BUILDING THE HOUSE OF GOVERNANCE:
TOWARDS SUSTAINABLE PEACE IN JONGLEI STATE

JULY 2014

DISCUSSION PAPER
Acknowledgements:

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## Table of Contents

**Foreword** ................................................................................................................................ 1  
**Executive summary** .................................................................................................................... 2  

### 1. Introduction .......................................................................................................................... 3  
1.1 Overview: Towards sustainable peace in Jonglei State .......................................................... 3  
1.2 Main findings ........................................................................................................................... 4  
1.3 How to use this paper ............................................................................................................. 5  

### 2. Methodology ........................................................................................................................ 6  
2.1 Political accommodation ......................................................................................................... 6  
2.2 Consultation approach ............................................................................................................ 7  
2.3 Adaptations in light of the crisis .............................................................................................. 8  

### 3. Background .......................................................................................................................... 9  
3.1 Understanding conflict in Jonglei ............................................................................................ 9  
3.2 Existing governance arrangements ...................................................................................... 11  
3.3 Processes for governance and peacebuilding ....................................................................... 15  

### 4. Perspectives on Jonglei’s governance: national, state, and local dimensions ........ 16  
4.1 National level ........................................................................................................................ 16  
4.2 State level ............................................................................................................................. 19  
4.3 Local level ............................................................................................................................. 23  

### 5. Rebuilding a stronger “house of governance” for Jonglei ........................................... 26  
5.1 Foundations: Strengthened local governance ....................................................................... 26  
5.2 Envisioning future governance ............................................................................................. 31  

### 6. Conclusion ............................................................................................................................. 34  

**Annex I: About the project** ................................................................................................. 35  
**Annex II: Political Accommodation Methodology** .............................................................. 36  
**Annex III: Existing arrangements for political accommodation in Jonglei State** .......... 37  
**Annex IV: Provisions for future governance in the SSDM/A agreement** ......................... 41
Foreword

Starting in the fall of 2013, Conflict Dynamics International and Dr. John Garang Memorial University of Science and Technology jointly carried out a research project entitled “Building the House of Governance: Towards sustainable peace in Jonglei State.” One of the key objectives of the research was to support the people of Jonglei State to develop effective and conciliating governance arrangements to assist in resolving conflict, since Jonglei has been in the world media for the last few years because of ongoing violent conflict.

The research work was conducted mostly in Bor and Pibor counties. Various stakeholders in the state government, local authorities, chiefs, academics, and civil society were interviewed on their perceptions of governance and conflict in Jonglei. The project was interrupted in December 2013 by the current crisis, but the team resumed work and managed to collect additional data.

I would like to thank the team from both Dr. John Garang Memorial University and Conflict Dynamics for the good work done, especially Aggrey Ayuen Majok, Melha Ruot Biel, David Malual, Guarak Mawut, and Choul Malual Banguat, Richard Dak Teny, Liz Gaere, Sophia Dawkins, Elizabeth Wright, plus others who directly or indirectly supported this project.

Special thanks and appreciation goes to the United States Institute of Peace in Washington for funding this project. Without their support, we would not have completed this research project.

We hope the outcome of this project, in particular the findings and recommendations made, will be utilized by the decision makers in their effort to find a peaceful solution to the conflict in Jonglei State. Once again, I thank Conflict Dynamic International for the great partnership. Our door will remain open for future cooperation.

~ Prof. Julia Aker Duany
Vice Chancellor
Dr. John Garang Memorial University
Executive summary

This report presents findings and analysis on perceptions of governance and conflict in Jonglei State from a sample of citizens, as part of a project undertaken by Conflict Dynamics International and Dr. John Garang Memorial University (JGMU) between October 2013 and June 2014.

The project engaged constituencies to capture ideas on how governance reforms could help build peace. The project approach included 21 individual interviews and 11 focus groups with a range of leaders and representatives of the people of Jonglei. Due to disruptions from the conflict in December 2013, county-level consultations occurred in Bor and Pibor, while additional consultations were conducted in Juba, Addis Ababa, and Nairobi. In total, 91 people were consulted, including representatives of the Dinka, Nuer, Murle, and Jie communities, thus covering all but the Annuak and Kachipo communities.

The findings identify five main areas for building effective accommodation of interests:

1. **Structure and functions of local government**, including implementation of local government arrangements, and rethinking options for structuring Jonglei State.
2. **Executive and legislative representation**, addressing perceptions of underrepresentation and/or ineffective representation at state and national levels.
3. **Public participation in local government**, enhancing communities’ access to information and opportunities to voice views, while ensuring they continue to do so in times of crisis.
4. **Traditional and customary arrangements**, clarifying their role, especially in relation to formal local government.
5. **Effective implementation of agreements**, including the peace agreement signed between the SSDM/A-Cobra Faction and Government of the Republic of South Sudan in May 2014.

Section 1 of the report provides an **introduction** to the paper and overview of the research. Section 2 presents the **methodology** underpinning the project, and explains the conflict sensitivity considerations that became especially important following the outbreak of the December 2013 crisis. Section 3 presents **background** to the research findings, including an overview of the conflict and analysis of Jonglei’s existing governance arrangements. Section 4 then outlines the **findings** from consultations and focus groups, presenting people’s views on governance at the national, state and local levels. Drawing from these findings and other sources, Section 5 presents **analysis** of Jonglei’s governance arrangements and concludes by outlining **opportunities** for reconciling people’s different interests in Jonglei State.

Many of the problems in Jonglei State stem from a rift between communities and governance. This can be seen in people’s views on representation, public participation, implementation of agreements, Jonglei’s structure, and the relationship between traditional authorities and formal government. These issues are central to both the fate of Jonglei, and the future of South Sudan as a peaceful and viable nation. This report aims to illuminate and present back views people have expressed on these issues. In so doing, the report seeks to support the people of Jonglei’s efforts to build a governance framework that reflects their different aspirations, as a foundation for lasting peace.
1. Introduction

1.1 Overview: Towards sustainable peace in Jonglei State

When political divisions at the national level led to the outbreak of violent conflict in Juba in December 2013, the Upper Nile Region as a whole, and Jonglei State in particular, quickly became the eye of the storm. While the conflict erupted partly due to divisions within the ruling Sudan People’s Liberation Movement (SPLM), the subsequent expansion of support for opposition suggests that this national conflict is not only a political dispute, but also a crisis of governance. As debate as to the causes and triggers of the current conflict continues, sentiment is growing that more inclusive, equitable and accountable governance arrangements will form an essential part of the solution. Finding durable governance solutions for Jonglei, South Sudan’s largest and most conflict-affected state, will in turn be an important part of any sustainable peace.

This report presents findings and analysis on perceptions of governance and conflict in Jonglei State from a sample of citizens, as part of a project undertaken between October 2013 and June 2014. Commenced prior to the outbreak of conflict in South Sudan in December 2013, and continued once deemed feasible, the project engaged constituencies primarily from Bor and Pibor Counties as well as from across the state to capture ideas on how governance reforms could help build peace. The project is a second phase of an initiative launched in 2012, the preliminary findings of which were presented in the report “Building the House of Governance in Jonglei State” (October 2012).¹ The project is a joint venture between Conflict Dynamics and Dr. John Garang Memorial University (JGMU). The aim of the project is to support South Sudanese to inject fresh policy ideas, representative of people’s diverse interests, into peace and political dialogue processes.²

The project approach involved a series of discussions, through 21 individual interviews and 11 focus groups, with government officials, legislators, traditional authorities, and civil society representatives (including women and youth). The original plan was to conduct focus groups and interviews in each of Jonglei’s 11 counties. However, the outbreak of conflict in December 2013, and ensuing population displacements and security challenges, rendered this unfeasible. County-level consultations hence only took place in the field in Bor and Pibor, in December 2013 and April 2014 respectively. To reach other constituencies, consultations were conducted with displaced political and civil society actors in Juba, Addis Ababa, and Nairobi between November 2013 and June 2014. The research team, selected to comprise the diversity of Jonglei State, was able to engage constituencies from all counties in Jonglei except for Ayod and Pochalla.³ In total, 91 people were consulted (73 men and 18 women), including 37 representatives of the Dinka, 9 representatives of the Nuer, 37 representatives of the Murle, and 3 representatives of the Jie communities, thus covering all but the Annuak and Kachipo communities.

¹ For more information on this, see Conflict Dynamics, “Building the House of Governance in Jonglei State” (October 2012).
² See Annex I for a more detailed project description.
³ The following numbers of individuals were consulted from each county: Bor (23), Pibor (40), Pochalla (0), Akobo (3), Uror (2), Nyirol (2), Pigi (1), Fangak (3), Ayod (0), Duk (4), Twic East (1).
The audiences for this report include the many South Sudanese who kindly agreed to share their perspectives, public officials (at national, state, county and payam levels), traditional authorities, academics, those facilitating and mediating dialogues, and other interested citizens. It is hoped that readers will be able to use the views people expressed through the consultations to inform peace and political dialogue to help build a governance framework for Jonglei which will strongly represent the needs and aspirations of its people, thereby contributing to a lasting peace not only within the state, but also at the national level.

1.2 Main findings

The main findings from these consultations identify the following five opportunity areas for building effective accommodation of the interests of all the communities of Jonglei State to tackle the underlying causes of conflict in Jonglei, as well as to help address the current national crisis:

- **Structure and functions of local government**: Almost all respondents emphasized the need for local government to maintain a clear focus on service delivery as well as on ways to be responsive to local populations in times of crisis. The issue as to whether Jonglei is viable as a state in its current form, and options for its possible restructuring, emerged as a repeated theme. A consensus view was that dividing Jonglei into smaller constituent units would bring public decision making and resources closer to communities, and therefore deliver greater stability.

- **Executive and legislative representation**: Many respondents felt unrepresented, underrepresented, or ineffectively represented in state and national government, despite some instances of members of their communities holding seats in the legislature and the executive. Respondents generally attributed this grievance to two reasons. First, some people did not know who their representatives were, due to a lack of information and some national and state legislative members’ absence from their constituencies. Second, some people considered that seats in the state and national legislatures and executive did not translate to meaningful representation of their interests, whether due to poorly executed elections or a perception that representatives lacked capacity to advocate for their constituencies’ interests.

- **Public participation in local government**: The importance of public participation emerged as a repeated theme in focus groups. In the current system, the national and state levels assert considerable influence over the local level. More opportunities for local participation in decision making may more effectively capture population’s needs and support efficient and equitable distribution of services.

- **Traditional and customary arrangements**: Consultations revealed the importance of the relationship between county commissioners and traditional authorities. Some focus group participants expressed that traditional authorities should have greater decision making power compared to the commissioner, and that local governance had declined as powers were wrested from traditional authorities and granted to formal government institutions. Others claimed that traditional authorities lack legitimacy and should have less influence over local governance.

- **Effective implementation of agreements**: Many respondents expressed skepticism about the implementation of peace agreements, a doubt that they attributed to their experience of previous agreements falling into disuse. Specifically there was concern as to whether the agreement signed between the South Sudan Democratic Movement/Army (SSDM/A) Cobra
Faction and Government of the Republic of South Sudan (GRSS) in May 2014 would translate from paper to practice. In discussing this agreement and a potential peace agreement at the national level, respondents voiced the need for processes to go beyond elites and involve broad public participation, inclusive of women and Jonglei’s diverse political and socio-cultural groupings. They also stressed the importance of bringing dialogue to the community level.

1.3 How to use this paper

Section 2 of the report presents the methodology underpinning the research project, and explains the conflict sensitivity considerations that became especially important following the outbreak of the December 2013 crisis. Section 3 presents background to the research findings, including an overview of the conflict, analysis of Jonglei’s existing governance arrangements, and a summary of political dialogue processes. Section 4 then outlines the findings from consultations and focus groups, presenting people’s views on governance at the national, state and local levels. Drawing from these findings and other sources, Section 5 presents analysis of Jonglei’s governance arrangements and how they shape conflict outcomes, and concludes by outlining opportunities for reconciling people’s different interests in Jonglei State.
2. Methodology

2.1 Political accommodation

Building governance frameworks that address the interests and aspirations of diverse communities in conflict-affected countries is a complex task which requires sensitive approaches and creative, context-relevant solutions. Therefore, this project has employed an innovative Political Accommodation Methodology, developed by Conflict Dynamics, to map the complexity of communities’ interests and to support diverse constituencies in Jonglei State to articulate their own ideas and options for governance.

The political accommodation approach, as used here, is about helping people reconcile their political interests in governance arrangements. The focus is on arrangements that take genuine account of the diverse interests that people pursue. In this respect, political accommodation does not in any way relate to appeasement or ‘buying off’ opponents through political largesse. The essence is governance that mediates between people’s diverse interests; it is about bringing in and taking fair account of people’s interests in political systems.

The methodology consists of a package of tools to help people think through practical options to address drivers of conflict linked to how the political and governance system works. This methodology is flexible, offering tools which people in conflict situations can choose from to address the challenges they face. As set out in Annex II, the methodology for this project applied two main tools:

1. A framework of six focal areas (or “Strands”) of governance arrangements (see Figure 1). People can use these Strands to locate drivers of conflict that originate in the way a political system works, to assess how different interests are accounted for at both the national and subnational (state, county, payam) levels, and to make coherent choices across the six dimensions as they think creatively about governance options.

2. A series of seven steps to diagnose current governance arrangements and consider options for the future. These steps lead interlocutors through a series of participatory activities, beginning with thinking about pre-existing governance arrangements that can support effective political accommodation, leading to the development of options for future governance (see Annex II for an overview).
2.2 Consultation approach

The main objective of this project was to stimulate diverse constituencies to express their ideas about governance, and help develop thinking as to options for strengthened governance frameworks for Jonglei State which can fully accommodate the diverse interests of its population. A secondary objective was to share the Political Accommodation Methodology with South Sudanese academics and policy analysts with a view to them developing subsequent initiatives to address governance-related drivers of conflict.

To initiate the project, Conflict Dynamics and JGMU convened a South Sudanese research team to implement the core activities, originally planned to include:

1. **Consultation meetings** with state government ministers, State Legislative Assembly members, the Office of the Governor, county commissioners, traditional authority leaders and other Jonglei leaders;
2. **County-level dialogues,** with participants representing county administrations, local government officials, leaders of women’s and youth civil society organizations, and traditional authority leaders. These were in the form of focus groups and bilateral consultations;
3. **Validation and dissemination workshop** in Juba;
4. **Conducting a program of applied research** on governance options for peacebuilding in Jonglei State.

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4 These were designed to cover all 11 counties of Jonglei State, and along with the consultations to solicit input from members of all of the ethnic groups in Jonglei (Dinka, Nuer, Murle, Annuak, Jie, and Kachipo).

5 This event was originally planned to take place in Bor, but accessibility constraints posed by the ongoing conflict necessitated the event’s redesign to constitute bilateral validation discussions in Juba.
2.3 Adaptations in light of the crisis

The outbreak of violent conflict in December 2013, two months after the project's inception put Jonglei at the center of a national political crisis. This significantly altered the lives of the constituencies the project sought to benefit, and produced acute security challenges that required modifications to the project design. In the initial phase of the crisis, the project focused on the safety of the research team, supporting evacuation of staff from conflict-affected areas. Continuing work on the ground in Bor and across Jonglei’s counties was judged not to be feasible, with the exception of Pibor, where it proved possible to conduct a series of focus groups and interviews in April 2014.

Given these challenges, Conflict Dynamics and JGMU re-examined the design of the project in consultation with the project donor. It was concluded that the crisis brought to the fore the need to continue to capture the ideas and perspectives of Jonglei’s communities, particularly given that perceptions of marginalization and underdevelopment appeared to be an ongoing driver of conflict. It was also concluded that the research needed to take on board the implications of the peace process between the SSDM/A-Cobra Faction and the GRSS, which had gathered momentum since December 2013. Accordingly, the project team produced an analysis of the provisions pertaining to governance in the peace agreement signed between the SSDM/A-Cobra Faction and GRSS, and presented implementation options to the mediation team, the government negotiation team, and the SSDM/A-Cobra Faction.

Conflict sensitivity considerations

While the project prioritized conflict sensitivity from the beginning, the design required review from a conflict sensitivity perspective following the outbreak of conflict in December 2013. Due to security and accessibility issues, the research team was not able to conduct focus groups with constituencies in all 11 counties. In November and early December 2013, the research team facilitated interviews and focus groups in Bor County with civil society representatives, executive officers, legislative representatives, and traditional authority leaders. In April 2014, focus groups were conducted in Pibor County with Murle traditional authority leaders, youth leaders, women leaders, and local administrators. Displacements likely altered the composition of focus group participants in Pibor, as many church leaders and traditional authorities had fled Pibor due to the national conflict. However, the research team sought to ensure that the focus group was as representative as possible. Aside from the focus groups in Pibor, the team concentrated on conducting individual interviews to avoid attracting suspicion.

The security environment meant that the research team could not conduct focus groups in the remaining nine counties post-December 2013. Thus, the bulk of data gathered represents the views of constituencies in Bor and Pibor Counties. However, the research team covered many remaining counties through individual interviews, with only Ayod and Pochalla counties not represented in the data at all. The team consulted members of Dinka, Nuer, Murle, and Jie communities, but was unable to interview any members of the Anuak or Kachipo communities. Therefore, this report presents a wide range of views gathered in exceptionally challenging circumstances, but does not claim to be fully representative of the views across the counties, ethnicities, and groups that comprise the diversity of Jonglei State.

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6 Most of the participants in the Bor focus groups were Dinka, but there were also Nuer and Murle.
3. Background

3.1 Understanding conflict in Jonglei

In December 2013, South Sudan fell victim to a violent political crisis, in which Jonglei became the “eye of the storm.” To understand this dynamic, it is important to note the multi-layered nature of Jonglei’s conflicts, which have grown in complexity since South Sudan’s independence.7

The research team invited both focus group participants and those interviewed individually to share their own views on conflict drivers. Respondents were asked to rank economic drivers (poverty, lack of development), social drivers (e.g. cultural practices), and political drivers (governance related issues and political disputes) according to their effects on the conflict.

Economic and political reasons were cited as the primary causes of conflict in Jonglei, with an equal number of participants considering these as the main factors. Social factors and cultural practices were considered to be a secondary cause. However, many respondents emphasized that they felt that the causes were mutually reinforcing. For example, some respondents discussed cattle-raiding as a cultural practice which was politicized and exacerbated by poverty.

Respondents specifically cited elections as a source of conflict, because of their role as an avenue to money and power. Respondents also highlighted land issues as an important source of conflict, especially border demarcation by the government. People also cited tribalism, as well as economic, social, and political marginalization. Both Murle and Jie stated that they do not perceive themselves to be represented in the government. Many respondents expressed concerns about the targeting of civilians, particularly of women, youth, and elderly, both in cattle raiding between communities, and in the SPLA fight against the SSDM/A-Cobra Faction. People also listed violence and killings during the disarmament campaign as factors feeding into the conflict.

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Quotes

“The communities in Jonglei need services. There are some counties in Jonglei state which have not benefited from the government since it was formed, and this lack of development generally causes unhappiness and mistrust for the government.”

“The main issue has been the lack of equal representation. In particular, communities have not been represented at the state level.”

“The target of the raids is no longer cattle motivated raids. It became both tribal and political with the aim of destroying human life and property.”

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External analyses of conflict drivers in Jonglei echo many of these findings. A cursory sample includes:

- Widespread perceptions that governance structures are biased in favor of certain groups.
- Diminished impact of accountability and reconciliation efforts between communities, as a result of the effects of decades of violence.
- Militarization of communities and societies.
- Communities’ expressed need for self-defense structures in the absence of sufficient state capacity to provide security.
- Common lack of faith in the ability of the government to provide security, in some instances driving youth to assume the role of community protectors.
- Wide availability of small arms and light weapons.
- Competition among communities and their leaders over natural resources and political power.
- Perceptions of ethnic marginalization that extend beyond security service provision and relate to political inclusion and representation.
- Mistrust of the political class, especially in the state capital. This has led some communities to withdraw or turn inward when attacked or subjected to what they view as political manipulation.
- A particular sense of marginalization among youth, as well as a sense among women at the grassroots level that they do not have a voice in public decision making and politics.

Several of these causes of conflict relate to acute governance challenges in the state. As a joint South Sudan Law Society and Pact paper put it, “Jonglei’s conflicts are far too often portrayed as ‘tribal’ but this reductionist description obscures a deeper governance crisis at the root of the problem.” Both national and state governments face significant obstacles to addressing these governance conflict drivers. One obstacle relates to geography and accessibility, specifically the remoteness of communities from the state capital Bor, which makes it difficult for officials in formal government institutions to reach their constituencies or for services and resources to filter down beyond the state government. Another suggested obstacle has been the complex dilemma the national government faces in bringing stability to Jonglei: “To assert its force over the rebellions and ethnic feuds in Jonglei is to risk an all-out war between the government and the citizens; but to seek peaceful settlement is to appear weak and unable to monopolize power.” A significant research project on communities’ perceptions of the State in Uror and Nyirol counties found that communities felt that the government inequitably and unfairly provided security, which undermined perceptions of the State’s legitimacy.

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9 Rethinking Jonglei (Juba, South Sudan: PACT and South Sudan Law Society, 2012).
These views underscore feelings of marginalization, insecurity and inequitable treatment by government.\textsuperscript{13} The diverse political, economic, social and security-related drivers of the conflict cannot be solved by straightforward solutions consistent with conventional statebuilding and development approaches.\textsuperscript{14} As one study notes: “\textit{While popular narratives reduce Jonglei’s internal conflict to lack of services, competition for resources or ‘tribal’ animosities, there is no simple or definitive explanation, or any clear roadmap for ‘rebuilding’ a peace that, in reality, most South Sudanese have never known.}”\textsuperscript{15}

**Jonglei in the context of the current national conflict**

Repeatedly, national-level parties to the conflict have used Jonglei as a theater for military engagement. Both the SPLA and the SPLM in Opposition (SPLM-IO) forces have pushed for the strategic control of Bor, which changed hands several times in the six months following December 2013.\textsuperscript{16} SPLA defections have occurred across the state, affecting Duk, Twic East, Fangak, and Pigi counties in particular in June 2014. Such defections spurred troop movements of both the SPLA and opposition forces, often resulting in fighting and acts of criminality.\textsuperscript{17} This insecurity further reinforces many of the conflict drivers referenced above. Respondents’ perspectives on the link between the national conflict and Jonglei is explored in section 4.1.

The urgency of the situation gave impetus to the peace process between the GRSS and SSDM/SSDA-Cobra Faction. The SSDM/SSDA-Cobra Faction was launched in April 2010, led by David Yau Yau. On 30 January 2014, a cessation of hostilities agreement was signed, followed by negotiations that produced a peace agreement in May 2014 providing for the creation of a new administrative area in Jonglei, the Greater Pibor Administrative Area.

### 3.2 Existing governance arrangements

This section summarizes existing provisions for political accommodation in Jonglei State across the six Strands of governance at the national, state, and local levels. For a more detailed description of the relevant provisions, see Annex III.

Sources for these provisions include:

- Transitional Constitution of the Republic of South Sudan, 2011 (TCRSS 2011)
- Local Government Act, 2009 (LGA 2009)
- National Elections Act, 2012 (NEA 2012)

\textsuperscript{13} For a description of community perceptions of marginalization, see Rethinking Jonglei (Juba, South Sudan: PACT and South Sudan Law Society, 2012); Diane Felix da Costa, “Responses to Intercommunal Violence in Jonglei State”, e-International Relations, 18 June 2012.

\textsuperscript{14} Pact and South Sudan Law Society, Rethinking Jonglei (Juba, South Sudan: PACT and South Sudan Law Society, 2012); John Young, Jonglei 2010: “Another round of disarmament”, Situation Report, Institute of Security Studies, May 2010; Statement by Sudan Council of Churches on the Current Situation in Jonglei State, 18 January 2012.


\textsuperscript{17} “Jonglei State Weekly Report 06-13 June,” NGO Forum – South Sudan, 14 June 2014.
3.2.1 Political structure

The TCRSS 2011 and LGA 2009 provide for a decentralized government structure in South Sudan. Provisions emphasize principles of equitable resource distribution among and within South Sudan’s 10 states. However, the national distribution of block grants was previously based on transferring an *equal* amount to each of the ten states, rather than *equitable* transfers that reflect population size and development status/outcomes. Under this system, Jonglei received the smallest block transfer per person of any state, since it has the largest population.

The Fiscal and Financial Allocation and Monitoring Commission and the Ministry of Finance and Economic Planning developed a formula to ensure more equitable distribution of resources among the states. The government budget for 2013-14 allocated 60% of the budget equally between states, and 40% using the new equity-based formula. Table 1 shows budgeted per capita transfers for 2014-15 alongside key statistics for each state. While Jonglei’s allocation relative to other states has increased, it receives the second lowest per capita transfer allocation.

<table>
<thead>
<tr>
<th>State</th>
<th>Transfers per capita (SSP)</th>
<th>Budgeted block transfers (SSP, millions)</th>
<th>Percentage of the total population</th>
<th>Percentage of the total area (sq km)</th>
<th>Poverty rate (percent of state population below poverty line)</th>
<th>Adult literacy rate (percent of state population who can read and write)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Warrap</td>
<td>95.59</td>
<td>93</td>
<td>11.78%</td>
<td>7.07%</td>
<td>64.00%</td>
<td>16.00%</td>
</tr>
<tr>
<td>Jonglei</td>
<td>95.67</td>
<td>130</td>
<td>16.45%</td>
<td>19.02%</td>
<td>48.00%</td>
<td>16.00%</td>
</tr>
<tr>
<td>Upper Nile</td>
<td>106.81</td>
<td>103</td>
<td>11.67%</td>
<td>11.99%</td>
<td>26.00%</td>
<td>45.00%</td>
</tr>
<tr>
<td>Northern Bahr El Ghazal</td>
<td>108.20</td>
<td>78</td>
<td>8.73%</td>
<td>4.74%</td>
<td>76.00%</td>
<td>21.00%</td>
</tr>
<tr>
<td>Lakes</td>
<td>113.55</td>
<td>79</td>
<td>8.42%</td>
<td>6.77%</td>
<td>49.00%</td>
<td>18.00%</td>
</tr>
<tr>
<td>Eastern Equatoria</td>
<td>113.67</td>
<td>103</td>
<td>10.97%</td>
<td>11.40%</td>
<td>50.00%</td>
<td>19.00%</td>
</tr>
<tr>
<td>Western Equatoria</td>
<td>122.77</td>
<td>76</td>
<td>7.49%</td>
<td>12.31%</td>
<td>42.00%</td>
<td>33.00%</td>
</tr>
<tr>
<td>Unity</td>
<td>124.62</td>
<td>73</td>
<td>7.09%</td>
<td>5.87%</td>
<td>68.00%</td>
<td>26.00%</td>
</tr>
<tr>
<td>Central Equatoria</td>
<td>125.95</td>
<td>139</td>
<td>13.36%</td>
<td>6.68%</td>
<td>44.00%</td>
<td>44.00%</td>
</tr>
<tr>
<td>Western Bahr El Ghazal</td>
<td>182.95</td>
<td>61</td>
<td>4.04%</td>
<td>14.13%</td>
<td>43.00%</td>
<td>34.00%</td>
</tr>
</tbody>
</table>

*Note:* The population data are drawn from the census of 2008, while the estimated block transfers come from the 2014-2015 budget. *Sources:* National Bureau of Statistics; Ministry of Finance and Economic Planning.
3.2.2 Electoral system

The TCRSS 2011, LGA 2009, and NEA 2012 provide for direct election of state legislative assembly members, county commissioners, and members of local government councils. Direct elections offer an important avenue for all people in Jonglei to register their preferences and forge links with the political structures that govern their lives. However, local government elections have not taken place to date. To put these electoral provisions into practice, the National Elections Commission will be required to develop rules and procedures for the elections as stipulated in Article 86 of the NEA 2012.

Article 55(1) of TCJS 2011 gives the state legislative assembly the power to pass laws allowing additional representation of so-called “other categories”. If the state legislative assembly uses these other categories to enhance representation of groups otherwise marginalized in governance structures, this provision could enhance political accommodation.

3.2.3 Executive

Governors can sit for no more than two five-year terms, and the state legislative assembly can remove a governor through a vote of no confidence from three-quarters of its members. These restrictions offer strong checks on the governor’s powers. However, the three-quarters majority required in the SLA is a high threshold that may be threatened by deadlock, especially if the state legislative assembly is dominated by one or two parties supportive of the governor. The president can also remove a state governor and/or dissolve a state legislative assembly in the event of a crisis in the state that threatens national security and territorial integrity. These powers are broad and can undermine political accommodation, especially without clear definition of when what constitutes a threat to national security and territorial integrity.

3.2.4 Legislative branch

During the transitional period, the president can appoint up to 66 members of the national legislative assembly and up to 30 members of the council of states. These powers have offered the president an avenue to include constituencies at the subnational level who might find it difficult to secure representation through elections. For example, the president has appointed several Murle members of the council of states through this mechanism. However, the appointments may also restrict political accommodation if they strengthen the dominance of one party or one group.

The state legislative assembly has the power to impeach the governor or deputy governor. Local legislative authorities offer opportunities for policy making and discussion at the level closest to communities. Most of these legislative authorities are, however, yet to be established.

The TCRSS 2011 allows for the council of states to pass legislation pertaining to states through a two-thirds majority. This highly qualified majority should ensure that no state can disadvantage another in the council of states. However, neither the constitution nor legislation establishes clear criteria to determine which matters classify as “pertaining to states”, presenting a potential cause of dispute and deadlock.
3.2.5 Public participation

The TCJS 2011 includes broad principles for participatory economic development and public participation in formulation of development policies, and the TCRSS 2011 mandates that government involve the people in the formulation and implementation of development plans. These broad principles for public participation are central to strengthening political accommodation. However, to build on the existing provisions, people will need to consider specific mechanisms in Jonglei State and at the national level for putting these principles into practice.

In the first phase of the project, stakeholders expressed negative perceptions about the scope of public participation. There was consensus among those interviewed that (i) there are few meaningful avenues for public participation, and (ii) the state capital is very inaccessible as well as unsafe for certain communities – thereby limiting their access to services and influencing how they are delivered.

3.2.6 Traditional and customary arrangements

The TCJS 2011 includes provisions for the development of a Jonglei State Traditional Authority Council. The TCRSS 2011 calls for incorporating traditional authority and customary law into local government, and the LGA 2009 grants semi-autonomous power to traditional authorities at the state and local levels. However, additional provisions are needed to clarify and harmonize the roles of formal and traditional governance structures, particularly the distinction between the roles of criminal courts and traditional courts.

Participants at the workshop Building the House of Governance in Jonglei State (John Garang Memorial University, June 2012) voiced the concern that too many powers had been removed from traditional authorities, and that there was an urgent need for clearer definition of the role of criminal courts and traditional courts. Furthermore, in interviews at the inception of the project in October 2013, some stakeholders expressed concern about chiefs being politicized and coopted, and not acting in the best interest of communities. These views suggest that additional provisions are needed to clarify and harmonize the respective role of formal and traditional governance structures.

The LGA 2009 provides for a Council of Traditional Authority Leaders (CoTAL) at the national level. This offers a mechanism through which traditional authorities can channel their interests and exert political influence at the national level. The degree to which a national CoTAL can strengthen accommodation of state interests will depend on how the state CoTAL interacts with and selects members to the national CoTAL. Since neither a national CoTAL nor a state CoTAL has been convened yet, this linkage has not yet been realized.
3.3 Processes for governance and peacebuilding

In the lead-up to the December 2013 crisis a number of ongoing or proposed processes for peace and political dialogue offered the people of Jonglei potential opportunities to inject new ideas into public discussion.

At the national level, these included:

- The peace process under the auspices of the Presidential Committee for Community Peace, Reconciliation and Tolerance in Jonglei State (2012)
- The National Constitutional Review Process
- The work of the Committee for National Peace, Healing and Reconciliation

At the state level, these included:

- An ongoing series of community peace dialogues organized by the State Peace Commission
- The strategic plan for the State Ministry of Local Government (SMOLG) 2013/14-2015/16

During the crisis, two processes have gathered pace which also offer important forums for discussing the future of Jonglei State:

- The national peace process, focused as of mid-2014 on the IGAD-mediated peace talks in Addis Ababa, Ethiopia. To be successful, this process requires settlement of the issues which Jonglei State faces in the context of the broader national conflict. (Discussed in section 4.1.2.)
- The peace process between the GRSS and the SSDM/SSDA-Cobra Faction, which delivered agreement on the creation of the Greater Pibor Administrative Area, discussed in more detail in sections 4.2.2, 5.2 and Annex IV.

Since the political crisis in December 2013, many pre-existing national and state-level processes have halted. Rekindling these political dialogue processes, alongside more recent peace initiatives, constitutes a critical opportunity for reconciling competing political interests.

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18 This plan was produced with the support of USAID and prepared by Winrock International’s BRIDGE Program.
4. Perspectives on Jonglei’s governance: national, state, and local dimensions

This section presents the views of those interviewed in focus groups and consultations, in addition to other data collected, on governance as it relates to Jonglei State at the national, state, and local levels. It is evident that people consider all three levels of governance to be important.

4.1 National level

In terms of actual representation, prior to December 2013, 33 members represented Jonglei in the National Legislative Assembly and six members represented it in the Council of States. In the NLA, 15 were Nuer, 12 were Dinka, three were Murle, and three were Annuak. Two members each from the Nuer, Dinka, and Murle communities were in the Council of States. Additionally, the deputy Minister of Finance was Murle, with the other ministers Nuer or Dinka. Jie and Kachipo are the only ethnicities from Jonglei not represented in the national legislature.

Respondents’ views on how people’s interests are accommodated at the national level focused mainly on the role of members of parliament (MPs). Additionally, respondents commented on South Sudan’s political structure, the electoral system and political parties, balancing the powers of the executive, and participation in the constitutional review process.

Table 2: Perspectives on Jonglei’s governance: the national level

<table>
<thead>
<tr>
<th>People’s perspectives</th>
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<tbody>
<tr>
<td><strong>Political structure</strong></td>
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<tr>
<td>▪ A majority of respondents discussed whether South Sudan should be a more decentralized State, and if so, what form this should take. Suggestions included increasing the powers of the state governments relative to the national government; ensuring governors’ independence from the national executive; and devolving more power to either to the current counties or to a changed configuration, for example the administrative districts created during colonial times.</td>
</tr>
<tr>
<td>▪ Many respondents also discussed the relationship between the national and state levels, stating concern about the way in which appointments at state and county level are centrally determined. It was noted that generally the national government and Jonglei State government do not communicate well and that communication only flows one way: from the national level down.</td>
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<tr>
<td>▪ Respondents raised the issue of resource allocation from the national to the state level. Until recently, all ten states have received equal budgets, but that is not an equitable distribution. This form of resource allocation has particularly disadvantaged Jonglei State.</td>
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<tr>
<td><strong>Electoral System</strong></td>
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<tr>
<td>▪ As noted in section 3.1, respondents commonly cited elections as a source of conflict. Specifically, one respondent explained that the policy of one representative per geographical constituency has led to conflict.</td>
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<tr>
<td>▪ Several respondents also stated that although South Sudan is supposed to be a multi-party system, in reality it is a one party system.</td>
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</tbody>
</table>
### People’s perspectives

#### Executive
- A group of respondents stated that the constitution gives too much power to the president, alleging that if he can remove governors and dissolve parliaments, they cannot do their jobs effectively. Power needs to be more evenly distributed among the other pillars of government.
- Others asserted that the executive does not represent the interests of the people, and is not transparent at all. Some respondents stated that the President had lost legitimacy due to events in the current conflict.

#### Legislative branch
- In discussing political accommodation at the national level, participants expressed varied views on how effectively members of the NLA represent the interests of the people. Respondents from Bor County reported that members return to their communities to gather views and report on their work, but only occasionally. They felt that representatives do not inform communities of the everyday work of the parliament or consult them on legislation. Respondents from other counties agreed that legislators at the national level do not represent the interests of the population. Multiple respondents characterized representatives as a “rubber stamp for the president.”
- Respondents across counties and ethnicities expressed that people expect legislators to improve services, but they have not delivered on their promises to build roads, schools, clinics, and otherwise improve services. This affects how people perceive their representatives.
- Multiple Murle respondents stated that legislators and other government representatives represent the Murle at the national level. However, several respondents felt that their representatives were outnumbered and struggled to reach leadership positions, and thus found it difficult to effect change. Despite this, multiple respondents perceived that their representatives tried their best to work for the benefit of Murle community. NLA members were also felt to be more representative than SLA members. A few people credited national legislators with the success of peace talks with the SSDM/SSDA-Cobra Faction. Another view, however, was that national legislators achieve little, and that they represent only their own and their party’s interests.

#### Public participation
- Multiple respondents emphasized the importance of an inclusive constitutional review process, and stated that the SPLM currently controls the process, and other political parties have no role in it.

#### Traditional and customary arrangements
*Respondents did not express views on traditional & customary arrangements at the national level. See sections 4.2 and 4.3 for views on the role of traditional authorities at state and local levels.*
National peace and dialogue process and the link with Jonglei

For the interviews conducted in April, May, and June 2014, the research team asked additional questions about the link between conflict in Jonglei and at the national level (referenced in section 3.1), as well as about the peace talks and national dialogue process.

Links between conflict in Jonglei and the national conflict

Perspectives on the connection between conflict in Jonglei and the national violent crisis varied widely. A few people stated that Jonglei’s issues are separate and independent from the outbreak of violent conflict at the national scale. However, many people articulated at least a partial connection between the two conflicts, with some citing disunity among politicians and highly politicized tribes as factoring into both conflicts. Others felt that the situation in Jonglei contributed strongly to the national crisis, due in part to competition over funds and chronic underdevelopment in various regions, with some stating that the national-level conflict was in fact an explosion of the conflict drivers simmering in Jonglei. A widely held view was that the national conflict has had devastating effects on Jonglei.

Peace talks and national dialogue

Respondents expressed equally diverse opinions on whether a national dialogue process could address problems in Jonglei. A few voiced the opinion that national dialogue could not bring peace to Jonglei because it would not be conducted with Jonglei’s needs and interests in mind. However, many thought that a national process has potential to bring some peace to Jonglei, but that the process itself would not be enough. Multiple respondents suggested using traditional problem-solving methods to complement, or at times replace, a national peace process in order to truly reconcile longstanding issues. Many also expressed the concern that while in theory a national peace process could help Jonglei, it would not be implemented properly or include proposals truly beneficial to Jonglei.

Multiple participants said special attention should be paid to Jonglei at the Addis peace talks, with a separate set of representatives dedicated to Jonglei issues. It was suggested that the talks should not only include the ruling SPLM and the SPLM-IO. “We are all stakeholders; we should all be there.”

Proposals and aspirations

Participants expressed a range of practical proposals to enhance how national-level governance arrangements could accommodate the interests of Jonglei’s communities. Participants in focus groups came to consensus on certain proposals, while they disagreed on other proposals. An important note is that consensus within one focus group does not imply broader inter-group consensus.

Proposals and aspirations from respondents for the national level of governance included:

On the political structure:
- Implementation of a federal system of government with stronger devolution of power, with free and fair elections.
- Subdivision of states, for example to mirror the 22 districts of South Sudan that were created by colonial administration.
On the legislative branch:
- Additional seats for youth, women and the disabled in the NLA to improve equitable representation.

On the electoral system and political parties:
- Development of a program for civic education by the South Sudanese political parties
- Taking of measures to minimize ethnic politics in general election campaigns

On public participation:
- A national peace and reconciliation process that is inclusive of women and Jonglei’s diverse political and socio-cultural groupings.
- Representatives’ returning to their constituencies frequently to inform citizens of policy agendas.

Other suggestions related to national level governance:
- Building strong national law enforcement agencies to encourage a law and order culture where diverse ethnic communities can coexist peacefully, with rotation of police and soldiers’ geographical postings.

4.2 State level

Prior to December 2013, there were 47 members in the Jonglei State Legislative Assembly (SLA). Of these, eight represented Bor County, with seven for Pibor, two for Pochalla, six for Akobo, five for Uror, three for Nyirol, three for Pigi, three for Fangak, four for Ayod, two for Duk, and four for Twic East. Of the state ministers, five were Dinka (from Bor, Duk, and Pigi), three were Nuer (Uror and Fangak), two were Annuak (Pochalla), and one was Murle (Pibor).

Data gathering activities and interviews revealed a gap between actual representation of communities in state institutions and how some communities perceived that they are represented. While there are several Murle representatives in the SLA and the executive, the views of various Murle respondents disputed this. This incongruity suggests that either respondents are unaware of the existence and activities of their representatives, or they feel that those in power do not actually represent their needs and interests.

In Jonglei there is an informal power-sharing arrangement by which the positions of Governor, Deputy Governor, Speaker of the SLA, and Deputy Speaker represent the communities of Jonglei. The arrangement was instituted by former governor Philip Thon Leek when in an effort to ensure that high-level positions in the Jonglei State government promote an internal balance among the four former “greater areas” of Jonglei. The arrangement is not dictated by law; rather, it depends on the consent of those in the four positions affected. Following a change in the governor and deputy governor, Peter Chol Wal, SLA Speaker, resigned from his post in April 2014 in line with this arrangement.

As of July 2014, the state CoTAL Act has been passed, and members were selected for the Jonglei State CoTAL. Inauguration was planned for January 2014 but had to be postponed; a new inauguration date has not been set.
As noted in Table 2, many respondents considered the functionality of Jonglei’s current political and administrative structure an important issue. Many respondents discussed the importance of resource allocation and expressed the view that the state government has failed to allocate resources equitably within the state. Resources go from the national level through the state to the county level. This distribution of resources does not work because money gets stuck at the state level and does not reach the counties. Some also asserted that officials allocate development projects to counties based on personal interest rather than need. Some people raised the issue of the current location of the state capital which is not seen as central enough to enable government have quick access to all counties.

Multiple respondents asserted that the poor execution of elections at the state level is a source of conflict. As one participant explained, “The election was badly done and the wrong people were rigged to become the people’s representatives. Most elected officials in the government today were not the people’s choice; they were brought against their wish, they are incompetent and they cannot deliver services to the people.” Many people commented on the fact that even though the governor is elected, they do not really have a say in his/her choice. They stated that this does not result in a representative government.
People’s perspectives

One respondent suggested that there should be an electoral college to remedy some of the issues with elections. He also stated that the current constituencies are inequitable, and that there should be more seats in the Jonglei State Legislative Assembly. Some respondents stated that a lack of transparency in state government has created the belief that officials are not accountable to the citizens but to other political figures.

Executive

- Many respondents said that the state executive and civil service are not representative. Though officials may be appointed based on which county they come from, they do not represent the interests or will of the people of the state. They as a result of to their relationship with the governor.
- Prior to April 2014, some respondents expressed concern that many state officials are Dinka, including most of the previous governors. A number of Murle respondents claimed that there are no Murle at the top levels of state government. “We are outside of decentralization. If you go to the Jonglei state government you will not find anyone there [from the Murle community].” Others said that Jie and Kachipo are the only tribes not represented in the Jonglei State government.\(^\text{19}\)
- Most people interviewed were not aware of any state-level initiatives to improve governance. Those who had heard of initiatives said they only exist on paper and are not being implemented. Multiple participants said that the people expect the state to provide services, particularly water, health facilities, and schools, but at the moment there is no service delivery taking place and there is no way for communities to hold officials accountable.

Legislative branch

- Multiple people expressed particular frustration with the legislative branch at the state level and said that members do not represent the populations’ interests. A common complaint was that even if communities have representatives in the SLA, they do not really represent the people, but instead represent the interests of the governor and the president. One respondent stated that the lack of effective representation has contributed considerably to the current crisis.
- Members often do not come back to the communities that they represent. A number of participants declared that at all levels the system marginalizes youth, women, the disabled, and the war-wounded, but this especially occurs at the state level.
- There is a lack of accountability in relation to Constituency Development Funds (CDF), which are managed by legislators representing geographical constituencies. The fund needs to be audited.

Public participation

- Multiple people expressed concerns about the lack of public participation at the state level. Many respondents echoed the sentiment that the public should be consulted in the appointment and selection of their representatives and that they should be informed of new government policies and asked to provide feedback on them.
- A number of Murle respondents said that Murle cannot participate in governance at the state level because of a fear of violence: “The atmosphere in the state capital is not conducive to the participation of Murle community members because they do not feel safe.”

Traditional and customary arrangements

- As noted in section 4.3, multiple respondents cited tension between traditional authorities and state and local governance structures. One participant described the tension as a power struggle where state authorities are trying to take power from the chiefs.

\(^{19}\) It is important to note that this interview preceded the appointment of a Baba Medan, a Murle, as Deputy Governor on April 2, 2014.
**Peace agreement with the SSDM/A-Cobra Faction**

*In the interviews conducted in April, May, and June 2014, the research team asked additional questions about the peace process between the GRSS and the SSDM/A-Cobra Faction led by David Yau Yau. The questions probed whether people considered that the agreement would lead to peace in Jonglei, what implementation challenges exist, and what the broader implications of the agreement might be.*

The views ranged from highly optimistic that the agreement would bring peace to the area, to very pessimistic that the agreement would not amount to anything. Of those interviewed, Murle respondents tended to be more optimistic than non-Murle, although proponents and skeptics of the agreement existed in both groups. Concerns about the agreement focused on a number of factors:

- **People felt the peace talks were not a representative process.** They occurred between the national government and David Yau Yau and the people around him, but did not include all Murle, any Jie or Ka-chipo, or representatives from other counties. The lack of inclusion means there is no guarantee that all affected parties will respect the agreement.
- **There were concerns that the agreement does not actually address underlying causes of conflict in Pibor.**
- **Respondents were concerned that the government made an agreement for strategic reasons related to the national conflict, and that there may not be political will to fully implement it.**
- **Additionally, participants expressed concern that the agreement essentially creates a new state (the GPAA), but without going through the process laid out in the constitution, and that this agreement would set a precedent for the division of other states and might encourage violent conflict in pursuit of such future agreements.**

**Proposals and aspirations**

Participants in consultations and focus groups expressed several practical proposals to enhance how state-level governance arrangements could accommodate communities’ different interests.

Proposals and aspirations from respondents for governance at the state level included:

**On the political structure:**

- Dividing Jonglei State into smaller entities. Some suggested dividing Jonglei into the four former “greater” areas: Greater Bor, Greater Akobo, Greater Fangak, and Greater Pibor.
- Moving the state capital to a more central point so that communities across Jonglei can access it more easily, and improving roads so that it is easier to travel to the capital.

**On the electoral system and political parties:**

- Increasing the number of electoral constituencies within Jonglei State.

**On the Executive:**

- Equitable representation of the various ethnic groups within state government.
- Appointment of a member of the Murle to a high-ranking position in the state government.²⁰

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²⁰ This suggestion was made prior to the appointment of Baba Medan, a member of the Murle, to Deputy Governor on April 2, 2014.
• For civil servants deployed to counties, adopting a 75-25% split of people not originating from the county to those originating from the county.
• Installing a system of appointment to state government positions based on professional qualification
• Creation of clearer standards to assess the integrity of Ministers

On the legislative branch:
• Creation of clearer standards to assess the integrity of MPs so that each can “go as somebody clean and clear.”

On public participation:
• Representatives’ returning to their constituencies frequently to inform citizens of policy agendas.
• Convening a second All Development Conference for “sons and daughters” of the state.
• Convening a conference to consider the SSDM/SSDA-Cobra Faction agreement, bringing leaders from Juba, MPs and intellectuals.
• Consultations with Jonglei State citizens on the SSDM/SSDA-Cobra Faction agreement and a state-wide referendum on the creation of the GPAA.
• Incorporating women and youth associations more into state governance.
• Involving state intellectuals and academic personnel in state-level decision-making processes

On traditional and customary arrangements:
• Establishing the state Council of Traditional Authority Leaders (CoTAL).
• Revising and strengthening the native administrative court under traditional authorities and leaders.

4.3 Local level

It is important to reiterate that county-level focus groups were conducted only in Bor and Pibor, so much of the data on local governance focuses on those two counties. Some limited information was also obtained for other counties:

• According to respondents in Bor, there is a commissioner at the county level, payam administrators, and chiefs at the boma and payam levels. There is no boma administrator separate from the chiefs. There is no legislative council either. Councils were formed in 2010 by the commissioner but only lasted a few months. Executive directors and directors for education, health, water, infrastructure also exist in Bor, along with the executive council.
• Respondents gave conflicting information about whether a county council exists in Pibor. Multiple respondents said that most structures exist on paper, but they do not function. One participant noted that “there is nothing for county councilors to do because there is no money, and no incentive for them to do something. And they are cut off from the state.”
• Respondents from both Nyirol and Akobo said that a county council does exist. In Nyirol, the Commissioner, SPLM Secretary in the county, Executive Director, Head of Taxation, and Payam administrators form the council. In Akobo, the head chief, head of police, head of education, a representative of the church, a trade union member compose the council.
• According to respondents, county councils do not exist in Uror or Fangak Counties.
Table 4 Perspectives on Jonglei’s governance at the local level

<table>
<thead>
<tr>
<th>People’s perspectives</th>
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<tbody>
<tr>
<td><strong>Political structure</strong></td>
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<tr>
<td>▪ A respondent remarked that the government’s program for local government and decentralization is a good program but it can only be implemented if there is peace.</td>
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<thead>
<tr>
<th><strong>Electoral System</strong></th>
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<tbody>
<tr>
<td>▪ Respondents from Pibor, Fangak, and Nyirol stated that the governor appoints the county commissioner. One participant remarked: “The commissioners should be elected, but they are not elected currently. They are appointed. This means those with more ‘popularity’ become commissioner. People are asked to nominate three members. And then the governor chooses. Plus, the governor has the power to remove the commissioner.”</td>
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<tr>
<td>▪ Respondents from Pibor, Fangak, and Nyirol also stated that the governor and the county commissioners appoint local government officials with very little consultation. Many felt that the people should be given an opportunity to elect these officials.</td>
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<table>
<thead>
<tr>
<th><strong>Executive</strong></th>
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<tbody>
<tr>
<td>▪ Respondents from Akobo, Nyirol, and Fangak raised concerns that the executive at the local level does not represent the interests of the community. The governor appoints the commissioners, and in turn the commissioners appoint local government officials. Appointments are made based on personal relationships. Echoing a similar dynamic, participants were concerned that county commissioners do what the governor wants and are not accountable to the people.</td>
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<table>
<thead>
<tr>
<th><strong>Legislative branch</strong></th>
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<tr>
<td>▪ One respondent commented that legislative council members are not paid, causing them to leave their posts. When the council did exist in Bor, the commissioner appointed the council members, which created a sense among some community members that the council was not representative.</td>
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<tr>
<td>▪ In terms of expectations of the councilors, respondents stated that councilors should frame local laws and put them to the state level assembly to be ratified. They should also provide a check on the commissioner regarding the budget.</td>
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<th><strong>Public participation</strong></th>
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<tr>
<td>▪ Multiple respondents from various counties stated that local government does not consult with or provide information to the public about decisions. One participant stated that “before the crisis there was participation between the leaders of the community and the commissioner. They could share their ideas through community-based organization leaders and chiefs. But this is now cut because of the crisis.” Many respondents said that the only mechanisms for public input into decisions and communication with leaders was through traditional authorities.</td>
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<table>
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<tr>
<th><strong>Traditional and customary arrangements</strong></th>
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<tbody>
<tr>
<td>▪ Many respondents spoke positively about traditional authorities and felt they were more effective than local government officials. Multiple participants cited chiefs as the link between government and communities. Participants said that traditional authorities serve a variety of functions, including promoting peace and unity, settling local disputes, identifying security risks in the community, and advising the commissioner. Most of the chiefs are elected by the people, and one participant stated that chiefs are the only government leaders who hold legitimacy in the eyes of the people.</td>
</tr>
<tr>
<td>▪ Respondents also stated that chiefs were not as effective as they could be because local govern-</td>
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People’s perspectives

People’s perspectives

ment does not fully recognize them and the roles they play. In some instances traditional authorities do not have offices, are not paid, and their functions and authority are not clearly delineated. Despite their link to communities, MPs do not consult with them. Some face threats of violence from armed community members who do not agree with them. Multiple people stated that local government would work better if officials recognized chiefs more formally, delegated to them clearer, more substantial responsibilities, and created a better connection between chiefs and local and state formal governments.

- Participants also stated that the formal judiciary has moved into the realm of traditional justice. Courts are overreaching and taking some of the cases that chiefs are supposed to solve.
- A few respondents stated that while traditional authorities should form an important link between government and the community, they do not currently do so effectively. Many are not literate, which prohibits them from understanding their roles. The role of the chiefs is now politicized – they have to be pro-SPLM. They should report conflicts at an early stage, but they tend to hide problems in an attempt to stay popular. Some chiefs even support conflicts. Respondents stated that chiefs should act as an early warning system for conflicts, but they generally do not.

Proposals and aspirations

There were a number of options and proposals expressed in consultations and focus groups about how to build local-level governance. Proposals and aspirations from respondents for governance at the local level included:

**On the political structure:** Division of Pibor County into three counties.

**On the Executive:** Ending the practice of assigning people to government posts by tribe.

**On the electoral system and political parties:**
- Direct elections of the county commissioner and other local government positions
- Inclusion of women and youth in peace processes.

**On public participation:**
- Commencement of a peace and reconciliation process at the grassroots level (community to community dialogues).

**On traditional and customary arrangements:**
- Expanding the formally recognized roles and authority of traditional leaders.
- Incorporation of women in traditional authority roles.

**Other suggestions related to local level governance:**
- Investment in economic development (including education, job training, and job creation) and provision of services to the communities.
- Enhance the current process and accountability for tax collection at the county level.
- Increasing transparency in the use of county development funds; possibly requiring that bomas, payams and traditional authorities agree on distribution of the funds.
5. Rebuilding a stronger “house of governance” for Jonglei

This section moves beyond the focus group and consultation findings to present an analysis of how governance arrangements have shaped conflict outcomes in Jonglei State, and suggests practical opportunities for enhancing political accommodation and peace. This analysis reflects on the findings and draws on other primary and secondary sources.

5.1 Foundations: Strengthened local governance

Devolved or ‘top-down’ governance?

Local governments form an important part of the political and administrative system of South Sudan. They are the primary institution through which the population interacts with the state, and in rural areas often the only one. The current system of local government is based on the Local Government Act (LGA) of 2009, which was the result of national and international efforts to strengthen the system of local government after the Comprehensive Peace Agreement (CPA). The system shares many similarities with its institutional predecessors, which date back to the system of “Native Administration” established during Anglo-Egyptian Rule, while also incorporating many unique characteristics. 21

At their core, local governments are composed of the office of the county commissioners, the county executive director, local government officers (directors), the county councils (legislative, executive and customary law), as well as administrative chiefs and local government administrative officers at the county, payam and boma levels (see Figure 3).

It is important to understand the ways in which the functions and roles of local government relate to conflict in Jonglei State. One function of local government is to establish responsive and participatory mechanisms for service delivery. Given that commissioners and administrative chiefs are in relatively close proximity to the population, local governments are envisaged as an efficient vehicle to coordinate or carry out the basic functions of the state, such as the provision of health, education, justice and security services. However, a number of challenges to this exist, and even prior to the onset of the conflict, many of these functions were yet to be developed.

Especially in areas affected by conflict, local government is often unable to guarantee the delivery of basic services such as health and education. In focus groups some officials stressed that local governments struggle to ensure basic justice and security in communities where small arms ownership by private residents is prevalent. Moreover, even in relatively accessible areas such as Bor County, local governments have so far been unable to levy taxes from the population.

Historically, local governments have also been used as a means for ‘top-down’ administration. Especially during the first years of ‘Native Administration,’ but also repeatedly since Sudan’s independence in 1956, local governments have been unable to provide for sustained community participation. Instead, national or state governments have made the most important political decisions, while local governments have primarily served as vehicles to implement these decisions and maintain order through the provision of security and justice. At the first national convention of the SPLM/A in 1994, the Civil Authority of the New Sudan (CANS) was created in the liberated areas, with the promise of establishing ‘bottom-up’, democratic local government, and to devolve power from the SPLA command to the local level. The idea that development is facilitated most efficiently in a decentralized system of government was also echoed in Dr. John Garang’s policy of “Taking the Towns to the People”. This philosophy of effective governance was maintained in the drafting process of the LGA, and the act entails numerous provisions designed to guarantee the representation of the population through local government.22

Since the passing of the LGA, for various reasons, these provisions have been implemented only partially, and in many regions there exists a considerable gap between what the provisions call for and everyday local government practice, as discussed previously in section 3.2. Current local government practice can be understood as an informal compromise between ‘top-down’ and ‘bottom-up’ principles:

22 These provisions include Art. 13.6 on ensuring equitable resource distribution; Art. 26, 28, 48 on direct election of county commissioners and local councils; and Art. 25 on establishing a legislative authority in each local government council.
Governors currently appoint county commissioners without formal elections. However, governors usually consult eminent members of local communities, who present a shortlist with candidates. This mechanism can produce consent within the county, but is not a guarantor thereof. At the same time, commissioners often hold a high position in the county’s SPLM organs, which can provide opportunities for influence through the party apparatus.

Administrative chiefs are seen as representatives of their communities and are usually elected through public processes, in which community members queue behind their candidate. Despite this democratic element, candidates are usually selected according to lineage and inheritance. Administrative chiefs are understood as the “third arm” of the government at the local level. They support the commissioner in conveying the government’s agendas to the communities, and in negotiating their consent. While chiefs often hold a considerable amount of authority, many focus group respondents from Bor also stressed that chiefs have lost much of their authority, whether to local courts, to local officials, or due to heightened insecurity.

Prior to December 2013, county legislative councils were not fully functional in Jonglei State, and some had yet to be established. In Pibor County, a council was formed from representatives of the Payams, but as of April 2014 it was not operational. In Bor County, a county council was established briefly in 2010, but shut down due to lack of funding. Focus group respondents reported that during its existence, there was some tension between the commissioner and the council. While the council attempted to oversee the commissioner’s affairs, including the county’s finances, this was not accepted by the commissioner.

Given that most legislative councils are not fully functional, commissioners and administrative chiefs are currently the primary institution through which the population can address its concerns. However, regular consultations between the population and the local government executive seem to be rare. Moreover, many decisions, for example about development projects, are made with limited public participation by a group consisting of the commissioner, local government officials, administrative chiefs, and eminent members of the communities. Such practices may be limiting local governments’ capability to address community needs, and contributing to uneven distribution of services and development assistance within the counties.

Local government reform and community politics

Reform efforts since the Interim Constitution of South Sudan, 2005, have increased the role of communal identity in local politics. This is because members of different ethnic communities, sections or clans have at times competed for influence in local government institutions. The LGA guarantees the representation of the population in local government through the direct election of commissioners and county legislative councils. Local government has thus been understood as a source for participation in decision-making processes, as well as a means to access services provided by the state and NGOs. Moreover it is seen as a means of asserting influence on local affairs, such as with regard to decisions about the distribution of development aid.

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23 Of course, members of the state and national legislative assembly should be in the position to address local concerns at the higher levels of government. However, to many of the respondents, the representative functions of the Members of Parliament (MPs) is insufficiently known. One respondent from Pibor stated that (s)he does not know the MPs by name. While for Pibor, representation at the state level seems to be poor, it seems to be more satisfactory at the national level.

24 Local Government Act, 2009, Art. 26, 28, 48
At times, this has led to an increased risk of conflict between different parts of the population. According to the LGA, counties, payams and bomas are territorially defined administrative units. This has unintentionally led to an association between territory and administrative entities. This association is not new, and has its origin in the policy of “Native Administration,” which assumed that administrative units could be created along “tribal” lines. Since the colonial period, local government reforms have led to an increased association of territorially defined administrative units with “tribal” identity. This has strengthened identity-based forms of political mobilization, and has increased conflict between different parts of the population, over positions in government as well as the demarcation of administrative boundaries. According to one respondent, the appointment process of commissioners can create tensions within the communities because candidates who have a “big family” have a higher chance of being nominated.

Conflicts can also take on territorial dimensions. For example, at the border of Duk and Uror Counties, the election of chiefs at the payam level led to a conflict between two groups in Pajut Payam of Duk County in November 2013. The chief who lost the elections mobilized followers from neighboring Uror County, which consequently moved into the payam, displacing members of the other chief’s constituency. This episode underscores the risk that political agitators may seek to displace groups within a given territory to try to increase their constituencies.

Moreover, the example demonstrates that local and national politics are sometimes intertwined. The chief who lost the election is said by one respondent to have sided with a politician intending to run for the upcoming parliamentary elections. The potential candidate reportedly benefited from the dynamics of migration and displacement, as his constituency grew as a consequence. Struggles over positions of power at the local, state and national levels can thus be connected.

The armed opposition of the SSDM/A-Cobra Faction, brought to an end through the peace agreement with the GRSS in May 2014 (discussed in sections 3.2 and 4.2), is another important example of how local community-based politics affects the current local government system. The SSDM/A-Cobra Faction justified its armed opposition by claiming that current governance arrangements marginalize the Murle ethnic group. Representatives of the Murle asked for stronger representation at the state level, as well as for the creation of additional counties in Jonglei State. The peace agreement signed on 9 May 2014 makes provisions for the establishment of the Greater Pibor Administrative Area (GPAA), and eventually the creation of additional counties. The agreement also grants special rights to the SSDM/A-Cobra Faction with regard to nomination of the chief administrator of the GPAA.25

In sum, the strengthening of local government and a stronger devolution of power can be a suitable means of accommodating political interests. However, the claims for stronger representation can also be a justification for conflict in the first place. Moreover, the strengthening of local government can at times lead to an increase in conflicts framed along ethnic lines, at least in the medium term. Section 5.2 suggests some ways to mitigate this.

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25 See provision 5.1 of the final agreement.
Local government and conflict

Responses from focus group discussions and interviews suggest that the Government of Jonglei State has in recent years reacted in a variety of ways to the increasing role of communal identity in local politics. In some parts of Jonglei State, the state government has attempted to address increasing levels of conflict and insecurity through the strengthening of local government structures. This has been especially true where a former lack of local government structures has led to perceptions of marginalization, such as in Akobo West and in Boma. In these areas, so called “sub-counties” have been established to strengthen the presence of the state and service delivery.

However, this has not necessarily led to an increase in responsiveness of local government structures. The administration of the Boma area has been conducted by the so-called “Boma sub-committee”, the members of which have been partly based in Bor and Juba, and are closely accountable to the state governor. In contrast, members of community-based organizations in the area know very little about the composition and activities of the committee and expressed concerns about the committee’s ability to make decisions based on the interests of the population.

Relations between the populations and the local government seem to suffer particularly in contexts in which political grievances have been accompanied by armed conflict, such as Pibor County. Responses from some respondents suggest that officials at the state level have at times curtailed local governments’ capacity to respond to the concerns of local populations, especially with regard to the selection, appointment, and dismissal of local government officials, and to the opportunities provided for public participation in local government policy. Instead, state officials have prioritized the authoritative supervision and, sometimes, control of local government affairs.

The state government has at times used its authority over local governments to dismiss and appoint commissioners in counties affected by armed violence. Dismissing commissioners can increase grievances among the local population, as may have been the case in Pibor County, where a commissioner was dismissed whom some perceived as “together with the community,” and capable as their representative of voicing the people’s concerns at the state level. According to several respondents, the new commissioner was perceived to cooperate more closely with the organized forces to support the SPLA’s efforts to deal with the conflict in Pibor and heightened levels of insecurity through military means. Consequently, the relationship between the local government and the wider community, including the traditional authorities, deteriorated.

The continuing political and military conflicts in Jonglei State take place in a context in which the national government can indirectly assert considerable influence over local politics and administration. Although the transitional constitution stipulates that state governors have to be elected, the current federal system of government has in practice given the president considerable powers to assert influence on the composition of the state governments through his ability to dismiss then re-appoint state governors. In Jonglei State, these powers have been put to use through the appointment of John Koang Nyuon as governor in November 2013, who replaced Kuol Manyang Juuk, who took over the post of the RSS Minister of Defense.

Given the considerable authority of the state governor to shape the composition and practice of local governments, the current system of decentralization does not guarantee the devolution of political authority. While it can provide mechanisms for participatory and responsive governance,
it also potentially constitutes a mechanism through which the national government can assert influence on local governments. This opportunity for influence has primarily been exercised in situations of heightened political tension or armed resistance against the state.

5.2 Envisioning future governance

The findings and analysis on local governance shed light on a number of important policy considerations when considering future governance arrangements for Jonglei State. This section outlines these considerations and the opportunities they bring for peacebuilding.

Structure and functions of local government

Responsiveness

The research highlighted the importance of local government responsiveness in addressing the basic needs of the population and ensuring people perceived state institutions as legitimate. Failure to deliver basic services can increase grievances among the population. This, in turn, can increase the risk of political mobilization and armed opposition against the government. However, the local governments studied have struggled to remain responsive to populations in times of crisis. During political turmoil and armed opposition, the state has reduced the responsive capacities of local governments and has prioritized their security-related functions. This is partly due to the current role of the commissioner, who heads not only the security committee, but also, depending on his leadership, strengthens or reduces opportunities for community participation. Creating a stronger separation of legislative and executive functions could decrease the risk that local governments exclusively rely on their security functions in times of crisis.

Systems of representation

The research indicated that reducing local governments’ vulnerability to identity-based mobilization can decrease conflict. The competition over local government institutions may be partly due to limited opportunities for representation, which may disadvantage minority groups. This largely has to do with the selection and appointment processes for commissioners and the lack of further opportunities for participation in local government. A more inclusive and participatory system could ameliorate such effects. For example, the representation of all parts of the population could be improved through the establishment of elected legislative councils tasked with the supervision and oversight of the commissioner and the executive council.

Jonglei’s political structure

The issue as to whether Jonglei is viable as a state in its current form, and options for its possible restructuring, emerged as a repeated theme. A consensus view was that dividing Jonglei into smaller constituent units would bring public decision making and resources closer to communities, and therefore deliver greater stability. Options that people put forward included:

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26 The findings presented in this paper are largely based on interviews focused on Bor and Pibor counties, and local government arrangements may be different in other parts of Jonglei. While the following considerations can be understood as recommendations to policy makers, they are also intended to encourage further, more comprehensive research on which a reform of local governments may be based.
- Subdividing Jonglei into smaller counties under the authority of the state government.
- Maintaining the overall state structure, but subdividing Jonglei into several “greater areas” with a degree of devolved powers. Alongside the already created Greater Pibor Administrative Area (see below), proposals frequently mentioned included a Greater Fangak Area, Greater Akobo, and Greater Bor.
- Fragmentation of the state to create two or three new states. Suggestions as to the possible geographical configuration of new states varied.

Connected to these proposals are considerations about how resources could be allocated to the political and administrative entities that might comprise Jonglei in the future. Since 2013, the Ministry of Finance has explored the idea of direct transfers from the national to the county level. This could increase the autonomy of counties, and requires a discussion about how competencies would be split between state and county. The question of the mandates of pre-existing positions, such as the state governor and the county commissioner, is also important. In any transition towards new or different political structures, it would be important to clarify the role that key executive positions would play.

### Greater Pibor Administrative Area

*The peace agreement between the government of South Sudan and SSDM/SSDA-Cobra Faction provides for the creation of a new administrative area, the Greater Pibor Administrative Area (GPAA), which symbolizes a testing ground for ideas about the broader restructuring of Jonglei State. The implementation issues surrounding the GPAA related to peacebuilding are highly relevant to the broader debate about Jonglei’s future governance. Annex IV outlines important implementation opportunities arising from the peace agreement between the GRSS and SSDM/A-Cobra Faction. For successful implementation of the Draft Agreement, questions about how the GPAA will interface with the national government, the Jonglei State government, and pre-existing local governance arrangements (both formal and informal) will need to be addressed. Another important question is how the communities and administrative structures in the GPAA will participate in the national constitutional review process, which is one avenue for resolving questions about the interface between governmental units.*

### Executive and legislative representation

Many respondents felt unrepresented, underrepresented, or ineffectively represented in state and national government, despite some instances of members of their communities holding seats in the legislature and the executive. Respondents generally attributed this grievance to two reasons. First, some people did not know who their representatives were, due to a lack of information and some national and state legislative members’ absence from their constituencies. Second, some people considered that seats in the state and national legislatures and executive did not translate to meaningful representation of their interests, whether due to poorly executed elections or a perception that representatives lacked capacity to advocate for their constituencies’ interests. This suggests that information exchange and mutual consultation between office holders and communities could enhance people’s perceptions that local government reflects their interests.
Public participation in local government

The importance of public participation emerged as a repeated theme in focus groups. In the current system, the national and state levels assert considerable influence over the local level. More opportunities for local participation in decision making may more effectively capture population’s needs, and support efficient and equitable distribution of services.

Traditional and customary arrangements

Consultations revealed the importance of the relationship between county commissioners and traditional authorities. Some focus group participants expressed that traditional authorities should have greater decision-making power compared to the commissioner, and that local governance had declined as powers were wrested from traditional authorities and granted to formal government institutions. Others claimed that traditional authorities lack legitimacy and should have less influence over local governance. Strengthening traditional leadership at county levels could reduce administrative gaps and provide avenues of solving inter-communal conflicts using traditional approaches. However, the link between traditional authority and local government will need to be clear to avoid confrontations.

Effective implementation of agreements

Many respondents expressed skepticism about the implementation of peace agreements, a doubt that they attributed to their experience of previous agreements falling into disuse. Specifically, there was concern as to whether the agreement signed between the South Sudan Democratic Movement/Army (SSDM/A) Cobra Faction and Government of the Republic of South Sudan (GRSS) in May 2014 would translate from paper to practice. In discussing this agreement and a potential peace agreement at the national level, respondents voiced the need for processes to go beyond elites and involve broad public participation, inclusive of women and Jonglei’s diverse political and socio-cultural groupings. They also stressed the importance of bringing dialogue to the community level.
6. Conclusion

This research occurred at a time when Jonglei re-emerged as a critical counter in South Sudan’s broader conflicts. As communities articulated their views and grievances about how local governance shapes conflict, Jonglei became a strategic front between government forces and the SPLM-IO, which both undertook military campaigns in the state in pursuit of national political objectives. This dynamic has highlighted the importance of feeding the perspectives of Jonglei’s communities into national political dialogues, and addressing conflict drivers in Jonglei in a national peace settlement.

Many of Jonglei’s challenges stem from a rift between communities and governance at the national, state, and local levels. This can be seen in people’s views on representation, public participation, implementation of agreements, Jonglei’s structure, and the relationship between traditional authorities and formal government. These issues are central to both the fate of Jonglei, and the future of South Sudan as a peaceful and viable nation. This report aims to illuminate and present back views people have expressed on these issues. In so doing, the report seeks to support the people of Jonglei’s efforts to build a governance framework that reflects their different aspirations, as a foundation for lasting peace.

Areas for future research

These findings, and gaps in the analysis, raise important issues for future exploration. These include:

- Conducting consultations to gather the views of those whose voices have not been heard, including the Annuak, Jie, and Kachipo communities.
- Further consultation on implementation modalities for the peace agreement between the GRSS and SSDM/A-Cobra Faction.
- Examining how, in times of crisis, political leaders can preserve avenues for public participation from being sacrificed to security provisions and crisis response.
- Exploring which payams enjoy high levels of inclusion and participation in local government, and understanding the factors behind this advantage.
- Exploring the question of political will and confidence in both the national and state governments, especially in implementing agreements.
Annex I: About the project

Funded by the United States Institute of Peace (USIP), “Building the House of Governance: Towards Sustainable Peace in Jonglei State” is a joint project between Dr. John Garang Memorial University (JGMU) and Conflict Dynamics International. The project was funded for a six-month period, between October 2013 – March 2014, by the United States Institute of Peace, with an extension through June 2014 due to the December 2013 conflict.

The project was designed to help build peace in Jonglei State by supporting different constituencies to develop effective and conciliating governance arrangements (both formal and informal) to assist in resolving current conflicts. The project’s expected impact is that Jonglei’s government and citizens have made significant progress towards agreeing on (a) how governance arrangements can be more accommodating and (b) implementation modalities to achieve them.

This project engaged and benefited policy actors and interested citizens in Jonglei State, including: academics; women’s and youth civil society organizations; traditional authority leaders; State Government; members of the State Legislative Assembly; and county administrations. It responded directly to two specific needs: (1) The need to address the governance drivers of conflict in Jonglei by supporting development of local governance arrangements that effectively accommodate and fairly reconcile people’s different interests; (2) Local policy institutions’ and policy actors’ expressed desire for support in use of frameworks and tools so that they can lead and sustain conflict management initiatives focused on governance and peacebuilding. The project continued work commenced in Jonglei State in June 2012, the findings of which are presented in the Discussion Note “Building the House of Governance in Jonglei State” (October 2012).

The project trained and supported the Research Team to lead roll-out and application of the Political Accommodation Methodology – a unique peacebuilding approach that supports people in conflict settings to develop governance options that enhance prospects for peace. The project also supported different constituencies to inject new ideas into existing peacebuilding processes being taken forward at the state level, such as the National Reconciliation Initiative and National Constitutional Review. This project conducted three types of activities:

(1) Training of staff and researchers of JGMU in Conflict Dynamics’ Political Accommodation Methodology, so they direct implementation of the project’s dialogue activities.
(2) Dialogues, in Bor and the counties, to help different constituencies identify how governance arrangements can better accommodate people’s interests.
(3) Applied research on governance options for peacebuilding in Jonglei State, conducted in collaboration with Conflict Dynamics and JGMU, together with other relevant actors in the state.

JGMU

Founded in 2007, JGMU is one of five public universities in South Sudan. While classed as a university for science and technology, JGMU has faculties covering governance and peacebuilding issues including the Faculties of Economics and Management Science, and Humanities and Social Sciences.
Annex II: Political Accommodation Methodology

The political accommodation methodology consists of three components that offer a flexible package of tools which people can choose from and tailor to their contexts:

(1) The first is a framework of six substance “strands” or focal areas of governance arrangements. These strands can be used as a diagnostic tool to locate drivers of conflict that originate in the way a political system works. They can also help people make coherent choices across the six dimensions as they think creatively about options.

(2) The second component is a set of strands for designing processes that can successfully reconcile diverse interests. This framework can help people think through dimensions of a wide range of processes in conflict contexts, including constitutional review, peace processes and development of inter-entity economic agreements.

(3) The third component is a series of seven-steps to apply these frameworks to develop options. These steps lead interlocutors through a series of participatory activities, which begin with thinking about pre-existing arrangements that can support accommodation, to interest mapping, and finally developing and testing new options of their own.
Annex III: Existing arrangements for political accommodation in Jonglei State

Table 5: Summary of select provisions for political accommodation in Jonglei State across the six Strands of governance at the national, state, and local levels

<table>
<thead>
<tr>
<th>Political structure</th>
<th>Source</th>
<th>Article</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Local level</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Local government responsible for ensuring equity in resource distribution.</td>
<td>LGA 2009</td>
<td>13.6</td>
</tr>
<tr>
<td><strong>State level</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>State government will apportion revenue equitably among levels of government, as shall be determined by law.</td>
<td>TCJS 2011</td>
<td>142(7)</td>
</tr>
<tr>
<td><strong>National level</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>The harmonious and collaborative interaction of the different levels of government shall be within the context of national unity and for the achievement of a better quality of life for all.</td>
<td>TCRSS 2011</td>
<td>49(1d)</td>
</tr>
<tr>
<td>The sharing and allocation of resources and national wealth shall be based on the premise that all states, localities and communities are entitled to equitable development without discrimination as shall be regulated by law.</td>
<td>TCRSS 2011</td>
<td>169(5)</td>
</tr>
<tr>
<td>There shall be established an independent commission to be known as the Fiscal and Financial Allocation and Monitoring Commission (FFAMC), to ensure transparency and fairness in regard to the allocation of funds collected at the level of the National Government to the states and local governments. The FFAMC is responsible for recommending criteria for allocation of national revenue to the state and local government levels.</td>
<td>TCRSS 2011</td>
<td>181</td>
</tr>
</tbody>
</table>

27 For more information on this, see Conflict Dynamics, "Building the House of Governance in Jonglei State" (October 2012).
<table>
<thead>
<tr>
<th>Electoral system</th>
<th>Source</th>
<th>Article</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Local level</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>County Commissioners to be directly elected.</td>
<td>TCJS 2011</td>
<td>138(1)</td>
</tr>
<tr>
<td>County Commissioners and Local Government Councils to be directly elected.</td>
<td>LGA 2009</td>
<td>26, 28, 48</td>
</tr>
<tr>
<td>In accordance with the Local Government Act, the National Elections Commission shall in consultation with the President, determine and announce the election date for conducting election for the following: a) Country Commissioners; b) City Mayors; and c) Urban and Rural Councils. The National Elections Commission shall make rules and procedures for the elections.</td>
<td>NEA 2012</td>
<td>86(1)</td>
</tr>
<tr>
<td><strong>State level</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>In addition to representatives of territorial constituencies and women, “such number of representatives of other categories as may be determined by law” may be elected to the SLA.</td>
<td>TCJS 2011</td>
<td>55(1)</td>
</tr>
<tr>
<td>The total number of members of the State Assemblies for the whole country shall be 400 men and women to be apportioned to States by the National Elections Commission in accordance with the population size of each state: 60% of members of each State Assembly shall be elected to represent geographical constituencies; 25% of women members shall be elected on the basis of proportional representation at the state level from closed women lists; 15% of members shall be elected on the basis of proportional representation at the state level from closed party lists.</td>
<td>NEA 2012</td>
<td>61</td>
</tr>
<tr>
<td><strong>National level</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>The National Legislative Assembly shall be composed of members elected as follows: 60% of members of the National Legislative Assembly shall be elected to represent geographical constituencies; 25% of women members shall be elected on the basis of proportional representation at the national level from closed party lists; 15% of members shall be elected on the basis of proportional representation at the national level from closed party lists.</td>
<td>NEA 2012</td>
<td>60(2)</td>
</tr>
<tr>
<td>Members of the Council of States are indirectly elected through state legislative assemblies.</td>
<td>TCRSS 2011</td>
<td>58</td>
</tr>
<tr>
<td>There shall be four representatives from each state on the Council of States elected by members of the State Legislative Assembly. One representative shall be a woman.</td>
<td>NEA 2012</td>
<td>60(3)</td>
</tr>
<tr>
<td>Level</td>
<td>Executive</td>
<td>Source</td>
</tr>
<tr>
<td>--------------</td>
<td>-------------------------------------------------------------------------------------------------</td>
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</tr>
<tr>
<td><strong>State level</strong></td>
<td>Governors can sit for no more than two five-year times.</td>
<td>TCJS 2011</td>
</tr>
<tr>
<td></td>
<td>A state legislative assembly can remove a Governor through a vote of no confidence from 3/4 of members.</td>
<td>TCRSS 2011</td>
</tr>
<tr>
<td><strong>National level</strong></td>
<td>In the Transitional Period, the President can appoint up to 66 members of the National Legislative Assembly.</td>
<td>TCRSS 2011</td>
</tr>
<tr>
<td></td>
<td>In the Transitional Period, the President can appoint up to 30 members of the Council of States.</td>
<td>TCRSS 2011</td>
</tr>
<tr>
<td></td>
<td>The President shall remove a state Governor and/or dissolve a state legislative assembly in the event of a crisis in the state that threatens national security and territorial integrity.</td>
<td>TCRSS 2011</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Level</th>
<th>Legislative branch</th>
<th>Source</th>
<th>Article</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Local level</strong></td>
<td>There shall be established a legislative authority in each local government council.</td>
<td>LGA 2009</td>
<td>25</td>
</tr>
<tr>
<td><strong>State level</strong></td>
<td>The state legislative assembly can impeach the Governor or Deputy Governor.</td>
<td>TCJS 2011</td>
<td>56</td>
</tr>
<tr>
<td><strong>National level</strong></td>
<td>The Council of States is competent to pass legislation pertaining to states through 2/3 majority, and oversee equitable service delivery in states.</td>
<td>TCRSS 2011</td>
<td>59</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Level</th>
<th>Public participation</th>
<th>Source</th>
<th>Article</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Local &amp; State levels</strong></td>
<td>The TCJS includes broad principles for participatory economic development and public participation in formulation of development policies.</td>
<td>TCJS 2011</td>
<td>142</td>
</tr>
<tr>
<td></td>
<td>All levels of government shall involve the people in the formulation and implementation of development plans.</td>
<td>TCRSS 2011</td>
<td>37(2d)</td>
</tr>
<tr>
<td>Traditional and customary arrangements</td>
<td>Source</td>
<td>Article</td>
<td></td>
</tr>
<tr>
<td>----------------------------------------</td>
<td>------------</td>
<td>---------</td>
<td></td>
</tr>
<tr>
<td>Local level</td>
<td>TCRSS 2011</td>
<td>166(6i)</td>
<td></td>
</tr>
<tr>
<td>Local &amp; state levels</td>
<td>LGA 2009</td>
<td>112 (1a)</td>
<td></td>
</tr>
<tr>
<td>State level</td>
<td>TCJS 2011</td>
<td>Ch. IV</td>
<td></td>
</tr>
<tr>
<td>National level</td>
<td>LGA 2009</td>
<td>120</td>
<td></td>
</tr>
</tbody>
</table>

- **Local level**: The objectives of local government shall be to acknowledge and incorporate the role of traditional authority and customary law in the local government system.
- **Local & state levels**: The traditional authorities shall be semi-autonomous authorities at the state and local government levels.
- **State level**: The TCJS includes provisions for the development of a Jonglei State Traditional Authority Council.
- **National level**: There will be a Council of Traditional Authority Leaders at the national level composed of forty-five members, with 4 elected through each state COTAL (with at least one being a woman) and five appointed by the president.
Annex IV: Provisions for future governance in the SSDM/A agreement

Table 6: Relevant provisions in the *Draft Agreement on the Resolution of the Conflict in Jonglei State between the Government of the Republic of South Sudan and the South Sudan Democratic Movement/ South Sudan Defence Army (SSDM/SSDA-Cobra Faction)*, their implications for political accommodation, and resulting implementation opportunities

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<tr>
<th>Provisions</th>
<th>Implications for peacebuilding</th>
<th>Implementation opportunities</th>
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<tr>
<td><strong>POLITICAL STRUCTURE – How the GPAA is established and funded</strong></td>
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| 3.3 on the role of the President in establishing the GPAA through signing the Law of the Greater Pibor Administrative Area. | People’s perceptions of the legal status of the GPAA and its legitimacy will depend on how they can voice their views through and understand and observe the processes in the national executive. | ➡️ Public Hearing on the Law of the Greater Pibor Administrative Area, held in the GPAA itself.  
➡️ Formation of a Special Committee to solicit and incorporate perspectives into the law.  
➡️ Public information campaigns in GPAA to disseminate information on the presidential process. |
| 8.1 & 8.2 on the creation of a Special Development Fund for the GPAA to be managed by the presidency. | This fund could rectify perceptions by some communities that, in the past, government has distributed resources unfairly. The fund’s success will depend on how equitably and transparently government makes allocation decisions and communicates those decisions to communities. | ➡️ Agreed technical criteria for how government will allocate the funds.  
➡️ Mechanisms to consult and communicate criteria to communities. |
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<td><strong>ELECTORAL SYSTEM</strong> – Appointment and selection of office holders in the GPAA structures</td>
<td>5.1-5.5 &amp; 6.1 on appointment of the Chief Administrator, County Commissioners and Greater Pibor Area Council (GPAC), with eventual implementation of the provisions of the South Sudan Local Governance Act 2009 (LGA) pertaining to County Commissioners.</td>
<td>➤ Timeframe for County Commissioner elections, in accordance with the LGA. ➤ Whether the appointed Chief Administrator and GPAC will transition to elected positions.</td>
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<td><strong>EXECUTIVE</strong> – How the GPAA government will implement policies</td>
<td>9.1 on establishment of ad hoc committees to perform specialized functions.</td>
<td>➤ Timeframe for establishing priority committees. ➤ Ad hoc committees’ competencies, who sets the agenda and how their decisions will be implemented. ➤ How ad hoc committees’ decisions will be communicated to a) communities; and b) upper levels of government.</td>
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<tr>
<td><strong>LEGISLATIVE BRANCH</strong> – Role of the Greater Pibor Area Council (GPAC)</td>
<td>6.1 on composition and appointment of GPAC.</td>
<td>➤ Rules for how the GPAC makes decisions. These may require a qualified majority for decisions that disproportionately affect one community over another. ➤ Competencies of the GPAC, compared to those of local, state and national government.</td>
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<td><strong>2.3, presenting the guiding principle that Pibor County’s administrative setup will be re-examined in wider consultation with the ethnic groups that inhabit and constitute the County.</strong></td>
<td>This principle provides for Pibor’s diverse communities to voice their views about governance, and has the potential to bring in perspectives from communities that have perceived themselves as marginalized. To implement successful consultations, parties need to determine: a) how to conduct them in an inclusive, impartial way; b) which groupings or mechanisms should be involved in the administration of consultations.</td>
<td>➔ How they will design and structure a consultation process, and which other constituencies/actors will be involved in the design. ➔ Clear timeframe and deadlines for the consultation process. ➔ Criteria for who will be consulted. ➔ Who will be involved in administration of consultations. ➔ How they will select facilitators that communities perceive as impartial.</td>
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<td><strong>4.1 &amp; 4.2 on creation of counties through consultations led by SSDM Cobra Faction and Technical Committee.</strong></td>
<td>These consultations are critical for communities to have a say in how governance will work on the local level. The parties will need to consider if other actors should be involved in the administration of consultations.</td>
<td>[As above]</td>
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<td><strong>2.6, presenting the guiding principle that there will be an inclusive national reconciliation process, where accountability modalities are devised in a consultative manner.</strong></td>
<td>This principle offers a foundation for re-establishing a sense of fairness and legitimacy in a national reconciliation process.</td>
<td>➔ Timeline and process for consulting communities on accountability modalities. ➔ How accountability modalities will be implemented and funded, once communities have decided them.</td>
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### Provisions

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<tr>
<th>TRADITIONAL &amp; CUSTOMARY ARRANGEMENTS - How Traditional Authorities will interface with the GPAA’s government structures</th>
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<td>7.2.1 &amp; 7.2.2, recognizing the role of traditional and customary arrangements in local governance and in litigating disputes.</td>
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### Implications for peacebuilding

These provisions recognize the importance of traditional authorities in resolving disputes. Traditional authorities can also play an important role in channeling people’s different perspectives into formal government structures.

### Implementation opportunities

- Forums for traditional authorities to interface with County Commissioners. These will require consideration of how non-hierarchical arrangements (such as age sets) can interact with formal government structures.
About Conflict Dynamics International

Conflict Dynamics International is an independent, not-for-profit organization that specializes in mediation, governance and peacebuilding, and humanitarian policy development. The organization works to develop innovative technical options for peacemaking and peacebuilding in transition contexts through a process of applied research, and an inclusive methodology of iterative consultations and impartial engagement. Founded in 2004, Conflict Dynamics works to fulfill its mission across three program areas: (I) Peacebuilding in Transition States, (II) New Frontiers in Humanitarian Policy, and (III) Pressure Points for Conflict Prevention and Resolution.

Conflict Dynamics welcomes feedback and perspectives on the ideas in this publication. Readers are invited to share their views by contacting Conflict Dynamics at SouthSudan@cdint.org.

About Dr. John Garang Memorial University

Founded in 2007, JGMU is one of five public universities in South Sudan. While originally founded as an institute for science and technology, in 2010 JGMU was upgraded to a university by an act of parliament. Since its establishment, JGMU has attracted highly qualified professors and lecturers, with local and international teaching experiences. JGMU has developed faculties covering governance and peacebuilding issues including the Faculties of Economics and Management Science, and Humanities and Social Sciences.