time.

The damage of crops by stray animals is not the only problems faced by persons living close to one another. Disputes over water in naturally-occurring pools arise, especially often in dry years when the pools dry out early in the year. These disputes may lead to violence. Allowing animals to drink from the water pools of a neighbor is considered a violation of the property rights of the neighbor. Shallow wells are also dug and are the property of the individual who digs them. Mud troughs are built around wells for watering animals, and these can be destroyed by goats, sheep, and cattle. When water is in the trough, stray animals can also drink from it and deprive the owner of the water.

The Nuer use the open range rule, which means that the animal owner is suppose to look after his animals and, should they stray onto somebody else's property and destroy crops or drink water, the owner is guilty of negligence. Although fencing is not a lawful requirement, some persons fence their gardens and water troughs to protect from damage by stray animals. They use thornwood for fencing. Disputes that arise are resolved through discussion and payment of compensation for damages. Animal trespass is a common problem to all families, and most people simply accept some damage in order to promote good neighborliness.

#### Boundaries of Contiguous Gardens

Conflicting claims to rights in land is one of the most common causes of disputes. Disputes over cultivable land and grazing lands are affected by the extremely complex system of property rights. Most land belongs to families and village communities not to individuals. Right claimants frequently hold use rights only in land, and they share these rights with others. Use rights in land are mainly transmitted through marriage and inheritance, but they can also be leased. Developed land can also be sold in order to compensate the developer for his labor. In

(the nineteenth century, the likelihood of conflict over land was increased by two general trends: first, the intensified competition for already scarce resources (Jal 1987; Johnson 1980), and second, the gradual strengthening of individualistic and absolute notions of property as against the complex traditional conception of use rights. This second trend implies the weakening of (traditional governance structures.

Most land disputes arise over the location of the boundaries of plots of cultivation land. This is particularly true east of the Nile where the population is larger in relation to the land (Jal 1987). People may verbally agreed where the boundaries lie at the time of allocation, but later try to push their claims beyond the agreed upon

line. This sort of behavior is a constant source of disputes. Problems are mediated by village elders and age set leaders. Respected persons in the village who were present when the boundaries were established are called upon to assist in the resolution of these disputes.

### Envy and the Evil Eye

Chapter Three in this study indicates, the Nuer believe that in taking things, God takes only what is his. He is compassionate, however, and spares a man if he sees that he is poor (can) and miserable. All Nuer want to have more cattle and other property. Nuer, however, think it is not safe to be proud of one's good fortune. Pride in a large number of children or cattle may cause God to take them away. It follows that the Nuer are very uneasy when their good fortune is even so much as mentioned by others. Praising a person's moral qualities of courage, bravery, and generosity is considered proper, but it is more than rude to comment on another person's physical well-being, the size of his family, or the number and quality of his cattle, or other possessions because evil consequences could follow. It is what the Nuer call vol ior. Yol hor is an intent to destroy another person's wealth and property. A Nuer does not praise a cow, especially to talk about its exceptional milk yield, for fear it may cease to give milk. Nuer also believe it is dangerous to tell a young initiate that the gar on his forehead are healing rapidly well, because such a remark may result in a healed spot festering anew.

The idea of vol ior overlaps with that of the (p eth) evil eye. The Nuer consider the evil eye as an act of covetousness and envy (Evans-Pritchard 1956: 15). Covetousness and envy are generated by the act of perception. There is no objective criteria for what it is that generates them in a society of equals. Schoeck (1969: 25) observes that anyone who has a propensity for envy, who is driven by that emotion, will always manage to find enviable qualities or possessions in others to arouse his envy. One dislikes others because of their personal or

material assets, being, as a rule, almost more intent on the destruction of the assets than on their acquisition. Among the Nuer, a person believed to cause harm and even death to those who come across their path sometimes without any motive at all other than the inherent evil in their personalities is thought to have the evil eye (peth). Nuer believe that people in that state of mind do not possess the ability to control their own malice. According to the Nuer, peth is a diseased state of mind that has no remedy.

If anyone becomes ill shortly after the visit of a person possessing the evil eye—most of whom are well known characters—it is assumed that he has been bewitched. The illness is usually supposed to have been caused by the secret insertion into his body of the bone of some animal, fish, or foreign substance (Kek 1989; Jackson 1923: 164). A custodian of juath (health) can be called in to remove such a foreign substance. According to one informant, there is no scar when the bone enters the body and no marks when it is extracted from the body of the patient.<sup>13</sup> The object that has been removed from the body of the patient is shown to the people who are present to see and to touch it. Persons with the evil eye are often killed with at least the tacit consent of the whole community to which they belonged (Howell 1954a: 218). Some informants report that, if compensation is demanded for such a killing, only six head of cattle need be paid to the kinsmen. Others say that no compensation is ever paid for peth.<sup>14</sup>

#### Cattle Camp and Water Use

When the Nuer leave their villages in the dry season, they regroup in large cattle camps located near reliable water sources. In the camps a higher level of solidarity, both spatial and moral, exists than does during the rainy season. People live very close to one another in summer huts and gauni; cattle that in the villages are kept in separate kraals are tethered in the same kraal or in adjacent kraals. In the

rainy season when the water and pasture are abundant, families herd their own cattle, but in the dry season cattle camps, the cattle of all camp residents are watered and pastured together and the different families take turns to provide herdsmen.

Despite the solidarity of people in the cattle camps, conflicts are easy to begin because people who live very close to one another are competing over limited resources. These conflicts sometimes lead to destructive violence. Fishing and joint herding most frequently provide the context in which disputes arise.

Fishing at any threshold of supply of fish may impair the value of the water supply to each individual herd owner. In most Nuer areas, natural pools are used as sources of drinking water for both human beings and animals. Water for human use is stored waat (hafirs). Hafirs are built with or without devices to prevent pollution, leakage, and evaporation. They can supply water for a few weeks or even for the whole of the dry season depending upon the rainfall in that particular year.

Fishing in a pool or lake makes the water dirty and undrinkable because of the presence of rotten fish and other debris. Therefore, fishing reduces or drives out other patterns of water use. People and their cattle will suffer, and there will be a deterioration of the quality of life among the population dependent on a particular water source.

Although there are shared interests in the common good of the residents and cattle in the camps, some individuals fish in the pools even though fishing is not allowed. Fish tend to congregate where fishing is not allowed creating temptations for those who fish. This causes conflict between residents of the camps and threatens to undermine the covenantal relationship among the residents. If fishing continues, some camp residents will stop it by force. Because of the danger of breaking down relationships within cattle camps, institutional

arrangements are available to repair the damage. The elders who own the cattle, age set leaders, custodians, and priests mediate these kinds of violations.

Pools also contain plant materials that is used for food, especially in bad times. Because Nuer do not use water vegetable materials extensively, little is known about them. Wild fruits, seeds, and roots comprise a very small portion of the Nuer diet and are not fully utilized in normal times. The seeds and roots of water lilies (Nymphaea lotus) are found in pools and lagoons in the early dry season. In times of hunger when some of these plant materials are fully utilized, they become an important source of food and are guarded by the claimants. Ignoring these claims results in disputes that are settle through discussion.

#### Regional Divisions and Wider Society

The scarcity of water and seculent grazing in Nuerland leads to conflict between regional divisions that do not usually share resources during the rainy season as well as between members of different regions, especially those living in frontier communities. Because of the need for a seasonal migration to a limited number of perennial water sources, members of Nuer villages, which are the chief interacting groups in Nuer society, have to cross to neighboring portions of land to share cattle camps, water, and fishing pools.

Although the environmental restraints upon Nuer society demand that there should be peace and cooperation between regions and within regions and seasonal migrations are carried out with the prior agreement of the right claimants, conflicts arise over the use of grazing lands and water sources. Some of the disputes arising from proximity and use of scarce resources in common may lead to destructive violence. However, there are social restraints on the use of violence. These include the marriage role exogamy, the ready acceptance of strangers into a cattle



camp, clustering around a dominant lineage, the acceptance of the ritual sanctions of a common mediator, shared age-set membership, and joint attendance at feasts and ceremonies. All these factors link the members of one village, cattle camp, district, and regional sections with members of others. But it is in the neighboring villages that they function most effectively and are most necessary. Beyond the district level, although the principles remain, the application of these principles becomes weaker and less effective.

#### Nuar Mer and the Slave Trade

The Gaawar Nuer and their Dinka neighbors suffered more from raids from the merchant camps on the Bahr el Zeraf than other neighbors of the Nuer such as the Lou, the Thiang, and the Lak. Merchants exploit internal feuds among different lineages among the Nuer. The intervention of the slavers in the area also leads to some sort of centralized leadership as individuals gather around the strongest leader for protection. He was the most trusted ally of the slave traders. His followers consisted of fugitive communities from the Luc, the Ngok, the Twic, the Nyarweang, and the Dour Dinka who left their country because of famine.

Nuar Mer was originally a Thoi Dinka who came as a young boy to Gaawar land during a time of famine in his homeland.<sup>15</sup> He was adopted by Mer Teng, the land custodian and priest from Kerpel division of the Gaawar clan. Kerpel is a dominant lineage in the area and provides leadership among Gaawar people at the time. After the death of Buogh Kerpel, the Bar section of Gaawar split off from the Radh, who were the immediate descendant of Kerpel (Johnson 1980: 201-210).

Mer made an alliance with slave traders on the Bahr el Zeraf in about 1865 (Coriat 1923: 3).<sup>16</sup> When Mer died, he left his adopted son Nuar as the land custodian as a means to overcome the rivalry between his real sons. Nuar was reluctant to accept the position because of

real hostility to his Dinka origins, even though he was supported by the majority of the Kerpel lineage. As an earth custodian the community expected him to stand in a neutral position to the rest of the society. The opposition based on his Dinka background was alien to the Nuer tradition. Because of his adoption into the Kerpel lineage, all rights and privileges that accrued to natural members of the lineage applied to him as well. The opposition led to violence, or threats of violence after the death of Mer (Diu 1976).<sup>17</sup> Threats to his position forced Nuar to seek a closer alliance with the slave traders who are currently based in Gaawar land.

Nuar Mer raided for both cattle and people. He exchanged the people for tobacco, sugar, and other goods. He carried offensive war against the Lake, the Thiang, the Lou Nuer as well as some Gaawar, the Nyarweng, the Twic and other Dinka (Johnson 1980: 210). He terrorized people into submission. Children of individuals who dispute with Nuar were captured or the parents themselves were sold as slaves.<sup>18</sup> Johnson (1980) observes that Nuar Mer also got support from the traders to herd captives of Nyadikuony section into an enclosure where they are burned to death in revenge for the murder of another man they had killed. The incident is recorded by early administrators, either as the work of a slaver known as Ali Wad Rahma, or as instigated by Mer Teng (Tangye 1910: 219; Johnson 1980: 601).

Although Nuar was originally a Dinka, he gains the right and ability to function as a priest through inheritance from his adoptive father. His selection is based on the assumption that he may maintain the neutrality of the office better than the real sons of his father. However, by allying with slave traders and raiding the Nuer, he violated the neutrality of the office and committed an affront to God. Because he was increasingly more despotic and relied on the merchants for maintaining him in power, discussion to resolve his differences with his people was not possible. Opposition to him was, therefore, to deny his

right to political or spiritual authority and eventually he was killed in a violent civil war led by his chief rival, Deng Lakka, who had the broad support of many Gaawar, Lak, Thiang, and Lou Nuer (Jal 1989; Johnson 1980).

#### Mediating Conflict among the Nuer

In Nuer society where persons consider themselves as equal to one another before kuoth, mediation is an acceptable mechanism for conflict resolution and the maintenance of lawful relationships. When a person feels wronged or insulted, he challenges the man who has wronged him to a duel. The challenge takes the form of club fighting (Iduai), chest pounding (pat loc), and side slapping (pat rang ran). These activities are a conscious effort to block any deviation from acceptable behavior and to avoid the breakdown of a relationship. The disputation is based on the Nuer concepts of (cuong) right and (duer) wrong. Nuer religious conceptions discussed in Chapter Three contribute to the way in which Nuer think about themselves, their relationship to their universe, and how they relate to one another. These presuppositions shape the common understanding that gains expression in the conception of right.

Conflict over right claims can easily escalate into destructive violence and breach the peace of a community. Disputation and contestation is also a means of illuminating the underlying problems between the parties involved. Given the inevitability of conflict, the institutions developed by the Nuer to resolve a variety of conflicts at different levels of organization are important for an understanding of the working of an acephalous system of order. Processes of mediating conflict among the Nuer reflect the means of supporting and enforcing rule. There are different mechanisms for resolving conflict and formalizing conflict settlement among Nuer households, villages, cattle camps, districts, regional divisions, and in the wider society. The

effectiveness of these mechanisms depends on the level of conflict and the extent to which mutually agreeable solutions exist.

In considering the mediation of conflict in Nuer society, I will first describe the processes of conflict resolution that the Nuer use in recurrent problems at different organizational levels. Second, I will consider how Nuer formalize or confirm negotiated conflict settlement.

#### The Processes of Mediation

When a man is injured by another, he prepares to fight and that breaches the peace within a community. The open contestation and disputation bring in persons who seek ways to resolve the conflict. An earth custodian is one of the key persons in a community for the mediation of conflict. He is a neutral mediator with some additional sanctions to curse or ban the individuals obstructing his efforts to settle disputes. In addition to the threat to curse or ban, the earth custodian's power of persuasion and knowledge of traditional law are important in the disputing process. The process begins by making sure the relevant elders of both parties are present. Then, the principal parties in the case are called in for a hearing of the case. The hearing usually takes place in the byre of (kuar muon) an earth custodian.

The disputants usually describe the circumstances in which an incident occurs. The victim gives his account of the incident and then the offender attempts to justify his action. The elders and anyone else who is present at the proceedings and wishes to express an opinion on a question can be recognized by the chief to do so. After the council of elders has listened to all the relevant presentations, the earth custodian and elders withdraw to discuss the matter among themselves and to agree upon the decision. After reentry to the byre, the mediator and the elders acquaint the disputants of their decision. The parties to the conflict accept the decision of the earth custodian and the elders

because they believe the verdict is right. Although the sacredness of the kuar muon and the influence of the elders carry weight, the verdict is accepted because there is a common understanding among members of the community grounded upon their covenantal tradition. If there is any doubts about the facts of the case, certain oaths, which will be described in the following sections, may be employed, such as swearing statements on the chief's leopard skin.

In order to elucidate the process of mediating conflict, I will first describe the impact of the supporters of the disputants on the process of mediation. Second, I will consider how conflicts are mediated within a Nuer household and extended family, village, cattle camp, tertiary level or district, regional divisions or primary sections, and in the wider society of the Nuer.

#### The Impact of Supporters and the Audience on Mediation

Supporters and members of the audience have a great impact on mediation of the conflict in Nuer society. Their influence varies according to the degree of knowledge, experience, age, social standing, and the number of supporters attending the proceedings.<sup>19</sup> Conflicts between individuals have public consequences among the Nuer. The support each party to a conflict can muster depends upon the relationship between the parties to the conflict and the broader society. In Nuer society, where the forum for mediating conflict is open to any individuals or groups, the outcome of the case may reflect the influence of the people present.

The influence of the supporters or a particular audience poses a potential threat to the fairness of the outcome of the case. To resolve this problem, a mediator mobilizes his own kin group to support him in persuading the kin group of the victim to accept (cut ran) compensation and also to balance the influence of the disputants' supporters. The impact of the presence of the kin of a mediator as well as those of the disputants in the disputing process makes it easier to resolve the

conflict more objectively. Their presence encourages the supporters and mediators to examine more thoroughly the available evidence so that the decision about who is right or wrong is fair. The role of supporters and the audience can be demonstrated by the following case.

In 1967, Riek Thijoak and Dep Rundial of Diror village fought over the issue of crop damage by Riek Thijoak's cattle. Dep Rundial was seriously wounded. Close kin of Rundial wanted to avenge him in an open fight with the kin of Riek Thijoak. Many persons on both sides understood that if the fight started many people could lose their lives and consequently the village was likely to break up. There were other problems between the groups. Pal Thijoak, the brother of Riek Thijoak, was involved in an inter-village fight in which some persons had sustained injuries. Considerable bitterness existed as a result of this incident. Thijoak's kin chose to appeal to kinship sentiment and emphasize the need for harmony in the village. They decided to accept compensation in cattle for the injury and the damage sustained from stray animals rather than begin a fight that could leave many dead.

No mediator or explicit third party was involved in this conflict, but the supporters of both men played an implicit third-party role in urging the disputants to compromise. Supporters in emphasizing common interests encouraged the disputants to define their dispute in terms acceptable to both. The rephrasing suggested by the supporters also helped the disputants to see the conflict in a more friendly way to include the many cross-cutting relations between them in the village. That is, the broader interests of the supporters and members of the audience to which both men are closely linked altered the way in which the dispute was interpreted by placing it in the context of family conflict.

#### Household and Extended Family

In a family composed of a man and his wives and children, the man who is the head of the household resolves conflict within his family and requires no outside mediation. If disputants are his wives, the man listens to his wives, each arguing her case before their husband. After listening, he decides about who is wrong and corrects the wrong that has been done. Problems among children are resolved by parents and their older siblings. If a man kills his wife, he pays an ox or steer to the

family of the woman for the purification rites, but there is no compensation because the man cannot pay cattle to himself. If she is slain by a third party, her husband is compensated.

The Nuer believe that homicide and incest within a local community are wrong. But a man may be led into breaking the homicide rule by following another rule of approved behavior. Because Nuer teach the young to defend their rights by force, any man can unintentionally kill a cousin in a club fight. The rules prohibiting sexual relationships may not be clear to individuals because the genealogical reckoning in some directions is complicated.<sup>20</sup> A man may easily be unsure whether or not a particular woman stands to him in a prohibited relationship. The uncertainty of the relationship is compounded by the fact that all the members of a particular Nuer family do not live together in one village. So there can often be more than one view of an action due to a disagreement about what is relevant to moral judgment.

The way these problems are resolved reflects the need to maintain harmony within the extended family. In the case of the fratricide above, there is no outside mediation, no vengeance for the slain, and only a few cattle are paid by the father of the slayer to the paternal uncle as a contribution to the cattle needed in order to secure a wife for the deceased. In this situation, the act is viewed as a sin and the ritual of spiritual cleansing is performed by an earth custodian. Features of the ritual sacrifices are considered in a later section on formalizing covenantal relationships. A man who commits incest with a kinswoman, not knowing her to be a kinswoman, suffers no serious consequences. The act is not considered incest because those involved were unaware of the relationship between them. In all cases, a family head mediates conflicts between his own household with other households.

The responsibilities of mediating conflicts within an extended family or lineage were, however, reduced by the imposition of the British governing authority and appointment of government chiefs.

Conflicts that were earlier considered by the Nuer to be strictly private became public problems to be settled in the government chiefs' court. When there was a conflict between Nuer custom (rule) and the law of the imperial authority, the chiefs usually supported the law of the colonial government. The following case (recorded by Hutchinson 1988) elucidates the nature of the change in rules.

In the early 1950s a widow of middle age was cohabitating with her heir, the brother of her late husband. She committed adultery and the dispute was whether she should be divorced on charges by her late husband's brother after having born her husband four children—two of whom were living at the time of the conflict. Of the four children she bore, the first two were fathered by her late husband, the third, by her heir and the fourth (which had died during the delivery), by a lover. The case was reported to the Leek Nuer chief's court for a decision on the issue.

During the hearing there were lengthy debates about two competing rules: the widow's late husband's brother has the right to demand divorce on the grounds of adultery which violated this right in his wife. The other is that the widow had fulfilled her procreative obligation to the family of her husband and the children needed to be raised to adulthood within that lineage. These entitled her to permanent membership in her late husband's family and lineage.

The judges discussed these issues at length, trying to convince the late husband's brother of his responsibilities to his brother's wife and children, and the need to make peace with his late brother's affines when a quarrel has separated them. Attempting to reconcile this view with a consideration of the brother of late husband rights was difficult. The trial took a number days and achieving a proper balance between the rights of two competing publics became increasingly complex.

The widow defended her decision to take a lover on the grounds that her husband's brother was unable to fulfill his obligations to her and her children because he travelled frequently to Khartoum and often remains there for years before returning to see their conditions. All she desired from the court was permission to remain together with her two daughters in her late husband's home and to bear additional children in his name by her lover. Her late husband's brother, however, was adamant about divorce. He did not want the woman in his home. The court ultimately dissolved the marriage union.

This decision was unprecedented. During the early 1940s the council of elders of the family of heir and the family of the widow would have certainly resolved this conflict in favor of the widow. Because she had two surviving children at the time of the case, Nuer



rules of conduct favor that the children to be raised to maturity by the father and mother together. The court's decision reflected the colonial influence on the Nuer chiefs, especially when a British official was the legal advisor to the chief's court (Howell 1954a: 235). The court's decision had a great impact in articulating a new constitutional standard for Nuer society and encouraging government chiefs and the British courts in Nuerland to challenge the traditional marriage law based on the new rule of constitutional requirements (Hutchinson 1988). The general recognition that divorce was possible at all particularly after the conclusion of a marriage union and after children have been born of the union had the effect of encouraging divorce.<sup>21</sup>

#### Village and Conflict Resolution

The rules governing level of relationships are different from one type of relationship to another. A village is composed of different social groups, and residents hold membership in multiple groups. These overlapping ties are taken into account in conflict situations and in mediating disputes. The smaller the group is, the stronger the sentiment of solidarity among members. For this reason, relationships in the village are stronger than the feelings of unity among members of a regional segment.

A village is a segmentary unit of governance to facilitate active individual participation in the affairs of his or her village. Each Nuer village is divided into hamlets. Each hamlet provides its own mediative services for its residents. Hamlets are residential units built not on kinship ties alone but also they are built within a conceptualization of transcendental order to God. This common understanding affects the way conflicts are handled among residents in the village. Disputes between members of two hamlets are mediated by elders and age set leaders of the two hamlets. In cases of general interest to all members of a village, representatives of the hamlets, who are chosen on the basis of age and competence, constitute the

council of elders to work out resolutions to problems affecting all villagers. Decisions are made by a majority of the council members often after long discussion. Where there are doubts about the truthfulness of the statements, persons are made to take an oath before an earth custodian and elders. The following case elucidates how Nuer mediators resolve the problem of obtaining "truthful" evidence in trouble cases.

There was a dispute between Ruot Nguany and Yiei Garekui in January 1964 in Ler, which is west of the Nile among the Dok Aak.<sup>22</sup> Nguany gave his garden to Garekui for use for grain production in the coming rainy season. Garekui cleared the plot and planted when the rains came in May. In early July, Nguany contacted Garekui that he wanted his garden back. Garekui refused and argued that they had an agreement that he should use the garden for the 1964 rainy season. Nguany denied he leased his land to Garekui. Garekui insisted that he was using the land with his (Nguany) permission for one season. There was only one witness, Kedo Tap kong, the wife of Nguany. Nguany reported the problem to his father's brother Manguet Per that his garden was being taken by force by Garekui and that he (Yiei Garekui) planted the garden with grain and vegetables without his prior permission. Nguany and Per decided to cut down the flowering grain.

At night the two men went to the garden and cut all the flowering grain and vegetables. Garekui visited the garden the following morning and found the crops destroyed. He immediately concluded that the disaster was committed by Nguany and his uncle. Garekui decided to fight it out with Nguany but on the way to Nguany's home he changed his mind and went to report the case to kuar muon (who was also the head chief of the local government) of Ler area and took with him samples of the crops which were cut down. The samples of crops were shown to the chief, and Garekui related the story.

Deng Luth, the kuar muon, summoned Nguany and Per for questioning. When the two men were asked whether or not they destroyed the crops of Garekui, they denied that they did. The two men related that the garden belongs to Nguany and that Garekui took and planted the garden without the prior consent of the owner. However, they denied any knowledge of who destroyed the crops. The chief called Kedo Tap Kong, perhaps she would tell the truth and when she was asked, she confirmed that there was no agreement between her husband and Garekui about the garden. Garekui reiterated to the chief that there was an agreement to use the garden and that there was no force used to get the garden. He said that the statements made by Nguany, Per, and Kong were false. The chief told the parties to the conflict that the case was a serious one and he was going to perform kueng (oath) unless somebody told the truth.

Kueng is a hole dug under the instruction of an earth custodian.

The hole represents a tomb. A bed-like arrangement is made for the dead

body to rest upon, and then the hole is covered with mud. The accused usually supplies the sacrificial animal, but sometimes the accuser provides the animal. Accused, accuser, and their witnesses are told that, if they are innocent, they should step over the grave as they make their declarations of innocence. If they are lying, they should not cross the grave. The priest then utters an invocation over a tethered victim (a sheep) that whoever crosses the grave falsely declaring their innocence will die. Mary Smith (1956) recorded the curse of the priest on a similar occasion.<sup>23</sup>

<sup>1</sup> . . . now, sheep, thy blood is shed to death on account of the man who is at fault.' He then calls on God: God of heaven, God of our fathers God who created all things, God of the universe, God of the flesh (ring), I call on thee to look upon these persons, that the man who is at fault may die. Now, I know that thou, O God, listenest to my speech (rietda).

Nguany, Per, Kong, and Garekui all stepped over the kueng, that is declaring that they were telling the truth. Kuar muon gave them three to six months to live. He told Kedoa Tap Kong, the wife of Nguany, that if she is lying she will be first to die followed by Per, then her husband, and then other members of their extended families. The same was applicable to Garekui. According to Wicjal Bum (1989), Kedoa Tap Kong died from birth complications after some months and the other Manguet died afterwards.<sup>24</sup> Yiei Nguany became sick and confessed that he had lied to kuar muon. He asked if kuar muon could retract his curse, but kuar muon responded that it was too late to do anything because some persons had already died. Nuer believe that if kuar muon retracts the curse for any reason, he or his children will die because that is seen as a corruption of the power of kuoth. Ruot Nguany could not be saved but died in fulfillment of the curse.

#### Cattle Camp and Mediating Conflict

A cattle camp is divided into clusters of windscreens used by a group of household who jointly herd their animals. Conflict mediation is carry out within these smaller units by heads of households, age set

leaders, and other influential community leaders. Dividing a camp into smaller groups reduces the size of conflict that each body of persons must deal with. Everyone is known by everyone else so that mutual monitoring of behavior is nearly costless. The enforcement of decisions is also easier.<sup>25</sup> However, conflicts of general interest also arise in a cattle camp. Such disputes are mediated by an assembly composed of the representatives of all the clusters of windscreens.

Loss of cattle to predatory animals is often attributed to negligence on the part of the person who was responsible for herding on a particular day. The herdsman is considered liable for any loss of cattle. If the loss of a cow can be traced to negligence on the part of a herdsman, the person who has lost a cow raises a case against the herdsman before the council of elders. The decision is usually unanimous that the family of herdsman is required to compensate the loss.

#### District and Regional Divisions

Conflicts within a district are usually between villages that share a cattle camp, attend common feasts and ceremonies, shared age set membership, and common belief in the transcendental order of God, etc. Because most of the villages are linked, and all accept the ritual of a common mediator, the mediation of disputes is carried on by elders, age set leaders, and custodians of the villages involved.

If conflict cannot be resolved by the members of the leadership of the villages, neutral persons from another village or villages are called in to mediate. Their decisions on the issues are binding on all the disputants. Disputants accept the decisions of mediators from outside their villages or districts because they are considered impartial and also because the parties to a dispute are willing to resolve the conflict. The elders, age sets leaders, and custodians, and priests enforce the decision after the two groups have performed the necessary rituals that formalize the settlement of the conflict.

Conflicts between regional divisions are expressed in terms of lineages of the dominant clan associated with the sections. Regional divisions or primary sections of a region are not in frequent contact, so when there is a conflict between them, someone outside the dominant lineage who has extra power to sanction is needed to mediate. This is one of the conflict situations in which the kuar muon (earth custodian) functions as a mechanism for mediating. If a man refuses to accept the decision of kuar muon as arbiter, after everyone else has accepted his decision, including his elders, the (kuar muon) may pass his official badge, the leopard skin, to the man refusing to accept the decision. An action of this kind is tantamount to a curse. The man must give an ox or a cow to the priest (earth custodian) in order to convince him to take the leopard skin back.

#### Conflict Resolution among Regions

Conflicts between regions are seasonal because of the need to share cattle camps, water, and fishing pools in the frontier districts during the dry season. It is usually encroachments on grazing lands and water sources by other people that brings about disputes. Theft of cattle, sheep, and goats is also a source of conflict between regions.

Relationships across regions restrain the use violence and work to promote peaceful resolution of conflict through negotiation. There are kinship alliances between persons of different regions, the Nuer readily accept strangers from other regions as members of their cattle camps, and Nuer of all regions share memberships in an age-set system. All Nuer accept the priestly sanctions of a mediator. Mediating conflicts between regions is carried out by age set leaders and prophets. The most senior age-set have authority across regions in Nuerland because of their age. Because younger men respect them, older persons can mediate conflicts using ric (age set) relationship as the source of their authority. Negotiated settlements are enforceable because they can

"command" the junior men and also because of the willingness of the parties to resolve the dispute.

The prophets are able to resolve of conflicts among peoples who share a common border such as the Lou and the Gaawar Nuer. From the 1850s to the late 1920s, prophets represented different regions and their peoples, but their influence extended over regional boundaries. Because of this influence, Guek Ngundeang of the Lou Nuer as able to negotiate between the Lou and the Eastern Jikany Nuer, especially with Gaajok and Gaaguang primary sections, payment of compensation for homicide. Deng Laaka of the Gaawar clan had similar influence among the Thiang Nuer.<sup>2\*</sup> Bum Dieu of Dok, Gatluak Nyak of Nyuong, and other Western Nuer prophets were able to unite neighboring regions for raids against non-Nuer. The prophets are not a mechanism of regional structure like (kuar\_jnuon) earth custodians or (wud\_ghok) cattle custodians. They are pivots of federation between adjacent regions and personified the cohesion of the Nuer. This position enables the prophets to mediate conflicts between regions.

#### Formalization of Covenantal Relationships

Restoration of covenantal relationships between individuals take more than an agreement over the terms and conditions of reconciliation. Sacrificing cattle to God is the most popular way of formalizing covenantal relationships. It is important, however, to realize that Nuer sacrifice animals on many occasions: when a person is sick, when sin has been committed, when a wife is barren, sometimes on the birth of a first child, at the initiation of sons, at marriages, at funerals and mortuary ceremonies, after homicide and at settlement of feuds, before war, when persons or property are struck by lightning, and sometimes before large-scale fishing enterprises.

Nuer perform two broad types of sacrifices: personal and collective. These terms refer to the distinction between sacrifices

offered for persons who may be sick and those offered on behalf of social groups. I am interested also in the intentions of the persons in offering these sacrifices. The first type of sacrifice has primarily a kok (piacular) intention and the second a confirmatory one. H. Hubert and M. Maus (1899: 89) observe that the first are sacrifices of "desacralization" (they make the sacred profane, they remove a Spirit from man) and the second are sacrifices of "sacralization" (they make the profane sacred, they bring Spirit into man). I will limit my discussion here to the role confirmatory sacrifices play in the formalization of covenantal relationships, but reference to personal sacrifices will be made when it is necessary.

The main function of collective sacrifices is to confirm, legitimize, reestablish, add strength to, either a change in social status—war to peace, hostilities to harmony, separation to bonding—or a new relationship between social groups, such as the ending of a blood feud by making God and the ancestors, witnesses of it (Dung 1989; Gatluak 1989; Evans-Pritchard 1956: 199). Many ceremonies are incomplete and ineffective without sacrifice, but sacrifice may be only one aspect in a complex of ceremonies, dances, and rites of various kinds, that have no religious significance in themselves. The importance of sacrifice lies in the fact that it sacralizes the social event and the new relationships brought about by it. It solemnizes (consecrates) the change of status or relationship, giving it religious validation. On such occasions sacrifice has generally a conspicuously festal and eucharistic character (Evans-Pritchard 1956: 199).

Confirmatory sacrifices give religious validation to conflict resolution achieved among individuals in households, villages, cattle camps, districts, regions, and in the wider Nuer society. This explains why such rituals are performed by specially appointed representatives of the groups concerned or by public functionaries. In Nuer society,

confirmatory rituals are performed as part of the reestablishment of social relationships that have been breached.<sup>27</sup>

#### Ritual Sacrifice among Kindred

When homicide or incest occurs among close kin it is usually considered to be a religious sin. The remedy for sin is sacrifice, which a cleansing of blood performed by a priest. Looking closely into the cleansing of blood, however, we see that it is combined with peacemaking and a affirmation of kinship solidarity. An ox is sacrificed for a cleansing of blood. The cleansing of blood, like all other Nuer ritual sacrifices, both personal and collective, consists of four basic features that require brief consideration to the structure of the activities.

The first act of the process of sacrifice is the puot vang (the presentation and tethering of the sacrificial animal). When an animal is identify for sacrifice, it is brought to the place where it is to be killed. The puot vang (the tetherer) drives into the ground with puot qhok (a wooden club for the purpose) the tethering peg (loc) of the animal. After an ox is staked, the puot vang (the tetherer) pours libation of water, milk, or beer under the tethering peg that complete the presentation of the animal for sacrifice. The second act of sacrifice is the buk vang, during which ashes of cow dug are placed on the back of the sacrificial animal which is lightly rubbed with the right hand. This is the act of consecrating the animal to God. The buk (rubbing) is finished before a person speaks the invocation (lam). Every speaker repeats these actions in turn. Some persons place ashes on the back of the animal without speaking. The act of placing and rubbing in ashes consecrates an animal for sacrifice symbolize the substitution of the life of a beast for the life of a man and hence also the identification of man with beast (Evans-Pritchard 1956: 210).

The third stage of the process is the lam vang (invocation), which requires the officiant to speak to God over the sacrificial animal. The



lam yang defines the intention of the sacrifice and includes other matters that are relevant in the case. Speakers address the audience as well as God. They state the purpose of the sacrifice as well as all sorts of affirmations, exhortations, reflections about life, anecdotes, and opinions. The invocation is given by the priest or earth custodian because of a fear of slipping away from known efficacious procedures. During lam vancr (invocation) grievances are made public not with the intention of inflaming passions, but because it is the rule of such assemblies that everything a man has against others must be related in order to be discussed and resolved. As a result of such open discussions, it is less likely that parties will harbor unresolved bitterness.

In his invocation, the earth custodian calls upon kuoth cakda (God of our creation) and relates the history of whatever has happened. Nuer say a man must make invocation in truth (thuok). Every statement made in the presence of God must be true even, the minute details of the history of the events that led to the situation that occasion sacrifice. Evans-Pritchard (1956: 211) observes that the victim (ox) offered to God has placed on its back by the earth custodian and other speakers what is said in the lam (invocation), and if the sacrifice is to be efficacious what is said must be true.

Fourth stage of the ritual is nak yang (killing of sacrificial animal). After the end of his address, the kuar muon spears the ox. An ox is speared on the right side; sheep and goats have their throats cut. People rush to cut up (kuak) the carcass. It is a custom in such rituals of cleansing that meat is not subject to orderly division. You take what you can get out of the carcass. When kuak (rush to cut meat) is over and people resettle, the priest cuts off some of the hair of the head of the man who has slain another symbolizing that he is free from contamination.

To formalize the reestablishment of relationships between close kin who commit incest and to prevent fatal disease, a priest is called in to perform the ritual known as the ritual of separation of incestuous parties (bak ruali). At the end of this type of sacrifice, the ox is held to the ground while the priest inserts the point of his spear in its throat and cuts towards the breast. He severs the ox in two, dividing the head into two pieces with an axe. As the priest or his representative makes the final cuts, the parties to the offence tug at the carcass on either side and pull it apart. This is the process of bak ruali. The separation of the carcass symbolizes that the parties to the incest are not supposed to have sexual intercourse because they are kin and must keep apart to maintain kinship ties.

#### Village and Cattle Camp

The ending of hostilities in a village requires some sort of a ritual to formalize the renewal of relationships. Insults and club fights among members of a village or a cattle camp that strain relationships are brought to an end through the resumption of sharing food, beer, milk, and common activities. Mutual friends, age sets leaders, elders of the parties in dispute, or allies call the persons who are separated by quarrels together for some beer, food, or a work party that affirms the fact that the past conflict has ended. Eating or drinking milk or beer together, among the Nuer, symbolizes good relationships. A Nuer will not normally share food with one another if they are in a serious conflict with one another.

Some events involving members of a village or cattle camp that require more elaborate confirmatory activities. These events include: the act of homicide, adultery, and incest. Ritual performance is always necessary in formalizing the end of a blood feud, kor (the consequence of adultery), and incestuous relationships between. Need for harmony in a village or a cattle camp makes speedy confirmatory sacrifices absolutely necessary. Persons living close to one another and relying

upon each other for important tasks cannot survive a lengthy feud. A feud is incompatible with the normal life of a village or a cattle camp. Confirmatory sacrifices related to conflicts requiring the cleansing process are carried out by religious functionaries. The process of reestablishing new relationships involves as described earlier in this section.

In order to renew intimate relationships between groups and families, another ceremony known as maath (bringing parties to friendship again) is held. It takes place after some time after the compensation cattle have been paid if the geographical distance between the groups concerned is not too great and if both parties are willing. This ritual to reestablish covenantal relationships includes drinking water, milk, beer, etc., from a common bowl to express the reinstatement of relationships between the groups. An ox (thak) supplied by the slayer called vang tol coka (the cow of the breaking of the bone) is also sacrificed. After the sacrifice, which seals the covenant with blood, one of the ox's bones is held at either end by representatives of the two parties while the earth custodian severs it in two. The left half of the bone is thrown away. The two parties then consume the flesh of the ox together (Bum 1989; Howell 1954a: 46; Evans-Pritchard 1956: 256).

#### District and Regional Division

Members of an extended family do not live in one village or in one district but are usually found in several different villages and districts. There are social links between persons in such settlements that include common belief in a transcendental order of God, marital alliances, and age-set membership. They also share cattle camps, grazing, and water and all accept the ritual sanctions of common mediator. These links facilitate communication among persons in villages. Shared feasts and ceremonies occur between primary groups of a region when some of their members share a cattle camp in the dry

season. The Lou Nuer share cattle camps with the Gaajok of the East Jikany Nuer during the dry season along the Sobat River. Similar mix takes place between Gaawar and Thiang Nuer of the Zeraf communities.

When individuals in different villages in a district want to seal an agreement with blood to end hostilities, the identity of the officiant in the sacrifice depends upon the nature of the conflict. The officiant is usually the diel (oldest member of the dominant lineage) in the district. Where there is religious sin involved in the conflict, a priest is often asked to perform the sacrifice. Hostilities are finally put to rest by calling upon God and common ancestors to witness change of relationships through confirmatory sacrifice. Once a covenant is made and sealed with blood a violation of the established covenant is viewed as affront to divine will.

#### Ritualization of Covenantal Relationships among Regions

People who do not have constant contacts have little to quarrel about because they do not share scarce resources. During the dry season, however, some groups come to share grazing and water sources in frontier communities. As already mentioned in earlier chapters, sharing grazing grounds and water can result in abuses such as fishing in protected water. This leads to conflict.

The mutual need to share limited resources, however, provides incentives to seek the binding resolution of conflict. Reestablishment of covenantal relationships grounded upon common religious presuppositions across regions is necessary for Nuer survival. This is possible because of a common language that makes communication between regions relatively easy. Shared age set system also assists in ending conflict.

Senior age sets of each region are entrusted with facilitating the implementation of agreed upon settlements for conflicts that have arisen between regions. In a majority of cases, priests perform the sacrifices that confirm settlements between groups from different regions. Nuer

believe a prophet can sanctify a covenantal relationship between persons of different clans. They also believe in the power of the ritual sanctions of a prophet. The sanctification of relationships is possible because of common system of beliefs of the Nuer. Common religious beliefs shape the way they think about themselves, their universe, and their relationships with the other people they may come into contact.

Sanctification is believed to be important because it transforms a relationship between persons from different regions from hostility to harmony and changes the attitudes of parties to the conflict so that they can adopt the terms and conditions of the settlement. The act of consecration of life does not by itself make permanent peace among persons. It succeeds only because the community of understanding among individuals involved recognizes its importance and value. Universal credence, which exists before the rituals are performed, is the condition of ritual efficacy.

### Conclusion

Conflict (that sometimes escalates into destructive violence) exists in Nuer society at various levels of segmentary organization. Considering how conflict is resolved provides one means of elucidating features underlying the organization of the Nuer household, the villages, the cattle camp, and larger groups beyond the district levels.

Nuer conceive of conflict as contestation and argumentation. Making claims and counter claims grounded upon the Nuer concepts of (cuong) right and (duer) wrong. Claiming a right may in some sense be divisive, although it need not be disruptive. In many cases disputes over claim of rights in some way sets one person or part of a segment concerned against another person or part of the segment. A dispute can lead to fighting that undermines the covenantal relationships among persons in the community. Contestation and argumentation can be

mediated by a variety of persons wish to find an equitable solution to a conflict.

There are many types of conflicts at various levels of organization in Nuerland. They occur in the contexts of households, villages, cattle camps, and beyond tertiary sections or districts. Because there is no common mechanisms for conflict resolution, each type of conflict is resolved within its context through discussion.

Mediation is necessary only when the principal adversaries are unable to discuss a problem without the assistance of a neutral person. In Nuer society, the mediator's task is to listen to a presentation of the facts of a case by the litigants and other persons in order to find out who is in the right or is more right. If there are doubts about the facts of the case or the truthfulness of the statements of the litigants and witnesses, litigants and their witnesses can be made to take an oath.

The identity of the mediator depends on the type and the context of the conflict. Among close, kin homicide is a religious sin requiring the purification of the blood of the slayer and ritual sacrifice. A man who commits incest with a kinswoman, not knowing her to be a kinswoman, usually suffers no consequences or no serious consequences. This is not consider incest because he was unaware of the nature of the relationship between them.

Disputes within a Nuer household (or within households that are closely related to one another) require no outside mediation. An extended family is capable of governing itself. A neutral mediator is a necessary mechanism for conflict resolution in cases that span two lineages because of the high value placed on immediate vengeance as a principle. Revenge is grounded in the right of others in recognized communities of relationship to demand compensation for damages and also on the obligation of the segment of the person who caused the injury to pay compensation.

There are, however, social restraints on the use of violence.

These restraints include kinship links due to the principle of exogamy, a common cosmology, the ready acceptance of strangers in a village group, the acceptance of the priestly sanctions of a common mediator, shared age-set membership, and joint attendance at feasts and ceremonies. A variety of different ties link the members of one village and cattle camps with members of others. These relationships extend across boundaries although they are more effective in neighboring villages and camps. Beyond the district level, even though the same social principles operate, practice may be moderated by expediency.

Formalizing of the reestablishment of covenantal relationships depends upon a sincere expression of remorse by the individuals or groups for the act that requires confirmatory sacrifice. In the ritual process of sacrifice, a number of steps are taken to ensure that the members of the two communities understand and are committed to peace in addition to the expression of remorse. Individuals walk long distances to be present. It is during the sacrifices that problems between individuals and between groups can be thoroughly be discussed and resolved. This is done in the presence of God and the ancestors who are concerned about the reestablishment of peace.

Notes

\*For further reading see Wilson 1988; Peristiany and Pitt-Rivers 1992: 1-7; Jean 6. Peristiany 1966; 1974.

information is obtained from an interview with Rev. Maluit October 12, 1989 in Khartoum; also see Evans-Pritchard 1956: 239 and 222-3 in this study.

Uninitiated dance in ordinary festivals, but they are excluded from dancing (rau) and displays with an ox.

\*Leng are jokes made by cousins or closely related persons. Leng are sometimes abusive (see Evans-Pritchard 1951a). The joking relationship in its reciprocal form can be regarded as a kind of friendliness expressed by a show of hostility. The mutual abusive behavior is hostility in other connections, but the joking relatives are required not to take offence but to respond in the same way (see Radcliffe-Brown 1951: 57).

<sup>5</sup>Recorded from interview with Riel Gatluak on September 26, 1989 in Kosti, Sudan and from Thijin Banak on September 29, 1989 in Khartoum.

\*This point has already been discussed in some detail in the section on courtship in Chapter Four of this study.

<sup>7</sup>Thabac Duany furnished this information in a personal communication in March 1983 in Juba, Sudan.

<sup>8</sup>Recorded from an interview with Riek Kerjok on October 12, 1989 in Khartoum.

'Divorcing a woman with two or more children was extremely difficult, if not impossible, in the 1930s among the Nuer. It was thought that the woman had met her procreative obligations and should not be divorced (Evans-Pritchard 1951a: 91-92; Howell 1954a: 145,149; Hutchinson 1988: 301-302; Gatluak 1989; Kek 1989.

<sup>10</sup>This information is obtained from an Interview with Sayed Yoal Dok, former Governor of Upper Nile Region, September 15, 1989 in Khartoum.

<sup>u</sup>This information was obtained from an interview with Tap Lia Kon, on September 17, 1989 in Khartoum.

^Information obtained from Magany Gai, on October 21, 1988 in Atlanta, Georgia.

"information obtained from Nyagony Kek on September 25, 1989 in Khartoum.

<sup>14</sup>Howell (1954a: 218) observes that such compensation is never paid. Riel Gatluak maintained in an interview on September 26, 1989 in Kosti, Sudan that there is no strong retaliation from kin of peth.

<sup>15</sup>Malual Mayom 1975 (originally cited by Douglas Johnson 1980: 600). He maintains that Nuar he is Thoi, which confirms Struve's (1908: 8) observation.



<sup>16</sup>Coriat claims that the contacts occurred during the life time of Teng Kerpel. This is not important because others such as Mer might have been involved as an intermediary in the establishment of friendly relationships. The merchant camp was established in around 1865 (see Johnson 1980: 601 endnote # 81).

<sup>17</sup>This was first cited by Johnson 1980: 210.

<sup>18</sup>Originally cited by Douglas Johnson 1980: 210.

<sup>19</sup>See Mather and Yngveson (1981: 780).

<sup>20</sup>**This** information was obtained from an interview with Wicjal Bum, September 1989, in Khartoum.

<sup>21</sup>The consequences of permitting this divorce was the rapid rise in the frequency of divorce (Hutchinson 1988: 349).

<sup>22</sup>I obtained this information in an interview with Wicjal Bum, September 17, 1989, in Khartoum.

<sup>23</sup>Originally cited by Evans-Pritchard (1956).

<sup>24</sup>Information from an interview with Wicjal Bum, in September 1989 in Khartoum.

<sup>25</sup>**The** average human population of a Nuer cattle camp varies from one camp to another. It is affected by the amount of available grazing land, the type of water sources available, the availability of fish, and how far it is from the permanent villages. The range is from 300-10,000.

Recorded from an interview with Wicjal Bum in September 17, 1989, in Khartoum. Similar information is found in Evans-Pritchard (1940a: 189).

<sup>27</sup>**Nuer** perform no regular and obligatory rite to bring rain, to ensure the fertility of the soil, to mark the on set or the end of the cultivation season, or to ensure the success of hunting or fishing. If in certain circumstances a ritual is performed, such as before large-scale fishing effort, it is rarely regarded as necessary or important. K lack of interest in crop production and hunting may explain the absence of obligatory rituals. Nuer also take the physical conditions of their land as given. They believe they can do very little to affect change the nature of endowment. They must fit their organizations and activities to the situation as it is (see Barbour 1954; Evans-Pritchard 1956: 200; Tothill 1948a).

## CHAPTER NINE

### CONTINUITY AND ACCOMMODATION

#### Introduction

The destruction of the Funj Kingdom of Sennar and the conquest of the Northern Sudan by Muhammad Ali in the 1820's brought both Europe and the Middle East into closer contact with the Nuer. Contact between the Nuer and the Arabs of the northern Sudan before the British arrived was rare but, when it occurred, it was violent. A willingness to build a mutual understanding was lacking. The British imperial government which attempted to establish an order that would free the Southern Sudan from the slave traders from the North, also misunderstood Nuer institutions. An acephalous system of order was susceptible to be misunderstood by persons who were accustomed to a political order with a single head. As indicated in the earlier chapters, the processes whereby the affairs of an acephalous polity are ordered are different from the governmental processes which emanate from a single center of ultimate authority (from palaces or parliaments) to the periphery. Among the Nuer, no one paramount ruler had the monopoly of the prerogatives of governance.

Focusing attention on a summary of the past and recent activities in the Nuerland provides a picture of the impact of foreign intrusion on the Nuer. To demonstrate the effect of foreign rule, the events and influences of three historical periods are relevant. First is the period of the Ottoman Turks and the Mahdiya. The second is the period of British Imperial control. And, the third period is the end of the British Empire and the emergence of the independent Government of the Sudan.

#### The Ottoman Turks and the Mahdiya

Muhammed Ali, an Albanian soldier in the service of the Ottoman empire, emerged as the viceroy of Egypt in 1805. By 1811 he had defeated the Mamlukes and had established his supremacy. Muhammed Ali had two objectives: to make Egypt the most powerful empire in the Middle East, and the second was to

modernize Egypt with western education and technology. Muhammed Ali founded a royal dynasty in Egypt and held the territory he had acquired until the Mahdi's revolution (1881) in the Northern Sudan and the British occupation of Egypt in 1882.

Although the Sudan was not Ali's most important priority, for historical and the geographical reasons, it was the easiest and safest to control. In 1812, Muhammed Ali sent his envoy to Sennar to assess the power of the Funj. The Turks discovered that the Funj were fragmented into small groups, each kingdom independent of the others. They also found out that the Funj did not possess firearms. Several hundred armed Turks were considered sufficient to overcome and penetrate very far into East Africa (Burckhardt 1822: 256-257). As his plans of expansion had been frustrated in the Mediterranean and Arab world mainly by the British and French, the Sudan and the Red Sea were the remaining areas over which Ali could exert control as a means of strengthening himself.

The annexation of the Sudan to Egypt had three major objectives: the first was to obtain slaves for Ali's agricultural and industrial projects and for a black army that would be personally dependent upon him. A conquest of the Nilotic Sudan would bring under his control a principal source of slaves. Peter Holt (1961: 36) observes that, at the time, Muhammed Ali's military situation was precarious and the idea of a loyal army (made up of persons captured from the Nilotic Sudan) assimilated, trained in the European manner and personally loyal to him was most attractive. This was because the Albanian troops, who had raised him to power in Egypt, were now insubordinate. They were given the task of conquering and pacifying the remote provinces of the Sudan. In a personal letter dated September 23, 1832 sent to Muhammed Bey Khusaw, his son-in-law and the Governor-General of the Sudan, Ali emphasized this objective: "You are aware that the end of all our effort and this expense is to procure Negroes. Please show zeal in carrying out our wishes in this capital matter" (Ahmed 1972: 42). Egyptian historians dissociate the Egyptian people from the activities of Muhammed Ali's regime in the Sudan. For them,

Egypt was at that time an Ottoman dependency, and Sudan was a dependency of a dependency. Both Egypt and the Sudan were ruled by an aggressive caste class of Turks and Circassian warriors (Shukry 1937: 2-4).

The second reason for conquering the Sudan was to secure the riches in cattle, gold, ivory, timber, and grain said to be available there. Muhammed Ali needed these riches to expand his military and build his empire. The disintegration of the Funj kingdom from 1504 to 1820 made its conquest an attractive venture. The gradual decline of the Funj Kingdom in Northern Sudan also reduced slave raiding, and the exportation of slaves to Egypt had declined. Between 1810 and 1817, no caravans arrived to bring fresh recruits to Muhammed Ali's plantations and army (Ahmed 1974: 42). This fact is believed to have played an important role in Ali's decision to occupy the Sudan.

The third minor reason for occupation of the Sudan was to destroy the surviving Mamluks who had fled Egypt and settled in the Dongola area. The Mamluks were a non-Egyptian and non-Arab population recruited from Turkic and Circassian warriors. The history of the previous century had shown many times the extraordinary vitality and tenacity of the Mamluks. It was a common practice for a defeated Mamluk faction to withdraw upstream until a convenient opportunity occurred to retake control of an objective (Holt and Daly 1979: 48). Although the Mamluks of Dongola were perhaps too insignificant in numbers and too remote to accomplish this traditional tactic, their inviolability was certain to cause anxiety to the Viceroy of Egypt. The final objective of the conquest was to enable Muhammed Ali to control the Red Sea.

By the beginning of the nineteenth century, the Northern Sudan was divided into small independent kingdoms that fought among themselves. The discovery by the Ottoman Turks that the arid northern Sudan was not rich in cattle, gold, ivory, timber, and grain encouraged the Viceroy of Egypt to explore and exploit the natural and human resources in the southern regions of Darfur and Kordofan in the West and Bahr el Ghazal in the South. The Funj

Kingdom had disintegrated. The Turco-Egyptian troops met with minimal resistance in their swift and easy conquest of the Sudan.

Europe and the Middle East did not know much, if anything, about the Nuer before 1939 (Linant 1932: 174; Johnson 1980: 13). The first recorded contact was made by the Egyptian flotilla of Selim Bimbashi sent in 1839 to explore the Southern Sudan to search for commercial opportunity, to locate strategic spots that could be useful when the Southern Sudan would be occupied, and to discover the source of the Nile. The idea for the trip had come from Muhammed Ali, the Viceroy of Egypt. It was significant later on that a Dinka serving in the Egyptian army acted as an interpreter for the expedition. In late December 1839, when the flotilla approached a Nuer village on the east bank of the Nile, the villagers ran to see the strange vessel. In accordance with their tradition, the villagers sacrificed an ox to God that the encounter with strangers be peaceful before going back to their villages. The act of sacrifice was misunderstood by Egyptian soldiers. Their suspicions were aroused by the statement of their Dinka interpreter that the sacrifice was intended as a hostile gesture (Johnson 1980: 14). When the villagers returned with gifts of tobacco and goats to their visitors, the Dinka told the Egyptian that the carcass of the ox and the live goats were poisoned. The Egyptian soldiers then opened fire on the Nuer, killing one, wounding a few, and scattering the rest (Bimbashi 1842: 82-83; Thibaut 1856: 46-48; Johnson 1980: 14). It is with this incident, according to Douglas Johnson, that the Nuer reputation for almost irrational hostility to foreigners begins. The statement of the Dinka interpreter was influenced by the Nuers' eastward expansion. A decade earlier, several groups of Nuer had crossed from the west bank of the Nile and had begun to occupy the Sobat and Zeraf regions, displacing some of the Dinka occupants there.

Selim Bimbashi's sojourn opened the Southern Sudan to other visits, all arranged by Egyptian Government in Khartoum, in order to collect ivory and other commercial goods to enhance the dwindling Egyptian treasury. Visitors (later included Baker, Gordon, and Emin. The news of opportunities for

commerce in the Southern Sudan brought merchants from the Northern Sudan, Europe, and the Middle East into the Nuerland. Using the Nile and its tributaries as a base of operations, it soon became possible for foreigners to begin to explore the hinterland. The original aim of the traders was to acquire ivory that they bought from or traded for with Nuer and other Southern Sudanese. The tremendous demand for ivory soon reduced the supplies within immediate reach, and merchants found it necessary to go further and further into the hinterland. These expeditions took more time, and the traders eventually had to establish stations (zaribas) in the bush as bases of operation in their search for ivory. The establishment of these zaribas marked the first organized attempts in the exploitation of human resources in the area since Muhammed Ali's campaign to recruit Southern Sudanese soldiers in 1820's (Holt 1972: 60; Ali 1972: 7) and was to prove much wider and more harmful in scope (Servier 1975: 15). In these camps, the traders employed local inhabitants and recruited Southerners to carry their supplies. Eventually, the traders also started to round up men, women, and children to send to the slave markets that were still flourishing in the North. Slavery as a business had become more profitable than the trade in the rapidly dwindling supply of ivory. Thus, slave capturing and exporting them to Khartoum, or to Zanibar from Equatoria, the southernmost province of the Sudan, and cattle raiding became substitutes for the previous trade in ivory.

Nuerland on the eve of the Mahdi (religiously inspired Muslim leader) revolution was no longer totally unknown. The Mahdi's success over the Turco-Egyptian conquerors in 1881 made Mahdi the first local sovereign in the northern Sudan. The Mahdists were Arabic in culture. Their intrusion, however, continued to make Nuer vulnerable to the slave trade. Robert Collins [(1962: 177) observes that the Mahdist regime manifested itself in the south as "extended raids which upset the traditional pattern of life and left nothing behind but anarchy and fear." These fifteen years of Mahdi raids in Nuerland marked the culmination "of a long series of misfortunes which in the latter half of the nineteenth century had fallen upon that wild land" (Collins 1962:

178; Servier (1975: 19). This decade and a half (of Mahdi activities) was in turn brought to an end at the turn of the century by the appearance, after the slavers, Egyptians, and Mahdists, of yet another foreign power, the British.

#### Anglo-Egyptian Condominium

The defeat of the Mahdi in 1898 by the British left the future status of the Sudan problematical. Despite the stated objective of the conquest, of recovering the lost Sudanese provinces of Egypt, the British Government was unwilling to accede to the reincorporation of those provinces with Egypt (Holt and Dally 1979: 117). The common understanding in Britain was that the Mahdi revolution came about as a reaction against oppressive and corrupt rule of the Ottoman Turks and to reimpose that administration on the people of those Sudanese provinces was to undermine the very moral arguments that justified the British intervention.

The alternative was that the British would administer Sudan as a British colony. This solution was, however, considered infeasible because of a prior international agreement that Egyptian claims formed the basis for the conquest and gave the British a legal position in the Upper Nile valley region which France, Italy, and Belgium could not match. This commitment to Egyptian's sovereign control of the Sudan was the main reason the French withdrew from Fashoda. A French expedition commanded by Captain Marchand occupied Fashod on the Upper Nile on 10 July 1898. When the news of the occupation reached the Governor General of the Sudan, Kitcheiner, he immediately set out for Fashoda, where he told Marchand that "the presence of a French force at Fashoda and in the valley of the Nile was regarded as a direct infringement of the rights of the Egyptian government and of Great Britain." After a period of tension between Britain and France, the French government gave way and ordered Marchand to withdraw.

Because the British government could not annex the Sudan as a colony, and the fact that reincorporation under the khedive was not a suitable solution for the problem of the Sudan's status, a hybrid form of government

that appeared both to honor Egyptian claims and to safeguard British interests was instituted. This solution was embodied in the Anglo-Egyptian agreements of 1899. These came to be known as the Anglo-Egyptian Condominium Agreements because they created a theoretically joint Anglo-Egyptian sovereignty over the Sudan. British claims were based on the right of conquest; Egypt's were defined by reference to certain provinces in the Sudan that were in rebellion against the Egyptian authority. The Agreement stipulated the khedive (the ruler of Egypt) was to appoint and to remove the governor general of the Sudan on the recommendation of the British government. The Condominium was never in practice an instrument of joint sovereignty over the Sudan. The British controlled the Sudan until the end of the Condominium in 1955.

#### The British Imperial Control

The establishment of British rule in Nuerland (effectively 1927-1956) gave rise to institutions alien to the Nuer. These institutions were mainly concerned with the maintenance of lawful relationships among members of Nuer society. The task was to establish links between the rules governing the relationships among people in a community of interest, the maintenance of public order, and the civil administration. Claiming the right to govern embodies the claim to authority in law and the prerogative of administering the accepted system of order. The imperial authority to govern did not answer the important question of how to govern the Nuer.

The problem of controlling the Nuer led the British imperial government to create courts and to appoint chiefs to administer the Nuer. These novel institutions radically undermined the Nuer way of life.

#### The Courts and the Emergence of Autocracy

The colonial government was interested in building a system of rule-ordered relationships in Nuerland grounded in the British conceptions of government. In the Native Court Ordinance of 1931, the government decreed that the only legal means of administering justice in the [Sudanese] territories are through indirect rule. The British did not know anything



about the Nuer traditional system of justice. Resorting to the traditional system of justice was regarded as a violation of the proclamation of the Native Court Ordinance (Howell 1954). The British did not, however, realize that the issuing of the ordinance undermined Nuer political and judicial institutions. It was through the native courts, on the other hand, that the government administered Nuerland. Warrants issued to appointed chiefs entitled them to sit in British courts for the purpose of judging cases. The warrant also empowered each of the chiefs to assume executive powers that were territorial in scope. The assumption of exclusive executive and judicial powers ran counter to the acephalous political traditions of the Nuer. There was no tradition that recognized one man or a group of men as paramount rulers over other persons or communities. Of course, religious persons commanded some measure of influence, but they never wielded executive power in Nuer society. Any person attempting to try to exercise executive or judicial power would definitely have provoked a fight.

Santandrea (1942) describes the Nuer earth custodian (kuar muon) as a powerful ruler who could wield power. It would be a conceptual error, however, to equate the power of kuar muon in precolonial Nuer society with the power of the warrant chief under the colonial administration. The power of kuar muon was clearly limited by the check and balance system in Nuer political organization. The power of the chief, on the other hand, was virtually arbitrary; it was naked despotism unparalleled in Nuer political history. Whereas the kuar muon as spokesman could be removed from his position by the people, it was only the colonial government that could remove the warrant chief. This was because the government, not the people, had made him a chief. By empowering the warrant chief with both executive and judicial powers, the government overturned that portion of the indigenous political system of the Nuer that the British considered to be lacking in accountability.

The basic rule changes introduced by the imperial government during the 1930s and the 1940s included the following: (1) the elimination of

contestation and argumentation in the process of conflict resolution, especially in the settlement of feuds; (2) the introduction of capital punishment, terms of imprisonment, and collective cattle fines as deterrents; (3) the elimination of the right of vengeance of the relatives of the slain, and (4) the redefinition of several forms of homicide that for the Nuer warranted compensation. The colonial administration also did not agree with the Nuer belief that the type of weapon used in a slaying (that is, whether club, fishing spear, fighting spear or gun) should affect the sentence of the court. This change had the effect of weakening certain parts of the Nuer code of warfare.

The procedure adopted by the imperial government for resolving feuds was described by a British officer who himself served as a district commissioner in Central Nuer District (Howell 1954). The procedure was as follows: first, the swift suppression of hostilities by the government chief with the assistance of the police or the army. Second, the seizure of all the cattle of the parties to the conflict pending the arrest, trial, and sentencing of the persons who have killed, wounded, or participated in the hostilities. Third, when the parties who are at fault have been discovered by the court, the imposition of a collective fine on their segments. The last step was the transfer of the cattle for compensation and sacrifice to formalize the resolution of the conflict by an earth custody appointed by the government.

The courts of the chiefs tried persons for deviating from accepted conduct and imposed fines ranging from ruath (bull-calf) to a pregnant cow or even more. They also had the power to assign the wrongdoer to a term of imprisonment, if the British district officer agreed to this (Howell 1954: 61-67, 230-237). Premeditated killing was beyond the jurisdiction of the chief's court. Persons charged with this offense were tried by a magistrate using a British statute known as the Sudan Penal Code (1954: 66). Thus, capital punishment was imposed on Nuer by an alien law. When a person is sentence to death by a magistrates' court and executed, there was no payment of compensation by his kin to the kin of the victim.

The introduction of the colonial prison system, a hated penal innovation, undermined the Nuer forms of punishment for serious deviations.<sup>1</sup> In Nuer society, persons found to have committed a fault by the council of elders were obliged to repair the damage by payment of compensation or banishment. Many Nuer, however, saw a similarity between the district jailhouse and the priest's sacred homestead. They thought slayers were confined to prison to protect them from the spears of avenging kinsmen. In addition to imposing terms of imprisonment, the native courts also administered corporal punishment of which public flogging was the most detested. Both men and women were flogged, a practice unheard of before in Nuer society.

The most immediate effect of the establishment of the native court system was, however, its impact on the traditional institutions for adjudicating disputes. Prior to the colonial period, the assembly of the people, that is, the council of elders, age set leaders, custodians, priests, prophets, the supporters of the disputants, and the public following the court proceedings, all played important roles in dispute resolution and the administration of justice. The establishment of the native courts drastically curtailed the ability of these participatory groupings to play their traditional juridical roles. Instead of complaints being sent to elders, age set leaders, custodians, prophets, they were now sent to the courts or to the district commissioner. Howell (1954) observes that the Nuer people "have for the past few years been in the habit of bringing the most trifling complaints to the courts." These issues would not stand a chance of even being reported to the council of elders or to the age set leaders. The native courts had begun to weaken the Nuer system of order. The court system fostered a passion for litigation that invariably proved injurious to the Nuer way of life. Certainly, the multiplicity of cases at the courts reflected a heightened degree of social and political disintegration. The impact is still being felt among the Nuer today.<sup>2</sup>

### Chiefs and Corruption

With the increase in the number of cases, the chiefs could not give sufficient attention to every individual problem. Nor were the chiefs disposed to settle the cases. Most of them were ready to take advantage of opportunities for personal benefit rather than to serve their own people. The result was that many persons who would have been found innocent were convicted.<sup>3</sup> In many cases, the corruption of the chiefs was the cause of the miscarriage of justice.<sup>4</sup>

When the British learned that the chiefs could act contrary to tradition and that this would, in turn, undermine the administration, the administration devised a new referral policy (Luoc). In many cases, according to Wicjal Bum (1989), when it was discovered that a chief for one reason or another did not hear the evidence available in individual cases, such cases were invariably sent back to the chiefs to complete the hearing. The effect of the referral policy was that it reduced the number of persons sent to prison. The district commissioner was authorized to overturn the decision of the chiefs in any case.

The referral policy of sending some cases back to the chiefs can be viewed as reflecting for genuine desire on the part of the British and also the personal interest on the part of a district commissioner to render justice.<sup>5</sup> Howell (1954) observed that every Nuer who lost a case appealed to a district officer who can not possibly review all the cases.

Although the number of cases were many and burdensome to the official, the increased number of cases was important for the operation of the government in the locality. The courts provided revenue for local administration. The revenue produced largely by court fees and fines rose in proportion to the number of cases disposed of in the court. The need to increase revenue levels also led to the appointment of court clerks to record court proceedings and to keep account of court fee receipts. Appointment of the "missionary boys" as they were known locally by the Nuer enhanced the popularity of the office of the chief. The clerks, who were semi-educated and

whose salaries were relatively low, tended to enrich themselves from the court proceeds and from bribes taken from litigants. Examples can be given of these clerks pocketing court fees and fines. As cases at Diror, Walgak, and Pathai Courts revealed, clerks often failed to enter the correct amount of revenue collected into cashbooks (Bum 1989; Banak 1989).<sup>6</sup> In some cases no entries were made at all.

#### Chieftaincies and Involuntary Servitude

Chiefs were empowered by government ordinances to compel men to work on roads, to serve as couriers, and to build government resthouses, courthouses, and public facilities without compensation. Nuer were not accustomed to building roads or public buildings. More importantly, they were not accustomed to being ordered to engage in collective labor. Anyone who disobeyed the chief in the exercise of his executive duties was liable, however, to be prosecuted in the court. Work details ordered by the chiefs often resulted in a person or even whole families being fined or imprisoned or both. When in 1927 Guek Ngundeang, the Lou Nuer Prophet, refused road work on the pretext that the Lou people did not need the roads, he was harassed and eventually killed by the colonial authorities for resisting road work (Johnson 1980).

Forcing people to work without compensation also offered opportunities for chiefs to enrich themselves. Chiefs often detained persons to work on their private farms pending their trial or diverted laborers from public works projects to work on their farms. Persons who do not want to work on roads or on the chief's farm circumvented the law by offering the chief a ram, a calf, or a sum of money hoping thereby to escape a sentence of imprisonment in the court. Chiefs were bribed by litigants to decide cases in their favor. British officers were aware of these offenses, and chiefs caught taking bribes were dismissed from their jobs. Although chiefs heard cases all year, the government paid chiefs a sitting fee only once a year. This was because the British officers visited the courts only in the dry season. There were no

all-weather roads in Nuerland. Court centers were built on higher land far from the rivers in many cases.<sup>7</sup>

Taxation was also imposed on the Nuer. The decision to collect a direct tax, even a small one, was another symbol of external control over the Nuer. The Nuer clearly understood that to pay a tax was to recognize the overlordship of the person to whom it is paid. In England, as one administrator remarked, "each [tax] payer, even the unwilling and slippery one, regards himself as merely a contribution his country's finance. This is not so in Africa."<sup>8</sup> Roads were built in the Sudan to facilitate the movement and supply of the troops defending the colonial regime. The Nuer felt that the users should bear the costs of constructing and maintaining the roads and other infrastructure the British wanted built. Nuer viewed British taxes as a form of tribute.

#### Nuerization of the Court

The Nuer persistence about the maintenance of segmentation in the court led to important changes in the chieftainship. Administrative insensitivity was reduced as a result of the admission of the inappropriateness for Nuerland of the system of executive chiefs. The Governor of Bahr el Ghazal admitted failure in applying chiefs' courts to the Nuer in March 1921. The governor acknowledged that he and his colleagues in the province did not realize that

Cattle cases are only heard by the cattle chief, land cases by the land chief, and so on ...unfortunately, when we first started administering this province, this ancient system was not known and it has only recently been realized. In our ignorance we presume that a chief was a dispenser of justice in every case and generally paramount in the tribe...Through lack of knowledge and inexperience we failed to grasp this point, and jumping over this stage, we appointed chiefs to whom we looked as the responsible head. This being so, it can readily be understood that many cases of failure of a chief to hear cases and of the loser to accept the decision was due to the chief knowing that he could not deal with the case and to the parties to the action not recognizing his authority in the particular class of case. Hence much trouble arose which at times developed into misunderstanding and his people being erroneously regarded as contumacious of government control.<sup>9</sup>

Thus, in Nuerland, many district officers regarded the chiefs' court as fundamentally a European innovation in which some Nuer judicial concepts were

applied. Howell (1954: 237) points out that often decisions were made in the mistaken idea that justice had been done, without realizing that Nuer ideas of justice were different from British ideas. In addition, some decisions in the chief's court were based directly on the British Penal Code in the Sudan (Howell 1954: 237).

The search for a new social order resulted in a return to the traditional way of life. In the 1940s and 1950s the colonial administration made a sustained effort to understand how the Nuer governed themselves. The primary objective for this effort was to determine how best to adapt British rule to Nuer patterns of governance. Reports by Dr. Edward Evans-Pritchard, the American Presbyterian Church, Catholic Church missionaries, and colonial administrators provided insight into Nuer institutions and the general precolonial history of some segments of regional communities. These reports contain the first recorded versions of the oral traditions of most Nuer segments.

Douglas Johnson's History and Prophecy Among the Nuer of the Southern Sudan and Gabriel Giet Jal's The History of the Jikany Nuer Before 1920, show that these accounts of the traditions are, however, not very reliable sources. First, the validity of the evidence is questionable. Most of these investigators were involved with a government that was killing and banishing Nuer leaders, taking cattle, burning villages, and forcing Nuer out of their villages. Because they were not trusted by the Nuer, information was obtained with difficulty. Different men living in the same village might give vastly different accounts of the history of the same clan. Then, on a subsequent visit to the village, the informants might deny information previously given. Yet, in spite of the weaknesses in the recorded traditions, historians and social scientists still find them very useful in the study of many aspects of Nuer life.

Using the information collected by various groups in the colonial regime, the Nuer elders, the chiefs, and the administrative officers restructured the courts in order to reflect the Nuer concept of justice.

Thus, in place of the small number of territorial courts that had forced unrelated and autonomous segments under one chief, the government created additional courts so that each original group had one. This action restored complementarity and the rule of many chiefs replaced rule by a few.

The political aspect of the process was manifest in the demands for representation in the courts by headmen (gaat tutni), who were the leaders of smaller lineage segments. The segmentation of the courts resulted in the appointment of many chiefs. Representation transformed the British court system into an acephalous system of order. The purpose of giving segment headman a seat in the chief's court was to ensure that each member of a segment who made claims in disputes received backing from his own chief in the court. The composition of the court ensured that contestation was part of the procedure of the Nuer courts. Thus, principle of contestation was made clear in a joint meeting conducted between two regions or secondary segments. The attitude of the chiefs in such a Nuer court was, if you settle these cases, we will settle those.

A man of cieng Both (a secondary segment) will be supported by court members who represent cieng Both arguing a case against a man of cieng Lungor (another secondary segment). The decision that is reached in the case will be a resolution achieved among them. Because the judgment is reached as a covenant between the groups, the implementing chief will be bound by the spirit of the covenant to implement the judgment. There is also present, to ensure justice is done and that the implementation of the decision is carried out, a neutral body represented by the chiefs of other segments who, with the segments concerned, make up the sum total of the people over whom the court has jurisdiction. These persons will act as arbitrators, while those who represent the segments to which the disputants belong are acting as advocates rather than judges. It was, however, the latter upon whom the responsibility for implementation would fall. This is the way the court works. If there is a joint meeting between Eastern Jikany and Lou regions, all representatives of



each side, who might have been at loggerheads with each other over internal affairs, will join together in forwarding the interests of their own people.

A covenantal approach to problem solving has been a blessing to the Nuer in that the spirit of compromise often prevails. In disputes that have adversely affected communication within a region, the chiefs have followed the Nuer tradition of bringing in persons or chiefs from other regions to act as intermediaries. It is on the basis of this institution that appeal courts have been formed, removing a British officer who had earlier acted in this capacity.

The complementarity of segmentary groups, thus, remains an essential feature of the Nuer court system, and in this sense the courts are a stabilizing factor in the maintenance of group identity. Representation reflects the Nuer concept of equality and freedom of action. Because the members of the court are selected free by the individuals involved, Nuer are expected to support the efforts of his representatives in the court. Family members can also remove their representative in the court if he proves to be oppressive or works contrary to their aspirations (Howell 1954).

#### Covenantal Christianity and Social Change

The first Christian mission to Eastern Jikany Nuer was the American Presbyterian Church (U.S.A.) that had been at Doleib Hill since 1905. It established its mission station in Nasir with strong Government encouragement one hundred fifty miles up the Sobat. The Government hoped that medical services provided by the mission, in particular, might help to gain the goodwill of the Eastern Nuer. The missionaries hoped the Nuer would be converted to Christianity.

Presbyterian covenantal Christianity is similar to traditional Nuer religion in that they both emphasize that divine covenants bind people together (Robertson 1980: 7). Through the covenant, persons become committed to one another. Divine love, ritual efficacy, and sin are common elements in their covenantal theologies. Student of Nuer religion identified three basic

themes in order to elucidate its full meaning to sensitive inquiry. The first, the assertion that God of the Nuer can love, bore upon the contrary conviction, held by many missionaries, that "primitive" religion is based upon the emotion of fear. The second bore upon the widespread view that "primitive men" performed magic instead of praying, expecting the rite to achieve results automatically. The third, the Nuer sense of merited punishment and their list of sins, introduces the moral principles that explain the working of the feud as contestation mediated through political processes (Douglas 1980: 94).

In order to reach some conclusions about the impact of the introduction of Christianity in Nuerland, I will first describe the circumstances that led to the commissioning of the missionaries to Nuerland. Second, I will consider the mission's early difficulties in gaining converts. Third, I will explain how the missionaries as agents of Western education effected change in Nuerland.

#### Government Policies/ Problems, and Missionaries

The British colonial government first concerned itself with establishing a secure foothold in the northern Sudan. The southern hinterland was still, as far as the British and Egyptians were concern, unexplored. Development of control mechanisms was viewed as a necessity because the heartland of the Mahdist state was considered by the British to require close monitoring (Holt 1970; Sanderson 1965). According to the British, the conditions in the northern Sudan were more conducive to administrative surveillance than those in Southern Sudan. Most of the northern territory is accessible all year round, and a large majority of people speak one language, Arabic. More importantly, most of the peoples in northern Sudan had long had an autocratic system of governance. This tradition carried with it institutions and political differentiation that served as a congenial foundation for the new British colonial administration (Digernes 1978: 31).

In Southern Sudan where more than seventy-five percent of the population belong to acephalous societies, the Government was unable to find a traditional foundation to be used for administrative purposes. The inability

of the administration to recognize acephalous communities for what they were had adverse consequences. If a chief was understood by the administrator to be friendly, but his people turned out to be hostile, the response was collective punishment of villagers: burning houses, seizing cattle, and seizing men for servitude. Nuer covenantal tradition makes individuals account for their actions. Apparently the troops often behaved as if they were in enemy country, turning what was intended to be a peace-creating mission into a hostility-provoking venture.

Under these circumstances, the prospects that the government would develop formal education facilities among the Nuer or in the Southern Sudan were remote. The British were not notable for public investment in education. This was left to missionaries. Cromer, the British ruler of Egypt, did not intend to spend any resources in the South. There were, however, in 1898 a number of missionary societies who were offering to provide educational facilities if they were permitted to combine teaching with evangelism. Cromer rejected both conversion and education as possible or desirable for "the pagan" of the Southern Sudan. As a result of political pressure mainly from London, however, Cromer finally allowed the missionary societies to enter Southern Sudan.

The missions were confined to designated sites under the direct supervision of British administrators and were forbidden to engage in trade or to "represent" the natives.<sup>10</sup> The Government had hoped that under strict control, the missionaries would have no effect on the relationship between local people and the Government. The missionaries were encouraged to engage in welfare work rather than in evangelism and to teach simple crafts rather than attempt to impart a "literary" education (Sanderson and Sanderson 1981: 18). Suitably guided the missionaries might transform the people of the South into industrious laborers and artisans.

### Conversions, Problems, and Social Change

American Presbyterian stations for converting the Nuer to Christianity were slow in establishing themselves. When the mission stations were first created in Nasir, and later Leer, Wanglel by the American Presbyterian and Yoanyang for the Verona Fathers, conversions were hard won. The invitation to accept Jesus Christ as one's personal Savior was received differently by different persons and groups. Generally, mission Christianity was perceived by the Nuer as a religion that was indifferent to social affairs and day-to-day living and absorbed in concerns about the life after death. The Nuer are "this worldly". Evidence for this presumption can be found in their insistence on whole-hearted participation in the social enterprise as indispensable to the fulfillment of the human spirit.

Mission propaganda against "pagan" customs, especially condemnation of polygamy, worked against speedy conversions. Among the Nuer, polygyny was a symbol of social well-being. Being wealthy is having many wives and many children. It is only the poor man who is expected to marry one wife. Nuer believe that one wife is a relief of poverty (ciek kel e woe canna). Nuer women, like other women among the Nilotic peoples, pride themselves on being the wives of polygamists. If you are an only wife, this indicates that your husband is poor. Women have been the promoters of polygamy among the Nuer. The wives of a man will pressure their husbands to marry again, and, if the man does not take heed to what they say, they can report their husband to close kin who will also put further pressure on him. Wives are therefore added to the family as the size of the family herd permitted. Wives are viewed as means of achieving wealth and are counted as sound investments for the extended family.

To have many wives is, by implication, to have many children. In a covenantal and pastoral society, children provide the labor for herd management, cultivation activities, and the defense of the household or the lineage. The prestige of the household is enhanced in the community as it grows in size. The network of relationships established by marriages provided

alliances among many different lineages and even among non-Nuer peoples. Alliances, as other chapters indicate, created communities of understanding for the mutual benefit of those involved. It was the American Presbyterian Church's attack on the institution of polygyny that the Nuer resented most. To ask a man to divorce all his wives in order to become a Christian was the equivalent of stripping him of his social status and prestige. The missionaries did not understand that marriage and divorce were family decisions. One man or woman could not decide to divorce a wife in order to be admitted into membership in a church.

As a result, the polygynists did not become involved in the church. They are convinced that the rule against marrying more than one wife was not compatible with their way of life. The Nuer believed that monogamy is "not God's Law [made] for man's benefit." The missionaries were intolerant of polygamous marriage, and their criticisms of "pagan" customs have been a constant source of irritation. Today the Presbyterian Church in the Sudan is modifying its stand on the admission of polygamists into the church.<sup>11</sup> Some Protestant theologians have suggested that polygamists should not only be admitted to the church but should also be allowed to receive Holy Communion as well. This will make the indigenization of Christianity in Nuerland and some African countries much easier.<sup>12</sup>

Missionaries also disapproved of several other Nuer customs. As indicated in Chapter Four, the existence of polygynous households implied that there were fewer men than there were women. This was true because more men than women were killed in wars and feuds. The custom of vicarious and leviratic marriages were viewed by missionaries as "primitive." These customs, however, played an important role in maintaining the continuity of family relationships. Vicarious marriage allows a man to marry a wife for a brother who died without male heirs. The rule among the Nuer is that no initiated male should be allowed to lie in his grave without male children.

Leviratic marriage prevents the breakdown of relations established by the previous marriage between the dead man and his kin on the one hand and the

woman and her kin on the other. When a man dies before his wife has passed the age of child-bearing, it is the duty of the man's brother to cohabit with the widow in order to produce children, who will be counted as the children of the deceased. The widow remains the wife of the dead man for whom the brother is a surrogate. The brother is, thus, not strictly speaking her husband. The brother has less control over the widow than a man has over his partner in a vicarious marriage.

Mary Douglas (1980: 97-111)) maintains that Nuer religion can be considered in the protestant religion as tradition because of the existence of love (nhok) of theologically recognizable kind dominates the relationship between the individual Nuer and the Nuer God.<sup>13</sup> She also cautions that a negative theological view, imported at the outset, to the effect that their religion is false, would be as damaging to the anthropological inquiry as a negative judgment passed prematurely on the value of their agricultural techniques. Elders found it difficult to embrace Christianity but never obstruct missionary preaching. Over time converts were made but the rate was extremely slow. Ironically, it is now fashionable to be known as a Christian. The similarities between Nuer traditional religion and Presbyterian doctrines were not, however, recognized by the missionaries who could have made use of this to spread the Gospel among the Nuer. This inability to recognize the covenantal connections had limited the winning of more converts.

The Nuer who initially converted to Christianity were persons who were not properly assimilated into lineage structures and who expected to secure a new social status from their association with the mission. Association with the mission was also the way to acquire a Western education. School children provided the bulk of the converts. There were also adults who had experienced many hardships or misfortune and who hoped that a change to the new religion might improve the conditions of their lives. There were also people who found in Christianity the very expressions of their own life. This is the core group that christianized the Nuer after the missionaries had gone. It is this

group that makes the plea for reformulation or indigenization, the freedom to work out theological expressions that speak to Nuer in their own terms.<sup>14</sup>

Regardless of the nature of the reasons that led to conversion, it became clear that a revolution had begun among the Nuer. It was Christianity that had shook the constitutional foundations of the Nuer way of life. One key result of Christian conversion was the inevitable split in the community of understanding among the Nuer. Not only was there now a division in religious persuasion (special among Nuer Catholics and [Presbyterian] Protestants, but conversion brought about sociological splintering of social units, thereby accentuating forces of social and political conflict. The members of the Presbyterian church in Nuerland shared values with Covenantal groups in North America and in Europe. The Catholic in Nuerland associate with Catholic churches in Italy, Austria, and in other parts of Europe. Instead of using these associations to achieve complementarity, they have been used to undermine the solidarity of the Nuer.

#### Missions and Western Education

The coming of missionaries led to the spread of formal education practically everywhere in Southern Sudan. Had the mission not come, very few Nuer would have had the opportunity to receive Western education. At the time the Sudan achieve its independence from Britain in 1956, there were no government schools in Nuerland. In regards Southern Sudan, the government meant to maintain its influence there without getting involve in the provision of public services. Education was, therefore, run by the Presbyterian missionaries and Verona Fathers in Yoanyang in Western Nuer. Because American Presbyterians were given the largest part (3/4) of the Nuer population to proselytize, I devote most of this discussion to them, although some reference will be made to the Verona Fathers.

In Nuerland as well as in the whole of Southern Sudan, neither imperial authorities nor the missions had a well-conceived understanding of the place of education. Imperial authorities and the mission each sought to use education for their own purposes. For imperial authorities, the purpose was

to procure clerks and artisans needed by the administration and to generate goodwill in the South. The missionaries used education as a means of evangelizing. The school afforded the mission a forum in which to expose children to Christian doctrine. Thus, education was used to promote mission interests. But the Nuer had no passion for education. They did not know how useful Western education might be for their future. Those who did not want their children converted were not willing to send their children to mission schools. People believed that if you wanted a Western education, you had to learn the foreign religion. As is clear from Sudanese educational records, a very limited number of children were allowed by their parents to go to school (Sanderson and Sanderson 1981). Western education was, therefore, not widespread in Nuer society. This was also due to the fact that the missionaries created mission schools in only a few places. The school at Nasir was established in 1913 by the Presbyterian missionaries only after they were more or less ordered to do so by the government (Sanderson and Sanderson 1981). The reasons for this reluctance was to concentrate rather than to disperse their resources. The other two mission stations, Ler in Western Nuer and Wathkei in the Zeraf Valley districts, were opened in the late 1940s. Three elementary schools enrolled a maximum of 20-50 students a year out of a population of over one million.

The limited role of a few missionary schools opened opportunities for some individuals in Nuer society to gain access to a literary tradition somewhat more congenial with their own covenantal theology. Arabic literary traditions would have likely been introduced as an alternative system.. Thus, the efforts by the missionaries in developing the Nuer language as a written language in order to communicate the Christian gospel would not have occurred.

#### The Government of the Sudan

The process of British imperial withdrawal that began in 1947 in India led to the Sudan's independence in 1956. The independence of the Sudan was viewed by most Nuer as an event that replaced one set of foreign rulers with



another. Many Nuer could see little difference between the Egyptian Government, the Mahdists, the Anglo-Egyptian Condominium Government, and the new Sudan Government. They all raided and burned the homes of innocent persons and stole cattle. The British and Sudan Governments did not take slaves but enslaved Nuer locally. All officials were perceived by the Nuer as foreigners imposing alien ideas of governance on them.

In January 1962 the Minister of Education, Ziada Arabab, asserted in a speech at Juba that national unity implied the universal adoption of Arabic as the national language and Islam as the national religion (Ali 1963). In his maiden address to the constituent Assembly in October 1966, Sayed Saddiq El Mahdi, the Premier, said: "the dominant feature of our nation is an Islamic one and its over-powering expression is Arab, and this nation will not have its entity identified and its prestige and pride preserved except under an Islamic revival" (Mahdi 1966). Dr. Hassan El Turabi, the leader of the Islamic Front, expressed himself in similar vein. He argued that the people in the Southern Sudan had no culture so this vacuum would necessarily be filled by Arab culture in the course of an Islamic revival. In this spirit, attempts have been made by the Sudan Government to create an Islamic national identity. Arabic was introduced as the administrative and educational language, Friday replaced Sunday as the weekly day of rest in the South, Islamic conversion and education was encouraged, and all Christian missionaries were expelled from the South by 1964. Education became the means of promoting Islam and the Arabic language.

These views are shared by many but by in a sense of recognizing diversity in religious beliefs, language, and ways of life of different cultural groups in the Sudan. They believe that Islam has to adapt to its changing environments in the Sudan without undermine their Faith. This view is born out in the death of Ustaz Mohammed Taha who was killed by the Sudan government on the charge of apostasy (An'aim 1987; An'aim 1988).

## Education and the Expansion of Islam

The drive to assimilate the Nuer into the Northern Sudan cultural system was to be achieved through education, especially through changes in primary teacher training. The government followed the practice used by the British Government in cooperation with Christian missionaries in the Southern Sudan. The Missionaries with the support of the British administration established and operated the Mundari (protestant) and Busere (Catholic) primary teacher training centers. These centers supplied the primary school teachers who taught in English as well as in the indigenous language.

The Sudan Government established a new primary teacher training center at Maridi. Students at Mundari and Busere were transferred to Maridi where the medium of instruction was Arabic, and English. The two missionary primary teacher training centers were turned into middle schools. Teachers who had taught in the two missionary centers were to be retrained in the Arabic language so they could teach in the new primary institute at Maridi. Most of the teachers sent to Arabic training in the North did not, however, return to the institute in Maridi. Some who succeeded in their course of Arabic training were placed in the schools in the Northern and in the Southern Sudan. Others were said to have failed the course and lost their jobs or were assigned to jobs in government departments. In addition to these problems in the primary schools, a significant number of sub-grade teachers, who had for many years been teaching school children through the medium of Nuer (and other) language), lost their teaching jobs when Arabic was introduced as the medium of instruction.

Nuer teachers (as well as teachers and workers from other groups) and other workers who were suspected of not agreeing with the northernization of offices held earlier by the British and foreign Christian missionaries were transferred to northern Sudan where living conditions were difficult. For example, rent was relatively high, and they did not have a good command of Arabic language. Because of deficiency in Arabic they could not be assigned classes to teach. They were doing nothing and this led to bitterness (Alier

1973). The passing of the Missionary Act in 1962 restricted evangelistic activity of the Christian churches while it encouraged Islamic missionaries in the South to promote Islam. The abolition of Sunday as a day of worship for the Christians in the South and the establishment of Friday as an official holiday was another attempt at assimilation.

Efforts to promote assimilation have not yielded positive results in Nuerland. Many Nuer have learned the Arabic language. They learn it in school, and in the work place. Arabic is the language of commerce and serves as a common language among several disparate peoples. Knowledge of the language has not, however, transformed the Nuer into Arabs. Islam has not made inroads into Nuer society because of its tutelage, which is inimical to the Nuer way of life. After independence the Sudan government opened more primary schools, and the enrollment of primary school children increased dramatically. The Northern Sudanese helped to build and to staff middle schools, which would produce both administrative officers and religious teachers. While there were numerous aspirants for high school education, higher education opportunities that would have prepared students for the university or higher level government jobs were not made available and Christian groups were not permitted to access higher education in Nuerland.

#### Centralized Control and Civil War

The suppression of the rights of the Nuer to participate in the governance of their own affairs is in conflict with the most basic Nuer beliefs. Their conception of government is not one in which some are masters and lords over others. Rather it is of a covenantal concept of government that can maintain order but is consistent with basic presuppositions of both freedom of action and equality. In ordering their relationships with one another.

The Northern Sudanese monopoly of the prerogatives of government was resented and resisted by the Nuer, because it is incompatible with their presumptions about a covenantal system of governance. When mission schools

were nationalized, Northern Sudanese were brought to replace all the mission personnel in 1956-1965. Thus, headmasters and head mistresses of all Southern schools were from the North.<sup>15</sup> Police officials assigned to all small towns were to be brought from the North. This meant there was no recruitment of local people for the police, public administration, or to the military-colleges. Lack of participation in these forces meant that the way conflict are resolved reflects the perception of the police, state officials and the military. Recruiting police from outside the locality makes cooperation between the police and the citizens more difficult to achieve. The lack of an understanding of the way the Nuer are organized has adversely affected the work of police from the North in Nuerland. The police were seen as an occupation force and were avoided as much as possible. The absence of a common understanding between police and local populations reduced the effectiveness of the police.

Because initial efforts to convert and arabicize the Nuer through education failed, the government decided that coercion was necessary. Students who resisted Islam were subject to lashes or lavish use of corporeal punishment that was acceptable in the Northern Sudanese khalwa (Maccani 1963: 139-41, 147-50). Physical violence by agents of the central government in the villages in the various Nuer districts was frequent. This drove many people into the bush, children out of schools, and led some angry persons to take up arms against the governmental authorities.

The Northern Sudanese were alarmed by the continued resistance of the Nuer to Arab culture, which they considered to be superior (Albino 1970: 108). Northern Sudanese always under-estimated the intelligence, self-respect, and commitment to their way of life by the Nuer and other Southern Sudanese. The American Presbyterian missionaries working among the Nuer were blamed for having manipulated "the simple minded Nuer." It never occurred to most of Northern Sudanese administrators, merchants, and political leaders that their unwillingness to deal respectfully with the Nuer and to take into account the way they organized themselves might explain the acceptance of Christianity

rather than Islam. Governmental officials accused the missionaries of poisoning the minds of the Nuer because they enhanced the ability of the Nuer to resist northern pressures.

According to the Northern administrators working in Nuerland, the Nuer had been inoculated with the "virus" of an alternative religion and culture at least a generation earlier (Sanderson and Sanderson 1981).<sup>16</sup> By the 1950s and 1960s the "infection" was self-sustaining and self-extending. Many Nuer evangelists thought that the foreign missionaries were irrelevant and obsolete (Dung 1989).<sup>17</sup> The government reduced contact between missionaries and the Nuer by closing missionary hospitals and dispensaries such as those at Leer, Nasir, and Wanglel on the grounds that they were being abused as tools for missionary purposes and that such institution could not meet Government standards (Abd al-Rahman 1958; Sanderson and Sanderson 1981).

#### Civil War and the Ethical Code of Warfare

Eventually conflicts between Northern and Southern Sudanese escalated into warfare. Modern weapons, including English 303 rifles as well as more powerful semi-automatic weapons were distributed among the Lou and the Eastern Jikany Nuer by both governmental authorities and the rebel movement in an effort to gain and solidify support. The widespread distribution of guns in the 1950s and 1960s changed the tactics and the code of warfare in Nuerland. Guns had originally been used only in fights between unrelated villages, cattle camps, districts, and regional sections.

Little has changed in the last thirty years. Within the lineages and among the people who have covenanted to live close to one another in villages, still use traditional ways of contestation and mediation. In a conflict between distant foes, spears or guns are used. Major fights still take place during the day time. Persons from the same villages, cattle camps, or district still fight as a group arrayed in parallel fighting lines. Women continue to accompany the militia to the battle field where they give support with shrill cries, retrieve and carry spare spears, protect, and carry away

the wounded. Whenever guns are employed, the old way of fighting in parallel lines has been abandoned in favor of scattered and prone firing positions.<sup>18</sup> Training in the use of rifles and semi-automatic weapons is carried out formally or informally by groups who are familiar with these weapons. Tactics used in fighting government troops include laying traps and planting mines on the roads, and in the rivers and ports. It is no longer safe for women to accompany the militia to battle.

The relationship between the slayer and the slain has not changed much in most part of Nuerland. Once a person is killed, the slayer must go through bier (purification ritual) whether the persons were known to each other or not. This means that the beliefs in pollution (cien) survive. This assumes, however, that the slayer realizes that he has killed somebody. Where people fight with guns, it is often difficult, if not impossible, to know from whose gun the fatal bullets came. Unlike an individually crafted spear, bullets end up deeply embedded in the body and are difficult to identify. Under such circumstances, it is reported that a rite known as piu thora has been adopted to meet the need of warriors in doubt as to whether or not they have killed someone. They sip some "water of the cartridge shell" and thereby avoid the immediate danger of pollution [nueer] (Hutchinson 1988: 255). This is an additional means, besides the rites of earth custodian, to remove pollution.

#### Tensions and Social Order

Since the inception of the colonial administration, changes in administration and in ways of resolving conflicts have occurred. The Nuer see, however, more merit in the old way because that is easy to justify. There is a conception inherent in a covenantal way of life that can gain expression in many different ways. Tensions arise between Christianity and cattle sacrifices, patterns of conflict resolution, initiation and non-initiation and many more. Brief illustration of these aspects is given in the following pages.

Cattle played a key role in traditional Nuer sacrifices. The vast majority of cattle sacrifices can be conceptualized as mechanisms for strengthening the social relationships between different social groups. Although sacrifices are always performed as the high moments in man's relation to God for religious reasons, the sociological and constitutional implications of these sacrifices are more important because they reflect Nuer values and social ties that transcend local lineages. That these sacrifices serve to strengthen relationships beyond households and lineages is demonstrated in the act of sharing the meat of the sacrificial animal among kin, affines, neighbors, visitors, and members of other social groups.<sup>19</sup> In the act of sharing the sacrificial meat, community ties are affirmed, but, at the same time social relationships are also distinctly defined by the rules governing the distribution of meat.

Nuer Christians are opposed to participating in cattle sacrifice to God. They will concede that the practice of animal sacrifice may have been useful in the past, but they maintain that with the changing circumstances its worth has diminished to the vanishing point. By prohibiting cattle sacrifice, the missionaries alienated their converts from other Nuer and from an important tradition. Christian zealots have constituted themselves as a distinct group within Nuer society. Elders continued to urge the young to maintain the Nuer way of life based on the fact that both non-Christians and Christians believe in a single God (kuoth e kel). This belief in one God and the fact that the Nuer and the Presbyterian conception of God is covenantal has encouraged Nuer to accommodate each other.

The accommodation is that both groups accept animal sacrifices on selective occasions. Cattle sacrifice is acceptable on Christian celebrations, in the formalization of conflict resolution, and in the rites of birth and death. The birth of the first child to a family is celebrated by both Christians and non-Christians with the slaughter of an animal in thanksgiving to God. In case of mortuary ceremonies, Christians have adopted the Northern Sudanese Islamic tradition of a mortuary feast (karama). This

has replaced the Nuer traditional mourning ceremony (kier) and mortuary ceremony (mugt) with one rite. This was done in an effort to find a ritual acceptable to both Christians and non-Christians in order to express and to cope with grief. The Nuer church is still in its infancy in meeting the needs of a growing community.

The relationship that existed between bridewealth and bloodwealth was changed by the colonial administration. That administration imposed a fixed rate of bloodwealth of 50 head of cattle throughout Nuerland. Forty cattle were distributed to the kin of the slain man and 10 taken by the government as a fine. The policy that fixed the bloodwealth standards affected the local bridewealth standards as well. Increased bloodwealth meant that genealogically distant kin were required to contribute cattle for compensation. As these relatives paid, they also demanded a share in the cattle provided at the marriage of their kinswoman, thus driving up the bridewealth.

The consequences of the increase in bridewealth has been noticeable in Nuerland. The increase of bridewealth has made marriage more costly, especially for those who did not have many daughters or sisters to receive cattle. Thus, there have been fewer cattle and also cattleless marriages. Elopement and divorce cases have also been on the increase in Eastern Jikany (Hutchinson 1988) and consequently an increase in litigation that reflects the disruption of these changes.

Education and other factors including the adoption of Christianity have led to the decline of gar markings (symbol of initiation). Some educated persons and urban residents bear no gar markings on their forehead. Some Nuer are concerned about these individuals who are old enough to be considered as men but are viewed as boys in the traditional sense because they are not marked (gar), the symbol of both Nuerness and manhood. Being a Nuer is not grounded in a single factor. Belief in a transcendental order: God, covenantal tradition, the shared acceptance of the ritual sanctions of a common mediator, common language, territory, shared lifestyle, and many more



are the ties that bind the Nuer together. Accommodations to some Christian traditions during the period of British colonial administration were made in ways that were compatible with a continuity in the Nuer way of life. The Government of the Sudan poses a more serious threat.

#### Conclusion and Implications for the Future

The traditional way of life among the Nuer has confronted its most serious challenge during the twentieth century. The resistance to the early intrusion of Islam made the Nuer vulnerable to the slave trade and that vulnerability reinforced their resistance to Islam. The intrusion of the British empire through its exercise of hegemony over the Egyptian-Sudanese protectorate, however, resulted in the imposition of subject status upon the Nuer.

The British imperial commitment to indirect rule, presuming to rely upon traditional institutions had a corrupting effect by formalizing the rules governing relationships among the Nuer into a formal code of law, separating those rules from the processes associated with conflict resolution, and imposing a system of chief's courts subject to British concepts of penal law associated with terms of imprisonment. The commitment of British colonial officials to a better understanding of the Nuer way of life led to the anthropological investigations of Edward Evans-Pritchard, commissioned by the Colonial office, and modifications in the native courts that allowed for more viable accommodations to the Nuer way of life.

The end of British imperialism was marked by the establishment of the Government of Sudan an internationally recognized sovereign state. The constitutional commitment of the Government of Sudan to Islam and its association with a civilization grounded in the primacy of the Arabic language poses an even more serious challenge to the Nuer people. Submission to the basic constitutional commitments of the Government of Sudan would imply the extinction of the Nuer culture and way of life. Alternatives imply resistance in one form or another. What forms that resistance might take-violent or

non-violent—and how conflicts associated with that resistance are eventually resolved remain to be determined. How these patterns of conflict and conflict resolution are to emerge in the course of time that may extend over decades or even centuries cannot be determined.

The people seeking to resolve problems of governance in the Sudan may draw upon the ideas associated with acephalous systems of order, including American polycentricity, the Swiss cantonal system, and others. Those ideas must, however, be assimilated into the cultural heritage that different peoples draw upon in fashioning their own institutions.<sup>20</sup> It is in this way that the emerging way of life turns upon the development of a collegiality where people draw upon one another's experience in constituting and reconstituting systems of self-governance that can be adaptive to their local environment.

Although it is difficult to anticipate the future of the ways of life in the Sudan, achieving its potential depends upon a culture of inquiry that relies on contestation and argumentation rather than violence as a way of resolving conflict. Such processes allow for the emergence of complementary communities of relationships among persons. The future of the Africans, Arabs, Christians, and Muslims in the Sudan depends upon openness and potentials for restructuring that can be achieved through contestation and argumentation, carried out in a respectful spirit that enables people to elucidate information, clarify alternatives, and facilitate innovation.

The Nuer acephalous system of order, American federalism, and Swiss confederation have important implications for achieving such a culture of inquiry. If the efforts to achieve order in the Sudan were patterned in this way, a way of life grounded in principles of self-governance and in which "reflection and choice" might function in the affairs of Sudanese could emerge.

The challenge the Nuer face is to mobilize their resources to restructure patterns of association in the context of diverse collectivities and communities of relationships. Whether the Nuer can mobilize analytical

capabilities to devise constructive ways to meet the demand of the modern world is problematical. The existence of many segments independent of each other and different associations provides opportunities for innovation and experimentation, as well as conflict and conflict resolution. Acceptance of the need to reform institutions is an important element of the Nuer system of order.

Autocratic systems are also at risk in the modern world. The presumption that the state is the mechanism that governs society is subject to challenge. The centralized state in Africa has been subject to serious failure (Wunsch and Olowu 1990). The self-governing features of democratic societies are more consistent with acephalous systems of order. Nuer traditions may have an important place in the constitution of viable African systems of government built upon principles of self-government. We have much to learn from diverse acephalous societies in working out the new systems of order that provide the peoples of the world with genuine alternatives to imperial systems. Democratic societies are not limited to just voting, political parties, and parliaments. These institutional arrangements will continue to fail without the support of a self-governing tradition and many autonomous units organized at a smaller scale than that of a country as large as the Sudan.

Notes

<sup>1</sup>The introduction of terms of prison is similar in a number of acephalous societies in sub-Sahara Africa. F. K. Ekechi (1989) observed that prison was the most hated colonial innovation in Iboland (see also Makec 1987 for further reaction to confinement to county jailhouse in Dinkaland).

<sup>2</sup>In his Dispute and Conflict Resolution in Plymouth Colony, Massachusetts 1725-1825 W. Nelson observes that Plymouth's most litigious individuals during the 1725-1774 period tended to be people who were poorly socialized. Robert C. Ellickson (1960: 623-687) has also noted that socially marginal people were disproportionately represented in civil and criminal litigation.

<sup>3</sup>Information was made available to me in an interview with Wicjal Bum on September 27, 1989 in Khartoum (see F. K. Ekechi 1989 for further information).

<sup>4</sup>The problem of corruption of the chiefs according to Wicjal Bum (1989) was a widespread phenomenon in the World of Nilotic people. It was widespread among the Dinka and the Mandari as well. It was also a problem in Nigeria among the Ibo according Ekechi 1989.

<sup>5</sup>If the chiefs were able to render balanced judgments, the need for appeal would have been reduced. Taking into account the fact that the appeals were numerous, it would be reasonable to infer that the purpose of insisting that the chiefs render more acceptable judgments was to lighten the load on the officers.

In the early days of the operation of the British court system, resort to litigation was usually viewed as an irreparable breach of the relationship. Litigation tended to be relied upon by persons who were not closely related by blood or marriage.

<sup>6</sup>I obtained this information from an interview with Wicjal Bum on September 27, 1989; Thijin Banak in September 29, 1989 in Khartoum. For further reading, see F. K. Ekechi 1989; J. Makec 1987.

<sup>7</sup>Some court centers were located along rivers such as Nasir, Ulang, Bentiu, and Paguir, and could be reached by river transport.

<sup>8</sup>First cited in F. K. Ekechi 1989: 165.

<sup>9</sup>Correspondence from the Governor of Bahr el Ghazal Province to the Civil Secretary, March 21, 1927, Civ. Sec. 1/10/34 (see also Robert Collins 1968: 168).

<sup>10</sup>The regulation and conditions under which Missionary work were promulgated by the Government in 1905 (see Sanderson and Sanderson 1981: 440. The missionary regulations during the British Administration are also printed in Robert Collins 1971: 292-3.

<sup>11</sup>I obtained this information from Rev. Thomas Malit, Secretary General of the Presbyterian Church in the Sudan on October 5, 1989 in Khartoum. If a person is familiar with the Nuer or Shilluk members of various congregations, one would see a polygamous household going to the church together.

<sup>12</sup>See F. K. Ekechi, "African Polygamy and Western Christian Ethnocentrism," JAS 3 (Fall 1976), 329-49, F. K. Ekechi (1989: 63); Edmund Ilogu (1974: 223). Professor Ilogu placed emphasis on "those who become converted whilst having more than one wife." This was first cited in F. K. Ekechi 1989.

<sup>13</sup>The Lutheran theologian Anders Nygren (1936: 35) recommended a method of comparing religions by what he called their fundamental motifs. Nygren traced the development of Christianity as a conflict between two concepts of love, the Hellenistic concept of eros and the novel Christian concept of agape, eros being the platonic idea of motivated love, agape being self-giving, disinterested love given by God to his creatures.

According to Nygren, the agape motif struggle with the nomos, or legalistic motif of Judaism, and the spiritualizing, divinizing motif of eros in Greek religion, which allowed man to reach up to God and even aspire to divinity. The religions prior to Christianity extended to humans the possibility of deserving or attracting God's love, meriting it. The original Christian agape motif found all the initiative with God, rejecting the pride of man and the diminishing of godhead implied by any doctrine of man's ability to reach upward (Mary Douglas 1980: 100). When Evans-Pritchard (1965: 14) says that the Nuer attribute a selfless love to God, Nygren's interpretative framework is explicit.

<sup>14</sup>For the debates, see Rev. John Mbiti (1970: 314; Donald M'Timkulu (1967); Nya Kwiawon Taylor, Sr. (1984); Robin Horton, "African Conversion," Africa (41 1972): 85-108; V. Y. Mudimbe (1984: 6-43); Robin Horton and J. D. Y. Peel, "Conversion and Confusion: A Rejoinder on Christianity in Eastern Nigeria" CJAS 10 (1976): 481-98.

<sup>15</sup>The northernization of teaching positions of British women in the South was delayed due to shortage of women teaching staff in the North and the restrictions of Islam on women to move freely.

<sup>16</sup>This is a confirmation of Dr. Turabi and Sadiq el Mahdi's position that there is a cultural vacuum that needs to be filled by Islam. Acceptance of Christianity by the Nuer rather than Islam is blamed on foreign missionaries rather than the tutelage of Islam that is incompatible with the Nuer way of life (see Sanderson and Sanderson 1981).

<sup>17</sup>I obtained this information in an interview with Rev. Kang Dung on September 12, 1989 in Kost, Sudan.

<sup>18</sup>I obtained this information in an interview with Colonel Koang Reth in October, 1989 in Khartoum (see also Sharon Hutchinson 1988: 247).

<sup>19</sup>I obtained this information in an interview with Riel Gatluak on September 13, 1989 in Kost, Sudan and Koryom Jal on September 9, 1989 in Khartoum (see also Evans-Pritchard 1956).

Vincent Ostrom (1987: 25) observes that Federalism can be conceptualized as "constitutional choice reiterated." This is similar to acephalous conditions among the Nuer. Such conditions are constituted and reconstituted according to choices of individuals involved.

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-Secretary for Orientation and Ideology, Sudanese Socialist Union (Political Organization), Southern Sudan Department Secretariat, 1980-82. Responsible for planning popular mobilization and defining programs.

-Controller, People's Regional Assembly, Juba Southern Sudan, 1979-80. Responsible to investigate citizens' complaints against local, regional, and central government agencies, to present complaints of the citizens, and to recommend to the Speaker of the Peoples Regional Assembly for further action.

-Member, Peoples Regional Assembly, Juba, Southern Sudan, 1978-80; 1982-84. Responsible for legislating for preservation of public order, internal security, efficient administration and development of the Southern Sudan in cultural, economic, and social fields.

-Chairman and Managing Director, Southern Sudan Regional Development Corporation (RDC) 1974-78. Responsible to: (1) chair regular meetings of the Board of Directors, (2) manage and direct the Corporation, subsidiaries, and its investments, (3) review and to present development project proposals to the Board of Directors for final decision in the periodical meetings of the Board, (4) authorize the disbursement of the Corporation's funds in accordance with the policy guidelines of the Board, (5) coordinate the development programs of the Corporation with the Ministry of Finance and Planning and agencies of the central government, (6) manage loan funds for development of medium and small enterprises, and (7) work with central government, regional governments, and the UN agencies for training man-power for the Regional Development Corporation.

-Member of the Constituent Assembly, Sudan, 1973-74. The Constituent Assembly was to draft the constitution of the Sudan. Members of the Assembly were selected by President on the advice of the Political Bureau of the Sudan Socialist Union.

-Regional Minister of Cabinet and Presidential Affairs, Juba, Southern Sudan, 1972-74. Responsible for coordinating activities between the different units of local, regional, and central governments in: (1) development planning and implementation of development programs, budgetary planning and super-scale personnel policy, (2) policies regarding the allocation, implementation, and management of development programs of non-government organizations in the Southern Sudan, (3) assisting the President of the High Executive Council in coordinating the relations between the High Executive and the Central Government ministries, (4) assisting the President of the High Executive Council in matching policy making and implementation requirements in economic development in the Southern Sudan, and (5) managing business of the High Executive Council.

capital. Those who have shaped the political development in North Africa and sub-Saharan Africa in the period of colonialism in those regions have seldom taken a sustained interest in how the people think of themselves, the physical and spiritual worlds in which they live, their ways of life, and the social relations that they sustain and render meaningful. The imperial powers were not so much interested in how local groups "take decisions" as in how they could be made to take orders. Early post-colonial theorists continued to recommend strong, centralized national institutions in order to establish political stability and the regulatory powers thought indispensable to development.

Indigenous social arrangements can be conceived of as forms of human capital, which we must understand in order to appreciate how the problems obstructing further development can be addressed. Future efforts to ensure sustained social and economic development must, in my view, be grounded in analyses of the people who live there, their cultures, and the ways they customarily maintained orderly patterns of social relations, and allocated local resources and opportunities.

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