Responsive Forest Governance Initiative (RFGI)
Supporting Resilient Forest Livelihoods
through Local Representation

Land Governance, Local Authorities and *Unrepresentative* Representation in Rural South Sudan

A Preliminary Exploration

Phil René Oyono
Deng-Athoi Galuak

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Responsive Forest Governance Initiative (RFGI)
Research Programme

The Responsive Forest Governance Initiative (RFGI) is a research and training program, focusing on environmental governance in Africa. It is jointly managed by the Council for the Development of Social Sciences Research in Africa (CODESRIA), the International Union for the Conservation of Nature (IUCN) and the University of Illinois at Urbana Champaign (UIUC). It is funded by the Swedish International Development Agency (SIDA). The RFGI activities are focused on 12 countries: Burkina Faso, Cameroon, DR Congo, Ghana, Kenya, Mozambique, Nigeria, Senegal, South Africa, South Sudan, Tanzania, and Uganda. The initiative is also training young, in-country policy researchers in order to build an Africa-wide network of environmental governance analysts.

Nations worldwide have introduced decentralization reforms aspiring to make local government responsive and accountable to the needs and aspirations of citizens so as to improve equity, service delivery and resource management. Natural resources, especially forests, play an important role in these decentralizations since they provide local governments and local people with needed revenue, wealth, and subsistence. Responsive local governments can provide forest resource-dependent populations the flexibility they need to manage, adapt to and remain resilient in their changing environment. RFGI aims to enhance and help institutionalize widespread responsive and accountable local governance processes that reduce vulnerability, enhance local wellbeing, and improve forest management with a special focus on developing safeguards and guidelines to ensure fair and equitable implementation of the Reduced Emissions from Deforestation and Forest Degradation (REDD+) and climate-adaptation interventions.

REDD+ is a global Programme for disbursing funds, primarily to pay national governments of developing countries, to reduce forest carbon emission. REDD+ will require permanent local institutions that can integrate local needs with national and international objectives. The results from RFGI Africa research will be compared with results from collaborators in Asia and South America in order to enhance RFGI comparative scope, and to broaden its geographic policy relevance.

RFGI Working Paper Series Editors' Note

James Murombedzi, Jesse Ribot

and Gretchen Walters

Struggles for control over and access to nature and natural resources; struggles over land, forests, pastures and fisheries, are struggles for survival, self determination, and meaning. Natural resources are central to rural lives and livelihoods: they provide the material resources for survival, security, and freedom. To engage in the world requires assets that enable individuals, households, and communities to act in and on the world around them. The ability to accumulate assets and the ability to access government and market services depends partly on such resources along with the political-economic infrastructure – rights, recourse, representation, markets, and social services – that are the domain of government. Democracy, which both enables and requires the freedom to act, is predicated on these assets and infrastructures. Since the 1980s, African governments have been implementing local government decentralization reforms aimed at making local government more democratic by making them responsive and accountable to citizen needs and aspirations; in many places this has been done through a decentralisation of natural resource governance to local administrations. In order to be responsive to individual, household and community demands, local governments, too, need resources and decision-making powers. There must be a public domain – a set of public resources, such as forests or fisheries, which constitute this domain of democracy, the domain of decisions and services that citizens can demand of government. Natural resources, when decentralized into the domain of local authority, form an important part of the resources of individuals, households, communities and governments, making possible this move toward local democracy.

Natural resources provide local governments and people with wealth and subsistence. While nature is not the only source of rural income, the decentralization of natural resources governance is a core component of local government reform. However, governance reforms have been implemented in a context broadly characterized by an enduring crisis of the Western economic and financial systems, which in turn has stimulated privatization and liberalization in every sphere of life, including nature. The process has deprived local governments of public resources – depriving individuals and communities of a reason to engage, as a powerless government is not worth trying to influence. Privatization is depriving forest-dependent peoples of their access to formerly 'public' or traditionally managed resources. National governments, as well as international bodies such as the United Nations programme, titled the Reducing Emissions from Deforestation and forest Degradation (REDD), further this trend as they collaborate with private interests to promote the privatization of natural resources. The resulting enclosures threaten the wellbeing of resource-dependent populations and the viability of democratic reforms.

The specter of climate change is deepening the crisis of enclosure. A key response to climate change has been the attempt to mitigate greenhouse gas emissions through enhancing the capacity of forests in the developing world to store carbon, ostensibly for the benefit of the atmosphere as well as the communities who use these forests. UN REDD seeks to pay communities, through their national governments, to conserve their forests as carbon storage. A plus '+' was added to REDD, forming REDD +, to call for improved ecosystems services, forest management, conservation, forest restoration and afforestation to enhance the capacity for carbon storage. Designed on the basis of similar payments for environmental services (PES) schemes, REDD+ has the potential to inject vast new sums of money into local resource use and governance. In the context of fragile local governments, nascent democracies and powerful private interests, such cash inflows result in the commercialization and privatization of forests and natural resources and the dispossession of local resource users. This financialization of natural resources grossly diminishes the scope for democratic natural resource governance schemes. To be sure, the implementation of REDD+ can also learn from and avoid the pitfalls experienced in these PES schemes, especially if they represent local interests in natural resource governance decision making.

The Responsive Forest Governance Initiative (RFGI) is an Africa-wide environmental-governance research and training program focusing on enabling responsive and accountable decentralization to strengthen the representation of forest-based rural people in local-government decision making. Since January

2012, the programme has carried out 33 case studies in 12 African countries, with comparative cases Nepal and Peru, to assess the conditions under which central authorities devolve forest management and use decisions to local government, and the conditions that enable local government to engage in sound, equitable and pro-poor forest management. Aimed at enabling local government to play an integrative role in rural development and natural resource management, these case studies are now being finalized and published to elicit public discourse and debate on local government and local democracy. This Working Paper series will publish the RFGI case studies as well as other comparative studies of decentralized natural resources governance in Africa and elsewhere that focus on the interesction between local democracy and natural resource management schemes. Using the concepts of institutional choice and recognition, the cases deal with a comprehensive range of issues in decentralized forest management in the context of REDD+, including the institutional choices of intervening agencies; the effects of such choices on accountability and representation; and the relationships between local government and other local institutions. The series will also include syntheses discussing the main findings of the RFGI research programme.

Based at CODESRIA, and funded by the Swedish International Development Agency (SIDA), the RFGI is a three year collaborative initiative of CODESRIA, the University of Illinois at Urbana-Champaign (UIUC) and the International Union for Conservation of Nature (IUCN). RFGI working papers and documents, including the background papers, the RFGI programme description, and the RFGI Methods Handbook, can be found on line at:

- http://www.codesria.org/spip.php,
- https://www.iucn.org/about/work/programmes/forest/fp_our_work/ fp_our_work_thematic/locally_controlled_forests/lcf_projects_partnership/ responsive_forest_governance_initiative__rfgi__/
- https://sdep.earth.illinois.edu/programs/democracyenvironment.aspx

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CODESRIA

ILLINOIS
UNIVERSITY OF ILLINOIS AT URBANA-CHAMPAIGN

IUCN

The Council for the Development of Social Science Research in Africa (CODESRIA) is an independent organisation whose principal objectives are to facilitate research, promote research-based publishing and create multiple forums geared towards the exchange of views and information among African researchers. All these are aimed at reducing the fragmentation of research in the continent through the creation of thematic research networks that cut across linguistic and regional boundaries.

CODESRIA publishes *Africa Development*, the longest standing Africa based social science journal; Afrika Zamani, a journal of history; the *African Sociological Review; the African Journal of International Affairs; Africa Review of Books and the Journal of Higher Education in Africa*. The Council also co-publishes the Africa Media Review; Identity, Culture and Politics: An Afro-Asian Dialogue; *The African Anthropologist and the Afro-Arab Selections for Social Sciences*. The results of its research and other activities are also disseminated through its Working Paper Series, Green Book Series, Monograph Series, Book Series, Policy Briefs and the CODESRIA Bulletin. Select CODESRIA publications are also accessible online at www.codesria.org.

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Acknowledgments

Abstract

The Sudan Rural Land Governance Project supported the South Sudan Land Commission in the development of new local institutions likely to give a strong voice to the rural communities in land administration and governance matters. As a result, County Land Authorities (CLAs) were set up with the mandate to represent rural communities and incorporate local concerns in land matters. In its weak version representation means 'standing for and acting in lieu of....' The strong version (substantive representation) requires a correspondence between the needs and aspirations of the rural communities and the actions of the representatives. In substantive representation, the represented are expected to actually 'feel represented…based on their aspirations and needs.' This paper is based on a preliminary exploration of local representation in Bor CLA in South Sudan. It shows that there was a lack of substantive interaction between CLA members and the rural communities they are mandated to represent. Bor CLA members were authorized through top-down appointment and, therefore, did not feel accountable to the rural communities. The representational relation was vacuous. Bor CLA members were neither responsive nor responsible. What was called a local 'representative committee' in rural Sudan was not *representative*; it was not accountable to local people nor did it respond to local needs or aspirations. Rural communities remained voiceless in land governance and administration matters. Inevitably, such institutional conditions have socio-economic implications (threatened livelihoods and the formation of grounds for land and resource conflict), political implications (blocking of the emergence of local democracy and participatory citizenship), policy implications (uncertainties about community tenure security and rights to land) and theoretical implications (the *empowerment* of a theory of 'institutional divide').

1

Introduction

As a concept and practice, or as Immanuel Kant would say, a *noumenon*[1] and *phenomenon* (Kant 1938), representation is a preferential focus for groups as diverse as rulers, politicians, citizens, policymakers, legislators, believers[2], trade unions, agencies, and scholars. In many forms of daily life, we are always represented by others and we, too, represent others. Families, villages, neighbourhoods, cities, collectivities, micro and macro-institutions, micro and macro-organizations, religions, companies, regions, countries, continents are, in one way or another, represented and have representatives. As such, the represented always expect something from their representatives on the basis of commitments reciprocally or unilaterally defined.

The present paper focuses on a case study of representation in rural South Sudan. Local institutions were established within counties (local government units) to represent the rural communities in land administration and governance matters, including the development of the Land Policy. Therefore, and like in some other pioneer counties, a local land management institution (namely a County land authority or CLA) was set up and enabled in Bor County (Jonglei State) by the Sudan Rural Land and Governance Project (SRLG) Project, funded by USAID[3] and implemented by Tetra Tech, a US-based firm. The project sought to provide financial, institutional and technical support for the implementation of the country's Land Policy.[4] Bor CLA was therefore recognized by the county authorities and the State-level ministries as the sole representatives of the rural communities in land administration and governance issues in South Sudan.

Assuredly, land is a key asset for the rural poor. Like everywhere in Africa, secure access rights to land are pivotal for sustainable livelihoods, poverty reduction and local governance in South Sudan (Guarak 2011; Mennen 2012a).

When this research was conducted in 2012-13, South Sudan was experiencing a massive influx of international NGOs, projects and corporations to help the new country to take off[5] through a vast process of policy design and reform, including the development of the Land Policy (De Wit 2008; Deng 2011a). The Land Act of 2009, the Local Government Act of 2009 and the Land Policy of 2013 transfer land administration and governance powers and responsibilities to counties, which are the most local level of local government (GoSS 2009a, 2009b; Hilhorst and Porchet 2012).

The present working paper is derived from an exploratory study of local representation in land matters through the CLA of Bor County. The study explored local representation and the level of involvement and inclusion of the rural communities in decision-making on land matters. Analysing representational arrangements and relationships in rural South Sudan needs a clear understanding of the notion of representation in the theoretical background of this working paper. Representation is viewed as 'correspondence' of the representatives and those they are supposed to represent, 'responsibility' of the representatives and 'accountability' of the representatives *vis-à-vis* those they represent (Pitkin 1967; Manin 1996; Mansbridge 2003; Ribot 2004; Severs 2010; Saward 2009, 2010). Moreover, in this work we see the theoretical link between local representation and decentralization (the process of transfer of powers to local authorities) as fundamental, following Agrawal and Ribot (1999), Ribot (2004, 2011) and Fine (2010), from the view according to which downwardly accountable representation and democratic decentralization are consubstantial and go together. We put in perspective descriptive (or symbolic, following Pitkin 1967) and substantive (downwardly accountable) representation.

Local representatives who form the Bor CLA are not elected, but appointed by the County executive authorities. The study shows that the Bor CLA, in the end, was cut off from the rural communities it is supposed to represent. As a result, local representatives do not account at all to the rural communities, but to the County Commissioner, the County Executive and the staff of the SRLG Project. The study provides the preliminary empirical evidence that the exercise of local representation by Bor CLA has not met community aspirations and expectations i.e. the defence of their interest and their land rights. Local representation in land administration and governance matters was not resting on correspondence, responsibility and downward accountability. It was *unrepresentative*, and was rather *self-representative*, by which we mean it was just a kind of descriptive representation, lacking in the elements of downward accountability that would make it substantive and democratic. This representational scheme can be theorized

under what we call 'institutional divide', meaning the shift of local representatives towards those who appointed them, resulting from the cultivation of the primacy of upward accountability on downward accountability.

The study explored the means of CLA authorization, communicative interactions, and the extent of downward accountability. Section 2 below presents the background information in connection with this study. It provides basic information that helps with the understanding of ongoing policy, legal and institutional developments and their relationship with land administration and governance, on the one hand and on the other, the section makes a rapid review of the land project on which the study focused. The theory extract and methods instrumented while conducting the study are exposed in Section 3. Study results, organized on a set of variables that define representation, are presented in Section 4. These results are interpreted, discussed and analyzed in Section 5.

2

Background

This section provides background on the policy, legal and institutional setting for the construction of local representation in land administration and governance in South Sudan. It also briefly describes the geographical context and presents the objectives of the land project that partnered with Bor CLA. Transversely and covertly, it outlines some of the institutional challenges that shape the politics of land (and more broadly the politics of natural resource management) in the new country.

The signing of the Comprehensive Peace Agreement (CPA) in 2005 ended twenty one years of civil war and led to the independence of southern part of Sudan in 2011 (Goffard 2011). It was then expected that fragmentation and territorial transformation could lead to the renaissance of the south. Despite constant recovery, reconstruction, stability and development efforts (Maxwell *et al.* 2012), peace and security are still being challenged in the new Republic (Lavergne 2011; Craze 2013)[6]. The ongoing devastating armed conflict between the two factions of the ruling Sudan People's Liberation Movement (SPLM)[7] shows that South Sudan remains undoubtedly a fragile state in the hands of an unpredictable political and military elite (Goulty *et al.* 2012).

South Sudan has a total land area of 620,000 sq. km, with a population of approximately 10 million (GoSS 2005a), and due to its natural resources, is of significant geostrategic importance (Oduho and Deng 1963; Rémy 2012). The main export is oil, which supports nearly 98 per cent of the government of South Sudan's budget (Dagne 2011).[8] Land stands out as a basic asset for the central government, subnational governments, global investors and the rural communities (Cook 2007; Deng 2011b)[9]. According to Deng (2011a, 2011b), from 2007 to 2010, foreign investors acquired 4.92 millions hectares, about 7.6 per cent of the total land area, for biofuel, forest plantations, ecotourism and large-scale agriculture. Most land (up

to 90 per cent) is still owned and controlled by the State, although it is clearly stipulated in the Transitional Constitution that 'land belongs to the communities.' Under the resulting dualism, land practices remain governed by customary systems in daily life in the whole of rural South Sudan (Mennen 2012b).

Policy and Legal Land Governance Framework

By and large, land has been the common denominator in policy development since the CPA (De Wit *et al.* 2009; GoSS 2011a). Following the independence, the Government of South Sudan has defined three policy and operational objectives regarding land management and governance. The first is the production of a land tenure policy and legal framework. The second is the development of implementing tools. The third deals with monitoring and assessing implementation processes. Broadly, key policy and legal tools include the Constitution, environment and development plans, the decentralization legislation and the land legislation. Table 1 below presents these policy and legal tools and their functions.

Table 1: Key policy and legal tools of land administration and governance (adapted from Hilhorst and Porchet 2012)

Policy and legal tools	Functions
Sudan Environment Plan (2006) under the Republic of Sudan	Identifies major factors/threats that affect the natural environment and planning of mitigation measures
The Land Act (2009)	Defines basic principles, priorities and institutional arrangements regarding land governance, administration and management,
The Local Government Act (2009)	Prescribes provisions for transferring powers and resources to subnational institutions, bodies and authorities.
The Investment Promotion Act (2009)	Defines procedures for certifying and licensing foreign investors, including land investors
The Transitional Constitution (2011)	Enacts body of laws that define the different institutions in the state and organizing their relationships. It also includes a Charter of Fundamental Rights.

South Sudan Development Plan (2012)	Prioritizes urgent developmental needs to be accomplished by 2013/14. It is the equivalent of poverty reduction strategies found in most African countries.
Land Policy (2013)	Defines the main objectives and results of land governance (including local institutional arrangements) and basic guidelines relating to land investments.

As already mentioned, customs still largely govern land ownership and use in the vast majority of South Sudan. Seeking to modernize administration of land and resources, address legal uncertainties, and provide a legal foundation for ideas on land and resource governance espoused in the CPA and Constitution (Mennen 2012b), the South Sudan Legislative Assembly passed three key pieces of legislation in 2009 i.e. the Land Act, the Local Government Act, and the Investment Promotion Act. Responsibilities in land administration and governance rest on an array of national level public institutions[10]. Thus, land administration and governance issues addressed by this paper are under the administrative and technical responsibility of the following ministries: the *Ministry of the Environment; the Ministry of Agriculture and Forestry; the Ministry of Lands, Housing and Physical Planning; the Ministry of Legal Affairs and Constitutional Development; the Ministry of Water and Irrigation*; and the Ministry of Petroleum and Mining. But though cross-sectorial, the overall implementation of natural resources and land policies falls primarily under the responsibility of the Ministry of the Environment.

Besides these 'technical' ministries, the *South Sudan Land Commission* is the key public institution for land administration and governance. Created in 2006 by Presidential Decree No. 52/2006, it is in charge of (as synthetized by Marongwe): (i) the arbitration of land claims; (ii) the assessment of compensations; (iii) the coordination of the development of Land Policy; and (iv) the implementation of studies on land use practices in areas where natural resources are exploited (Marongwe 2013). The *Land Policy Steering Committee*, mandated to follow up the land policy implementation process, was working under the *South Sudan Land Commission*. This committee completes the policy framework and national institutional landscape (Hilhorst and Porchet 2012).

Decentralization and Land Governance

Under a ten-State system, the Transitional Constitution adopted in 2011 created 'decentralized governance systems' for 'equitable sharing of national wealth', to guide the central and local   development priorities (see Dahl 2010). South Sudan is divided into States; States are made up of Counties; Counties are divided into Payams, which are, in turn, divided into Bomas (GoSS 2009b). Thus, subnational States (generally called 'the States'), Counties, Payams and Bomas constitute the territorial units and scales of the South Sudan's decentralization model (GoSS 2009a).

Table 2: Decentralization entities, authorities and mandates

Subnational Institutions	Authorities	Mode of Designation
State	Governor	Elected
County	Commissioner	Appointed by the State Governor
Payam	Administrator	Appointed by the County Commissioner
Boma	Administrator	Appointed by the Payam Administrator

From just a descriptive point of view, public responsibilities detained by decentralized authorities can be presented schematically as follows (GoSS 2009b, 2011b): State-level institutions and authorities are in charge of policy and regulation design[11]; the County Commissioner and County authorities coordinate policy and regulations implementation within the County; the Payam Administrator is mandated to follow up public administration actions in various Bomas (village level territorial units[12]); and the Boma Administrator manages public affairs at the village level. Traditional authorities and local chiefs are recognized in the law[13] as important actors in the existing local overall administration and governance system, including land administration and governance matters (GoSS 2009a, 2011a)[14]. They are in charge of, and have powers for, land conflict resolution and mediation, as well as local arrangements related to access to land and land control from a customary perspective.

According to De Wit et al (2009), the land question is the major structuring factor of power relations in the whole of Sudan[15]. In fact, South Sudan is at a crossroads, with the explosive character of land transfer and deal operations arranged between decision makers and foreign land investors (Deininger 2003; Deng 2011a, 2012a), resulting very often in the dispossession of huge pieces of customary land (Deng 2011b). Coupled with the implementation of the

decentralization model, ongoing efforts are officially presented as a response to the critical issue of land administration and governance (GoSS 2011a, 2011c)[16].

The Land Project

In this context of decentralization and land policy reform, we focus on the intervention of USAID-supported Tetra-Tech. This US-based firm that provides consulting, engineering, program management, construction management and technical services worldwide, was operating in Jonglei State and Western Equatoria States, selected as pilot areas for the SRLG Project. Bor County is part of Jonglei (see map below)[17]. According to Demonibynes and Romea (2011), about 55.4 per cent of the population of the Jonglei State (estimated at 1,443,500 persons) live below the poverty line. In addition, the only livelihood of 84 per cent of the population is agriculture and livestock. Therefore, the rural communities are essentially agro-pastoralists, combining cattle rearing with wset season agriculture and migrating seasonally according to the rains and the inundation of the toic (seasonal floodplains). Other land uses include: a huge irrigation project (the Jonglei Canal Project), a 'white elephant' finally abandoned because there was a poor 'cost and benefit' analysis in the beginning; oil extraction by Total S.A. and Chevron Oil[18]; and ongoing land grabbing operations for commercial agriculture and carbon market.

Map of Bor County in the Jonglei State (bottom left)
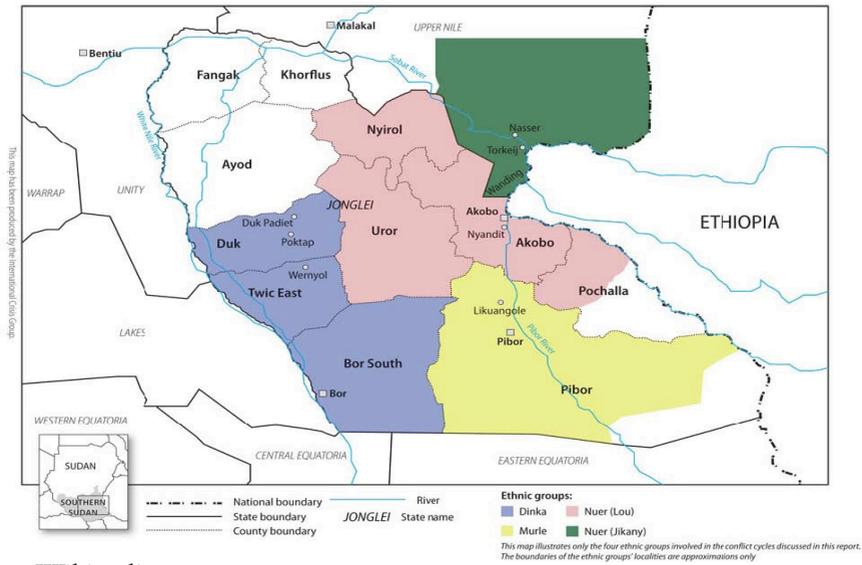
Source: Wikipedia

Tetra-Tech was awarded a contract by USAID in order to implement the SRLG Project. The central objective of the project was to support the South Sudan Land Commission in reforming and rebuilding the new country's land sector, on the one hand, and in developing new statutory institutions to administer land rights and govern natural resources use, on the other (Marongwe 2013). Component 4 of the SRLG Project focused on 'Bor County Institutional Support', to build on the experience of the CLA in order to facilitate the knowledge transfer between Bor CLA and other CLAs (notably Yambio CLA, a neighbouring County) and to scale up the experiment.

The SRLG Project sought to help harmonize the Land Policy with the Land Act of 2009   and to support selected States and local governments in more effective land administration and planning. It also produced land inventories and land use maps. According to De Wit (pers. comm.)[19], support for the South Sudan Land Commission became marginal over time, largely because the commission became over-bureaucratized. That is also the reason why Tetra Tech focused on local administrative and political structures such as counties.

3

Theoretical Foundation and Study Methods

Representation is an issue that has been addressed by social and political thought for centuries (Locke 1997; Hume, cited by McArthur 2007). Put to the test by the effects of globalization and liberal democracy, on the one hand, and, on the other, by a critical mass of challenges relating to localism and the study of the 'local', political theory has paid increased attention to representation since the 1960s, with the impressive classical work of Pitkin (1967) and Pennock and Chapman (1968). In her outstanding theory, Pitkin views representation as a process through which individuals 'stand in the place of...', 'act in lieu of...' and 'account to the citizens they represent'. Although a quite visible theoretical detachment has emerged in the last twenty years, contemporary political theory continues to be inspired by this pioneering work.

Post-Pitkinians have sought to enrich the representation paradigm, very often by challenging it. Severs (2010) finds that Pitkin's conception of representation is *uni-directional* and static, even though representation is, by essence, a dynamic and *bi-directional* process. With Saward (2008, 2009), representation is understood and characterized in a considerable array of interlaced notions e.g. 'symbolizing, resembling, portraying, standing for, acting for, …'. We retain two things from this paradigmatic scheme: (i) representation is about 'standing for' (descriptive representation, see also Dovi 2002) and 'acting for' (substantive representative, see also Pettit 2010); (ii) to 'being represented' (the *uni-directional* mode in Pitkin's work) one must add 'feel represented', the bi-directional mode in Severs' work.

This working paper focuses on local representation. Local representation is closely associated with decentralization, in its democratic version (Crook and Manor 2000; Ribot 2004). Democratic decentralization is defined as a transfer of powers and resources (from the central government to sub-national territorial

scales) to democratically elected local institutions and authorities accountable to the electorate (Thompson 2002; Ribot 2004, 2011). Work of the 'localists' (Agrawal and Ribot 1999; Crock and Manor 2000; Ribot 2003; Ribot and Oyono 2005; Oyono *et al.* 2006) is further dedicated to the study of subnational political communities. They place downward accountability at the centre of local representation. Representational parameters behind these conceptual elements help examine the nature of local representation in rural South Sudan.

To explore local representation in land administration and governance in Bor County, three variables were questioned: '*authorization*' i.e. the means through which Bor CLA members were vested with powers and, therefore, gained their official status; '*communicative interactions*' i.e. institutional relationships between Bor CLA members and the rural communities; '*accountability*' i.e. responsiveness of Bor CLA members toward the rural communities and the ability of the latter to sanction them. The three variables assemble both the *bi-directional* mode of representation and the spectrum behind the fact of 'acting for'. We seek to assess to what extent local institutions and authorities chosen by the land policy and legislation and the SRLG Project to represent the rural communities are actually representative and accountable to them.

Methods used in this study aiming at exploring representation through *authorization*, *communicative interactions* and *accountability* were basically qualitative. We selected a sample of informants at the national and subnational levels, including: one project staff; officials of central and subnational State ministries and departments working for land administration and governance; researchers working on the topic. At the more local level, we selected a set of groups of informants, including field-level project volunteers and land surveyors, local administration authorities, land administration and governance authorities, community representatives (committee and union leaders), traditional authorities (lineage chiefs and elders). About 50 persons were interviewed as key informants and four focus group meetings, grouping 80 persons in total, were held at the local level.

To understand the legal and institutional basis of land administration and governance in South Sudan, we reviewed and analyzed key policy and legal tools, namely the Land Act of 2009, the Local Government Act of 2009, the Draft Land Policy of 2011, the Land Policy of 2013, and the South Sudan Development Plan (SSDP, 2012-13). On the one hand, we used Rapid Evidence Assessment to assess evidence from a variety of sources (e.g. academic and grey literature). On the other, we explored SRLG Project documents (core project documents, the logical

framework, mid-term review notes, workshop reports). In addition, we accessed and explored study reports on land administration and governance in the new country (Mennen 2012a, 2012b; Deng 2012a; Marongwe 2013).

We conducted Institutional Mapping exercises at the subnational and local levels, for identifying who counts and has powers in land administration and governance. These exercises were completed by the Venn Diagram technique, for identifying institutions/stakeholders at play at the more local level, and the Stakeholder Analysis technique, for weighing the interests of all the key stakeholders in land administration and management. We applied a Social Impact Assessment and Policy Outcome Assessment, in order to identify and assess various outcomes generated by the exercise of local representation through CLA members.

4

Local Representation

This section presents the findings of the case study. On the whole, it brings empirical evidence of *unrepresentative* local representation in land administration and governance in Bor County. At first, we present and describe the *means of authorization*. In a second step, we characterize the *communicative interactions* between the local representative and rural communities. In a third step, we explore the *accountability relations* between the local representatives and the rural communities.

Authorization and Unelected Authorities

The creation of Bor CLA, as well as the other CLAs, is prescribed in the key South Sudan's land governance and management legal instrument i.e. the Land Act of 2009. More specifically, Section 44 of the Land Act institutes CLAs. According to the law, each County shall establish a land committee or authority. On paper, therefore, Bor CLA was set up to serve as a bridge between customary and statutory land governance arrangements, for a more balanced land policy, according to official transcripts (GoSS 2011a). Bor CLA was also set up to incorporate local concerns in land acquisition operations, and manage resource conflict at County and community levels.

Bor CLA members were vested with powers and responsibilities embodied in a mandate with the following key words: 'local representation'; 'land allocation and registration'; 'land arrangements'. As such, Bor CLA members were legally and institutionally enabled in order to engage with the SRLG Project and Tetra Tech. According to an employee of Bor Council and a former project volunteer, 'the creation of the CLA is an illustration of the recognition of the rights of the rural communities to land'[20].

Bor CLA is headed by a County Commissioner. We found that CLA members were all appointed by the County Commissioner, based on social, administrative and discretionary criteria. They were not elected by universal suffrage or designated on a democratic representation basis. The County Commissioner himself is a local authority appointed by the State Governor (see Table 2 above). Appointment and discretionary selection were therefore the *means of authorization* for local representation through Bor CLA i.e. the means through which local representation in land matters was set up.

Bor CLA members were drawn from traditional authority groups, community-based organizations and user groups (farmers and pastoralists) and they come from, and represent, lower administrative units (Payams and Bomas). Given this institutional and social status, they were expected to be deeply involved in the SRLG Project and in land matters, on the one hand. On the other, Bor CLA members were expected to serve as a drive belt between Tetra Tech and the rural communities. According to a traditional authority selected as a Bor CLA member three years ago, his presence as a local representative fits within his institutional and social status of community leader, insofar as the South Sudan Constitution says that 'land belongs to the community'[21].

To make the powers he held more explicit, another Bor CLA member stated that: 'in their mandate and responsibilities Bor CLA members should constitute the last bulwark against community land dispossession by foreign investors'.[22] Bor CLA members were claiming to represent the rural communities of the County; they consequently took themselves to be the voice of the said rural communities. Bor CLA members were expected to defend local interests and be a counter power to the central/State governments and foreign investors. According to a field project member of staff in Bor town[23], 'with their attributes of local representatives, all the Bor CLA members were claiming that they were legally and socially authorized in local land matters'.

The SRLG Project-Tetra Tech supported capacity building within Bor CLA through training sessions on land planning and administration. Ten sessions were registered by the time of the assessment. The project has provided Bor CLA with an office, furniture and equipment. It has also been locally acknowledged that Bor CLA was benefiting from financial incentives and budgetary allocations[24] provided by the land project.

Weak Communicative Interactions

We did not find any tangible evidence that there were effective interactions between Bor CLA members and the rural communities they were claiming to represent in the process. Indeed, these local representatives said that they have 'organized

meetings' in Bomas[25]. According to the villagers, in two years only two so-called feedback meetings were held throughout Bor County by CLA members[26]. In fact, a young man at Goumba found that these meetings were 'empty and useless'[27]. At Goumba Boma, a group of community members told us that actually they were not aware of the activities and results relating to the Bor CLA involvement in the land project and in the incorporation of local concerns in the development of the Land Policy. Asked whether written reports were issued and distributed by Bor CLA members, the most literate people within village communities responded consistently in the negative.

For the villagers, information on land management, both for the current and future transactions, was not shared. Community members said that while they are without any doubt the customary owners of the land, they were not actually officially involved in land administration or governance decision-making processes. A community member of Machuak expressed that: 'the community in its collective capacity owns the land…Land authorities or CLA members are only custodians and trustees who administer the land on behalf of the community. But we don't really know what is going on'. Interviews conducted in Bomas showed that the rural communities were not consulted prior to the making of any decision regarding land acquisition by foreign investors.

We found that all along the process, the rural communities and even a few villages were informed only after a decision was adopted at the chief town of Bor County. In a community meeting at Kolnyang, only five persons out of 35 recognized that they were more or less informed about the land project and the design of the land policy. In some other villages of the county, the rural communities were vaguely informed about the existence of the Bor CLA only during occasional visits by the Peace Caravan Teams (see also Duot and De Ngong 2011). The fact that only two meetings (which did not even involve all the villages of the County) had been organized since the beginning of the land project was a strong illustration of this passive communicative relationship.

According to a local teacher interviewed at Goumba, 'it is said that we are represented in land issues by our folks. Not only do we not know what is going on, but also they are not available when it comes to the land matter. While land management is crucial in the whole of Greater Bor and while our land rights are threatened by outsiders'[28]. In other words, Bor CLA members were not connected with the rural communities they were supposed to represent: they did not communicate on the land project and relating matters. The rural communities were voiceless about the threats associated with the massive arrival of foreign land investments in the whole of rural South Sudan, including the Jonglei State,

as communicative interactions with their representatives were so poor. Factual elements evidencing that the aspirations and expectations of the rural communities were taken into account in land administration and governance matters were not identified in this case study.

Poor Accountability Relation

Were Bor CLA members accountable during the process? If the CLA members were ostensibly (and from a descriptive point of view) 'in the place' of the rural communities 'speaking and acting on their behalf', were they, in turn, responding to their behaviour and actions? In Goumba and Kolnyang Payams, there were no indices showing that Bor CLA members were accounting or responding to the rural communities they were supposed to represent in the process. They were not telling the rural communities why, in their involvement in the SRLG Project, they were behaving in a given way and not in any other way. The management of resources transferred to them, for example, was an illustration. Financial resources were allocated to Bor CLA members to fulfill their mandate i.e. to represent the rural communities. However, the latter were unaware of how these funds were managed or used.

Local representatives were not responsive to the rural communities about the management of public resources Bor County CLA was vested with. For instance, in villages all the persons interviewed proclaimed loudly that their representatives in the arena of land administration and governance decision-making were not coming back to account to the represented on the way they were using money and the powers they held. In fact, 'this remains a taboo'[29], as concluded by an elder in Kolnyang. According to a group of young men met at Malek, Bor CLA members were responding only to those who appointed them and to the staff of the SRLG Project[30], not to the rural communities. Under these conditions, these communities were not able to influence the way their representatives perform in local representation or relating matters.

A young man at Gak told us that amounts of money were hidden and could not be recorded by our study, because financial resources were actually mismanaged and used by CLA members for their own profit[31]. Despite this poor and *unaccountable* local representation, no Bor CLA member had been removed from his function or taken to court. There was no evidence of sanctions applied or of legal claims emitted by the rural communities. We did not have access to any evidence of a sanction against Bor CLA members, despite the bad representational behaviour. According to a local teacher of Gak, CLA members 'were covered by the County Commissioner'[32].

The few community members who were actually aware of the land project insisted that local representation should generate positive results by defending the interests of the rural communities, for example their rights, which was not the case in the end. In villages, young men said clearly that they were not against the arrival of land investments, if they guarantee the livelihoods of the rural communities, create opportunities from a 'win-win' perspective and respect local land rights. These expectations were ostensibly in the hands of Bor CLA members and, according to a group of young men of Malek Boma[33], were not at all met.

In the same vein, a young man at Kolnyang argued that: 'ultimately, Bor CLA members do not act in lieu of those they represent…there is a vacuum between our villages and the persons representing them'[34]. Bor CLA members were standing very far from the rural communities and were not showing correspondence to the latter. There was neither the expected symbiosis nor the claimed identity between the rural communities and Bor CLA members, according to young men at Goumba[35]. All across the visited Bomas, those interviewed spoke of a lack of responsiveness in local representation by Bor CLA members, more than two years after the launching of the SRLG Project.

5

Analysis

This section is dedicated to the interpretation, discussion and analysis of the study results presented above. It elaborates on the interdependencies between the results and empirical evidence and the theoretical framing of representation. This work remains, after all, a preliminary study. We hope to conduct an in-depth study in the near future, to make a full assessment of the local representation in natural resource management and land governance in rural South Sudan.

Representation and Accountability

Whether in national or subnational political communities, there is a close link between the construction of representation (the means of authorization), the exercise of representation and the positive/negative results (Plotke 1997). When local representatives or local authorities are elected, they are likely to be more downwardly accountable i.e. responsive (Pitkin 2004; Mansbridge 2003; Ribot 2004). Bor CLA members were vested powers, responsibilities and authority over land negotiations and transactions. But as local representatives, they were within a 'corridor of appointments.' They were not elected authorities. By and large, appointed authorities are not obliged to account to the citizens and the latter cannot challenge them (Ribot 2011).

Appointments constitute a challenge to democratic representation, like the appointment of mayors (local governments authorities) by central authorities in some Francophone countries of Africa (see Mahwood 1983). In Cameroon, Eteme (2013) found that when mayors are appointed by central level authorities, they do not account to the local population, who are rather infantilized. Similarly, Matose and Tsawu (2013) report that appointing local institutions for the management of the Dwesa-Cwebe Nature Reserve in South Africa has led to serious institutional

confusion and contestation. Appointed authorities and representatives are more upwardly accountable, not downwardly: they, first of all, respond to those who appointed them. Basically, that is why Bor CLA members were accounting primarily to the County Commissioner, who selected and appointed them. Bor CLA members seemed to listen to what the County Commissioner wanted them to do and not what the rural communities wanted.

The practice of appointing subnational authorities introduces supervision and oversight. This is generally viewed as an obstacle to the realization of democratic decentralization in Africa (Mahwood 1983; Ribot and Oyono 2005). The County Commissioner supervises Bor CLA, insofar as he had appointed its members. Generally cumbersome, administrative and political supervision does not lead to the emancipation of local authorities, who become captive of those who appointed them, as noted by Chapman (1952) regarding the French system of administration in Africa. The absence of elections in the making of subnational authorities rarely generates democratic representation (Crook and Manor 2000).

Appointments and democratic local representation rarely go together; they are fundamentally antithetical categories. They converge only when those who are appointed are ideologically dedicated to responding to and serving the people: we call this benign dictatorship (Przeworski *et al.* 1999). This is also the case with some civil servants in the tropics, found responsive by Tendler (1998). We have seen through this exploration that administrative and programmatic structures aiming at constructing local representation determine downstream the quality of representation. Such conclusions were also made by Oyono and Ntungila (2013) and Chomba (2013), while studying local representation in natural resources management in the DR Congo and Kenya, respectively. The weak quality of local representation achieved by Bor CLA members, and its lack of accountability/responsiveness, is the result of the logic that led to the formation of the CLAs i.e. appointment and discretionary designation practices. The chain of appointments does not augur well for accountable representation (Ribot 2004; Feinstein 2007; Barolsky 2010).

Representation is articulated around the representative claim ('being and doing for the represented') (see Saward 2006): then, it is absolutely necessary that the representatives (those who claim to represent) respond to their behaviour and actions to the citizens (Pitkin 1967; Marin 2001; Ribot 2011). Sanctions are considered as one of the key accountability mechanisms: it is a counter power (Agrawal and Ribot 1999 and see also Manin 1996; Przeworski *et al.* 1999; Pitkin 2004). Sanctions cannot be freely applied by the citizens in a political community like Bor County where subnational authorities are appointed (see also Oyono and Ntungila 2013).

Based on this case study, one can note that appointed authorities are not easily sanctionable by the citizens. This is why the rural communities in South Sudan were powerless when it came to assess the mandate of CLA members and sanction them. Kijazi (2013) and Baruah (2013) have observed such institutional situations (unresponsiveness and impunity) in Tanzania, with a Mount Kilimanjaro conservation program, and in Ghana, with so-called community resource management initiatives. There too, there is no counter power and the rural communities are voiceless like those of Bor County.

Severs (2010) distinguishes between representative mandate (judged through elections) and imperative mandate (implying that the representatives could be accountable to citizens at any time during his mandate). The mandate of Bor CLA members was neither one nor the other of these two categories. It was a nominative mandate, derived from appointment technologies. The nominative mandate cuts off local representatives from the citizens. We have seen in this research that there was a vacuum between Bor CLA members and the rural communities they were supposed to represent in land matters. They, therefore, became free electrons (see also Kakelengwa 2013), in the study of local representation through customary authorities in a forestry benefit-sharing mechanism in the DR Congo.

A mandate should lead to the correspondence of the representatives with the represented (Przeworski *et al.* 1999). In Bor, we have seen that there was obviously no correspondence between the local representatives and the represented in the land project. The mode of representation exercised by Bor CLA members is qualified by Severs (2010) as 'anticipatory representation'. That is to say, with or without a pre-established mandate, representatives act according to what they think the public will accept. Generally speaking, either anticipatory representation diverts the mandate it has been granted or it articulates its own mandate; see also Kijazi (2013 and Nakangu (2013) in, respectively, the study of local management committees in Tanzania and Uganda.

Local Representation and Local Democracy

In liberal democracy, representation is often conceived as a 'zero-sum game': either you are elected, and therefore you are a representative, or you are not (Vieira and Runciman 2008)[36]. According to Severs (2008), elective democracy is about voting and deliberative democracy about talking and discussing freely. This paper is aligned with a number of contemporary theoretical interrogations on the relationship of representation to democracy (Plotke 1997; Marin 2001; Pitkin 2004; Ribot 2011).

Evidence on the means of authorization and the quality of local representation in land administration and governance in Bor County showed that we were neither in an elective democracy nor in a deliberative democracy. While western literature is full of positive theoretical interpretations of elective democracy (Przeworski *et al.* 1999; Thompson 2002; Pitkin 2004; Vieira and Runciman 2008), some empirical studies in Africa bring the evidence of the democratic character of unelected representation in given situations (Tendler 1998). Closer to our present work, a case study by Eteme (2013) concludes with the existence of practices of participatory democracy through non-elected local authorities, like customary authorities, in decision-making about the management of forestry fees transferred to villages by logging companies in South-West Cameroon.

In representational conditions where local authorities and institutions claiming to represent the local population are not responsive, there can be no local democracy (see Agrawal 2006). Local democracy in its representative version implies that citizens have a strong influence on the local authorities representing them and on decisions affecting their lives (Ribot 2004). Under democratic representation, local authorities are sanctioned through vote. This sanction can be positive, as re-election, or negative, as the removal of failed representatives (Pitkins 1967). This is not the case in Bor County.

In general, downward accountability through responsiveness generates enabling conditions for local democracy (Przeworski *et al.* 1999). As discussed by Przeworski *et al.*, when authorities are aware that if they do not respond in their behaviour and actions to the citizens, they will be replaced through elections (a popular sanction), their attitude is absolutely more positive. Bor CLA members were claiming to represent the local population in land administration and governance issues or were pretending to do so, but the local population had neither the political weapons nor the public space to exercise its judgment on the actions of the representatives. Only the County Commissioner, the County Executive and the staff of the SRLG Project could sanction Bor CLA members. Like in many natural resources management interventions across rural Africa, only project staff and staff from ministries can sanction or remove irresponsible village management committee members (see also Faye 2013; Chomba 2013; Kijazi 2013; Jusrut 2013).

The fact that Bor CLA members were not responsive was heavily damaging for the emergence of local democracy in rural South Sudan, at least on land administration and governance matters. This is why inhabitants of the constituent Bomas of Anyidi, Kolnyang, Jalle, and Makuach Payams had no perceptible strong voice or a say in decision making about land administration and governance, in

general, or the possible transfer of pieces of land to private actors, in particular. In fact, there is no local democracy when and where citizens at the low level of subnational political communities are able to exercise their powers to influence public decisions and, consequently, sanction their representatives and authorities (see also Oyono and Ntungila 2013). Therefore, the rural communities in Bor County were disempowered (see also Chomba 2013; Baruah 2013; Kijazi 2013): they were not enabled for local democracy (see also Deng 2012b).

In such circumstances, the said rural communities, to whom 'land belongs' according to the South Sudan Constitution, were simply reduced to an aggregate of subjects (Agrawal 2006). Unlike citizens, people are subjects when they are not enabled to challenge those who represent or govern them (see also Mamdani 1996). Representational conditions in Bor County did not allow the rural communities to form an aggregate of citizens: environmental citizens as well as political citizens, or to exercise democratic rights. Local representation through Bor CLA equalled symbolic or descriptive representation (Pitkin 1967), when authorities 'stand for… and act for…'.

Representation through Bor CLA members was not substantive. Substantive representation occurs when the representatives are responsive and when the people 'feel represented' (Pettit 2010. When the people cannot influence public decisions and when they cannot challenge their environmental and political representatives through free expression, there is no emancipation, but subjugation and subordination (Mamdani 1996). This very often occurs in natural resources management interventions in many places of the continent: Baruah (2013) talks of 'undermined local democracy' in Ghana; in Tanzania, Kijazi (2013) evokes a 'derailing democracy'; Kakelengwa (2013) talks of 'avoided local democracy' in the DR Congo.

Theorizing 'Representational Divide'

To interpret the results of this case study, we isolated two assumptions: (i) when not elected, local representatives in projects and programs are cut off from the people they are supposed to represent with, as a result, a lack of correspondence and 'identity'; (ii) to survive and reproduce itself, such *unrepresentative* local representation makes a shift toward institutions and authorities that built it and enabled it, like State authorities, donors, international NGOs and projects. The result is a social and institutional divide whose corollary is *mal-representation*, and misrepresentation.

The formation of local representation on nominative administrative basis and the upward shift of the local representatives, followed by the dilution of all the substance of representation, are the two analytical pillars of the outline of a theory of representational divide, which will be the focus of our future work on the matter. We assume that the supposed compliance between the representatives and the represented is the point of gravity of democratic representation. Representational divide expresses a kind of gravitational movement. Social theory and political theory could be enriched by the benefits derived from the analysis of such a paradigm in the context of political representation, in general, and in the conditions of implementation of natural resource management and rural development programs, in particular.

Empirical evidence provided by both interviews and other observational and descriptive approaches should help theorize representational divide, as we understand it. In reality, however, such a paradigm is not new under the sky of social theory and political theory. The representational divide theory would borrow from a set of paradigms used in social analysis, political theory and discourse theory, including: the absoluteness of the State (its 'monstrosity', to quote Hobbes 2000, trans.); the representational condition, as the result of a form of 'institutional confinement' (Goffman 1959); representation of the unelected and representative claims (Saward 2009); institutional choice (Ribot 2004); recognition and misrecognition (Honneth 2006); power relations; (Bourdieu 1990); rational choice (Taylor 2005).

6

Conclusion

Bor County is emblematic of South Sudan's ethnic diversity. Historically, this tangle of ethnic and social formations was continuously manipulated and subverted by the Arabs and the British, for their own political and economic interests (Mamdani 2012; Leonardi 2013). For reasons relating to livelihood appropriation and survival, the area has always been the scene of micro-conflicts generated by, in addition to politics, factors such as territoriality, belonging and mobility (De Wit 2008; Mennen 2012b). Current land governance reform is the channel through which the central government wants to mitigate and master or mitigate land conflicts (see Marongwe 2013).

As said earlier, local representation is a critical issue at the subnational level in South Sudan. It constitutes a test for land administration and governance in Bor County, for instance. In order to be successful, this experiment must meet community expectations and create enabling conditions for an effective emancipation of the local population throughout the process. It is on, among other things, substantive representation and local democracy that all the centrifugal forces can easily be diluted at the origin of ongoing land micro-conflicts (Williams and Matheny 1995). Though not a panacea, responsive representation and local democracy are enabling factors for social peace and vice versa (Beierle and Cayford 2002).

For decades, the realities and conditions of this part of the former Sudan could not significantly be documented, mainly due to the civil war and the resulting insecurity for empirical researchers. Consequently, central decision makers, agencies, international NGOs, aid programs and projects do not have research-based background information to guide their intervention, on the one hand (see also Cameron 2007). On the other, the new central government and State governments do not, for the time being, have in hand sufficient social science-

based policy options and strategic methodologies for establishing sustainable governance systems of land and natural resources and associated benefits.

State building and macro-governance are not easy tasks in Sub-Saharan Africa (Hansen 1992; Engelbert and Tull 2008). The formation of local representation in land reforms in South Sudan, with the Land Commission as the policy arm and the SRLG Project as the programmatic arm, is yet to be successful. That current local representatives are not responsive or downwardly accountable must be added to other constraints that surround land administration and governance in the country.

Further, social and policy research on the issue of local representation can contribute to the understanding of existing local governance processes associated with natural resources and land management. Lessons from the exploration and analysis of available '*policy and institutional arrangements*' would therefore be injected into policy, decision-making and interventions. This preliminary research questions whether donors' financial aid and technical support will help South Sudan develop rapidly. South Sudan needs sound natural resources and land policies, on the one hand, and, on the other hand, the ability to steer sustainable development in ways that can socially and politically lead to equitable growth. If not, the socio-economic impact of large NGOs, global technical corporations and agencies will remain negative.

The study has identified a number of critical policy issues, including: lack of promotion of a 'bottom up' decision-making process; elite capture, through the CLA and county authorities, in land management decision-making processes and issues; lack of clear guidelines governing natural resources and land governance; political domination of appointment practices at subnational levels; lack of policy and social research; poor project planning that can create conflicts among the local communities.

The followings are some key recommendations, drawn from the study, that need to be taken into account by interested parties. The donor community, NGOs, universities, research centres and think tanks should develop social policy and strategic research on rural development, natural resources and land management issues throughout the country. Extensive social research on local land governance should therefore be conducted on the ground, despite chronic insecurity in some parts of the country, and collaborative linkages should be established between, on the one hand, research and, on the other, policy makers and field interventions. Decision-makers and donors should improve the voice of the rural communities in decisions about land investments, agri-business

projects and carbon-related projects. Given the massive presence of interventions in the country, the Government of South Sudan and its partners should develop national and subnational guidelines for NGOs, projects and programs, including community monitoring tools. In addition, social methodologies should be developed to enhance community participation and promote responsive local representation in projects and programs. Last but not least, the Government and the donor community should enlarge the role of civil society organizations in policy making on land administration and governance.

Notes

1. For Kant, a *noumenon* is an idea, a concept.
2. More precisely in the three monotheistic religions i.e. Judaism, Christianity and Islam.
3. United States Agency for International Development.
4. The SRLG Project will be presented in the following sections.
5. South Sudan became independent in 2011.
6. See also Goulty *et al.* (2012).
7. The armed conflict is basically the result of deep disagreements and a conflict of authority between Salva Kiir (South Sudan's President) and Riek Machar (the sacked Vice-President).
8. South Sudan is the third largest oil producer in sub-Saharan Africa; see Moro (2013).
9. According to De Wit *et al.* (2009), Mennen (2012a) and Marongwe (2013), land management is one of the outstanding governance issues in the country: (i) entire lineages have very often been excluded from their ancestral land, dispossessed by the central government and oil companies; (ii) since roughly 2005, there has been an explosion of large scale land acquisitions for private or state farms; (iii) the politics of land has become a permanent threat to peace and prosperity. All in all, 'rural land users have been cut off from their resource basis' (De Wit *et al.* 2009:7).
10. The higher level of the territorial scale in South Sudan is the national state, followed by subnational states.
11. Dagne (2011), referring to sources of the Ministry of Finance, reported that US $1.2 billion was allocated to subnational states by the central government, for supporting local governments through the year 2012.
12. This decentralized territorial unit is mainly comprised of three to six villages.
13. See the Local Government Act of 2009 and the Transitional Constitution of 2011.
14. According to Leonardi (2007) and Hoehne (2008), traditional authorities have always played a central role in Sudan's local politics.
15. Politically, economically and culturally instrumentalized by successive governments of the former Sudan, the land question consequently worsened over time (see Jok and Leitch 2004).

16. As a result of the lack of mechanisms securing community land rights (De Wit *et al.* 2009; Deng 2012a; Marongwe 2013), (i) access and mobility have been reduced for the local population; (ii) entire lineages have very often been excluded from their ancestral land, with their land transferred to oil companies; (iii) since roughly 2005 onwards, there has been an explosion of large-scale land acquisition for private or state farms; (iv) the politics of land has become a permanent threat to peace and prosperity. All in all, 'rural land users have been cut off from their resource basis' (De Wit *et al.* 2009:7).

17. The SRLG Project supported two selected States and two Counties.

18. *Sudan Tribune*, 'South Sudan: Jonglei Hopes for Oil Production in 2013', 24 December 2012.

19. Realized at Kinshasa, 12 January 2014.

20. Interview conducted at Bor town, 21 April 2013.

21. Interview conducted at Bor town, 20 April 2013.

22. Interview conducted at Bor town, 21 April 2013.

23. Interview conducted at Bor town 21 April 2013.

24. Amounts of money are hidden and we have not been able to get the information.

25. During an interview, a Bor CLA member even swore.

26. Focus group meeting conducted at Malek on 15 April 2013.

27. See Footnote 23.

28. Collected at Goumba on 10 April 2013.

29. Interview realized at Malek on 17 April 2013.

30. Interview realized at Malek on 17 April 2013.

31. Interview realized at Malek on 15 April 2013

32. Interview realized at Gak on 10 April 2013.

33. Focus group discussion conducted on 7 June 2013.

34. Interview realized on 3 June 2013.

35. See Footnote 25.

36. This view is challenged by Saward (2006, 2009), who brings evidence of effective representation through non-elected representatives.

References

Agrawal, A., 2006, *Environmentality. Technologies of Government and the Making of Subjects,* Durham: Duke University Press.

Agrawal, A. and Ribot, J.C., 1999, 'Accountability in Decentralization: A framework with South East Asia and African Cases', *Journal of Development Areas* 33, pp. 473-502.

Barolsky, V., 2010, 'Elections: Extinguishing antagonism in society?', *Journal of African Elections* 9(2), pp. 79-100.

Baruah, M., 2013, 'The effect of institutional recognition on democratic representation under a CREMA in Wassa Amenfi, West Ghana', paper presented at the International Association for the Study of the Commons Meeting, Cape Town, PLAAS (University of the Western Cape), 9-11 April.

Beierle, T.C. and Cayford, J., 2002, *Democracy in Practice. Public Participation in Environmental Decisions,* Washington DC: Resources for the Future.

Bourdieu, P., 1990, *The Logic of Practice*, Stanford CA: Stanford University Press.

Cameron, G.J., 2007, 'The Political Economy of State Building in Sub-Saharan Africa', *The Journal of Politics* 69(3), pp. 716-731.

Chapman, B., 1952, *An Introduction to French Local Government,* London: Allen & Unwin.

Chomba, S., 2013, 'Spaces of disempowerment: Community Associations and Participatory Forest Management in Kenya', paper presented at the International Association for the Study of the Commons Meeting, Cape Town, PLAAS (University of the Western Cape), 9-11 April.

Cook, T., 2007, 'A Place to Call Their Own: Southern Sudanese Comment on the Hard Work and Struggle for Self-Governance', Washington DC: National Democratic Institute.

Craze, J., 2013, 'Dividing lines: Grazing and conflict along the Sudan-South Sudan border', HSBA Working Paper 30, Geneva: Graduate Institute of International and Development Studies.

Crook, J. and Manor, J., 2000, 'Democratic Decentralization', OED Working Papers Series 11, Washington DC: The World Bank.

Dagne, T., 2011, 'The Republic of South Sudan: Opportunities and Challenges of Africa's Newest Country', Washington DC: Congressional Research Service, US Congress.

Dahl, A.M., 2010, *Local Government Financing in the Southern Sudan,* Khartoum: Khartoum Press.

Deininger, K., 2003, 'Land Policies for Growth and Poverty Reduction', Policy Research Report, Washington: The World Bank.

Demonibynes, G. and Romeo, A., 2011, 'Poverty Profile of the Southern States of Sudan', Washington DC: Poverty Reduction and Economic Management (Africa Region), The World Bank.

Deng, D.K., 2011a, 'The New Frontier: A Baseline Survey of Large-scale Investments Southern Sudan, Study Report', Juba: Norwegian People's Aid.

Deng, D.K., 2011b, 'Post-War South Sudan: Reconciling the 'Global Land Grab' with Community Land Ownership', *New Routes* 16(4), pp. 12-16.

Deng, D.K., 2012a, 'Land belongs to the community: Demystifying the 'Global Land Grab' in Southern Sudan', LDPI Working Paper 4, The Hague and Cape Town: ISS and PLAAS.

Deng, D.K., 2012b, 'Handbook on Community Engagement', Juba: South Sudan Law Society.

De Wit, P.V., 2008, 'Land Policy Development in Post-Conflict Sudan: Dealing with Delicate Balances in a Fluid Environment', Communication to the World Bank Conference on New Challenges for Land Policy and Administration, Washington DC, 14-15 February.

De Wit, P.V., Tanner, C. and Norfolk, S., 2009, 'Land Policy in African Context. Lessons Learned From Selected Countries', Land Tenure Working Paper 14, Rome: FAO.

Dovi, S., 2002, 'Preferable Descriptive Representatives: Or Will Just Any Woman, Black, or Latino Do?', *American Political Science Review* 96, pp. 745–754.

Duot, A.M. and De Ngong, J.P., 2011, 'Bor Peace Assessment Report of the Conflict Triangle of The Jonglei State', Bor: Greater Upper Nile Peace Initiative.

Englebert, P. and Tull, D.M., 2008, 'Post-conflict Reconstruction in Africa. Flawed Ideas about Failed States', *International Security* 32(4), pp. 106-139.

Eteme, D., 2013, 'Gouvernance des fonds REDD+ au Cameroun : Apprendre de la redevance forestière annuelle', communication préparée pour the International Association for the Study of the Commons Meeting, Cape-Town, PLAAS (University of the Western Cape), 9-11 April 2013.

Faye, P., 2013, 'From Recognition to Derecognition in Senegal's Forests: Hemming in Democratic Representation via Technical Claims', paper prepared for the International Association for the Study of the Commons Meeting, Cape Town, PLAAS (University of the Western Cape), 9-11 April 2013.

Feinstein, A., 2007, *After the Party: A Personal and Political Journey Inside the ANC,* Johannesburg: Jonathan Ball Publishers.

Fine, G.A., 2010, 'The Sociology of the Local: Action and Its Politics', *Sociological Theory* 28(4), pp. 355-377.

Goffard, C., 2011, South Sudan: New Nation of South Sudan Declares Independence. Los Angeles Time, consulted on: http://www.latimes.com/news/nationworld/world/la-fg-south-sudan-   independence, 24 November 2012.

Goffman, E., 1959, *The Presentation of Self in Everyday Life*, Garden City NY: Anchor Press.

GoSS (Government of South Sudan), 2005a, 'Joint Assessment Mission – Sudan', Juba: GoSS.

GoSS; 2005b, 'The Comprehensive Peace Agreement', Juba: GoSS.

GoSS, 2009a, 'South Sudan Land Act', Juba: GoSS.

GoSS, 2009b, 'South Sudan Local Government Act', Juba: GoSS.

GoSS, 2011a, 'South Sudan Draft Land Policy', Juba: South Sudan Land Commission.

GoSS, 2011b, 'South Sudan Development Plan 2011-2013: Realising Freedom, Equality, Justice, Peace and Prosperity for All', Juba: GoSS.

GoSS, 2011c, 'The Transitional Constitution of the Republic of South Sudan', Juba: GoSS.

Goulty, A., Satti, N. and LcDonald, S., 2012, 'United We Stand, Divided We Fall: The Sudans After the Split', Working Group Series Paper No 2, Washington DC: The Wilson Center.

Guarak, M.A.M., 2011, *Integration and Fragmentation of the Sudan: An African Renaissance*, Bloomington: Author House.

Hansen, T.K. (ed.), 1992, *African Encounters with Domesticity,* New Brunswick: Rutgers University Press.

Hilhorst, T. and Porchet, N., 2012, 'South Sudan: Food Security and Land Governance Factsheet', Amsterdam: Royal Tropical Institute.

Hobbes, T., 2000, *Léviathan ou Matière, Forme et Puissance de l'Etat Chrétien et Civil* [*Leviathan, or the Matter, Form & Power of a Common-wealth Ecclesiasticall and Civill*, originally published in 1651], Paris: Gallimard. Hoehne, M., 2008, 'Traditional Authorities and Local Governments in Southern Sudan', Halle:

Max Planck Institute for Social Anthropology. Honneth, A., 2006*, La Société du Mépris. Vers une Nouvelle Critique Sociale,* Paris: Editions La Découverte.

Jok, M.J. and Leitch, R., 2004, 'A Study of Customary Law in Contemporary Southern Sudan' .

Juba: World Vision International and the South Sudan Secretariat of Legal and Constitutional Affairs.

Jusrut, P., 2013, 'The attainable mirage?: Decentralization of forest resource governance in Senegal', paper presented at the International Association for the Study of the Commons Meeting, Cape Town, PLAAS (University of the Western Cape), 9-11 April.

Kakelengwa, B., 2013, 'La citoyenneté comme réponse à la dissimulation de l'information et l'indisponibilité des chefs traditionnels: Cas du bois d'œuvre en Province Orientale (RD Congo)', paper prepared for the International Association for the Study of the Commons Meeting, Cape Town, PLAAS (University of the Western Cape), 9-11 April 2013.

Kant, I., 1883, *Critic of pure reason*, [*Kritik der reinen Vernunft*, originally published in 1781], London: W. Pickering.

Kijazi, M. H., 2013, 'Derailing democracy: REDD+ red signals from Mt Kilimanjaro World Heritage Site, Tanzania', paper presented at the International Association for the Study of the Commons Meeting, Cape Town, PLAAS (University of the Western Cape), 9-11 April.

Lavergne, M., 2011, 'La partition du Soudan. Succès, Echec ou Fatalité?', *Le Magazine de l'Afrique* 25, pp. 31-33.

Leonardi, C., 2007, 'Violence, sacrifice and chiefship in Central Equatoria, Southern Sudan', *Africa* 77(4), pp. 535-558.

Leonardi, C., 2013, *Dealing with Government in South Sudan: Histories of Chiefship, Community and State,* Verlag: James Currey.

Locke, J., 1997 (trans.), *Deux traités du gouvernement*, Paris: Vrin [originally published in 1689].

Mahwood, P. (ed.), 1983, *Local government in the third world*, New York: John Wiley.

Mamdani, M., 1996, *Citizen and Subject: Contemporary Africa and the Legacy of Late Colonialism,* Princeton: Princeton University Press.

Mamdani, M., 2012, *Define and Rule: Native and Political Identity,* Johannesburg: Wits University Press.

Manin, B., 1996, *Les Principes du Gouvernement Représentatif,* Paris: Champ-Flammarion.

Mansbridge, J., 2003, 'Rethinking representation', *American Political Science Review* 97, pp. 515-528.

Marin, L., 2001, *On Representation,* Stanford: University of California Press.

Marongwe, N., 2013, 'Land Administration Challenges in the Post-conflict South Sudan: The Experience of the USAID South Sudan Rural Land Governance Project', paper prepared for presentation at the Annual World Bank Conference on Land Poverty, Washington DC: The World Bank, 8-11 April.

Matose, F. and Tsawu, S., 2013, 'Recognition and forest governance around protected reserves in South Africa: The Dwesa-Cwebe Nature Reserve Area', paper prepared for the International Association for the Study of the Commons Meeting, Cape Town, PLAAS (University of the Western Cape), 9-11 April 2013.

Maxwell, D., Glesdorf, K. and Santschi, M., 2012, 'Livelihoods, basic services and social protection in South Sudan', Working Paper 1, London: Secure Livelihoods Research Consortium, ODI.

McArthur, N., 2007, *David Hume's political theory*, Toronto: University of Toronto Press.

Mennen, T., 2012a, 'Customary Law and Land Rights in South Sudan', Juba: ICLA Project, Norwegian Refugee Council.

Mennen, T. 2012b, 'Strengthening access to land in plural tenure systems', Study Report, Washington DC: Chemonics International.

Moro, L.N., 2013, 'Still Waiting for the Bonanza: the Oil Business in South Sudan after 2005',

Occasional Paper 13, Johannesburg: Governance of Africa's Resources Program, South African Institute of International Affairs.

Nakangu, B., 2013, 'Examining the effects of REDD+ on representation in communities: The case of Mt

Elgon regional conservation project in Uganda', paper prepared for the International Association for the Study of the Commons Meeting, Cape Town, PLAAS (University of the Western Cape), 9-11 April 2013.

Oduho, J. and Deng, W., 1963, *The Problem of the Southern Sudan*, London: Oxford University Press.

Oyono, P.R. and Ntungila, F., 2013, 'Conservation Landscapes, *Malrepresentation* and Resource Tenure in the Democratic Republic of Congo', paper presented at the International Association for the Study of the Commons Meeting, Cape Town, PLAAS (University of the Western Cape), 9-11 April.

Oyono, P.R., Ribot, J.C. and Larson, A.M., 2006, 'Green and Black Gold in Cameroon. Natural

Resources for Local Governance, Justice and Sustainability', Working Paper 22, Environmental Governance in Africa Series, Washington DC: World Resources Institute.

Pennock, J.R. and Chapman, J.W. (eds.), 1968, *Representation,* New York: Atherton Press.

Pettit, P, 2010, 'Representation, Responsive and Indicative', *Constellations* 17 (3), pp. 426-434.

Pitkin, H. F., 1967, *The Concept of Representation,* Berkeley: University of California Press.

Pitkin, H. F., 2004, 'Representation and Democracy: Uneasy Alliance', *Scandinavian Political Studies* 27, pp. 335-342.

Plotke, D., 1997, 'Representation is Democracy', *Constellations* 4, pp. 19-34.

Przeworski, A., Stokes, S.C. and Manin, B. (eds.), 1999, *Democracy, Accountability and Representation,* Cambridge: Cambridge University Press.

Rémy, J-P., 2012, 'Soudans: La frontière de tous les risques', *Le Monde*, 11 July, pp. 14-15.

Ribot, J.C., 2003 'Democratic decentralization of natural resources: Institutional choice and discretionary powers in sub-Saharan Africa', *Public Administration and Development* 23, pp. 53-65.

Ribot, J.C., 2004, *Waiting for Democracy: The Politics of Choice in Natural Resource Decentralization,* Washington: World Resources Institute.

Ribot, J.C., 2011, 'Choix, Reconnaissance et Effets de la Décentralisation sur la Démocratie', Document de Travail 5, Visby, Centre Suédois International pour la Démocratie Locale.

Ribot, J.C. and Oyono, P.R., 2005, 'The Politics of Decentralization', in Toulmin, C. (ed.), *Towards a New Map of Africa*, pp. 205-228.

Saward, M., 2006, 'The Representative Claim', *Contemporary Political Theory* 5, pp. 297-318.

Saward, M., 2008, 'Representation and Democracy: Revision and Possibilities', *Sociology Compass* 2(3), pp. 1000-1013.

Saward, M., 2009, 'Authorization and Authenticity: Representation and the Unelected', *Journal of Political Philosophy* 17(1), pp. 1-22.

Severs, E., 2010, Representation as Claim-Making. Quid Responsiveness? *Representation* 46(4), pp. 411-421.

Taylor, C., 2005, *The Ethics of Authenticity*, Cambridge, MA: Harvard University Press.

Tendler, J., 1998, *Good Government in the Tropics*, Baltimore: Johns Hopkins University Book.

Thompson, D., 2002, *Just Elections*, Chicago: University of Chicago Press.

Vieira, M.B. and Runciman, D., 2008, *Representation,* Cambridge: Polity Press.

Williams, B.A. and A.R. Matheny, 1995, *Democracy, Dialogue, and Environmental Disputes: The Contested Language of Social Regulation,* New Haven: Yale University Press.

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