

TEGRIR TA BAHAS

'Adala ta Adat'

Salam ta Nas le Nas, Muhawalaat
ta Musalaha, wa Adala Intikaliya
fi Junub Sudan

Shahri Temenia 2024



Sura ta Gilaf: Nas min mujtama fi jelsa ta mahkama ta adat, jelsa aldaimu be Barnajib ta Tenniya ta Umam Almutehida fi medina Torit, Wilaya Sherq Istiwaiya, Junub Sudan, Fi Shahri kamsa 2016. (Sura @undp/Junub Sudan)

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Agatha Ndonga



An Alkatiba

Agatha Ndonga mudira ta baramij ta Junub Sudan, wa Kenya fi Munazama ICTJ. Indi Kibra ta aktar min ashara/10 sena fi majal ta adal intigalia, Hal Ta Siraat, ilaqtat duweliya wa hugug insan. Hiya kaman zemila ta bahas fi Robert Bosch Stiftung, wa muasasa ta adala wa musalaha fir Jubun Ifriqiya, wa Muasa al lahaya le adala alalamiya.

Shukran wa Tegdir

Almarakz Alduwali le adala intiqaliya wa Cordaid biwodi shurkan le daam alkebir min wazara Kharijaiya ta Holanda, algedim be wasit ta barnamij Mustagbal Adil. Alkatiba kaman biwodi shukran le kulu nas alsahimu ashan nashir ta tegrir de. Shukran le Moses Opio Korsuk le kulu musahamat tow, wa dor alkebir ali hu amulu is jeme wa tahlil ta bayanat. Shukran le nas alshariku fi juwabat ta asila ta bahas de, musahamat wa kibra de yau asas ta tegrir de.

Alkatiba kaman be wodi shikran bitahiya le gisat aliumon shariku, wa muhim to fi wodi felim aktar an wede al muaagad wa hagiga ta aliyata ta adala ta adat, wa kaman ruh ta mushraka wa musahama fi lizu kidam theriga ta musawa le ligo adala le nas to Junub Sudan. Almarakz Alduwali le adala intiqaliya be kedim shukr to le kul shuraka tou fi Tahaluf Mustagbal Adil le musahama tomon fi bahas de, wa kusus shukran le Cordaid le musaada wa musharak tomon.

Tahalufu ta Mustagbal Adil hadaf tow fi zidu guwa wa gudra ta munazamat ta mujtama medeni, ashan umon badger ishtaqaq be teriga fogo shumuliya, wa ilaqtat ta guwa shereiya. Tahaluf de bitkowin min munazamat was shabakat ta mujtama medeni from Shimal wa Junub and alduwali, wa daam to gija min wazara ta kharijaiya ya Hollanda.

An Almarakz Alduwali le adala intiqaliya

Almarakz Alduwali le adala intiqaliya bishtaqaq fi kulu mujtamaat wa duwal le tahdid ta asbab was fetisu hilul le nataij ta intihakak alkebir ta hugug al insan. Anihna biniakid hag ta almutdharirin le karama wa mukafha ta iflat min gonun, wa daam le musasat albadeir istegib be teriga alseri fi mujtamaat altala min hokumat algizulum nas ow altala min harib, wa hata kaman beled alfogo demokratiya wo lakin kan fi fogo tarik ta zulum aw nizama ta hukum to lisa fogo intihakak wa ma aliju. Ruuya ta Almarakz Alduwali le adala intiqaliya huo, alam al mujtaamat to kasuru dairu ta intihakak ta hugug insana, wa amulu hajar asas le salam, wa adala wa shumuliya. Zur mowke tena ta internet le molumat ziyada fi: www.ictj.org

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IKTISARAT

CPA	Itifakiya ta salam al Shamil
CRA	Tawid wa Soulta ta Dafa Dafa
CTRH	Mufawdiya le Hagiga, Musalaha wa Ilaj
GPAA	Mantika ta Idara ta Pibor al Kubra
NSSC	Mejlis Kanisaat ta Junub Sudan al Jediid
PPP	Muhawalaat ta salam nas-le-nas
R-ARCSS	Itifagiya al Munashat fi karar ta Dousman fi Junub Soudan
SPLA	Jesh Al shabi le Tahrir Sudan
SPLM	Haraka Shabi le Taharir Sudan
SSP	Jeneh ta Junub Sudan
UNMISS	Risala ta Umamm al Mutahida fi Junub Sudan
USD	Dular ta Wilayaat al mutahida

Mulakas Ta Tenfiz

Bi fahimu nizam ta adala ta mujtamaa wa adala al ma rasimi zey asas ta abinu salama ma teriga alkutu insan fi nus ta abinu mujtamaat al fogo salam, musawa wa wujud ta nas kulu. Ashan kide humon hajar asas ta tanmiya wa salam al daem.¹ Dor ta adala al ma rasimi wa adat muhim shedid fi jow alhasil fogo intihakak ta hogog insan al ketiir kusus fi majal ta adala intigaliya.² Fi mustawa iklimiya, siyasa ta adala intikalia ta Itihad Afriki kelimu an muhim ta aliyat ta nizam ta adala ta adat fi shokol ta adala intikaliya. Lakin, ilaka ben adat wa nizam ta adala al ma resimi wa mumarasa ta adala al intikaliya ma fahimu kwes. Takriride bi xwodimaluma an hala ta Junub Sudan asan bi sahim fi ziyada ta molumat, musharaka le tajriba wa wodi delil le bahas fi mustawa fug kalis.

Junub Soudan indu kibra ta mashakil wa intihakak le zaman towil shedid. Hata baad istiglal fi 2011, wa itifakiya ta salam fi 2015, wa itifagiya ta salam al amulu muraja fogo fi 2016 mashakil ben mujtamaat fi mustawa ta wilayah wa mahaliyat bi istamir fi karabu ta dawla. Saksiya ta mashakil gi kun be teriga dowri, gi sebib damar, wa nuzuh ta nas min, fakedu roh, intihakak ta jens wa mashakil asan noa, jereh khatir, damar shamil fi mumtalakaat ben darar taniin. Istemir ta mashakil fi mahal wahid gi karabu ilaga ijtmacya ta muwatnin fi dowla, wo kaman gi amulu saab asan abinu beled mutamasik. Adem wujud ta Muhasaba wa kelimu fi intihak tahugug ta insan kaman amulu dor ta ganoon fi dawla deaf, gi saadu fi sakafa ta niya al batal wa reja batal le zol. Natija bi kon ziyada ta shilu sila fi mujtamaat wa gi zidu faham ta hukuma Wataniya al ma gabilu ma nas.

Tagarir gi ainu dor ta adala ta adat fi muamala to ma intihakaat ta hugug insan fi junub Sudan. Bi silu fi itibar dor al hagigi le adala ta adat fi abinu muasasat ta ligo hal le intihakaat fi hugug ta nas al dahaya wa fi nefsa zaman gi wafiru makan le amulu musalaha wa reja gani sawa badi intihakaat ta hugug insan. Tekrir de kaman gi ainu imkaniya ta ilaka ta ala ta adat ma aliyat ta adala intikaliya ze alkatibu fi itafakiya salam Junub Sudan (R-ARCSS) fugu reja nas al sibu makan tumon min haarb (CRA)

Tagarir de gi bada bi wafiru fikra aam ta tarek wa hala al hasade ta adala ta adat fi junub Sudan. Mahkamaat ta adat fugu salateen wa nas al kubar ta mujtama, fi nafsa zaman mahkamaat ta ganoon fugu nas al daribu fi ganoon ze gadi-muhamiin al wadi le humon. Asan nas keti badger

1 Nas al gi Istakal Sawa fi Adat wa Adala al ma ResimiSDG16+, "Lifu Sikaat le Nas-Limu Adala: Takrir ta Nas al gi Istakal Sawa fi Adat wa Adala al ma Resimi wa SDG16+ le ahdaf ta mutamar ta tanmiya al daem" 2023, 4.

2 Aino nas al gi Istakal Sawa fi Adala ta Intikaliya wa SDG16+, "le Itijah ta Dahiya-Gairo ta markaz: Limu Adala ta Intikaliya fi Salam Daem wa Tanmiya," 2023; Lisa Denney and Pilar Domingo, "Adala ta Intikaliya al mahali: Kef tagiiraat fi mushkila, Istikrar Siyasi, waTanmiya ta muasasaat amulu fi makan," *fi Adala Mosaic Kef Kalam Salau Adala ta intikaliya fi mujtama al abinu*, ed. Roge.

wosulu le adala ta adar, wa asan mahkamat al badger wosil fi adala ta adat wa ta galid dae al ma kwies, tarek al bidae ta hilu mashakil fimujtama al gani zaman tawil ragam huwo nagisu gu-draat wa sharaeya ze al hasil harb fi Soudan wa junub Soudan. Fi zaman adala ta adapt, kawnu gisim ta nizam itniin ta adat wa adala ganoon fi beled, fi taksim wadeh ben nizamaat al itniin, ze adala ta adapt huwo daeman istamilu asan kelimu fi kalam ta mujrimiin wa mashakil taniin al ma dourouri asan kelimu fugu. Takarir de kaman kelimu ketiir fi hudoudou ta adala ta adapt aam al fugu mashakil ta guduraat, sharaeya, amen, noe, tafrika, wa tasiis

Al takarir kaman jeribu fi junub Sudan wa tasiir tou fi hayat ta nas wa Maishaa fi mujtamaat mahaliya, fugu katulu, damiru hajaat, serego bagaraat, nyakamu nouswan, silu awlad, sibu makan bi guwa, wa jaan bi guwa. Ze shikil ta harb mushkila ben mujtama fi junub Sudan kaman biga askari ketiir ma zaman. Takrir de kelimu inu zaman ta adala ta adapt makan maksoud asan bi istakal ma ketiir hajaat ta mashakil ben mujtama, fugu intihakaat ta hugug insan ketir. Kulu hal, fi mumarasa huwo jawabu le humon fi baad min kida nizam ta adala ta adat jawabu le mushkila bidoun hajaat al ma arufu ze ajeza ta adala intikaliya, fugu muhasba, tawiid wa marafa. De aridu fi istimal fi salam ta nas le nas (PPP) ijriaat ta musalaha nizam ta adala ta adapt yau amulu.

Adala ta adapt bi agder alabu dortau fi hilu mashakil wa sala ilakaat fi junub Sudan, kalam al fi fugu ta mushkila bi guwa wa intihakaat fi kalamaat taniin, kulu hal, adala ta adapt ligu ketiir min tahadiyaat al mushadid min al huwo amulu aam, fugu tahadiyaat al indu ilaka ma guwa al ma sawa ben nas kubar ta takalid wa shabab al indu selah, tajniid le mushkila wad or ta gisim mumasil ta amen wa gudura al ma kweis asan bi tala kasaraat. Fuk kulu fi mustawa taakid (amulu hajaat saab) le mushkila wa ma fi haja wadeh fi dor kwies le adala ta adapt al amulu houdou le kima tou.

Fi zaman al mushkil ben mujtama mustamir, kassa fi manathik wa iklimaat taniin, takariir de iktarah inu shokol adala ta adapt intikaliya amulu bi R-ARCSS bi wafiru furssaat letamaniya gi istamilu itniinadapt wa adala rasimi al bi silu takid de fi hissab wa bi wadi musaadat insaniya, daam, wa taawjeh le kulu hukuma wa mumasliin ta adala, fursa de bikun wadeh kas ma ihtiram le (CTRH) al wadi le shokol ta muragaba adala ta adat fi wadi hagiga, musalah, ilaj, wa dafau nas huwo bi wasoulou ma amulu tanmiya al sawafi nizam ta adala fi kalam tamashakil.³ Nas al asiir takariir gufulu ma tawsiyaat le CTRH wa musharikiin taniin asan bi kelimu tahadiyaat dell, silu fursaat ta, wa silu adala ta adapt fi Dahiya—al indu adapt fi nousfi kalam al bi lifu wa ben mujtama.

3 Mojmuat Amal algishtakal fi gonun ta adat wa gonun almaresmi, wa Ahdaf ta tanmia ragam sitashar alnashiru fi theirgat almukhtalif 14-16.

Tereka

Bahas al amulu le takarir fugu limu wa bweetalil ta ainu mu kabiir al ma raiisi, tahalil al tamam ta roudou kalam wa rejau ta Masdar al nimira itniin wa adab, adad 42 makabalaat ta maalu-maat al kan amulu ma nas fi juba, ben Tiu wa Bor, junub Soudan. Mukabalaat ketiir al amulu fi internet ma nas al gi wadi kabar min madina Malakal. Nas al gi amulu mukabala mukawin min gadiyaat aw nas ta ganoon, nas muhamiin sultanaat, nas kubar fi mujtama, nas al mutalmiin, wan as al gi masil mujtama al al madeni. Mukabalaat kan bada amulu min yom 1–18 fi Shahaar 2, 2023. Mukabalaat kan lissa ma timu, gi istamilu sowalaat al fatau wa gufulu asan kalasu min roudou kalam al bi wasifu, de sibu nas al gi amulu mukabala asan nas al gi amulu le humon mukabala bi tala bara–asan wajah nazafi kebra tumon. Masadir al nimira itniin al fugu tarabeza mawad ta bahas wa tawsiya min nas al indu kibra.

Ma amulu haja al batal, siyasa kan muragab tawali min ijriaat ta limu maalumaat fi bidaya ta kulu nas al gi amulu mugabala asalu kulu zol iza humon roudou asan bi sejelu kalam tumon nas min al gi amulu mugabala abba jawabaat rejau asan nas al gi amulu mugabala katibu ma ideen. Le arufu sabab, kulu nas al gi amulu mugabala humon deru asan bi gani ma maarufu, asan haja ihsas ta kalam al lahizu, baad min nas al gi amulu mugabala al gasidu aba asan bi amulu le humon mugabala asan kawofu ta intikam. Nas taniin min hukuma kaman tala ma murtahiin ma kalam al al gi kelimu, wa humon aba asan bi amulu le humon mugabala. Nas al amulu le humon mukabala kelimu fi ihtimam asan keff humon bi sharik fi deres mumkin bi asiir fi amen tumon. Lakin de ma akiir ta musharaka, keli humon arufu doukoulaat taniin bi amulu tagiir al kwies fi beled. Asan akidu siir wa majuhuliya ta kulu zol al fi fugu, kan warri le kulu zol al gi amulu mugabala asan asma tumon al ma warri wa sibu lugga wa wasifaat al mumkin bi hawiya tumon.

Kelimaat ta adala ta adat wa adala ta takaliid gi istamilu ketiir fi takarir de. Nizam ta adala de huwo barau min ganoon ta wilaya aw nizam resimi ta ta adala. Kelma ta adat wa adala al ma resimi istamilu bes fi rija le munakashaat ta siyasa al allamiya fi kalam.

Adala ta adat fi junub Soudan

Muraja ta Tarik

Tarik fi junub Sudan, nas gum fi makan barau barau, mahalaat kabiir al gi hukumu ma nas kubar ta aalela wa nas kubar al ta mujtama, wa tasiir ta gabiila, wa masoul le masouliin ta adiyani wa masouliin ta ruhaniya fi kalam de,⁴ adala ta adapt kan yau tereka al raiisi al mujtama ta junub Sudaniin kalas hilu mushkila,⁵ min nizam ta souлта markaziya, al fugu gabaliya ze Zande, Shiluk wa Anyuak, aw nizam ta souлта al lamarkaziya, al fugu Dinka, Nuer, Acholi Bari, wa Faraatit, fi nus ta taniin.⁶

Tarik junub Sudan, nas gani fi hodod ta manatik kabiir fi bidaya ta 1900s hukuma ta ta Biritaniya ta istimar, fi munakashaasan amulu sayitara fi Soudan wa junub Soudan, ma kan nadi fi zaman dak, kan arufu hukuma bi tereka al ma adil fi tereka ta arufu nizam ta adala ta adat, dor ta wadi masouliin ta adat alabu fi hukum fi mustawa ta mujtama, kasatan fi hilu mashakil wa jibu salam⁷ fi zaman ta Biritaniya al aziim 1929 nizam ta adala al madeniya, ganoon ta adapt wa muasasaat fi Soudan wa kasatan fi junub ta Soudan (hasa biga junub sudan)⁸ tahat ganoon ta mahkama ta souлтanaat fi 1931 masouliin ta adapt wa ruhyaat gi nugulu min nas le nas kan kutu fi makan tumon nas souлтanaat ta hukuma ta istimar,⁹ zol al gi ragibu humon min Biritaniya muhafizta mukataat, nas souлтanaat istakal ze nas kubar fi hukuma wafi mahkama wan as ta idara wa guda fi mahkama.¹⁰

Badi istiklal ta Sudan 1956, hukuma ta istimar al ja amulu ganoon al kutu hudoud wa amulu guwa ta nas kubar fi adapt biga daiif, bi ragam buniya ta idara humon ithamal lagadi fi nihaya ta harb al ahliya al awal 1963–1972. Fi zaman ta harb al ahaliya nimira itniin (1983–2005)

4 Cherry Leonardi, "Nas al gi istakal sawa ma hukuma fi Junub Soudan: Gisaat ta sokol souлтаn, Mujtama wa Wilaya," Muasasa Albritania fi Sherig Ifrikiya, 2015, 105.

5 Douglas Johnson, *Ganoon ta Mahkama wa amsoukou Idara kwies Ganoon ta Adat wa Nuer, 1898–1954* (Mujala ta Jamaa Cambridge, 2010).

6 Gadi Aleu Akechak Jok et al., "Deriss ta ganoon ta Adat fi Junub Sudan al jediid," Munazama World Vision Alalemia, Shahar talata 2004, www.csrf-southsudan.org/repository/study-customary-law-contemporary-southern-sudan

7 Mafred O. Hinz. M.H., "Tkariir fi istratiji asan guwi Junub Sudan ganoon ta Adat hukum ta ganoon ze Masdar ta ganoon fi nizqm ta ganoon kabiir," Junub Sudan Wazara ta Adala Maktaba wa UNDP Junub Sudan Dor ta Ganoon / Gisim ta Hukum, 2009, 78.

8 AINU Adala ta nas madeni, 1929, 10 Gawaniin ta Sudan 1, William Tate Olenasha, Tim Monybun Williams, wa Nyuon Ruai, "bi fatishu nizam ta shokol ta adala le Daula Jediid: Nizam ta Gawaniin Adat ta Toposa, Lokuto (Otuho), Lango a\wa Lopit Mujtamaat ta Wilayaat ta sharik Ikwatoria ta Junu Sudan," Series 1, Volume 1, WAZARA ta Adala (Hukuma ta Junub Sudan), Lejina ta Hukuma Mahaliya (Hukuma ta Junub Sudan), wa UNDP Junub Sudan, 2012, 21.

9 Leonardi, "Istakal ma Hukuma," 49–55.

10 Cherry Leonardi, Leben Nelson Moro; Martina Santschi, wa Deborah H. Isse, "Adal Mahaliya fi Junub Sudan," muasasa ta Rift Valley, musasa alamrikiya le salam, 2010, <https://riftvalley.net/publication/Adala-Mahaliya-southern-sudan>, 19. See also Leonardi, "Dealing with Government," 87–97.

kan amulu tajniid ketiir le nas kasa le shabab. Baddeen guwa ta sultanaat asan wadi talimaat ta mahkamaat gi nagisu suwiya suwiya.¹¹ Fi 1984 badi haraka shabiya le tahrir Soudan (SPLM) arufu ganon ta adat fi mahkamaat fi ideen tumon.¹² Humon bada istamilu masouliin ta adapt asan hafizu nizam fi mujtama, wag ani sawa. Al jes alshabi le tahrir Soudan (SPLA) istamilu sultanaat asan zawiru ma nas.

Fi 1994 (SPLM) amulu gadaiya rasmiya wa arufu mahkamaat ta adapt sultanaat yau bi istakal fugu ze nas al yau gig ani fi mustawa al tahat fi nizam ta ganon biragam humon fadoulou fi nas ta idara ta (SPLM).¹³ Fi zaman al SPLA gi zidou arufu sultanaat fi arfa masouliya ta adapt, ganon ta adapt hugug ta sakafa, wa jensiyaat ta gabilaat,¹⁴ huwo tereka al ma kwies ta sultanaat bi nefsa tumon negisu mustawa tumon, sultanaat lazim bi akidu humon asan sokol tumon ma mujtamaat tumon al ma kwies wa fashal fi limu gurush aw wafiru sokl le majmu ta nas al mutamaridiin.¹⁵

Ta adat wa takalid ganon kaman wafiruu asan amulu majelis ta masouliin ta takalid fi kulu mustawa ta dawla wa wilaya le kelimu ma hukuma fi kalam ta adapt wa takalid.¹⁶ Sultanaat al silu al ma mutalimiin, wa al indu kibra fi siyasa ja amulu humon sultan al fug.

Wadae al hasade

Fi gadimu junub Sudan le istiklal 2011, sulteen kan warri le humon siyasa ketiir, gi hariku nas le taswiit al silu le dawla gasimu min Soudan, bad istiklal, kulu hal, sulteen kan sibu bes ma guwa shuwiya. Arfau nas min jesh (nas al gi harisu bagaraat) fi ta Dinka, jesh al abiyat fi nus ta Nouer, Arrow Boys fi nus ta Zande—sibu sultanaat wa muassaat ta ganon ta dakaliya daifur,¹⁷ kibra ta mahkama mahdoudou, wa duaf ta hukuma markaziya amulu talabaat jediid le sultanaat, al humon istamir malau.¹⁸

Fi junub Sudan kelima ta masoul ta takalid reja le moulouk, sulteen, nas al kubar, wan as kubar ta kenisa. Ze mujtama—anbiya al marufiin. 2011 dastour intaliya ta junub Soudan muasasa wad or ta sultanaat ze juzu min masoul ta takalid. Makal nimira 167 wafiru dell:

- Muasasa, al wadae tou wad or tou ta masoul ta takalid al bi istakal le ganon ta adapt marufiin tahat doustour de;
- Masoul ta takalid bi istakal sawa ma doustour de. Doustouraat ta wilayat wa ganon;
- Mahkamaat bi istakal ma ganon ta adapt tabe le doustour de wa ganon.

Gisim 112 (1) min ganon ta hukuma mahaliya bi wafiru dell:

- Masoul ta takalid bi kun muasasa ta nizam ta takalid ta hukum fi wilaya al bi kun fi mustawa hukuma al mahaliya:

11 Leonardi et al, "Adala Mahaliya," 43.

12 Monyluak Alor Kuol, "Idara ta Adala fi (SPLM/A) Mahalaat al Mutahariir: Gadiyaat fi Harb al aglibu Junub Sudan," University of Oxford's Refugee Studies Program, 1997, 14–15.

13 Douglas Johnson, "Jesh al Shaabi le Tahrir Sudan wa Mushkila ta Fidraliya," fiin *Afrikacan Guerrillas*, ed. Christopher Clapham (Oxford, Oxford University Press: 1998), 181.

14 Ibid.

15 Leonardi et al, "Adala Mahaliya," 177–9.

16 Gisim 11(2).

17 Machot Amuom, "Sounou al hasil fi Wunlit? Talau nijah katiir ta Mutamar ta salam Junub Sudan (blog)," Rift Valley Institute, Shahr Taniya 11, 2021, <https://riftvalley.net/news/what-happened-wunlit-reliving-south-sudans-most-successful-peace-conference>

18 Ibid.

- Indu soultat sukier fi mustawa ta wilaya wa hukuma mahaliya;
- Amulu idara ta ganoon ta adapt wa adala fi mahkamaat ta ganoonta adapt sawa ma wafiru ganoon wa ai ganoon al bi agder amulu taniin. Wa
- Amulu guwa al mafi fugu tarkiz fi shokol ta tanfiz fi mustawa ta hukuma al mahaliya dakil makan soultat tumon al muhtaram.

Gisim de badeen bi wafiru dak:

- Shokolaat wa muhima ta majelis ta junub Sudan ta nas kubar ta masouliya ta takalid bi kun lakin ma mahdoud le:
 - Bi wafiru ijtima le munakasha ma kulu mustawayaat ta hukuma fi hajaat ta adapt wa takalid ta nas fi junub Sudan;
 - Dakalu asan hilu mashakil ben gabiilaat bi istamil adapt wa mushkila ta takalid. Aliyaat ta karar;
 - Amulu abinu salam wa karar ta mashakil bi wasata wa aliyaat ta musalaha tani;
 - Wadi nasiya le kulu mustawiyaat ta hukuma fi hajaat ta takalid wa adapt ta nas junub Soudan.

Tahat gisim 112 (1) (b) ta ganoon ta ta hukuma mahaliya, hum odor ta nas kubar ta masoul ta takalid asana kudu idara ta ganoon ta adapt wa adala fi mahkamaat ta ta ganoon ta adat. Fi hajaat al gi amulu, humon tala fug kulu mushkilaat ze soultanaat fi mujtammata tumon al muhtaram.¹⁹ Ze wadi le humon shokol ma idara ta adala le kulu dakil makan ta idara tumon, nas fi mujtama al ma muhtaram; iktisad, aw wade ta siyasa, tafrika, jensiya, noa, omor, diin au akida.²⁰

Junub Sudan indu nizam ta gadae abu itniin gi kawon min mahkamaat ta ganoon ta wadae (ketiir fi manatik ta mahkama) wa mahakamaat ta ganoon ta adat (ketiir fi manatik fi kana) al bi itakal fi tereka sawa sawa mahkamaat al ganoon bi ruwa wara tou gawaniin al katibu tahat fi ganoon tashrae, fi nefsa raman mahkamaat ta dat bi hakim ze gawaniin ta adat ta majmu ta gabila tumon al muhtaram.²¹ Fi zaman buniya ta adala daeman kelimu asan bada fi payam (mustawa al tahat nimra itniin)²² fi makan al mahkamaat ta adat al soultanaat yau raiis fugu. Fi mujtamaat taniin, ze fi shuluk, Zande wa gabila bochala muluk bi amulu ze nas al al ziada al bi wanousou kalam ta mashakil ta ganoon ta adat,²³ aliyaat ta takalid arufu fug bi muasiliin ze mjliisaat ta nas kubar shabab, nas kubar ta diin wan as kubar ta takalid f mujtama arufu humon ze soultanaat (fugu soulateen, naeb ta sultan, wa soulateenal kubar). Mahkamaat ta adat humon, mahkamaat ta adat humon ma muhim ketiir ze mahkamaat ta ganoon.

Mahkama al fug fi wata huwo yau bi kon mahkama al fug ketiir,²⁴ al bi amsoukou istinaf min mahkama ta istinaf ma indu soultat al kalamaat ta doustour.²⁵ Karaat tamahkama al fug ketiir

19 Huakuoma junub sudan, ganoon huakuoma mahaliya 2009, gisim 122 (1)(b).

20 Ibid., gisim 93.

21 Gabriel Mading Apach wa Garang Geng, "Muraja ta nizam Algonuni wa buhusat ta gonun fi dowla ta Junub Sudan", Nashuri Fi GlobaLex, September 2018, www.nyulawglobal.org/globalex/South_Sudan1.html

22 Da mustawa ta hakuma daraja taania.

23 Gaadi Benjamin Baak Deng, "Gonun ta adat wo keef therigat ta gonun ta adat bagder asir fi adala intiagali fi Junub Sudan" Nashuri fi Max Planck Yearbook of United Nations Law Online, 2018, 332.

24 Hokuma Junub Sudan, Gonun ta Gadaaiya 2008, gisim. 10.

25 Ibid. at art. 11.

yau akir haja wa murtabit fi kulu mahkamaat, fug fugu mahkamaat ta adat.²⁶ Junub Soudan indu talata noa ta mahkamaat ta istinaf fi jouba, Rumbek, wa Malakal, al bi asma gadiyaat ta istinaf al dakfi nus ta mahkamaat al tahat,²⁷ (X)²⁸ al fi fugu hakim al kwies fi Daraja nimra wahid fi mustawa ta ta dawla wa payam, wa Daraja nimra talata hakim al kwies mahkama fi mustawa ta Payamat.²⁹

Fi 2009 ganoon ta hukumaal mahaliya wafiru le mahkamaat ta ganoon ta adat: mahkamaat ta kanaba fi madina wa mahkamaat ta adat "A" "B" wa "C" al bi ligu fi Boma (tahat aw kariya),³⁰ payam wa mustawa ta dawla,³¹ darajaat ta mahkamaat ta adat yau kida:³²

- Mahkamaat ta kanaba fi madina indu nefsa soulta wa mustawa ze mahkamaat soultaanaat "A" aw "B" soultaanaat wa bi amsoukou gadiyaat ta idara wa gadiyaat madeniya ta adat. Humon fi ahwal bi amsoukou mashakil fi kariya manatik fi kariya.³³
- Mahkamaat ta soultaanaat "A" (arufu kaman ze mahkamaat ta soultaanaat idariya) bi istakal fi mustawa ta Boma bi amsoukou gadiya ta bet, adawa fi takalid wa gadiya ta jwozo soultan yau zol Kabiir ta tahkim wa naeb ta soultan gi istakal ze odou.³⁴
- Mahkamaat ta soultaanaat "B" bi jibu istinafaat min mahkamaat "A" wa bi kon mahkama nimra wahid fi hala ta mushkilaat ta ganoon ta adat al muhim wa mushkilaat ta shabab al ma muhim. Kaman humon amsoukou gadiyaat ta adat ta jwozo medeniya al muhim wa talaku, zina, tawriis iyal hugug ta nouswan wa mushkilaat ta adat ta wata. Kabiir ta soultan yau bi gani zol kabiir ta tahkim, wa soultaanaat bi istakal ze owodo.³⁵
- Mahkamaat ta soultaanaat "C" (kaman arufu bi isiim mahkamaat ta soultaanaat al kebiir) bi amulu fi mustawa ta dawla humon bi amsoukou istinaf diid kararaat ta mahkamaat "B" bi amulu ma gadiyaat ta sakafa, medeniya, wa bi amsoukou gadiyaat ta ijeramiya ta tabiya adat al hawiiluubi mahkamaat sharaeya humon yau mahkama ta adat al fug fi dawla soultan al fug yau raiis, wa raiis ta soulateenfi mahkamaat "B" humon ze odou.

Muhkamaat ta adat yau deru fikra tumon asan hilu mushkilaat,³⁶ le anu humon ma gali wa nas bi agder fahimu asan rutanaat al humon gi wanousou. Asan takdiir, 80 le 90 fi miya min mushkilaat hiluu bi mahkamaat ta adat.³⁷ Biragam mahkamaat ta adat ma indu soulta fug le gadiyaat ta ijiram humon deru asan fasilu humon asan agder dakalu fi mahkamaat sharaeya.

Ganoon ma amulu karar wadeh, ben adat wa masoul rasimi ta wilaya. Ketiiir min mushkilaat hilu min aliyaat ta karar ta mushkila ta adat fi bet al ketiiir aw mujtama bidoun dakalu fugu nizam ta okubaat fi wilaya, mahma kan wilaya aw mahkamaat ta soultaanaat. Fi nizam fugu wasata aw wunakasha al nas ta bet aw nas kubar ta gabila yau bi wanousou fugu. Nas kubar

26 Mading Apach and Geng, "Murajaa ta nizam ta gonun."

27 Ibid.

28 Hokuma Junub Sudan, Gonun Ta Gaadaiya 2008, gisim. 13(4).

29 Mading Apach wa Geng, "Muraja ta Nizam ta Gonun." hasab gonun ta Muhakama ta Jerimat, gisim 14, Mahakam Daraj Itnin indu solta ta muhakama ta talata sana wa dafa garama ta 2500 jineh ta Junub Sudan, wa mahkama daraja awel indu solta ta hukum ta saba sena wa dafa garama albiwosulu 5000 jine ta junub sudan.

30 This is the lowest-level of government administrative division, below Payams.

31 Hokuma ta Junub Sudan, Gonun ta Hokuma Mahali, 2009, gisim 97.

32 Minneh Kane, J. Oloka-Onyango, and Abdul Teajin-Cole, "Processing Customary Law Systems as a Vehicle for Providing Equitable Access to Justice for the Poor," Arusha Conference 'New Frontiers of Social Policy,' 2005.

33 Hokuma ta Junub Sudan, Gonun ta Hokuma Mahaliya, 2009, gisim 102.

34 Ibid. fi gisim 101.

35 Ibid. fi gisim 100.

36 Ibid. fi gisim 99.

37 Wizara Karijiya ta America, Maktab ta Demokratiya, hugug insan wa shokol, "Tegrir ta huhu insan fi Junub Sudan ta sena 2020," Nashiru fi March 30, 2021,

www.state.gov/reports/2020-country-reports-on-human-rights-practices/south-sudan/

ta kanisa, aw nas muhtaramiin taniin ma tala kwies, fi tafkiir guwii asan silu katawat ben fi Mahkama³⁸ “ijram diid wilaya” wa amulu haja batal al shaksi al bi talabu dafa tawiid le nas bara barau. Badal, humon bi ainu ketiir le adala mushtarak al bi gasidu le rija tawazoun le mujtama;³⁹ asan kede, katawaat ta ukuba bi kun sho’Wiya.⁴⁰ Gudaat fi mahkamaat ta adat bi alabu dor ma ta hakam, ze fi nizam munakashaat. Lakin muhagagiin gi hawiil asan hafizu mahal kwie.⁴¹

Maarifa ta nas kulu wa fihim

Amulu mukabalaat le deris de ligu inu nas al bi dafae indu fihim kulu ta nizam ta adala ta adat fi junub Sudan. Nas al bi dafae akidu inu humon indu fikra ta nizam ta adala ta dawla amuluu ta mahkamaat al sharae ma nas al daribu fi ganoon ze nas ta gadiyyaat wa muhamiyaat, wa mahkamaat ta adat, sultanaat yau bi gani raiis wa nas kubar fi mujtamaat.⁴² Nas al bi amulu mukabalaat arufu inu nizam ta adala bi istakal ze hakim al ma kwies al limu klu hajaat al ta ganoon wa tamamiin min kulu sharae wa ganoon ta adala humon wafiru ze takalid / ganoon ta sakafa mulakbat wa gabaliya ganoon hur, bi doun tafrika be gawaniin wa ijriat ta ganoon wa ganoon al sharae.⁴³

Nas al gi jawobu wanousou asan limu tereka ta ratibu mashakil. Fugu terekaat ta takalid ta adala, ze wasata min nas al kubar; sikaat maslaha nas al fi fugu al bi gani hilu mushkila, wa adala ta rooh fi makan al mushkilaat hilu bi kalam ma nas kubar ta kanisa,⁴⁴ salawaat, wa wasata fi kalam ta takwiin ta kanisa kan warri fi nizam ta adala ta adat sibu amulu ukuba adala wa adala ta islah, fi makan zol al kan galat awiidou ma hadaf ta rejau le hala gubal haja batal hasal. De sibu istimal mumarasa ta takalid ta sakafa. Ze dafa tawiid ma bagaraat aw sakil dakalu siibiir.⁴⁵

Fi zaman ganoon ta adat barrau min kulu gabila fi hajaat sawa ben humon.⁴⁶ Ze wahid zol al bi jawabu:

Fi mujtama tai shullu, anniina indu mahkama ta takalid al malik yau raiis tou wa sultanaat tou. Kan fi mushkila, sultanaat indu soulta asan jibu fi mahkama, wa fi jelsa fi mahkama. Tawiid bi amulu. Fi terekaat sawa ta adala al hassa amulu ma mujtamaat ketiir, lakin barrau ma nas ta shullu, al malik taniina yau raiis tou fi mujtama tai, gadiya jibu gidam ta malik de kalas nihaya–mafi zol indu guwa asan istanaf al hukum.⁴⁷

Nizamaat ta adala ta adat kan kelimu gali nas dakalu fugu ketiir fi makan asan dakalu mah-doud le nizam. Kan itabarau humon bi kon ketiir fugu min mujtamaat min nizam ta ganoon asan kelimaat al sah, ze taman al tahat, istimalta louga al mahali, washowiya min mahali kulu

38 The SSSL once reported that “in at least one case, a customary court has sentenced an accused murderer to death” and that “due to the lack of oversight and monitoring mechanisms in customary and statutory courts, it is difficult to know precisely how many times customary courts have issued death sentences.” See David K. Deng, “Challenges of Accountability: An Assessment of Dispute Resolution Processes in Rural South Sudan,” CSRF South Sudan, 2013, 21.

39 Cherry Leonardi wu nas tanin, “Adala Almahli ta Junub Sudan,” 48.

40 Tiernan Mennen, “Dirasa An Kalagu Gonun ta Adat wahid wa nizam gonuni ta Junub Sudan,” UNDP, 2016, 9, <https://land.igad.int/index.php/documents-1/countries/south-sudan/gender-5/997-study-on-the-harmonization-of-customary-laws-and-the-national-legal-system-in-south-sudan-2016/file>

41 Baak Deng, “Traditional Justice Methods,” 340.

42 KII 08/02/23/030.

43 KII 06/02/23/035.

44 KII 08/02/23/030.

45 KII 08/02/23/030

46 UN Barnamij ta Tanmiya, “Gawi ta Gawaniin ta Adat fi Junub Sudan: Fatisu ta nizam adalale daula jediid al gi istakal,” Waraga ta Munakasha, 2016.

47 KII 23/02/23/002.

hal, ketiir min nas al bi jawabu rija le ferek ta noa fi tereka al nizamaat ta adat aliju rijal, awlad, nousouwan, wa banaat. Le nizam fi kaeda asasiya al gi nizamu nizamaat ta adat, del fugu:

- Istiklal wa mafi sabour ta souldan aw zol kabiir;
- Kutu nefsa fi karar ta salam ta mushkila aw niza;
- Ihtiram aw silmiya;
- Fihim ta karar ta niza fi makan ta samaa wa tadakul ta ahzab le gadiya, talaabu, gubal, aw itraf bi kon makboul, istimaale shouhoud bi kon makboul wa shafafiya; wa
- Istiklal wa mafi sabour ta souldan aw zol kebiir.⁴⁸

Makabalaat ketiir ta adala wanousou ihtimam jade asan nizamaat ta adala ta adat gi indu mahkama fug gadiyaat ta ijam, Fi zaman mahkamaat ta adat ma indu gadaeya al rasimi asan hawiil jerimmi fugu jens,⁴⁹ w anoa-fi asas mushkila de ma kan gadiya fi mumarasa. Ze wahid min nas al bi wanousou silu malouma, fi aliyaat ta karar niza ta takalid, gadiyaat ta ijam ta katulu aw zol al katil, zina nyakamu bagaraat, fakidou hajaat ta nas, awugu min harb, wa silu nousouwan wa banaat amulu 60% ta gadiyaat:⁵⁰

Fi zaman al zol katulu, huwo bi talabu asan ruwa le nas tou, wa nas kubar bi gani wa wasitu fi mushkila, iza huwo fashal, gadiya bi jibu le aniina (adala ta ganoon) wa aniina bi Asmaa le gadiya. Iza zol de katulu bi gasit, humon gasit asan dafau 101 bagaraat le ahal ta marhoum, iza zol al katulu kan ma gasid, humon bi dafa 51 bagaraat, wa nas al kubar bi dabau wahid bagara le nas asan akulu, wa zol al katulu bi hakumu 5 sena fi sijn. Fi yum ta dafa itniin bet aw gabiila bi gani sawa fi salam.⁵¹

Nazra aam kam al hagiga fi wata iltizam inu mahkama ta adat bisilu halaat ta ijam asan ma gi amulu ketiir fi mashakil al batal.

Houdoudyaat wa tahadiyaat in mumarasa

Nas al amulu mukabalaat wafiru marifa al juwa le houdoudaat wa tahadiyaat ta nizamaat ta adala ta adat fi mumarasa, kasama amsoukou gadiyaat ta ijam, dell fugu:

Buniya tahtiya mahdoud, tadrrib, wa tanfiz, wa guwa. Nas al bi jawbu amulu shakwa inu nizam ta adala ta adat ma indu buniya tahtiya al kwies, kasa sajilaat adala kan fi zaman tani kutu fi tahat shejara aw fi mahal gadiim, juwa ta mahkama al karban ma indu gudra asan amulu sejilaat al katibu, ta ijriaat. De wadi fourousaat le souldan asan amulu kararaat saab ketiir min nas al bi jawbu arufu kalam de kaman, fi kebraat tumon, souldanaat ma deribu, wa mustawa ta taalim deru asan bi amsoukou mashakil, kasa mashakil ta ijam fi fatra tawiil, gudra al guwi-abinu barnamijaat deru asan wadi le humon ma maharaat al asan deru asan amsoukou mashakil ta ijam, kaman mahkamaat ta adat gali asan ma indu gudra ta guwa min gisim amen, kasa fi zaman al humon limuma mujrimiin al nas jesyau amulu. Jes wan as amen humon bi alisu kalam ta nas kubar aw taalimaat min mahkamaat ta adat.

48 KII 07/02/23.

49 KII 15/02/23/011.

50 KII 13/02/23/005.

51 KII 16/02/23/040.

Amen wa tawiidaat al ma kifaya. Nas al bi jawbu wadi shakuwa inu nizam adala-ta adat ma indu buniya tahtiya ta mahkama al muhim, sejilaat kas ta mahkama daeman adala kan wadi tahat shajera aw fi makan gadiim, juwa al ta mahkama gadiim al ma indu guwa asan amulu sejilaat ta ijriat, de wadi fursaat le sultana asan amulu kararaat mafi fugu Ihtiram le tala-baat, gi aaaamulu shakuwaat ketiir saab.⁵² Ketiiir min nas al bi jawbu kaman arufu kalam de, fi kibraat tumon, sultanaat ma dariibu wa mustawa ta talim al deruu asan amsoukou mahal fugu ta hajaat, kas mashakil ta ijam.⁵³ Fi fatra tawiil, barnamijaat ta abinu gudraat al guwi bi deru asan amulu humon guwi ma maharaat asasi alderu asan amsoukou mashakil ta ijam. Mahaka-maata adapt kaman kalimu asan ma indu gudra ta tanfiz min gisim ta amen, kas fi zaman al akidu ma ijam al amulu ma nas jes wan as amen al adatan bi jahilu awamiir aw tawjihaat min mahkamaat ta adat.⁵⁴

Intikab ta Sultanaat biga siyasa. Nas al bi jawbu wari tahadiyaat al al sultanaat gi ligu fugu tahadiyaat min nas al bi istamilu mahkama al kalam de ma ja fi ras tumon. Wadi salam ta takid al mafi wa amen, sultanaat kan fi zaman dak bi kafu min wazaa adala, wa ligu nefsa tumon fugu bi intikam al bi hassal. Tani, fi zaman sultanaat wadi le humon wadae, huwo bi istakal sakit natija mafi fugu haja. Soulateen taniin gi silu dariiba ta mahkama asan bi sibu shokol tumon ruwa⁵⁵ ze natija nas al bi jawbu ligu nefsa tumon inu ijriat ta adat rija asan amulu tanazul asan bi kutu nas al indu gurush wa /aw nas al indu gurush ma le maslaha ta hizib al deaf, kass fi zaman al fugu dafa dariiba, wahid min nas al bi jawbu istaki inu gadiyaat dayman nas al indu guwa yau bi amsoukou fi mujtama wa fi gadiyaat ketiir, adala fi maslah ta ketiir mujtama aw nas al indu gurush.⁵⁶ Fi mustawa al arid, nas taniin sedek inu hala ta iktisad fi beled mana tou adala ta adat bi wagifu le zol al indu gurush ketiir galamayaat wa bagaraat humon talabu asan hukuma wari le humon kalam kwies ma ihtiram ledariibabi dafau le mah-kamaat ta adat, gurush al bi dafau fi kulu Shahar hukuma le sultanaat asan ihtiyajaat tumon, wa ainu nas asan muragaba yom–bi–yom mumarasa fi mahkamaat ta adat.

Tafrika fi noa wa ilaj ta nouswan. Intikab ta Sultanaat ta takalidiya nazimu wa amulu bi hukuma mahaliya bi muhafziin ta mukataa fi zaman nas kan kelim nas bi indu sika fi Soula-teen ketiir min hukuma kan intikab ta Soulateen siyasa wa tasiir bi hukuma bi wasta muwa-zfiin tou, ma asan mazaj sika ta nas fi nizam ta ganoon ta adat bi taab ainu ta Soulateen ma muhafziin ta mukataa kwies fi mujtamaat fi mustawa al tahat fi zaman ijriat ta intikabaat ma kelimu fugu “intikab ta Soulateen bes le rijal fi ketiir min mukataat wa wilayat ta junub Sudan, wahid min nas al bi jawbu kelimu.⁵⁷

Tafrika ta noa kan kutu ze houdoud al muhim ta nizam ta adala ta adat, katibu inu rija takwiin gani nizam ketiir fi takdiim ta himaya le nouswan. Fi kalam ta jens wa ijam ta onf diid nouswan. Masal wahid min nas al bi jawbu, amulu takarir mahkamaat ta adat bes le rijal, wa ilaj tumon le mashakil ta jens wa onf diid noa, wadi awlawiya le maslah le nas ta bet fugu Dahiya al mara.⁵⁸ Zol tani al bi jawbu kelimu inu sabab ta tafrika huwo mustawa al fugu ta mujtama wa iktisad al fugu dafa mal ta mara wa hak tarajil fi mara tou.⁵⁹ Mumarasa bi kun tala fi noa bienu ze mara yau mulkiya ta bet tou aw rajil, gi zidu onf diid nouswan wa banaat.⁶⁰

52 KII 16/02/23/040.

53 KII 15/02/23/004.

54 KII 11/02/23/036.

55 KII 16/02/83/040.

56 KII 18/02/23/037.

57 KII 01/03/23/038.

58 KII 11/02/23/008.

59 Fi haya ta nas bagarat zuaj le nas rajiel wa mara min nas bagarat, zuaj bidfau bagarat wa gurush fi mujtamat ta zera.

60 KII 15/02/23/004.

Rajil wahid min nas al bi jawbu kelimu kalam ta mafi adala diid nouswan al huwo ainu fi ijriat ta gadiya:

Tahat adala ta adat Dahiya abu mara ta nyakamu mara bi agder limu fi kalamaat taniin. De bi kun bi ragebu bi terika al bi assalu Dahiya, ze ita kan wen fi zaman al nyakamu ita ? zaman yatu nahar aw belayl ? lay ita barra fi layl ? fi mahkamaat ta adat, biniya bi asourou asan zawjo le zol al jahiz al fii Dahiya bi kun karban wa asan zol al jahiz bi silu haja al karban. Ahyan Dahiya bi abbau aw ma deru fi ijriat.⁶¹

Zol tani al bi jawbu, lahiz inu fi haja ma kwies fi noa fi nizam tala fi terika ta ijriat al abinu, asan nouswan ma silu humon wa gadiyaat hilu ma rijal, mara tahamu ma ziina wa jebu fi gidam ta mahkama, humon deriin duku huwo (azibu) asan huwo bi war ikan rijal al noumou ma huwo, rijal dell bi gramu saba bagaraat kulu rajil al tahamu ma zina bi wadi le garama ta saba bagaraat anna kan zaalan ma gadi asan huwo alabu bi gadiya de souwal fi kat de fi samaa.⁶²

Binisba le zol al bi jawbu tani:

Fi gadiya ta ziina, rajil bi dafa garam le rajil ta mara 6 bagaraat wa 100,000 SSP le mahkama, fi gadiya ta nyakamu mara aw jens wa onf diid noa biniya bi asourou asan zawjo rajil aw waled. De bi ja wara tou mal ta zoujou al bi kun fugu 30–100 bagaraat, kulu al hal nouswan wa banaat taniin bi agder abba asan zoujou humon ma zol al jahiz fi zourouf, mahkama ta adat bi talabu zol al amulu jerima asan dafa 10 bagaraat wa garama ta 100,000 SSP le mahkama.⁶³

Kasru ganon wa furssa ta karabu gurush. Nizam abu itniin ligu tahadi ta kasourou ganon le anu mafi houdoud al arufu ben gadiyaat al tahat nizam adala ta adat wadell al lazim bi am-soukou min ganon al raiimi,⁶⁴ fi hagiga ketiir min nas al amulu mukabalaat kelimu kalam ta kibira ta furssa ta karabu gurush fi makan al nas bi harik min mahkama ta adat le tani gi fetesu le natija al kwies, hata natija tou lakabata dakil nizam ta adala, tartib, wa soult ze wahid min nas al bi jawbu ragibu, mujtama ta takalid kan sahil, lakin hassa de fi ketiir min idaraat ze mu-diir ta payam, Mejlis ta madina, soultanaat wa ketiir taniin, buniya ma wadeh an zol al afroud asan amsoukou yatu shikil ta gadiyaat.⁶⁵

Mutanafir diid mutajani, mujtamaat. Fi mujtamaat mutajani, kan fi ihsas ta sika fi nizam ta adala ta adat. kulu hal tahadiyaat arfau fi ketiir min kalamaat fi mujtama ta mutanafir fi makan al nas bara barau gani sawa wa mashakil gum ben nas min mujtamaat al bara barau. Fi halaat taniin mikin hinak taradoud asan istimal mahkama ta adat le anu wahid min mujtama bi kafu nas al nugulu le ganon ta adat ta taniin, tahadiyaat al mujtama bi ligu fi zaman ta mumarasa adala ta adat, wahid min nas al bi jawbu kelimu, humon masilu fi hagiga kulu mujtama asourou ganon ta adat tou le nas taniin, wa fi rija, mujtama tani ma roudou fardiyaat wa abba asan dakalu fi kararta mashakil, al bi silu le dukul mahdoud asan hagigu adala ben ahzab.⁶⁶ Zol tani arufu aiyaaat mikin bi kun indu tasiir fi hilu mashakil fi mustawa ta mujtama, lakin ma ben afrad wan as al indu silah.⁶⁷

61 KII 11/02/23/008.

62 KII 09/02/23/007.

63 KII 13/02/23/005.

64 KII 01/03/23/038.

65 KII 09/02/23/003.

66 KII 23/02/23/002.

67 KII 06/02/23/035

Tagiir ta sakafa. Nisba le asar ta harb al gani zaman tawiil, wa nas jere min bet tumon, nas harku min mujtamaat w agata houdoudaat le beled taniin. Aks humon mikin bi fetisu asan maiis sakafaat wa kasid asan arufu, wadourou ta sakafa tumon ma tagiir ta sakafa de, nas al sugiir mikin ma bi fahim mumarasaat ta sakafa al fat wa souloukaat tumon gi fadulu terikaat al resimi ta hilu mashakil.⁶⁸ Nisba le wahid min nas al bi jawbu; harb al gani tawiil fi junub Sudan karabu nizam ta nas kubar ta takalid al bi nizam roah al kwies kiema ta sakafaat, wa nizam ta nas al aslii ta hukumal hukum wa amulu himaya le teraka ta hayat. Kutu fi makan tou nizam ta hukum al ma arufu.⁶⁹ Nas al amulu mukabalaat ligu inu tamadon silu nas wadourou ta sakafa wa gi amulu mumuaraasaat ta adala ta adat. “Bi nisba le takalid tani, ai rajil al amulu gurush tou bi sirriga aw terika al ma kwies ma bi roudou sahil asan bi zawju binya ta zol, lakin nas de rijal kutu humon ze nas kubar.⁷⁰ Fi ta haja oguba ta takalid biga tasiir tou souwiya biga ma ragibu. Fi haja futu, masal, nas kafu koujour ze terika ta sala galat.⁷¹

Gi saadou fi intikam. Nas al bi jawbu sedegu inu mashakil ma nizam ta adala ta takalid kan yau gi zidu nar fi sakafa ta intikam. Nas ma kan maksout ma natija ta gadiyaat, masal, mikin humon bi karer asan silu hajaat fi iddenaat tumon wa tared tashkil tumon ta adala fi terika al ma ganooni kassa bi amulu intikak, katulu ze wahid min nas al bi jawbu kelimu, hukum al mafi fugu adala de ma fi saleh ta zol abu Dahiya indu tasiir ta gabur. Le anu humon bi wadi gidam le iyal al bi ja asan amulu intikam. Hata ma gi hilu mushkila “taniin kelimu “fi mujtama al aniina kutu fugu haywanaat, zol tani mikin bi kelim, anna bi agder katulu ita, bi dafa bagaraat le anu soulanaat gi ligu faeda min ai zouloum wa mushkila bi dafa garamaat kebiir–30% le hilu mushkilaat.⁷² De bi shajae ijram fi mujtamaat,⁷³ tani bi warri mumarassa ta rashowa le soulanaat. Al mikin bi silu gadiyaat al karau fi terika maklouba, gi sadou fi daera ta intikam wa nizaa.⁷⁴

68 KII 04/02/23/021.

69 KII 13/02/23/020.

70 KII 13/02/23/020.

71 KII 09/02/23/003.

72 KII 20/02/23/017.

73 KII 20/02/23/017.

74 KII 09/02/23/019.

Adala ta adat fi kalam ta nizaa ben mujtamaat wa amulu ma kwies

Nizam ta adala ta adat wa soultu ta takalid

Fi 2020, nizaa watani sukir idou le nizaat ta hugug ta insaniya al sejelu fi beled, nisba le gisim ta hugug ta insaniya fi UN fi junub Soudan (UNMISS)⁷⁵ 5,800 muwatiniin asiir bi nizaa, 78% asiir bi mashakil ben mujtamaat.⁷⁶ Nas al dahiyaat kan kutu fi wahid min arba munazamaat al marouf bi amuluu azaa, katulu, awougou jesim, silu iyal, wa mushkila al indu ilaka ma intihak ta jens–ketiir,⁷⁷ nizaa kan rekiz fi 72 payamaat (13 nisba ta 540 payamaat fi dawla)⁷⁸ fi 2021 3,414 muwatniin kan amulu azaa ma nizaa al watani asiir ma ketiir min dahiyaat,⁷⁹ ze 87%. Fi awal 11/4min 2022, nizaa ben mujtama idou 64% min muwatiniin moutou. Nizaa ben mujtamaat, (484 moutou).⁸⁰ Fi robu nimira itniin fi 2022, mashakil ben mujtamaat hasibu 60% min muwatniin moutou.⁸¹

Mashakil ben mujtamaat fugu min nyakamu nouswan wa mashakil ta jens, huwo bi kun sabab raiisi ta ihtimam fi junub Soudan asan tasiir tou al muhim fi nas al moutou wa al awgu jesim batal. Fi Tarik istimal ta silihaat takalid fi harb, ze harbaat wa dangaat wa nishabaat, adad ta nas al moutou hadidu masouliin ta takalid bi agder diir ai nas al wadourou natija ta houjoumaat, kasaraat min kulu taraf wa hawiyaat ta nas al bi katulu kan arufu sahil wa kelimu le soultanaat fi zaman ta ijtima ta salam, wa kulu taraf bi hariku wa dafa tawiid al talabu fi bagaraat ze adat mahali wa takalid lakin,⁸² tabiaa ta mushkilben mujtama, gi raba, hasa nas jes bi amulu tawali–taktik ta jes.⁸³ Wa silihaat kubar ta jes, huwo kaman wasoulou le siyasa ta watan wa

75 UNMISS Gisim ta Hugug ta Insaniya, “Kalam Guseer fi onf al gi asiir ma muwatniin, Shaha Wahid–Shaha Itnashar 2020,” 2021, https://unmiss.unmissions.org/sites/default/files/unmiss_annual_brief_violence_against_civilians_2020_final_for_publication.pdf

76 Ibid.

77 Ibid.

78 Ibid.

79 UNMISS Gisim ta Hugug ta Insan, “kalam besit asan mashakil al gi asiir ma muwatniin, Shaha Wahid–Shaha Itnashar 2021,” 2022, 1, https://unmiss.unmissions.org/sites/default/files/unmiss_hrd_annual_brief_2021.pdf

80 UNMISS Human Rights Division, “kalam besit hala ta Hugug Insan fi Junub Sudan, Shaha Wahid–Shaha Talat 2022, 1, https://unmiss.unmissions.org/sites/default/files/hrd_quarterly_q1_brief_-_10_may_2022.pdf

81 UNMISS Gisim ta Hugug ta Insan, “Kalam besit asan mushkila al gi asiir ma muwatniin, Shaha Arba–Shaha Sita 2022,” 2023, 1, https://unmiss.unmissions.org/sites/default/files/human_rights_quarterly_report_q2_20_july_2022_clean_version_for_coss.pdf

82 Ibid., 231.

83 UNMISS Gisim ta Hugug Insan, “Kalam besit asan Hugug Insan, 2022.” Ragam mushkila ben gabilaat huwo fi Tarik bada fi takalid mumarasaat, kasa fi mujtama ta nas al ze humon gi amulu himaya le bagaraat), fi sanawaat gi ziidu nas jes ma dakalu ta ahzab (kuwaat ta jes al munazam) le mushkila. Katiir, Siyasiya wa nas Idara fi mustawa mahali wa

fursa ta salam fi beled,⁸⁴ wahid min hajaat al amulu al gi wala nar ta mushkila humon indu niya fi intikam, bi inu kan Muzdahir, fi makan al zouloumu fii fugu ma kelimu fugu aw makan al hurouya lisa fi fugu.⁸⁵

Aliyaat ta adala ta adat kan abinu asan bi kelimu fi hajaat sugiir al amulu galat fi mustawa ta mujtamaat mahali, asan kida humon ma dourouri asan indu juwa aw soultu asan kelim fi nizaa ta hugug insan al hasil fi zaman ta mashakil ben mujtamaat kasa mushakil ben gabaal,⁸⁶ ketiir min nas al bi jawbu kelim nizamaat ta adala ta adat makan ganooni agder asan fekiir fi soultu fug min gadiyaat ta ijrām, sibu barau ijrām ketiir, ze wahid min nas al bi jawbu kelim: “nizamaat ta adala ta adat ma ganooni mahkamaat al tamam asan kelimu fi mashakilaat ta hugug insan wa ijrāmaat tahat ganoon ta ben mujtama, huwo bi deru taadilaat tashriya asan mahkamaat ta adat bi agder amulu, ma ihtimam kwies asan kef humon aliju nouswan wa banaat.”⁸⁷ Fi nefsa zaman, nas al bi amulu mukabalaat kelimu fi kalam ta rae, inu “takiif, fi midan maarifa dourouri wa tamuhaat, adala ta adat indu mustakbal asan saadu fi arufu ta mustawa ta salam fi junub Sudan.”⁸⁸

Nas al bi amulu mukabalaat wadi masal ketiir ta halaat fi makan al mumasiliin ta nizam ta adala ta adat fi mumurasa kalas akoudou asan jawbu le mushkila ben mujtama al kan natija tou katulu nas ketiir wa damiru hajaat. Ze wahid min nas al bi jawbu wadi takrir:

Fi zaman al kakatulu nas ketiir hasiil, mumasliin ta nas kubar, shabab, nouswan, wan as kanisa ja sawa asan jelsa. Humon bi ligu galat al hasal. Humon bi hukum le haja al hasil, wa itniin gabiila bi itafik le taawiid al sawa sawa, le ai katulu ben mujtama, zol al tahimu bi dafau 101 bagaraat le hayat ta zol, le zol ma gasidu, bi dafau 51 bagaraat le hayat ta zol. Nas kubar, shabab, mumasliin ta nouswan, wan as kubar ta kanisa humon awal bi roudou adad ta kasaraat min kulu traf wa dafu bi kun asas ferik. Masal, gabiila ta Leek fi Rubkona Dousman ma gabiila mujtamaa Bul ta Mayom. Nas al moutou ben Leek kan 140 wa fi Bul gabiila kan 100. Min wasata le rouh ta 40 nas. itniin mujtamaat bi amulu karama, ze daba tor, wan as akulu sawa fi zaman al humon gi Sali rabona le musalaha.⁸⁹

Fi gadaa ta tala nas min bet, fi zaman al muwatniin sibu makan tumon le jeha ta adou, Soula-teen wan as al kubar mutawakaa asan wafiru akil, moyo, wa makan le gani muaaket. Wa baad bi wafiru tawjihāt le istitan.⁹⁰

Wahid min nas al bi jawbu wadi masal al bi amulu kef adala ta adat saadu le salam wa musalaha fi wilaya ta wouhda fi makan al nyamu ma agder ainu: ilan ta mujtamaat fugu hajaat ta muhasaba amulu min ikab bi dafau garama wa/aw sejn ze taawiid fi halaat, fi makan taawiid kan ligu asan bi kun ma kwies.⁹¹ Seregu ta 200 bagaraat fi Parieng silu le wasata ben talata mujtamaat:

Masouliin ta takalid hazilu nas asan amulu wasata ta rijau bagaraat. Baad amulu tahariyaat fi itniin mujtamaat, itniin min nas al kubar gidam abau natija ta tahariyaat. Nas hadidou asan silu humon le mahkama. Bagaraat kulu ligu wa jibu le

watani waddi musaada tumon le arfa mashakil, Fugu taharush wa / aw gi sharik fi taktit fi hujum, providing financial and logistical support gi wafiru gurush wa logistiya, aw waddi silah wa sialhaat kabiir.

84 HRD UNMISS, “Kalam besit asan mushkila al gi asiir ma muwatniin, Shahar Ashra–Shahar Itninashra 2022,” 2023, 3, https://unmiss.unmissions.org/sites/default/files/hrd_q4_brief_2022_civcas_final_final_16feb_1.pdf

85 Martin O.L. Agwella, “Abinu salam fi Junb Sudan? gadiya ta Adala ta Intikaliya wa musalah” (Ph.D. diss., University of Bradford, 2018), <http://hdl.handle.net/10454/17138>

86 KII 02/02/23.

87 KII 15/02/23/004.

88 KII 15/02/23/004.

89 KII 16/02/83/040.

90 KII 16/02/83/040.

91 KII 02/02/23.

mahkama ta adat “B “, wa itniin min nas kubar houkoumu 5 sena fi sejin wa sibu huwo dafa garama 10 bagaraat, fi zaman al bagaraat al seregu rejau le sidou. Asan kida, itniin mujtamaat kan bi agder hafiz salam.⁹²

Adala ta adat kaman bi alabu dor fi mushkila al indu ilaka le wata wa Masdar ta mujtama tani wahid min nas al bi jawbu zekiru hadis al Abang wa mujtamata Malual shakilu ma tani asan mashakil ta wata al natija tou kan Dousman wa katulu wahid zol. Zol al bi jawbu kelim “lejna fugu soulateen n amulu asan hilu mashakil. Kan hiluu bi tereka kwies wa mujtamaat hasade gig ani ze nas wahid.⁹³ Zol tani al fi mujtama ta Bari Shakila ma mujtama ta Mundari asan kalam ta ta wata. Asan bi salau humon soulтанаat ta adat min itniin mujtamaat limu wa nezimu le musalaha. Itnii mujtamaat salahu badoun tumon, wa dafau warra hajaat al humon karabu fi zaman ta mashakil muhaba kan kalas rijau ben mujtamaat⁹⁴ “zol al bi jawbu gadimu takarir: shakil ben Maadi wa Acholi asan wata wa moyo kan hilu min ad hoc mahkamaat ta adat fi 2021. Nefsu mahkamaat ta ad hoc istamilu fi mugali asan hilu mushkila ben Maadi wa Dinka.⁹⁵

Ta musalaha wa salam ben nas–le–nas

Masouliin ta takalid humon yau nas asan fi arfau salam fi mujtamaat fi junub Sudan, fi sanawaat. Masouliin dol, kasasoulтанаat, al amulu kuta asan dakalu wa wagifu mujshkila bi kawinu lejina ta mujtamaat al sawa wa nas al gidam fi ijriiat ta salam al fi fugu kulu nas al mushtarikiin. Min PPPijriiat ta musalaha, mujtamaat wasoulou le itifak ta salam ketiir, gi warri gubul ta nizamaat ta adala ta adat le hilu noa jidiid ta mushkilaat fi mujtama. Gisim de warri ketiir min ijriiat ta musalaha ta PPP al nakishu ma nas al bi jawbu fi zaman ta mugabalaat.

Itafakiya ta Waat Lour Nuer (1999). Fi November 1999, nas kubar ta Lou Nuer amulu nas–le–nas salam wa mutamar ta hukum fi Waat, Soudan tahat riaaya ta Mejlis ta kanisa Soudan jediid (NSCC) lejinaat min kulu ukataat shariku fugu, ziyada tou min Malakal; Kartoum, Soudan, wa dawlaat al barra. Mutamar gasidu asan wagifu kulu mashakil ben Lou Nuer kan gufulu biga Dahiya ta takalid Tu–Bor (tor abiyad) wa limu sawa ma salawaat ta masihi. Mutamar fugu afu diid houjoum wa karabu hajaat.⁹⁶

Itifakiya ta Liliir (2000). Mutamar ta Tu Liliir kan amuluu ben Anyuak, Dinka jie, Kachipo, Murle wa mujtamaat ta Nuer fi jiha ta sherik salam ben nas–nas wa mutamar ta musalaha fi Liliir fi mukata ta Bor (Upper Nile). Soudan fi mayo 2000, mutamar fatau bi ihtifal ta dahiya ta Tor abiyat wa gufulu ma ilan ta mutamar al limu ben gabiilaat. Mutamar kan gufulu ma dabau tor wa nas al bi ragibu. Nas al madau fi hajaat al tafiku fugu, fugu wagifu dousouman, afu al shamil le kulu hujoumaat al amulu fi zaman fat, rijau nouswan wa iyal al silu, wa Tanzim ta zawjou bi guwa tahat adaf ta zawujou.

Ilan ta Wangkei (2017).⁹⁷ Fi zaman al mujtamaat ta Dinka ta Bul, Leek, Jagey wa Jikany dakalu fi dousouman al gi istamir al fugu nyakamu bagaraat, intikam, katulu, silu nouswan wa iyal, wa karabu hajaat, soulтанаat wan as kubar ta mujtamaat wan as kubar taniin gani asan amulu wasata ta salam, tahat ilan ta Wangker, mujtamaat tafiku asan amulu musalaha ma tani wag ani sawa fi salam ze nas wahid ta shamal liech fi wilaya ta wohda.

92 KII 16/02/83/040.

93 KII 13/02/83/020.

94 KII 17/02/83/031.

95 KII 08/02/23/033.

96 Waat Lou Nuer Hukum, Waat, Sudan, Shahar hidashar 6, 1999, PA-X, itifakiya ta Salam Dakalu adawaat (Translation University of Edinburgh), www.peaceagreements.org/viewmasterdocument/1815.

97 KII 16/02/83/040.

Itifakiya ta Marial Bai (2017).⁹⁸ Itifakiya de gi natij min mutamar ta salam ma 300 nas, deru asan wagifu mashakil ta mujtama ben nas ta bagaraat wa nas ta mujtamaat ta ziraa fi Tonj, Gogrial, ta Gireb bhargazal Wau. Huwo fugu 22 kararaat. Hakimaat ta talata wilayat al hilu tawali wagifu dousouman wa amulu silu silah al shamil. Nas al fi fii mutamar tafiguasanlejina ta muragaba sawa asan ainu le alamaat ta Dousman itifakiya kan awal rejau fi 2019 asan kelimu fi hajaat al mutawasiil, ze wouloud wa istimal ta silah, silu bagaraat badri min al humon tefaku fugu,⁹⁹ wa ijriat ta tawtiin fii showiya asan nagisu fikraat wa wagifu dousouman, nas ta Unta hafizu salam saadu fi waza guwa ta polis fi wilayat, kasafi mahalaat tadousouman al mailan. Kasa mahkam al bi silu min makan le makan tan ikan kan hukoma kawonu asan guwam hawilu gadiyaat al bi agder hilu bi terika kwies bi mujtamaat. Siyasiin kubar ta talata wilayat nadi mujtamaat tumon asan wagifu fi itifakiya fi musalaha ta salam wa istikrar.

Kararaat ta Ganyliel (2018).¹⁰⁰ Itifakiya ta Ganyliel jibu salam le sharik wilaya ta iklim ta Buhayraat, ja wara ijtima ta lejna ta salam al gani sawa al amulu bi Dinka mujtamaat ta Yirol (wilaya ta Buhairaat. Piny (wilaya ta Buhairaat–Rumbek), wa mujtamaat ta Nuer ta Payimjiar. Dousouman ben mujtamaat dell wasifu bi mushkila ta nyakamu bagaraat wa katulu al gasidou. Imakanjtima kan fugu soulтанаat, mumasiliin ta kanisa, nas kubar, nouswan, wan as kubar ta shabab jibu min talata mujtamaat,¹⁰¹ kararaat ta salam al jibu kelimu inu kan amulu asan jibu musalaha le nas ta talata makanaat dell wa fugu muhasaba humon itafik inu ai zol aw nas min kulu jiha, bi kan muhasaba le ai ijram ta houdoud, wa tawiid ta dom wa tawiid ta mumlakaat bi dafau le nas al asiir fi dousouman al natija min amal ta mujtama tani, ze rijau bagaraat al seregu, fi zaman al ruwa ainu badi sena, ketiir min 80% muwatniin fi mantika arufu inu salam lisa fii wa sibu salam fi itifakiya de.¹⁰² Kul haltahadiyaat al abinu ze mawariid mahdoudou min hukuma asan gadim maesha ta shabab lisa gani tahdiid le salam.¹⁰³

Wilaya ta Jonglei wa Mantika Idariya ta Pibor al kabiir: Fashal ta ijriat ta PPP

Jonglei, muntika ta junub Sudan al tahat tanmiya gariib le 2 miliyon nas, indu kibra ta Dousman al kabiir al ma watani. Min Shahar wahid 2011 le Shahar tisa 2012 gariib le 50% ta hawadis ta Dousman amulu fugu takarir wa ketiir min 50% Dousman al fugu moutou wa raiis al sibu mahalaat tumon fi junub Sudan hasil fi wilaya ta Jonglei.¹⁰⁴ Fi zaman, huwo kawonu min al fi alela mantika ta idariya ta Pibor al fugu adad kebiir min al gig ani fugu, Nuer, Dinka, Murle wa Anyuak. Dinka wa Nuer humon 2 gabiila al kubar fi junub Sudan wa humon indu makan kubar fi hukuma fi junub Soudan: Raiis tumon asil min gabiila ta Dinka, fi zaman al naeb al awal ta Raiis min Nuer, Murle nesitu gabiila al sugiir ketiir tumon gi gani fi mukata ta Pibor, wata al tahat ta murle wa wata ta Boma al fugu¹⁰⁵ Dousman ben mujtamaat dell natija tou fi katulu wa tala nas ketiir min makan tumon, ragam mubadaraat ta salam mahaliya, bi hukuma mahaliya.

98 UNMISS, "Marial Bai Itifakiya asan zazim ilaka ben nas ta ziraa wan as ta bagaraat fi mantika Wau Shahar Itnashar 23, 2016, <https://unmissunmissions.org/marial-bai-agreement-regulate-relations-between-farmers-and-pastoralists-wau-area>

99 Nas ta bagaraat bi harik min shar waid wa zaman dak muzaraiin bada zira, zaman haraka ta bagaraat demiru ziera ma bagarat wa da bijib mashakil, nas bagaraat iandu silhaat katiira, wa mashakil tahwal min mujamat le mashkil ta madina wa mout katiir fi mashakil da, wa hajamt intigamia.

100 Fi motamer salam musharik fi (Payinjiar, Yirol wa Rumbek-Amongpiny), Ganyliel, Shahar Kamsa 16, 2018, www.peaceagreements.org/viewmasterdocument/2287

101 Ibid.

102 Selma van Oostwaard, "Amni de moslulia ta nas kulu, wonasat ta amni ta mujtama fi Sherg Buheirat, Junub Sudan, PAX shahar sita 5, 2019, <https://protectionofcivilians.org/news/security-is-everyones-business-community-security-dialogue-in-eastern-lakes-south-sudan/>

103 Ibid.

104 Médecins Sans Frontières, "South Sudan at 10: An MSF Record of the Consequences of Violence," July 21 2021, 21, www.msf.org/south-sudan-10-msf-record-consequences-violence

105 Ibid.

Fi Shahar 12, gadiru bi 6,000 le 8,000 shabab al indu silah min Lou Nuer (jes al abiyad) malishiya diid Murle. Badi houjoumaat al mutaamir le mujtamaat ta Nuer al sibu ketiir 1,000nas katoulou.¹⁰⁶ Min Shahar 12 2011 le Shahar itniin 2012gariib 900 nas katulu, wa badi 90,000 nas tala min mahalaat tumon.¹⁰⁷ Fi 2012, nas kubar ta ijriat ta salam bi nas kubar ta kanisa wa kalifu ma nas al indu silah min hukuma hadaf asan jibu Lou Nuer wa murle fi hiwar. UNMISS yau saadu mubadara ta salam al mahali al ziyada gi intaha fi kulu salam ta Jonglei fi Shahar kamsa 2012. Fi makan soultanaat kubar ta kulu talata mujtamaat al madau shokulta itifakiya ta salam al mufasel fi houdour ta Raiis ta junub Sudan,¹⁰⁸ mashakil bainu tani fi zaman mutaakiir fi Shahar 11 2018 wa fi Shahar 1 2019 nas min mujtama ta Murle hajamu nas min mujtama ta Lou Nuer fi Lokomai, Dchan, wa kariya ta Kolabeil (Jonglei) katulu gariib 55 nas, awougou 78 nas taniin, wa seregu gariib le 1000bagaraat,¹⁰⁹ ma Dousman istamir le shohur.¹¹⁰

Fi 2020, mantika arufu talata mashakil gasimu Murle diid Dinka Bor wa Lou Nuer. Gariib le 1,058 nas kan katulu ben Shahar 1wa Shahar 8 2020, fugu nouswan wa iyal ma tala nas min makan tumon ben mujtamaat kulu bi tala 170,000.¹¹¹ Hujoum Dakalu fugu hajaat al katar ta mashakil, ma nas al hajamu istamilu kulu asas wa silahaat al jediid: harbaat, satour, sakakiin, silahaat (Kalashnikovs), rocket-propelled grenades. Katoulou kan fi fugu silahaat aw satour aw bi haragu nas hayi.¹¹²

13–nas fi lejina fi mustawa al fug al zol kebiir tou yau kan naeb raiis james Wani Igga kan kawonu bi raiis Salva Kiir asan bi kalimu fi asbab ta dousouman.¹¹³ Fi Shahar 1 2021, lejina amulu mutamar ta salam fi Juba ben Dinka, Murle, wan as min Nuer al dakalu fi mashakil bi silah fi Jonglei wa GPAA. Shariiku fi tala kararaat, fugu tawsiyyaat al muhim silu nouswan wa iyal, intikam wa katoulou al sambala, nyakamu bagaraat, adala wa muhasaba, amen wa ganoon bi guwa, ectisad guwi wa abinu salam, dakalu insaniya, and ilakaat ma mujtamaat al jeran.¹¹⁴ Fi Shahar 3 2021, mujtamaat madau itifakiya onwan tou shokol le salam, al deru kalam ta rijau nouswan abu silu wa iyal, rijau bagaraat al seregu, amsoukou nas al amulu jerima min zaman ta ijriat ta salam, kawiiinu ta mijelis ta nas kubar ta takalid, wa amulu lejina ta nouswan al sawa le salam.

Lisa, Dousman ben mujtamaat istamir, gi wasoulou ziyada fi Shahar 12 2022 wa Shahar 1 2023, fi zaman al 638 murle kan katulu fi hujoum diid kariya Gumuruk wa Likuangole.¹¹⁵ Hujoumaat kan amulu bi shabab ma Lou Nuer wan as taniin min Nuer min Wilaya Jonglei. Muwatniin taabu awougu fugu douroubou silah dabara ta satour, karabu hajaat ketiir, silu nouswan wa iyal, jens wa onf diid nouswan, seregu ta bagaraat (ma takdiir kiima \$ 30 milion USD).¹¹⁶ Tala nas min makan tumon asiir ma aktar min 42,000 muwatniin fi 14 kariyaat. Hujoum kan, badau bi silahaat al tegiil wa artillery bianu inu kan katitu kwies. Biragam dousouman fi Jonglei al kabiir intaha le senawaat, zaman al jediid de Dousman wasoulou kulu

106 Richard B. Rands wa Matthew LeRiche, "Roudou ta Amen fi Wilaya ta Jonglie fi mashakil be gabilaat," Saferworld, 2012.

107 UNMISS, "hadis ta onf be gabilaat fi Wilaya Jonglie, Juba," 2012.

108 Hilde Johnson, *South Sudan: The Untold Story from Independence to The Civil War* (London: IB Tauris, 2016), 115.

109 UNMISS, hadis ta onf be gabilaat fi Wilaya Jonglei.

110 Ibid. at paras 31 and 32.

111 Maktab ta UN Mufaudiya al fug le Hugug ta Insan, "Mashakil bi silah dakalou fugu mujtama-Melishiya fi Jonglie al kabiir, January–August 2020," *Shar Talata* 2021, paras 71 wa 108.

112 Ibid. at para 68.

113 Karar Jamhuri ta Junub Sudan No. 20/2020, Lejina fi mustawa al fuguusan kalim ma hala ta amen fi Wilaya Jonglei wa Pibor, established June asisu fi Shahar sita 23, 2020.

114 UNMISS OHCHR, "Armed Violence."

115 Ceasefire and Transitional Security Arrangements Monitoring and Verification Mechanism, "Onf fi Idariya Pipor al kubra," *Shahar Talata* 2023, paras 7–13.

116 Ibid.

sawa marhala barau, ma ijtriaat ta PPP al kebiir gi saadu fi mukawama.¹¹⁷ Nihaeyan, ijriaat fi aajonglei fashal asan hilu mushkila fi mantika.

Mutamar ta salam fi Wunliit (1999) nejah ta ijriaat ta PPP

Mabda talab walaa nour fi ketiir min tasiir ta PPP. Mutamar ta salam fi Wunlit 1999, arufu rasimiya bi Dinka–Nuer salam jiha ta garb mutamar ta wa tasamh Kan amulu fi mantika ta ta Tonj, fi kariya ta WunlitDinka. Gariib ma houdoud ma Nuer.¹¹⁸ AINU ze de yau ijtima ta salam al najah fi Tarik ta itniin Soudan, hadis al wasif kiima ta aliyaat ta adala ta adat. Mutamar kan dbadau bad ijtima ta Dinka wa soultanaat ta Nuer fi Lokichogio, Kenya fi 1998, 8 senawaat Dousman ben Dinka ta Bahar El Ghazal wa Nuer ta garb Upper Nile. Mushtarkiin fugu nas kubar ta kanisa, soultanaat ta takalid, nas al gidam, nas kubar, nouswan shabab wa mumasiliin ta SPLM wa guwa defa ta junub Sudan.¹¹⁹ kararaat al tala min mutamar fugu wakf ta harb, afu le ijam al fat, wa tasjae le nas al sibu makan tumon mutamar kan agder rija salam ben Huer wa Dinka mujtamaat, huwo kan asasn kida amuluu mujtamaat taniin.¹²⁰

Nijah ta Wunliit ja le asabab ktiir. Hajaat al saab kan tajhiz ta mutamar al fugu sabur min NSCC,¹²¹ al kan rejau ze mafi fugu tasiir, nas ta salam al deru. Mutamar ma indu zaman al mahdoud, al sibu tajrouba fi hajaat al muhim NSCC fakir asan abinu siika ben ahzab bi tashjae ijtimaaben nas kubar kulu mujtamaat. Ziyada, nas al kubar wa soultanaat akudu zaman asan akis kef nas tumon al zaman kan bi hilu mashakil. Katar, masharkiin fi mutamar humon shariku kamil fi mutamar wa saadu fi ijtima. Baaden, mutamar shajae warri gisa kuf wa taab al mashakil yau sabab wa tasmiim le salam. Kan amulu ijtima ta maarefa, asan sibu mumasiliin ta mujtama asan kelim an kuf ta harb wa tasiiraat tou al shaksi, haja tani al muhim kan masal, includinfugu dabau tor al abiyad asan bi warri itifakiya.¹²² Nisba le wahid min mushtarik, itifakiyaat amuluu fi Wunlit saadu asan amulu houdoud wa nagisu mashakil dell kan hajaat al amuluu tawali fi zaman al ijtima kan gi wasoulou le nihaya. Kan tifaku inu kulu iyal al silu bi rijau wa bagaraat al sregu bi rijau. Houdoud bi gani kwies, Dinka bi ja wa Nuer bi ruwa. Asan kida mafi moutou ketiir.¹²³

Warri hagiga kan fi nous ta nijah ta mutamar ta salam fi Wunlit:

Furusa al ja wara ta takwiin ta mahkamaat al mahali al taklidi. Kulu nas al ma kwies kan wadi le humon furusa asan kelimketiir wakamil asan hajaat tumon ze kulu mumasil der. Mutahamiin dell ma sibu humon sasn kelim. Kan fi ihtiram le kulu zol al bi kelim. Gisaat tumon daeman bi ruwa sawa. Badeen fi furusa le abau lakin mafi abau min kulu jeha ta taniin. De yau silu le salam al fugu hajaat al amulu le salam, madau salam ja bad tou.¹²⁴

117 John Young, *Harb Ahliya fi Junub Sudan: Onf, jes wa amulu salam al ma kwies* (Zed Books Ltd, London: 2019), 36.

118 Baak Deng, "Traditional Justice Methods," 339.

119 Ibid., 340.

120 John Ryle and Douglas H. Johnson, "Sounou Hasil fi Wunlit? Tarik ta kasma ta 1999 Wunlit Mutamar ta Salam," Mashrou ta masouliin ta Adat ta Junub Sudan wa Rift Valley Institute, 2021.

121 Majlis ta kanisaat ta Sudan al Jediid, *Fi Juwa Sudan: Gisa ta Nas–le–Nas amulu salam fi Junub Sudan. Salam ta Nas, bi nas le nas* (Nairobi, NSCC: 2002).

122 Ibid., 50–1.

123 Ryle and Johnson, Sounou hasil fi Wunlit?" 94.

124 John Ashworth, "The People-to-People Peace Process," October 16, 2014, www.csrf-southsudan.org/wp-content/uploads/2021/06/people_to_people_v2.pdf

Dabau bagara al abiyad kebiir, arufu fi bi isim Mabior, bi nas kubar ta rouh takalid ta kulu mujtamaat, bi warri salam wa nihaya le mushkila huwo kaman waddi inzar inu ai wahid al tala barra min itifakiya bi ruwa fi sika ta tor al abiyad.¹²⁵

Tereka al kan dabau fugu tor al abiyad, nas ta kanisa ja wa amulu salawaat awal wa baden humon wagif fi taraf. Baden nas kubar ta kanisa min kulu Nuer wa Dinka ja wa nadi kulu nas tumon al gadiim wa baden humon katlu tor al abiyad. Nas ta kanisa bes gi ainu min baiid if tereka de, salam ja ben Nuer wa Dinka.¹²⁶

125 *Africa News Service*, "Sudan: Dinka, Nuer Endorse Proposals to End Conflict," March 29, 1999, <https://reliefweb.int/report/sudan/sudan-dinka-nuer-endorse-proposals-end-conflict>

126 Ryle and Johnson, "What Happened at Wunlin?" 102.

Tereka le adat wa adala ta takalid: tahadiyaat wa fursaat

Siyasa ta Adala ta Takalid ta Itihad al Afriki wafiru banamij ta shokol al wasae le kelimu fi adala ta adat fi kalam ta adala intikaliya.¹²⁷ Nisba le siyasa ta iklimiya, adala intikaliya reja le Shokol ta siyasa-rasiimi aw ma rasiimi /takalid-wa aliyaat ta muasasa ql mujtama silu asan kalugu zourouf le amen wa demokratiya wa tahwiil ta iktisad huwo gasid asan saadu mujtama fi kelimu fi wira-rasa ta mushkila wa mashakil al mafi fugu maana ta hougoug ta insan asan jibu adala, musawa, wa karama, baiid min intikam, gi rasimu fi sikaat ta adala takalid, mikin bi kun fugu hajaat ze marifa ta masouliya wa taab ta nas al dahiyaat ta harb, muzaharaat ta nadam, asalu le afu, tawiid, dafa tawiid wa musalaha. Humon lazim warri wa istamilu sawa ma ma aliyaat al resimi, ma ihtiram le Itifak ta Afrika fi kalam ta insaniya wa hougoug ta nas (akudu 1981, ishakalu fi 1986) wa protocol le itifakiya ta Afrika fi insan wa hougoug ta nas ta nouswan fi Afrika (Mapoto protokol protokol, al akudu fi 2003, istakalu 2005). Baden, AU Siyasa ta Adala Intikaliya wadi iktrah inu duwal:

- Musaada wa ihtiram ta mujtama al fugu aliyaat ta muhasaba al bi fetesu le amulu limu nas bi surawamusalaha;
- Arfa mushkila ta mujtama muasaat ta tawtiin fi mustawa kwies le gadiyaat ze tani, wafiru zol al ma lazim multaziim asan istamir wa rouh takalid al batal;
- Warri badiil wa mushkila al ma rasimi aliyaat ta karar fi zaman al dourouri;
- Dakalu kulu mumarasaat ta Afrika fi souloukiyaat alamiya wa mustawiyaat al bi arfa iltizam alamiya asan kalasu mashakil wa arfa salam, adala wa musalaha;
- Arufu musaada ta mumarasaat ta takalid al kwies wa souloukiyaat ta adat fi Afrika al wa-gifu asan bi kun bi istamil mutakamil le gadiyaat ta ijam le mujmu tani ta ijam.¹²⁸

Ze ma ashrahu, junub Sudan indu nizam ta ganoon ketiir al bi limu nizamaat al mutawazi ta gadaeya wa mahkamaat ta adat. Mahkamaat al gadaeya mahkamaat al gadaeya indu Soultat fug ketiir min ijam wa gadiya medaniya, ma soultat gadaeya fug mahkamaat ta adat. Le anu mahkamaat al gadaeya ma asisu fi ketiir min mukataat, mahkamaat ta adat yau mala makan de, gi alabu dor fi hilu mashakil fi mustawa ta mukata wa payam. Istamilu ganoon t a adat asan rijau

127 Siyasaat ta adala intikaliy Ta itihad Ifriki Jiizu sharar intin 2009.

128 Siyasaat ta adala intikaliy Ta itihad Ifriki, 2009.

bagi wa ilakaat fi mushkil ben nas ta mujtama, ma nikash, hiwar, waw a mushawaraat, ainu gubal istismal ta okobat. Kelim hagiga, tawiid, raja amulu muasasa, musalaha, wa fadi al ainu ze ilajaat asan rija tawazoun wa ilakaat ta. Salam¹²⁹ tadiyaat al al mahkamaat ta adat bi ligu fugu ma soultu fug ijam, “fursa ta tasawok, “dakalu ta siyasa wa mafi istikalaliya, wa tekenikal, wa subaat fi gudra maliya al kutu houdoud le gudraat tumon.¹³⁰

Kalamaat ta mushkil ben mujtamaat wa intihakaat ta hugug ta insan al saab mesiilu tahadiyaat ziyada le adat ta adala nizamaat fi junub Soudan. Masal, fi noa jediid ta mashakil ben mujtamaat dakalu fugu shabab ma silahaat al batal gi istamil taktik ta jes:

Aniina, Soulateen, silu guwa ta aniina hassa le anu fi silaha fi ideen ta muwatniin. Hassa fi Amongpiny mukata (Rumbek sherk), shokol tai bes asan kelim ma shabab ta Gelwweng (milishiya adaa ta defa ta bagaraat al mahali) fi zaman al istamiir fi kutu wa asan amulu hajaat akaab, huwo kun le shabab ta Gelweng asan ihtaram anna wa asma le kalimaat aw abau asan gabilu kalimaat tai. Shabab hassa indu silah wa hal soultan bisgder warri humon al hagiga humon bi ainu humon indu guwa ketiir asan hadidou soultan bi silah al jahiz asn douroubou.¹³¹

Fi zaman ta Dousman, nougoulou ta guwa min nas kubar–silu nizamaat ta takalid le shabab ma sila bi alisu nizamaat hukum ta takalid. Huwo kaman isbat fi nas kubar ta takalid tekenic mahdoud wa gudra maliya asan hilu hukumaat tarik al muaagad al hariku mashakil ben mujtamaat ketiir min kida, ahzab al ta mashakil humon hassa ze nas guraba al bi kun shuwiya asan kelim fi kalam Hadiya ta tawiid ta adat. Okobat Fi nizamaat ta takalid mikin kaman bi kun shuwiya himaya, kasa fi nous ta nas al indu silah. Fi akiir, ma fi bolis fi mustawa al mahali maana tou soultanaat ma bi agder asourou okobaat.

Daera ta mashakil al bi istamiir fi junub Sudan humon indu ilaka ma zouloum fi mustawa al mahali al alabu fi zaman al nas min mujtamaat barau dakalu. De fugu tasiir al akiir ta silu jina fi hala ferdi wa kof ta mujtama wa zouloum natija ta min fukdan ta hayat onf ta jes, aw nyakamu bagaraat (ma tabiaa ta bagara al huwo yau Masdar kebiir ta hayat). Ihanaat al mujtama wahid yau sababu diid tani bi agder kalagu ilakaat batal wa amal ta rejau al gasid asan istamiir wa zidu mashakil de bi kun amulu akaab min bi hagiga inu wilaya bi kung aeb fi mustawa mahali, ma mujtamaat gig ani ze humon barau; humon indu fikra asan limu fi Dousman fi haja al hasil al humon kalas humon tafiku fi ijriaat tasalam, wilay atani mara gaeb kebiir asan wasiik wa asourou natija itifakiyaat. Bad kida, tereka ta itifakiya daeman fashal kamil gadir mustawa ta zouloum.¹³²

Mumasil Fi kalamaat dell, ijriaat al fugu adala ta adat deru asan bi kun akudu le ketiir jawab al kwies le zouloum al mahali wa tagiir ta guwa bi shajae fikra ta lakabatu, huriya, wa tereka ta abnu salam mahali, le faeda ta itafikaya al madua ashkal ta salam.¹³³ Fi ihtiram de, lazim bi kun masah asan kefi bi wazau hifiz wa aliyaat ta mushkila ta takalid fi ilaka le PPP ijriaat ta musalaha. Lakabatu bi agder hasiin mulkiya, musharaka hifaz, wa itiraf rasimi ta PPP musalaha mumasilta masouliin ta takalid. Mumasiliin fi nizama ta dala ta hifiz bi agder wafiru daam le PPP musalaha ijriaat bi takid tadrīb ta maharaat, masadiir, gudra, wa marifa fi mawjoud ijriaat ta musalaha PPP lazim bi sibu dahaya fursa asan bi warri hagiga tumon fi zourouf al mafi mushkila wa wadi maluma ta

129 Baak Deng, “Aliyaat ta gonun ta adat,” 335–8.

130 Ibid.

131 Ryle and Johnson, “Shunu Yau hasil fi Wunlit?” 102.

132 Abraham Awolich, “The Layers of Grievances in the South Sudan Conflict,” *Africa Up Close* (blog), Wilson Center, September 21, 2018, <https://africaupclose.wilsoncenter.org/the-layers-of-grievances-in-the-south-sudan-conflict/>

133 Agwella, “Abinu salam be theriga mahali,” 66. Aiinu kaman kitaba ta Hikaru Yamashita, “Abinusalam wa salaam murakab,” *Mussasa algowmi ta dirasat ta difaa*, 2014.

kibra tumon. Gubal amulu mutamaraat ta mustawa al fug, nas kubar ta takalid wa mahali lazim kaman bi amulu istisharaat fi mustawa al tahat fi tabia ta Dousman al mahali wa azaat taab. Aktar min kida, noa de min amsoukou mustawa al tahatma mujtamaat al mutassir lazim bi wari iljaat ze rija wa shokol ta okoba ze asas le abinu sika wa muhasaba. Wa wasata al fi nous, ze NSCC fi mutamar ta Wunlit, bi agder saadu mujtamaat wan as kubar al gidam fi hajaat ta ihtimam al saab griib wa saadu ahzab fi daiigu talab tumon fi jeha ta itifakiya wilaya gi rija wara ijriaat bi kun saab asan guwi ijriaat wa wafiru daman le natija. Mafi rija wilaya wara huwo yau sabab al raiisi le waga ta ijriaat wa rija le Dousman.

Lakabatu bi agder kaman fugu tahwiil ta damar tani le tuhuma le mahkamaat al kas aw mahkamaat al mutaharik al kas. Hina, gadi ta ganon (ma dourouri zol al bi gani fi wilaya dak) bi kun limu ma nas ma soultanaat (kaman ma dourouri min nas gi dousman aw ahzab. Gadi bi gani fi mahkama wabi saadu ma soultanaat al bi stakal mustashariin fi hajaat ta ganon ta adat ta gadiya. Karar ta gadi bi kun asourou le ahzab. Mahkama al kas bi kun mutaharik wa asan kida bi hariik min makan le makan asan bi kalim fi gadiyaat ta mashakil ben gabiila, bad maraat ma itisal amuluu ben mahkama kaswa ijriaat ta PPP. Fi, mahkama al kas gani zaman al soultanaat kubar wa nas ta mujtamaat al gi Dousman bi agder itafik asan hilu gadiyaat taniin, mahkama al kas gani wa hilu adad mahdoud min mashakil al fadoulou ze silu iyal aw tawiid ta doum le nas al katoulou.¹³⁴

Junub Soudan indu kibra fi kaat dell, mahkama kas kan kawinu min gudaat min wilayaat wa soultanaat ta payammin manatik fi sual. Kararaat tou bi agder amulu istinaf le mahkama ta istinaf. Tarika tani huwo istimal gudaat al mutharik, al junub Soudan gadaeya wazae fi makanaat taniin mahkamaat mutahariik kas fi wilaya Buhiraat masal, arba mahkamaat kas kan kawinu asan arfa gadiya seregu bagaraat wa dakalu fi nous wa dakalu fi mashakil ta gabiila Dinka wa nas ta Atout. Fatra ta 10 sena baaden fi 2021, mahkamaat al kas jediid kan kalagu asas fi ijriaat ta musalaha ta PPPfi Shahar 11 2020.¹³⁵ Gudaat al kas al mutaharik kan kaman rasoulu le Akobo, Jonglei, asan asma gadiyaat ta katoulou al silu le mashakil ben gabiilaat wa silu nouswan, nas min Akobo takarir tumon fug fi mustawa maksoutiin ma mahkamaat al mutaharik wa kalimu niya le humon asan bi istamilu ketiir.¹³⁶ Kul hal, hukuma ma hafiz mumarasa.¹³⁷

Masalaat dell ashir le ihtimal nizamaat ta asan jawbu le mashakil adala ta adat a la bi raba al hugug. Mahkamaat al kas wa ijriaat ta musalaha ta PPP ma bidoun tahadiyaat, kul hal, gi tala min musada ta siyasa al mahdoud mujtamaat al fadoulou fi mashakil asan musharaka ta mumasiliin al asisu wagiin ta Dousman (ze mumasiliin ta siyasa aw shabab) le al mahdoud wa musaada Teknik Wadi haja majani deru fi istikdam aliyaat dell asan bi agder hasil le muhasaba, hagiga, musalaha, rija le makan wa ilaj. CTRH bi kun istratijiya mumasil fi jibu musaada al majani.

134 Zejin Yin and Alahayi Nemaya, "Joint Special Mobile Court Resuming Work on Cases Related to Cross-Border Cattle Migration," UNMISS, February 10, 2023, <https://unmiss.unmissions.org/joint-special-mobile-court-resuming-work-cases-related-cross-border-cattle-migration>. See Also Zejin Yin, "Rule of Law Gets a Boost with Joint Special Mobile Court Resuming Operations in Gette," UNMISS, June 28, 2022, <https://unmiss.unmissions.org/rule-law-gets-boost-joint-special-mobile-court-resuming-operations-gette>

135 Internal Cattle Migration Conference, Airport Hotel, Rubek Lake State, South Sudan, November 17–20, 2020, 2331. See also Michael Daniel, "Lakes State Establishes Special Courts to Tackle Communal Violence," *Eye Radio*, August 29, 2021, www.eyeradio.org/lakes-state-establishes-special-courts-to-tackle-communal-violence/

136 David K. Deng, "Tahadiat ta Muhasaba: An Assessment of Dispute Resolution Processes in Rural South Sudan," 40.

137 Ibid.

Adala ta Adat dakil shokol ta adala intikaliya (R-ARCSS fasiil V)

Fasil V ta R-ARCSS bi wadi shkol ta hukuma al hasade le ijriat ta adadla intikaliya fi junub Soudan. Nagisu ze jousou kabiir min itifakiya ta salam R-ARCSS, huwo hadidou terek al ijriat ta adala ta intikaliya humon afrod asan wadeh. Huwo fi awal I wafiru le kawinu CTRH, CRA, wa mahkama al mushakal le junub Soudan.¹³⁸ Kulu talata aliyaat deru humon asan arfa ahdaf al aam ta hagiga, musalah, ilaj, tawiid, wa tawiid fi junub Soudan.¹³⁹

CTRH gasidu asan bi kun jousou al saab ijriat ta abinu salam. Huwo wadi masouliya tou le shokol ta nas al gidam asan kalim fi hajaat ta Dousman wa arfa salam wa musalaha al watani wa ilaj.¹⁴⁰ Huwo kaman wadi masouliya asan amsoukou shokol asan saadu musalaha al mahali wa ilaj.¹⁴¹ CTRH talabu min humon asan kalagu sajiil al kwies ta intihak ta hugug ta insan, warri mujrimiin fi makan al humon fi fugu, wa wadi ilaj, fugu tawiid wa dafa tawiid la dahaya.¹⁴² Saab ketiir, indu ilaka ma adala ta adat, CTRH wadi masouliya le:

Fi makan al kwies, ijriat ta muragaba ta karar ta mushkila ta takalid, musalaha wa aliyaat ta ilaj. Fi kalam de wa bidoun Itimad le aliyaat ta adala ta takalid amulu ijriat ta shokol al kwies le shokol ta al baden ma ganoon ta adala al tabae.¹⁴³

Houdoud ben CTRH wa ijriat ta musalaha ta PPP bi agder kalagu bi arfa hajaat dell. De bi wadi le CTRH asan wagifu tanzim ta ijriat ta musaada ben mujtamaat al gi dousman, ma nazra le istimal ta nizam ta adala ta takalid. Ijriat ta musalaha ta PPP lazim bi ligu tawjeh min CTRH fi terekaat fi ijriat tumon bi agder silu min mumarasaat ta adala ta adat doll wa ijriat ta musalaha ta PPP al fat. Ai ganoon kaman deru asan akidu inu adala ta adat wa ijriat karar ta mushkila hadaf le saadu lee hagiga, musalaha, ilaj, tawiid wa dafa tawiid.¹⁴⁴

Nas al bi jawbu amulu mugabala le deris de fi gadiyaat taniin ta ijam al katar mikin bi hawiilu le CTRH bi masouliin ta takalid iza gadiyaat kan kutu kwies fi masouliya tou wa dakalu Dousman al kan indu jousour fi asiima wa, asan kida, katiir min gudra tumon. Baed, hajaat taniin al jibu bi mujtamaat mikin bi hawilu le masouliin ta takalid bi CTRH, ma ganoon al kwies fi tereka ahsen le tawtiin. De mikin bi limu hajaat al jahiz fi mustawa tumon kas doll al bi kun

138 R-ARCSS, art. 5.1.1.

139 Ibid. at art. 5.1.3.

140 Ibid. at art. 5.2.2.1.

141 Ibid. at art. 5.2.2.3.8.

142 Ibid. at art. 5.2.2.3.

143 Ibid. at art. 5.2.2.3.9.

144 Ibid. at art. 5.1.3.

fi tabae ta mujtamaat, gi talabu talabta takalid wa ganoon ta adat. De lazim bi kun silu le fihim inu huwo bi muhim katiir wa kwies le musouliin ta takalid asan amsoukou kalam dell min mahkamaat tumon aw ijriaat ta musalah min mahkamaat gadaeya.

Kan wadi shokol guwi wa marhal ta Shakila wa netija tou al asifu fi junub Sudan, kadamaat kamil ben CTRH wa tawasul ta salam mahali wa adala lazim bi fetisu.¹⁴⁵ Bii wanousou ketiir fugu inu al hukuma lisa indu dor muhim al bi alabu, mabes fi wadi amen wa amulu tawasul ta adala takadlid, lakin kaman koutou fi amal hulul ta kalamaat al wanousou al tala min jousou kas ta tawasul ta musalaha ta PPP,¹⁴⁶ mumasiliin taniin al muhim fi missal ta PPP musalaha yau gisimu diniya, majmuwa alami wa kuwmi al ma hakumiya wa alamiya hakumiya asan humon bi agder saadu fi mantija ta sowt wa melimaat ta netija wa bi amulu mutaba ma hukuma fi niyaba ta mujtamaat asan bi akidu tenfiz ta itifakiyaat. Ma kalam de fi ras, al CTRH bi agder ainu wa wadi mugadim le adala ta takalid wa tereka le hulul ta shakuwaat fi ahiya al wadi:

Wari hagiga. Mutamar ta salam fi Wunlit wari inu maluma ta ham al foutou bi agder kun haja muhim fi tawasul ta salam. Al CTRH asan kida bi tala tagdim le shokol ta adala takalid, bi wasahu tawasul ta salam kowmi fi mukataba fi muhawal le wari hagiga. Kashumon bi asalu humon kede taki le terika ta tawasul le zol al fi waja al bi wadi mizan ta asirar wa himaya fi mahal al bi agder le del al waga fi mushkila, al deru kede asumau humon, sawa ma terika ta ainu mara wa rajil sawa le himaya ta mara wa banaat al al deru shareku. Zekriyaat wa isaraat tabiya al bi bienu alamaat ta ta musalaha kaman mawjoud fi amaliya ta adat wa takalid fi junub Sudan ze katibu ma mutamar ta salam ta Wunlit wa mutamaraat taniin ta salam. Al CTRH asan kida bi sejae tawasul le musalaha ta PPP. Asan bi koutou fi amal zekiriyaat wa hajaat fi takalid al bi zaraabiu–dakil min kulu musharikiin, asan bi sejaemusalah ta mujtamaat.

Dafadafa. Mada ta hakuma mahali fi junub Soudan fi 2009 ganoon wafiru inu “tawiidaat al kweis bi wadi le nas al asiir bi Dousman al galataat¹⁴⁷ fi nizam adala ta adapt ta junub soudan, ijrām mikin bi amuluu asan dafa tawid le nas al asiir fi Dousman katiir min tawid. Dafa de bi wari alama ta afu wa masa bara ta haja batal min de al amulu galta le del al awugu wa al mujtama.¹⁴⁸ Dafadafa kaman gi moutou ma amal ta sibu fi mujtamaat ta junub Sudan le kutu al ma gasidu.¹⁴⁹ Fi terikaat ta mahkama ta takalid, fahimu gali dafa ta diya ma masouliya ta zol al amulu galat wa asuru tou barau, lakin limu fugu mujtama ta de al amuluu galat fi dafa ta diya gi beinu marufa ta galat, indu fikra le musalaha wa intizam sawa sawa asan bi koutou nihaya le hajaat al batal wa bi hafizu sikil hajaat zede min hasil tani mara.¹⁵⁰ Haja tani al gi amulu tawali yau dafa ta diya dafa le hajaat al seregu aw al kasuru ze bagaraat al seregu wa diya dafa le down kan fi moutou. Kalamaat al wanousou bi wasat majmuwaat al madeni wa rabita ta nas al tahat le salam wa wanousou sawa, amail de bi agder wadi terika al hilu le wanousou hulul ta istimal al bi kun masoul le dafa diya al bi roudou inu al mujtama yay bi silu masouliya dak.¹⁵¹

Dafa garama kaman bi limu fugu dafa ta ai haja al seregu aw wadourou, al yau maruf katiir fi amail takalid.¹⁵² Rija ta hajaat al seregu de limu fugu bagaraat, de yau amail al gi hasil tawali fi tawasul ta salam fi junub Sudan. Lakin fi mujtamaat taniin, garama le katoulou al bi gasidu,

145 Paul Seils, *Handbook on Complementarity: An Introduction to the Role of National Courts and the ICC in Prosecuting International Crimes* (New York, ICTJ: 2016), www.ictj.org/publication/handbook-complementarity-introduction-role-national-courts-and-icc-prosecuting

146 Agwella, Abinu Salam, 171.

147 Hukuma ta Junub Sudan, Ganoon ta Hukuma Mahaliya, 2009, Section 98 (3)(c).

148 Ntanda Nsereko, “Dahiyaat ta Ijram wa hugug tumon,” in *Criminology in Africa*, ed. Tibanfanya Mwene Mushanga (Nairobi, Law Africa Publishing Kenya Ltd: 2004).

149 UN Barnamij ta Tanmiya, “Gwaniin ta Adat fi Junub Sudan,” 10.

150 Agwella, Abinu salam, 171.

151 Bronwyn Anne Leebaw, “Ahdaf al agder amulu Musalah ta Adala Intikaliya,” *Hugug Insan* (30): 2008, 6.

152 Itihad ta Afrika, Itihad ta Afrika Siyasa ta Adala Intikaliya, 2019, paras 65 and 66.

fi fugu nizam ta jawouzou ta binya suker le bidal ta rija wara al katoulou de; de lazim bi wanou-sou wadeh silu bara asan mustawa ta hugug ta insan alami.¹⁵³ Al CTRH lazim bi tabi mustawa ta hugug insan alami wa amail al aksan, kan gi wadi tawsiya ta dafa le del al dahiyaa.¹⁵⁴

Asalu CTRH asan keda tala gawaniin al gedimu an garamaat wa dafa dafa al bi koutou fi gidam tarabeza resimu ta Barلمان al kowmi intikaliya le tasdig, gawaniin de bi talabu ma souлта ta wilaya, souлта ta takalid, nas al dahaya, wa taniin al musharikiin, kas nouswan, asan bi akidu humon roudou le kalam de wa hak wa hajaat al nas al muwagiin de deru. Mizan ta dafa dafa wa amail de bi wadi malouma tou wa amail ta takalid, ze dafale haja al wadourou aw karabu, dafa diya le dom, garama ta maliya / gurush, intizar, wa fi mahal al bi wari inu hajaat al amulu diid ganoon, bi hukum ma hakuma dakliya aw souлта ta wilaya, limu sawa dafa dafa min al wilaya.

Muhasaba. CTRH bi agder wadi ganoon mugadim aw muhasaba, limu fugu sikilaat ta gadaya al PPP tala bi silu le mahkamaat al kas wa mahkamaat al limu sawa kas, ze del al fugu nyakamu nouswan, katoulou katiir, tanfiiz, azab, wa ijram taniin al saab, al souлта ta takalid ma indu hukum fugu aw fikir nefsa tou indu hak le silu karar resimi. Kulu al hal, tawusul le musalaha ta PPPbi agder silu ijram taniin al amulu fi Dousman dakil mujtama–ze karabu hajaat wa seregu ta bagaraat–le souлта takalid wa mahkamaat ta adat al humon bi indu idara souлта resimi fugu.

Fi itifakiyaat katiir al mahali, ze itifakiya ta Waat Lou Nuer wa itifagiya ta Liliir, idara resimi bataniya yau jouzou ta hulul al roudou fugu. Fi hajaat katiir–asan ma gi amulu mutabaa. Mizan muhasib, hata kan tawasil ta musalaha ta PPP wadi tawsiya le humon, netija tou fi amaliya hagiga resimi, bi tafasil. Wadi hak resimi gasidu fi hulul ta mushkilaat ben Jikany wa Waat Lou Nuer Akobo, al hilu bi wasata mutamar salam ta Jikany wa al Lou fi 1994¹⁵⁵ wa del ben Dinka ta Bahar El Ghazal wa Nuer ta garb ta Upper Nile, al hile fi mutamar ta salam Wunliit fi 1999. Wadi adat ajib ta kusaraat (moutou), netija min mushakilaat del, al mujtamaat hazilu le ganoon resimi min hakuma bidal garamaat. Fi ganoon ta adala intikaliya fi Wahida ifrikiya, idaraat bi wasifu ze tereka aam le galtaat.

Fi mahal al gi istamilu fugu gawaniin ta ta tawusul ta adala intikaliya, bi limu sawa ma musharaka wa maluma ta mujtamaat al indu tasiir, sawa ma majumuwaat al muawag, humon kaman bi ainu le hak ta ilaj le zol al awugu, bi bi kusus fi nihaya ta hagiga wa dafa le hajaat al hasil. Tawusul ta adala intikaliya kede ma roudou “bataniya” aw le idara al ma ganooni, al ma bi sibu kede fetisu kalam ta ijram al saab.¹⁵⁶ Nakisu gali, tala ta idaraat kas ganoon mafi fugu zourouf wa mafi fugu ai wazin ta muhasaba, wadi furusa le lifu lifu ta onf wa dafa wara batal bi batal. Asan kida al CTRH bi wadi mugadiim ganoon le souлта takalid aw kef ganoon resimi bi talau al bi akidu inu humon bi lesegu le mustawa wa awal ta hugug insan dawli.¹⁵⁷

153 Junb Sudan foutou le Hukum Alami fi hugug Madeni Siyasi fi 2019.

154 bad min dafa dafa mikin bi kon ma kifaya asan mala aina Hugug ta Insan alamiya mustawa wa gawaniin ta Junub Sudan masal, dafa dum le katoulou lazim be kon limu ma ukuba ta ijram al waddi le humon asan kadimu ahdaf bara barau. Criminal saukubaat ta ijram bi amulu tawsiya asan akibu nas wa amulu musalaha huwo ma Wilaya, Fi zaman dafa ta takalidta tawiid gasidu asan musalah ta mujtamaat al asiir.

155 Markaz ta Afrika le talab ta Insan (ACHA), “Takarir fi Jikany/mutamar ta salam ta Lou amulu fi makan ta Riang, Sharik ta Upper Nile min 1st to 5th Shahar Talata 2004,” ACHA, Nairobi, Kenya, 200, www.peaceagreements.org/masterdocument/2530

156 Itihad Ifriki, Siyasat ta Adala intigaliya, Fasil 89 wa go.

157 Ayinu Kulu, Maktab ta Mofowodia ta Musaadat Alinsania ta Umam Al-Motahida-Aliyat ta Siyada ta Gonun le beled altala bara mini Dusman, Afuat, 2009, www.ohchr.org/sites/default/files/Documents/Publications/Amnesties_en.pdf

Nihaya

Mashakil wa onf al bi istamir hasil fi mahalaat fi dawla wa fi dakil mujtamaat de, fi fi jebaat ta junub Sudan wa indu tasiir kebiir fi haya wa maiisha ta ta nas al mahali katulu bi gasid, damiru mumtalakaat, seregu bagaraat, mashakilonf ta jenis, gubudu nouwan wa iyal, jerejere bara min mahal taki bi guwa. Gani bidoun akil bi guwa, del yau hajaat taniin al batal mujtamaat gi tabu min fugu fi mashakil al silu sanawaat katiir. Hala al gi istamir ma lifu lifu ta dafa dafa batal le batal wa gi ruwa katiir asan ganonon dakil mafi. Al bi dakalu wa bi kelim la la, aw bi asuru ganonon al bi gubudu del al masoul le hisab.

Nizamaat ta adala ta adat, silu masouliya kebiir ta mashakil fi junub Sudan, hata ma resimu humon asan bi silu waja al ja min lifu lifu ta mashakil dakil mujtama, hajaat batal al hasil aw gisaat al bidoun adala fugu asan houdour ta wilaya mafi fi marhal mahali wa tereka ta adat ma bi agder ganonon masouliya fi hajaat batal al amulu diid ganonon, soultaat takalid istamir, amulu fi tereka yumon al barau le salam wa musalaha, bes ze tawasal ta musalaha ta PPP. Tawasal de fi fugu jibu musaada min mumasiliin bara, wilaya al fi fugu wa maraat bi kalasu fi mutamar wa tifakiya al wounousou fugu sawa, al fetesu tereka ta jibu wara hanan ben mujtamaat al indu tasiir, bi wasatjibu juwa tareka ta tawasal fi takalid mahali.

Bara min katawaat ta salam mahali del, mashakil al gi hasil tani fi mahalaat taniin. Wahid min asbab le istimal ta onf yau asan wilaya dakil mafi al bi amulu itfakiyaat ta salam mahali wa bi kamilu gawaniin tou tahat al itfakiyaat, limu fugu amulu hukum ta ijiram fi mahal al deru, bi istemir. Aktar min de, sibu bes ze mutamar ta salam fi wunlit, maluma kan ma moujoud. Dafa dafa aw muhasaba fi katawaat ketiir le musalaha ta PPP, ta hajaat al kas amulu diid hugug al sibu tabu ketiir le muwagiin, ma musharaka ta alela al muawag bi nefusa tumon mujutin. Kaman dakliyaat al bi abusu kalamaat al asan kede makeriru nefsa. Ma moujoud bardu. Dry au safa muhim al deru fi katawaat ta salam, le anu salam bi hafizu bes kan sawagiin ta mashakil—ze shokol misikiin, furusa besit wa hajjat al bi koutou shokolkwies fi belted de besit), wanousou fugu fi tijah ta tanmiya ze bi wasat kadamaat ijti maeya, silu silahaat bara min muwatiniin, tereka ta ilaka ta sadaka ben kulu nas, ganonon wa idara, adala le kulu, wa taalim aam wa taalim an gani al kwies. Hugug wa kadamaat ta muwatiniin fi beled. Fi nihayafii sukut kan an kalamaat batal al gi amulu le nousouwan wa banaat, al gi jibu ham aw waja galiba, batal al gi amulu le nouswan wa taalil fi tereka ta adala takalif de, fadulu haja kabiir al bi koutou bal fugu kas haja ze ijram ta nyakamu al kaab (rija ketiir noum ma wahid mara).

Katawaat ta musalaha fi PPPindu guwa ta hilu waja galiba al gi sugu onf dakil mujtama fi mahalaat taniin fi dawla. Asan deru kede gabilu katawaat ta adala takalid fi terekaat del. Lakin guwa ta amsliya besit tahat. Mumasiliin min bara ze umam al mutahida (UN) yau gi saadu shediid fi

katawaat ta musalaha ta PPP. Natija bi tou yau tifagiyaat katiir ta salam. Arufu guwa ta katawaat de lazim kede shukuru wa, wa aktar musaada bi wadi le CTRH, asan huwo gi fetisu limu sawa, hadaf ze hagiga, musalaha, muhasaba, wa dafa le hajaat al wadourou aw karabu, fi dakil katawaat del. Wadi masouliya tou tahat safa (V) ta R-ARCSS, al CTRH, bi indu fursa le musaada wa Tanzim ta katawaat ta musalaha fi PPP.

Takrir de gi wari hajaat al deru asan bi jibu sawa istimar min tahat le fug wa min fug le tahat, kan gi amulu mukataba le katawaat ta PPP musalaha. Hajaat ta tahat le fug de bi wadi guwa ta salau min al tahat al bi wari ai haja natija ta mutamar salam aw wursa-amal. Ma ai itifagiya al ligu ganoon resmi wa musaada. Del al ta fug tahat de hajaat tou bi fetisu dukul ma katawaat mahali fi taalim wa tala min malumaat mahali asan bi wari kutaat al waseh fi houloul ta mushkilaat fi dawla. Fi mahal fadi le sikil tahat le fug wa fug tahat katawaat al bi wadi mugadiim ganoon al bi zaraa guwa sabit, wa ainu zol mahali al arufu shokol, al bi agder silu le musaada tawali le hal ta mashakil dakil mujtama wa al bara min mujtama, fugu ma tereka ta katawaat le adala intikaliya.

Tawsiiyaat

Le masouliin ta takalid wan as kubar al mahali:

- Silu katuwaat ta nas al tahat fi hajat al humon bi asalu fi kuta fi mutamar ta musalaha ta PPPwa wadi hulul.
- Silu fi mahal al mikin katawaat wa terekaat ta adala intikaliya, ze wari hagiga, markaz ta del al amulu haja batal le humon wa indu wajafi galiba, limu nouswan wa rejal, dafa ta gurush aw haja tani, haja batal kede ma kariu nefsa tani, wa muhasaba.
- Asisu aliyaat ta muragaba al gadiru iza kararaat ta Itifagiya ta salam gi ruwa wa kelimu ziyada min ta mutamar, limu ma katawaat adala.

Le CTRH:

- Koutou nefsa taki sawa ma soultat ta takalid fi warri mahalaat ta shokolsawa, wa jibu nas al jahiz fi shokol hinak, bi shediid, mumasiliin al fii, ze al fi mada 5.2.2.9 ta R-ARCSS.
- Wafiru tawjeh le takalid wa soulataat ta adat fi tarekaat ta adala ta intikal fi shokol ta hagi-ga, muhasaba, musamaha dafa tawiid, tawiid, wa ilaj al reja katibu fi gisim V ta R-ARCSS.
- AINU shokol, wa fi ai mahal al kWIEs, bi wadi tawjeh le mumarasaat ta adala ta adat dakil ijriat ta musalaha ta PPP, fi dafa ta haja kas al akidu wuguf tumon fi marahlaat ta itifagiya al amulu.
- Wadi guwa musaada le musharikiin ta takalid wa mugadimiin taniin mahali, limu fugu tadrrib wa zekiriyaat, asan bi sibu netija kwies le katwaat ta PPP.
- Wadi tawjeh fi ganoon resmi ta hakuma wa hukum le jerima ta haja al amulu batal fi kulu katawaat ta PPP.
- Ze fi mada 5.2.2.3.6 ta R-ARCSS, fetisu sawagiin ta mashakil wa amulu tawsiya al bi akidu inu, mafi onf tani bi rija amulu mushkila.
- As per article 5.2.2.3.6 of the R-ARCSS, investigate the drivers of conflict and make recommendations to ensure non-recurrence of violence.

Le Wazara ta Hukuma Mahaliya wa Wazara ta adala wa shoan dastouriya:

- Wadi musaada le CTRH asan dakalu ma katawat ta dakil adala ta takalid shokol ta safha ta R-ARCSS.
- Salam ta watan wa muhawalaat ta musalaha wa sajae mujtamaat asan silu ijriaat ta PPP asan hilu Dousman be gabiila
- Wasiku itifakiyaat ta salam al mahali, kas dell ma adala waw a hajaat ta muhasaba. Mutahamiin kutu fi makan wa tahariyaat asan bi istakal ma muhawalaat ta PPP wa gawi muhasaba al talabu bi mutahamiin al amsoukou gidam ta mahkamaat al kas.
- Asisu tawiid wa gurush ta rijau nas wa saadu mashakil al asiir ma mujtamaat ze fi makal 5.4 ta R-ARCSS.
- Asisu rija abinu kas le gurush asan rija abinu douman-al asiir fi manakikaat wa abinu asas buniya tahtiya, ze fi makal 3.2ta R-ARCSS.
- Asisu mahal ta gurush le tanmiya ze fi mada 4.15 ta R-ARCSS kas besii, mahal al bi dakalu gurush showeya-showeya, wa de bi kun kusus le nas ta kariya wa le nouswan bi nadi Sherika ta tanmiya le nouswan wa shabab, gasidu nouswan wa shabab al mashakil asiir ma humon shadiid.

Le hukumaat ta wilayaat:

- Sawa sawa ma hukuma Wataniya, bi hariku wa kutu gurush le ijriaat ta mualaha ta PPPasan bi amulu fi tasiir tumon al fi.
- Wasik natija ta ijriaat ta musalaha ta PPP asan amulu fi muragaba tumon.
- Saadu fi ijriaat ta PPP bi muragaba al tamam wa ainu tanfiiz ta karar tumon.

Le mahkama:

- Saadu fi shokol ta ijriaat ta musalaha ta PPP fi zaman al humon amulu tawsiya asan kawinu mahkamaat al kas asan bi saadu adala wa kawaat musalaha.
- AINU katiir min gudaat fi fi mustawa ta kawnti.
- Amulu takwiin ta barnamijaat asa bi saadu abinu ta gudraatle ta muwazifiin ta mahkama ta takalid wa adat, asan bi sibu humon wafiru kadamaat katiir le mujtamaat al mahali.

Le Mujtama madeni:

- Wanousou (le kwies ta nas) wa shejae gubal akudu ta ijriaat ta musalaha ta PPP fi shokol ta mashakil al fi, hilu zouloum al tariki al istamir hasil wa shajae wohda.
- Amulu tawaeya ben mahali wan as kubar ta takalid wa muwatniin fi ihtiyaj asana kudu ijriaat ta musalaha PPP al bi kun jahiz ma adat ta hugug alami fugu musawa ta noa wa musawa ta gawaniin.
- Wafiru musaada fi Teknik.
- Ragibu ijriaat ta musalaha ta PPP ma Nazra asan amulu sajilaat, tasjiil, wat aba kitabaat guwii tumon wa doaf wa bi agser gaiiru deriss al alimu fi mantika.

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