

THE ROLE OF CUSTOMARY COURTS IN RESOLVING LAND DISPUTES:

A CASE STUDY OF MUNUKI PAYAM, JUBA CITY, SOUTH SUDAN

MICHAEL GORJIN KUOL

**A Thesis Submitted In Partial Fulfilment of the Requirement for the Award of the
Degree of Master of Science in Governance, Peace and Security in the Department of
Governance, Peace, and Security Studies, School of Humanities and Social Sciences of
Africa Nazarene University**

June 2025

DEDICATION

I dedicate this work to almighty God and my beloved wife, Sandy Kueth Arop Kuol, my beautiful and bright children, Jany Michael Gorjin, Goi Michael Gorjin, Mal Michael Gorjin and Richard Rit Gorjin.

DECLARATION

I declare that this thesis is my original work and has not been presented to any other examination body. No part of this research should be reproduced without my consent or that of the Africa Nazarene University

Name: Michael Gorjin Kuol

Registration No.: 21J01DMGP021

Signature:

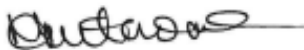


Date: 26th June 2025

This Research project has been submitted with the approval of the University Supervisor.

Supervisor: Dr. Odhiambo Orwa

Signature:

for 

Date: 26th June 2025.

Supervisor: Dr. Violet Nasambu Barasa

Signature:


for.

Date: 26th June 2025.

Africa Nazarene University

Nairobi, Kenya

ACKNOWLEDGMENTS

My special gratitude goes to almighty God for his protection and wisdom. He granted all the support and me through to this very end. I would like to acknowledge my advisor and mentor, Dr. Simon Muthomi, during this journey for his endless support and guidance to enable me remain resilient. I also acknowledged my supportive supervisors, Dr. Odhiambo Orwa and Dr. Violet Barasa, for their dedication and amazing collaboration during this process. In a very distinct mode, I recognize the academic staff of Africa Nazarene University, more precisely, the Department of Governance, Peace, and Security Studies, led by Dr. Emily Okuto, whose supportive attitude encourages and empowers me to complete this study.

Additionally, I acknowledged the contributions of my friends, more particularly, Ganji Felix who reinvigorated me to do this study, shared with me several literatures and books, and motivated me in this academic journey. God bless you all.

TABLE OF CONTENTS

DECLARATION.....	Error! Bookmark not defined.
DEDICATION.....	i
ACKNOWLEDGMENTS	ii
TABLE OF CONTENTS	Error! Bookmark not defined.
LIST OF TABLES	ix
LIST OF FIGURES	x
ABSTRACT	xi
DEFINITION OF TERMS.....	xii
ABBREVIATIONS AND ACRONYMS.....	xiv
CHAPTER ONE	1
INTRODUCTION AND BACKGROUND OF THE STUDY	1
1.1 Introduction.....	1
1.2. Background of the Study	1
1.3. Statement of the Problem.....	6
1.4. Purpose of the Study	7
1.5. Objectives of the Study	7
1.5.1 General Objective	7
1.5.2. Specific Objectives	7
1.6. Research Questions	8
1.7. Significance of a study.....	8

1.8. Scope of the Study	9
1.9. Delimitations of the Study	10
1.10. Limitations of the Study.....	10
1.11. Assumptions of the Study	12
1.12. Theoretical Framework.....	12
1.12.1 Legal Pluralism	13
1.12.2 Participatory Justice	15
1.12.3 Institutional Capacity Theory	18
1.13. Conceptual Framework.....	21
CHAPTER TWO	25
LITERATURE REVIEW	25
2.1. Introduction.....	25
2.2 Review of Literature	25
2.2.1 The Nature of Evidence Used by Customary Courts in Resolving Land Disputes	25
2.2.2 To Assess the Extent of Citizenry Satisfaction with Customary Court Decisions in Resolving Land Disputes	29
2.2.3 Examine Challenges the Customary Courts Encounter in Resolving Land Disputes	33
2.3 Summary and Research Gap	36
CHAPTER THREE.....	38
RESEARCH METHODOLOGY	38
3.1. Introduction.....	38

3.2. Research Design.....	38
3.3. Research Site.....	39
3.4. Target Population.....	40
3.5 Study Sample	41
3.5.1 Study Sample Size	41
3.5.2 Sampling Procedures	42
3.6 Data Collection	43
3.6.1 Data Collection Instruments	43
3.6.2 Pilot Testing of Research Instruments	44
3.6.3 Instrument Reliability	45
3.6.4 Instrument Validity	45
3.7 Data Analysis	46
3.8 Ethical and Legal Considerations	46
CHAPTER FOUR.....	49
DATA ANALYSIS AND FINDINGS.....	49
4.0 Introduction.....	49
4.1 Rate of Return	49
4.2 Demographic Data	50
4.2.1 Gender.....	50
4.2.2 Age Bracket	51
4.2.3 Highest Education Level.....	53
4.2.4 Occupation	54

4.3 Nature of Evidence Used by Customary Courts	57
4.4 Customary Court Decisions in Land Disputes	65
4.5 Challenges Faced by Customary Courts	74
4.6 Strategies to Strengthen Customary Courts	80
CHAPTER FIVE	88
DISCUSSIONS, CONCLUSIONS, AND RECOMMENDATIONS	88
5.1 Introduction	88
5.2 Discussions	88
5.2.1 Nature of Evidence Used by Customary Courts	89
5.2.2 Citizen Satisfaction with Customary Court Decisions in Land Dispute Resolution	91
5.2.3 Challenges Faced by Customary Courts in Resolving Land Disputes	92
5.3 Summary of Main Findings	93
5.4 Conclusions	95
5.5 Recommendations	95
5.5.1 Recommendations to Local Communities in Munuki Payam, Juba City, South Sudan	95
5.5.2 Recommendations to Customary Court Officials and Legal Practitioners	96
5.5.3 Recommendations to Policy Makers and Government Authorities	97
5.5.4 Recommendations to Non-Governmental Organizations (NGOs) and International Bodies	97
5.6 Areas of Further Research	98
REFERENCES	99

APPENDICES	110
Appendix I: Self – Introduction Letter	110
Appendix II: Questionnaires.....	111
Appendix III: Ethical Clearance	119
Appendix VI: Research Clearance	121
Appendix V: Map of Munuki Payam.....	122

LIST OF TABLES

Table 3.1: Sample Distribution	41
Table 3.2: Sample Size Distribution	42
Table 4.1: Rate of Return for Questionnaires and Interview Guides.....	49
Table 4.2: Gender Distribution of Respondents	50
Table 4.3: Age Distribution of Respondents.....	52
Table 4.4: Education Level of Respondents	53
Table 4.5: Occupation of Respondents	54
Table 4.6: Duration of Residence in Munuki Payam.....	55
Table 4.7: Respondents' Perceptions of the Nature of Evidence Used by Customary Courts	57
Table 4.8: Citizens' Satisfaction with Customary Court Decisions in Land Disputes.....	65
Table 4.9: Challenges Faced by Customary Courts in Resolving Land Disputes	74
Table 4.10: Approaches to Strengthening Customary Courts in Resolving Land Disputes	81

LIST OF FIGURES

Figure 1.13: Conceptual Framework	23
---	----

ABSTRACT

Customary courts have historically played a vital role in resolving land disputes in South Sudan, since statutory courts are not easily accessible. However, admissibility of evidence, fairness in procedures, and institutional issues that have been challenging to their work. In Munuki Payam, land disputes are handled by the customary courts, but, there is inconsistency in the decisions made, corruption allegations and lack of mechanisms to enforce the decisions passed. This study sought to establish the kind of evidence that customary courts employ, citizens' satisfaction with the decisions made by the customary courts, and difficulties experienced by the customary courts in handling land issues. The objectives of the study were to identify the type of evidence accepted in the customary courts, establish the satisfaction level of the citizens on the decisions made by customary courts and establish the factors that hinder the efficiency of the courts. Both quantitative data from the survey and qualitative data from the interviews was used. Three hundred and twenty-one questionnaires were retrieved from the respondents, with a response rate of 99 percent; four interview guides were conducted, and the response rate was 100 percent. Data was analyzed using the Microsoft Excel 2016, IBM SPSS version 24, and MAXQDA for thematic analysis. The study showed that the customary courts relied on oral evidence, lineage and memory and not documents thus resulting in irregularity and legal ambiguity. Regarding the admissibility and logic of the evidence used in the customary courts, only 9% of the respondents strongly agreed while 64% disagreed or strongly disagreed (weighted mean = 2.4). A paltry 8% strongly agreed that trials were fair while 64% disagreed or strongly disagreed with the same (weighted mean = 2.3) regarding citizen satisfaction with customary court rulings. Most of the respondents complained of inadequate implementation, influence of the elites, and procedural bias. Corruption and nepotism were rated high, 47% strongly agreed and 29% agreed that favoritism influenced the court decisions (Weighted mean = 4.0). Thematic findings highlighted that women and displaced persons received unfair determination of the land disputes since male inheritance prevailed over statutory laws. The study indicated that despite the important role played by the customary courts in resolving land disputes, they are hampered by low standards of evidence, corruption and political influence. The findings confirmed the Legal Pluralism Theory, since customary courts worked with statutory courts but were not part of them, thus creating legal duality. Partially, the Participatory Justice Theory was supported, as people's involvement did not guarantee procedural justice. This theory was applicable to the study since most customary courts lacked legal training, resources and accountability structures thus limiting their capacity to deliver justice. This study recommended that customary courts should be formalized to become part of the formal legal framework, training of officials, and fight against corruption to enhance procedural justice. Future research should examine ways of enhancing the compliance with customary court decisions, gender balance on the land dispute decisions and possibilities of the emergence of an appellate jurisdiction over customary courts.

DEFINITION OF TERMS

Citizen Satisfaction: This term is defined here in an operational way as the attitudes that the residents of Munuki Payam have towards the results and procedures of the dispute resolution by customary courts. The level of satisfaction is determined by the responses of the respondents to questions regarding the fairness, efficiency and cultural relevance.

Customary Courts: For the purpose of this study, customary courts are judicial systems in Munuki Payam that deal with matters in accordance with the laws that are natural to the community. These courts are informal and are usually conducted parallel to the formal legal system and mostly headed by elders or leaders known by the people in the society.

Evidence in Customary Courts: In this research, evidence means anything that is admissible in the customary courts in the context of the land dispute cases and their defense or affirmation. These are the oral traditions, physical structures, the history of usage as well as other documents accepted by the customs of the people.

Institutional Capacity: This pertains to the capacity of the customary courts in handling and resolving the land disputes. Aspects such as the availability of resource, knowledge, authority and procedures that the courts have in order to execute their duties effectively and impartially.

Inter-Rater Reliability: Inter-rater reliability in the context of this study refers to the degree of agreement between different judges or evaluators of the outcomes within the customary courts. This is because it helps in achieving reliability and validity in the analysis of qualitative data.

Land Disputes: In this research, land disputes are defined as the disagreement between people or groups of people, communities or between an individual and the state on issues to do with ownership of land, boundaries, usage, or any other rights that may be attached to the piece of

land in question. These may be as a result of confusing documentation, past misunderstandings, leadership issues or claims of ownership.

Legal Pluralism: This term refers to the coexistence of multiple legal systems within a single geographic and jurisdictional space. In the case of Munuki Payam, legal pluralism involves the formal laws that are implemented by the government and the traditional laws implemented by the traditional courts.

Participatory Justice: It is a concept in this study that deals with a type of justice that incorporates the community members in the decision-making process. It focuses on the part played by the public in the customary courts and evaluates the effects of such participation on the acceptability of decisions made by the courts.

Sampling Validity: Refers to the degree to which the sample used in the study is reflective of the population of interest and the generalization of the findings of the research to the entire population in Munuki Payam.

ABBREVIATIONS AND ACRONYMS

CPA:	Comprehensive Peace Agreement
CRA	Central Africa Republic
DRC	Democratic Republic of Congo
CPT:	Common Property Theory
GOSS:	Government of Southern Sudan
IDPS:	Internally Displaced Persons
IDS:	Institute of Development Studies
SPLA:	Sudan People's Liberation Army
SPLM:	Sudan People's Liberation Movement
SSLs:	South Sudan Law Society
USAID:	United State Agency for International Development
NSS	National Security Service
UNMISS	United Nation Mission in South Sudan

CHAPTER ONE

INTRODUCTION AND BACKGROUND OF THE STUDY

1.1 Introduction

This chapter highlighted the background of the study, research problem, purpose and objectives of the study, scope, limitation and delimitation of the study and the theoretical and conceptual framework used in the study.

1.2. Background of the Study

Land disputes are a persistent and cross-cultural phenomenon, deeply rooted in historical processes such as colonization, expropriation, and the coexistence of multiple legal systems (Park, 2021; Tamanaha, 2021). These disputes have necessitated the development of effective systems of land governance to address the rights and interests of all parties involved (Adanma & Ogunbiyi, 2024). Globally, land issues have their origins in the actions of colonial powers, who often disregarded indigenous land ownership, resulting in massive displacements and long-standing grievances that persist today (Deininger & Castagnini, 2004; van Leeuwen et al., 2022; Wily, 2021).

In South America, indigenous populations in countries such as Brazil and Argentina have historically struggled to defend their territories against agricultural expansion and industrialization, highlighting the ongoing impact of historical land conflicts (Fernandez, 2021; Mitchell, 2022). In North America, the United States experienced significant land disputes during westward expansion, with policies like the Dawes Act of 1887 resulting in substantial land loss for Native Americans (Anderson, 2021). Modern conflicts in the U.S. often revolve around rights to Indian burial grounds and natural resources. Similarly, in Canada, disputes between the government and First Nations peoples over land and treaty rights have persisted, exemplified by the 1990 Oka Crisis in Quebec (Campbell, 2021).

In Asia, rapid economic development has often marginalized rural and indigenous peoples. India's Land Acquisition Act of 1894 and its amendments have led to widespread displacement, prompting activism such as the Narmada Bachao Andolan movement, which advocated for justice and adequate compensation for the displaced (Singh, 2022; Sharma, 2022; Li, 2023)¹. These cases underscore the tension between development and the protection of indigenous land rights.

Australia's history is marked by the displacement of Aboriginal and Torres Strait Islander populations under the doctrine of *terra nullius*, which denied indigenous land ownership. This doctrine was overturned by the landmark *Mabo v Queensland (No 2)* case in 1992, which recognized native title rights, yet indigenous Australians remain vulnerable to losing their land rights (Banner, 2022; Pascoe, 2021; Pearson, 2023).

In Europe, land disputes are connected to feudal relations, war, and political transitions. The United Kingdom's history of land partitions and centralized ownership continues to fuel debates about land distribution and public access (Davies, 2023). In Eastern Europe, post-communist countries like Poland and Hungary face challenges related to the restitution of properties seized during previous regimes (Kovacs, 2022).

Africa's land issues are particularly complex, shaped by colonial expropriation and legal dualism. European colonizers seized large tracts of land, often disregarding indigenous property rights, leading to a long history of displacement and ongoing struggles for tenure security (Alden, 2021). In Zimbabwe, the duality of customary and formal legal systems has complicated land tenure, with frequent conflicts between traditional norms and statutory laws (Moyo, 2022). North African countries like Egypt, Libya, and Sudan have also experienced significant land disputes due to colonization and modern state policies, including government-

led land grabbing and discriminatory redistribution (Hassan, 2021; El-Katiri, 2021; Abdalla, 2022).

In Southern Africa, countries such as South Africa, Zimbabwe, and Namibia continue to grapple with the legacies of colonialism and forced evictions. South Africa's apartheid-era land distribution persists, with government land reform policies facing resistance and legal challenges (Ntsebeza, 2021). Zimbabwe's early 2000s land reform, which involved the seizure of white-owned farms, had severe economic and social consequences (Mlambo, 2021)¹. Namibia faces similar challenges in balancing land restitution with economic stability (Becker, 2021).

Central African nations like the Democratic Republic of Congo (DRC), Cameroon, and the Central African Republic (CAR) experience land disputes driven by resource competition, colonial legacies, and political instability. In the DRC, land disputes are often linked to mineral wealth and conflicts among local communities, the government, and foreign investors (Mukwege, 2022). Cameroon's disputes reflect colonial divisions and conflicts between customary and statutory systems (Ndzie, 2021)¹, while CAR's long-standing instability has led to widespread displacement and contestation over land (Zarama, 2022).

West African countries such as Nigeria, Ghana, and Mali face land disputes arising from historical and socio-economic factors. Nigeria's Land Use Act of 1978 vested land ownership in the state, often leading to conflicts between local communities and the government (Adewumi, 2021). In Ghana, the integration of customary and statutory land administration has created tensions, with chiefs playing a central role (Quaye, 2022). Mali's land conflicts are exacerbated by climate change, population pressures, and competition between pastoralist and farming communities (Diallo, 2022).

East Africa's land disputes are rooted in colonial history, legal pluralism, and socio-economic change. Colonial policies in Kenya, Uganda, Tanzania, and Ethiopia undermined traditional land tenure systems, leading to dispossession and marginalization (Alden Wily, 2021). In Kenya, colonial land appropriation displaced native communities, and post-independence reforms have struggled to address these injustices, resulting in persistent conflicts such as the 2007-2008 post-election violence (Mwangi, 2021). The coexistence of customary and statutory laws often leads to contradictory claims and prolonged litigation (Njogu, 2022).

Uganda's land disputes are compounded by the historical exclusion of regions like Karamoja, where traditional land ownership systems are not recognized by formal state policies (Muhereza, 2022). Urbanization and land grabbing further exacerbate tensions, and attempts to integrate customary and formal tenure systems have been largely unsuccessful (Atuhaire, 2021; Nangoli, 2023).

Tanzania's Ujamaa policy of forced villagization in the 1960s led to long-term tenure insecurity, and contemporary disputes often pit agriculturalists against pastoralists. The coexistence of customary and statutory land laws complicates dispute resolution, with many communities relying on traditional mechanisms not recognized by the state (Maghimbi, 2021; Mushi, 2022; Kimaro, 2022). In Ethiopia, land disputes are linked to the country's imperial and feudal land structure, which was dramatically altered during the Derg regime. Centralized control of land has led to conflicts, particularly in the Oromia and Amhara regions, as local communities resist state-led land allocation for investment and development (Tadesse, 2022; Getachew, 2023).

South Sudan's land conflicts are entrenched in its colonial and post-colonial history, civil wars, and the interplay between customary and formal legal systems (Deng, 2021). During the

colonial era, British administrators reinforced the authority of traditional leaders and customary law, a legacy that persists today (Lokuji, 2022). The dual legal system often leads to conflicts, as customary practices sometimes clash with statutory laws, complicating land governance (Kuol, 2021).

Regions such as Jonglei, Upper Nile, and Bahr el Ghazal have experienced high incidences of land disputes due to historical injustices, resource competition, and the aftermath of conflict. In Jonglei, tribal conflicts over grazing and water resources have been exacerbated by the proliferation of small arms (Obute, 2022). The Upper Nile region, rich in oil, has seen social conflict between local communities and the central government over land and resource ownership (Gatkuoth, 2021). In Bahr el Ghazal, colonial land dispossession continues to influence current conflicts, with displaced groups seeking to reclaim ancestral lands (Akot, 2022).

In South Sudan's capital, Juba, and areas such as Munuki Payam, land disputes have been intensified by rapid urbanization, population growth, and the influx of internally displaced persons (IDPs). Government-led infrastructural development has sometimes resulted in land grabbing and inadequate compensation for locals, leading to further disputes (Mabior, 2022). Munuki Payam, in particular, has seen the militarization of land, with political and military actors interfering in customary court processes, resulting in bias and dissatisfaction among communities (Kolok, Mahdi, & Ngar, 2020; Deng, 2021).

Customary courts, led by chiefs and elders, have traditionally played a central role in resolving land disputes in Munuki Payam. These courts rely on oral testimony, community consensus, and customary principles (Lokuji, 2022). However, political and military interference has

undermined their effectiveness, with chiefs often appointed based on political affiliation rather than community trust or traditional legitimacy, further complicating land dispute resolution.

1.3. Statement of the Problem

Land disputes in Munuki Payam, Juba City, South Sudan, have become a growing source of social tension, instability, and legal uncertainty. Land is not only an economic asset but also a fundamental element of community identity, security, and social cohesion (Oyugi, 2022). However, the lack of a harmonized legal framework for resolving land disputes created a fragmented and inconsistent justice system, exacerbating tensions between communities and undermining effective conflict resolution (Park, 2021). The persistent disputes over land ownership, boundaries, and inheritance has been aggravated by the parallel operation of customary and statutory legal systems, each applying different principles, procedures, and evidentiary standards. Customary courts have been embraced by many, therefore handling the majority of land-related conflicts.

The other important factor was the level of compliance of customary courts with human rights principles in the management of land issues. These courts were an integrated part of community culture; however, socio-political factors affected the courts' decisions and included political interferences from other political authorities, military personnel, heads of the community, and other influential people (Ng'ong'ola, 2019). This raised issues on how fair the customary law was in the distribution of land rights and whether women and internally displaced persons would be fairly dealt with in case of any dispute.

Despite efforts put in place in advocating for and embracing customary courts which is understood by many, land related conflicts still persist (Adeola, 2021). It was upon this background that the study sought to establish why there are still many cases of land-related conflicts despite the existence of customary courts.

1.4. Purpose of the Study

The specific research objectives were: To establish the efficiency of the customary courts in handling land matters, to establish an equity on the handling of land matters and to identify the challenges facing the customary courts to handle the matters, and to assess the satisfaction of the community on the judicial process.

1.5. Objectives of the Study

1.5.1 General Objective

This research was guided by the general objective that sought to examine the capacity of customary courts in assisting in handling land related problems in Munuki Payam, Juba, South Sudan.

1.5.2. Specific Objectives

These were the research objectives of the study:

- i. To establish the nature of evidence that is applicable in the customary courts when addressing land-related issues in Munuki Payam, Juba, South Sudan.
- ii. To assess the level of satisfaction of the citizens with the decisions of the customary courts in the resolution of the land disputes in Munuki Payam.
- iii. To determine the challenges in the customary courts that lead to poor handling of land disputes in Munuki Payam, Juba, South Sudan.

1.6. Research Questions

- i. What type of evidence is employed by the customary courts in handling land disputes in Munuki Payam, Juba, South Sudan?
- ii. What is the level of satisfaction that citizens of Munuki Payam, Juba have with the customary court decisions in resolving land disputes?
- iii. What are the challenges faced by the customary courts in the settlement of land disputes in Munuki Payam, Juba, South Sudan?

1.7. Significance of a study

Local Communities in Munuki Payam, Juba City, South Sudan: The study was useful in establishing the role of customary courts in the resolution of land disputes and went a long way in improving the appreciation of legal procedures among the communities. Better understanding of evidence and satisfaction with court decisions enabled the communities to be active participants in the judicial process to get fair and satisfactory outcomes of the land related cases.

Customary Court Officials and Legal Practitioners: The findings provided a general assessment of the performance and the issues that customary courts encountered. This information helped court officials and legal practitioners to improve their methods in handling disputes, and also the efficient and fair running of the customary courts. It also equipped them better to understand the intricacies of land issues in a society that was not only transforming socially and legally.

Policy Makers and Government Authorities: The study therefore identified the advantages and disadvantages of the existing land dispute resolution mechanisms to help in policy formulation that sought to harmonize the customary and the formal legal systems. Based on the findings, the policymakers and the government authorities developed a more integrated approach to the

land governance structures that embraced the customs but complied with the national and the international human rights laws.

Researchers and Academics: The study also advanced the knowledge on land governance and conflict resolution in post-conflict context. It offered a case for comparison in comparative studies and theoretical discussions, contributing to the development of the body of knowledge with data and contextual information relevant to South Sudan.

Non-Governmental Organizations (NGOs) and International Bodies: The findings of the study were useful to other NGOs and international bodies operating in South Sudan to improve their interventions. The knowledge of the functioning and issues of customary courts enabled these organisations to participate in supporting judicial reforms, community awareness raising and capacity enhancement activities in relation to the improvement of land dispute resolution in Munuki Payam and other areas.

1.8. Scope of the Study

As noted by Mugenda and Mugenda (2009), scope meant the coverage area of the study area. The purpose of the study was to determine the function of customary courts in the allocation, usage, ownership, and inheritance of land as well as in the handling of land disputes within Munuki Payam, Juba, South Sudan. In light of these aspects, the study analyzed the following: Government, Public Land usage and investors; Responsibility over land allocation, Corrupt Political and Business Elite; the South Sudan Land Act, 2009, etc. The study was conducted in Juba City, in Munuki Payam namely; Hai Kuwait, Munuki Block A, B & C and Gudele residential areas. The remaining areas in and around Juba were not investigated in this work since it would have been exhaustive to conduct the research in all places. The study was done in May of the year 2024 and it was a three-week study.

1.9. Delimitations of the Study

From Marilyn (2011), delimitations were described as the features that guided the research to have limits. These are known as delimitation which defined the boundaries and the scope of the study. Lack of delimitation involved the choice of the population on which the study was to be conducted, the theoretical frameworks that were to be adopted as opposed to the ones that could have been adopted, the variables of interest, the research questions to be addressed, and the objectives that were to be set. In this study, only the aspects of land rights, land tenure, land ownership, and remedies to land disputes were considered because the study focused on the customary courts and land disputes only.

The following title holders and people participated in this study: Statutory Court judges, the Head of Customary Court (Sheik hila), the citizens of the IDPs and the host community, the Payam Block Department of Land, and officials of the Police Unit.

1.10. Limitations of the Study

In every research study, there are factors that are beyond the researcher's control, which may impact the collection of data, the response rate and the general validity of the study. The following are some of the expected limitations that may be encountered in this research study.

Security Concerns: This is due to the fact that Munuki Payam in Juba City, South Sudan has been in the spotlight for cases of theft and other related robberies. This might have resulted in increased fear and reluctance to respond among the respondents especially those in institutions dealing with the disputes over land. Some of the participants may be reluctant to complete the surveys or interviews because of personal security concerns. To overcome this, the researcher ensured that interviews and data collection activities were conducted in the daytime and in secure public spaces like local government offices, churches, schools among

others. Permission was also sought from the local NSS as a way of legalizing the study. Further, to minimize risks and gain participants' trust, the researcher was accompanied by local assistants who were well conversant with the study area.

Reluctance of Respondents: Due to the social sensitivity of land issues, some of the respondents, especially the local officials might have omitted some crucial information due to fear. Some of the officials could have concealed governance deficiencies or institutional vulnerabilities in the customary courts. To overcome this, the researcher ensured the participants that their identities and information provided would be kept confidential. Verbal informed consent was used in situations where the use of written informed consent was considered to be threatening or rather incongruous. This was followed by creating trust through conversation before the actual interviews. In cases where some of the respondents refused to participate, other sources like civil society and traditional leaders were sought to ensure cross-checking of the results.

Limited Access to Relevant Literature: The access to academic works on the topic of land dispute resolution in South Sudan was still a problem. This might mean that key literature sources are few and this will reduce the coverage of the literature review. To overcome this, the researcher broadens the sources to include NGO reports, legal case files, UN reports, and policy documents. Institutional sources such as Rift Valley Institute and United Nation Mission in South Sudan (UNMISS) were largely reviewed. Furthermore, purposive interviews were held with professionals from the legal field and other conflict resolution practitioners in the community to gain information that may not be captured in written documents.

1.11. Assumptions of the Study

In his own words, Simon (2011) was of the opinion that assumptions were those things that if not available, rendered the work worthless. The first assumption that was made in this study was that land disputes were caused by the conduct of customary courts and this made the general public lose confidence in the courts. He also assumed that the customary courts were biased by the government and other elites, which affected their decision making.

Secondly, it was assumed that the local customary courts, local chiefs, judges and judiciary officials who were contacted would have been willing to offer accurate information on the roles of customary courts in handling land related cases and the challenges encountered. The respondents were supposed to be honest and provide their answers to the survey honestly. This was applicable when interviewing or administering questionnaires to the victims and victors of the land disputes. One of the ways of obtaining the knowledge required for this study was to get in touch with the individuals and ask for their views on the selected topic, and it was thought that the respondents would not lie when giving this information.

1.12. Theoretical Framework

The study used Legal Pluralism, Participatory Justice and Institutional Capacity Theory, to analyze the functions of the Customary Courts in the determination of land disputes in Munuki Payam, Juba City, South Sudan. In addition, it also explored on anchor theory. According to Griffiths (1986) and as further developed by Merry (2015), Legal Pluralism refers to the existence of more than one legal system in a given social field which was important in explaining the relationship between customary courts and the formal state judiciary in South Sudan. Participatory Justice as described by Tyler and Huo (2002) highlighted the role of people in judicial proceedings, making them accept the decisions made by the courts. Third

was the Institutional Capacity Theory, described by North (1990) and Ostrom (2015) that addressed the organizational capability and assets of institutions, which was critical to examine the practical difficulties in the functioning of the customary courts. In addition, Anchor theory was also explored, which, according to Amos Tversky and Daniel Kahneman (1970), anchor theory explains on how people make judgement and decision by relying on testimonies and without following logical or admissible evidences.

These theories when taken as a package provided a good framework through which one could understand the nature of land dispute in Munuki Payam. They pointed out the role of both the customary and the legal frameworks, the involvement of the community, as well as the need to build up the institutions. In this way, the study gave an overview on how the customary courts worked in the light of the legal and social structures of South Sudan.

1.12.1 Legal Pluralism

The first research question of this study emanated from the theoretical framework of Legal pluralism has become a topic of discussion in the current society especially in relation to the customary courts. Legal Pluralism as elaborated by Griffiths (1986) and as further developed by other authors like Merry (2015) postulated that there were numerous systems of law operating in a particular sphere of society. This theory was particularly important in the instance of Munuki Payam, Juba, South Sudan since the area had both the formal and customary courts. Specifically, the Legal Pluralism assumed the recognition of its legal systems that operated and were effective beyond the state legal systems based on customs, traditions and norms.

In as much as the ownership of land in Munuki Payam was in dispute, it was the duty of the customary courts to address the matters. The type of evidence acceptable in these courts was more inclined towards the community practices and oral traditions. For instance, Holzinger, Kern, and Kromrey (2016) observed that many of the African customary courts relied on the

evidence of the elders and other people in that particular society. Another theory according to Amos Tversky and Daniel Kahneman (1974) is anchor theory, which explored how people make decisions by relying on testimonies. These courts placed much value in restorative justice and community reintegration than punishment which was a different approach from the formal legal systems that operated legalism and procedural justice (Ubink, 2018).

Still, there were critics to the theoretical framework of Legal Pluralism from scholars and experts on the field. It was criticized that it might prolong the power relations and sustain patriarchy. Peters and Van den Meij (2016) have described how Legal Pluralism has been applied in African settings to undermine the control of local elites of the land and other resources to the exclusion of other factions. Similarly, Ubink & Van Rooij (2017) described that while Legal Pluralism accepted the existence of other legal systems, there was limited understanding of the problems and tension emanating from the interaction between the systems as these may lead to unfair disposition.

The Legal Pluralists on the other hand argued that it was more pragmatic and comprehensive if used to understand the delivery of justice in many societies. Chirayath, Sage, and Woolcock (2015) pointed out that the recognition of the customary legal systems as being legal could go a long way in enhancing the access to justice for those people who stand little chances of being offered justice by the state legal systems. Furthermore, from the above arguments of Forsyth (2017), Legal Pluralism helped in the integration of the local knowledge and practices in such a way that may be useful in the provision of culturally appropriate solutions.

Regarding the case of Munuki Payam, there was what was possible to indicate the applicability of the Legal Pluralism concept, in an attempt to identify the type of evidence that was being admitted in the customary courts. This was evident in the use of oral evidence, the opinion of the community and the knowledge possessed by the elders in handling disputes in this

region. It also highlighted the social context in which the legal change is going to be introduced as well as the experiences of the people in the community.

However, the Legal Pluralism theory was somewhat restricted when used in the process of the research on the issue of land in Munuki Payam. Specifically, there was a dearth of knowledge about the utilization and appraisal of various forms of evidence in the customary courts. While the theory did recognize that there were two systems of justice, it did not pay attention to the process by which the customary courts operated and made decisions. It was deemed necessary to carry out a further research in order to determine how these courts worked, whether the methods of collecting, presenting and evaluating the evidence were similar to the legal practices.

Also, it was necessary to consider the role of other factors, namely governmental and international, in the performance of customary courts. As stated by Ubink (2018), there are some of the problems which might occur in the interaction of the two systems, particularly when external actors attempted to introduce standardization of the law. As a result, it was crucial in order to work out more efficient policies in order to cope with the legal problems within the communities and to acknowledge the cultural aspects that existed while providing justice for all the members of the society.

1.12.2 Participatory Justice

The second research question was derived from the theoretical framework of Participatory Justice which stated the notion of people's participation in the justice process to enhance the perceived justice and satisfaction with the outcome. This theory was based on the procedural justice and it was said that the perceived fairness of the process was that important as the fairness of the outcome as put forward by other writers such as Tyler and Huo (2002). As for the customary courts in Munuki Payam, Juba, South Sudan, it was considered appropriate to

use participatory justice to measure the level of satisfaction of the citizens regarding the given result of the land dispute.

Tyler (2016) has noted that when people felt they could participate in the procedure and felt that the process was fair then they had positive perception to the outcomes even if they were adverse as viewed by the Participatory Justice. This theoretical approach was in line with the functioning of the customary courts where the society and its approval were considered relevant. The customary courts in Munuki Payam mainly consisted of elders and leaders who were fully aware of the cultural practices in the community hence making the community to have faith in their decisions (Kriesberg, 2015).

Studies have found out that the extent of engagement in the justice systems could predict the extent of satisfaction by the people in the results of the legal processes. For instance, in a study that was conducted by Galanter and Krishnan (2018) in rural India, the authors found that when people of the village participate in decision making processes of the village council their satisfaction with the decisions made even if those decisions are not fully in their favor. This could be taken to Munuki Payam where the use of decision making within the customary courts would see more levels of satisfaction of the involved citizens regarding their land issues.

However, the theory of Participatory Justice also received critics and controversies. Some critics stated that it may lead to the idealization of local decision-making and conceal power relations and the hierarchy. In her study, Merry (2015) pointed out that while participation mechanisms may enhance satisfaction, it means that the powerful will gain dominance over the powerless in the society. Likewise, Kritzer (2017) noted that the effectiveness of the justice depended on the context as well as the real implementation of the participatory justice that may be in contrast with the ideal.

However, the opponents of the Participatory Justice perspective claimed that the approach was not effective to understand and increase the level of satisfaction of citizens with the legal procedures. Tyler and Blader (2018) have also opined that it is equally possible to increase the acceptance of legal decisions, as well as the legal system in its entirety by enhancing the participatory dimensions of justice. This was probably very much true in the case of Munuki Payam, where traditional legal systems may be perceived to be far-fetched and unattainable, hence the people's participation in customary courts improves their authority.

In the particular case of Munuki Payam, the use of Participatory Justice theory made the authorities recognize the significance of procedural justice and the inclusion of local people in the decisions of customary courts. The level of satisfaction that the citizens had with the outcomes of the land disputes may have depended on their impressions of the fairness and/or the participation of the processes. For instance, Boone (2017) had noted that there was satisfaction with the decisions made by the customary courts when the citizens believed that the courts were fair and inclusive.

However, there was a lack of knowledge on the current usage and implementation of Participatory Justice in the customary courts. Another major area that lacked adequate empirical investigation was how various subgroups of the population understood and engaged in the various forms of participatory practices. Although the theory focused on the role of communities, it failed to take into consideration the differences in the perceptions of the communities, such as women, youths, and the excluded groups. According to Ubink (2018), it was important to understand these differences in order to enhance the practice of participation and come up with better mechanisms.

Besides, an attempt was made to evaluate the impact of participatory justice on the social integration and public confidence in the law. While people wanted short-term outcomes of the decision-making processes, it was also important to consider the long-term effects of these processes on the perceptions of justice and governance. Forsyth (2019) cited that for achieving sustainable satisfaction and trust in the legal systems there was the need to use the principles of participation and this was not an easy feat especially where one had to do it in a consistent and transparent manner.

1.12.3 Institutional Capacity Theory

The third hypothesis of this study was based on the Institution Capacity Theory that sought to determine the extent of capacity of the institutions in their ability to perform their roles amidst the challenges. According to North (1990) and Ostrom (2015), this theory stated that the efficiency of institutions including that of the customary courts was determined by the organizational endowment, resources and the politico-legal environment. Thus, in the context of Munuki Payam, Juba, South Sudan, the Institutional Capacity Theory provided an insight into the matters pertaining to the customary courts in the aspect of handling land-related conflicts.

Customary courts in Munuki Payam were traditional and people of the society were fully acquainted with them but they had some institutional problems. The one that was evident in this study was that there is no official status and integration with the state courts. In the opinion of the author, Isser, Lubkemann, and N'Tow, (2017) opined that the interaction of the two systems may create confusion and competition between the two systems, thus undermining the customary courts. This was seen as a failure in the courts because lack of such recognition meant that they were denied resources, training and support in order to execute their duties well.

The other major factor was the inability of the customary courts to handle the complex and increasing number of cases in relation to land. With increase in population density in Juba through the process of urbanization, the incidence of land disputes arose and became more so complex since several people had valid claims to the piece of land. When it came to the customary courts which had always relied on the word of mouth and the opinion of the community in their handling of cases such cases were difficult to handle. As noted by Deininger and Feder (2018), there were various issues that presented themselves in the efficiency of the customary institutions in handling the land disputes; the ability to handle the disputes with fewer procedural tools and lack of adequate knowledge in law.

There were also some significant factors that were found on the bias and fairness of the customary courts in Munuki Payam. Since they had to depend on local leaders and elders to obtain information, there was a bias and bias towards the elites of the community. Peters (2016) pointed out that although the customary courts were preferred due to their accessibility and cultural humility, they also possess the danger of perpetuating the power relations and social inequity. This was particularly so in the resolution of other land related cases where some individuals or institutions may exert pressure on the court to provide a particular decision.

There were other socio-political factors that affected the operation of customary courts in South Sudan as discussed below. The war and conflict in the region had dismantled the institutions and had unestablished the conventional form of leadership. Since customary courts relied on the unity and stability of the communities, they were thus frustrated by the general situation of instability and displacement. From the observations made by Jok (2015), displacement and disruption of social relations resulted in the inability of the customary court in gathering sufficient evidence and enforcing its orders.

Some scholars argued that the institutional capacity theory could be too focused on the static and structural aspects of the institutions and insufficient attention could have been paid to the dynamic and developmental aspects of those institutions. Cleaver and De Koning (2015) pointed out that the operations of customary courts had a lot of strengths and adaptivity in the face of the challenges by responding to them through changing their practices. While acknowledging the importance of such capacity they noted that more was required to achieve the right capacity that would consider the capacities of actors at the country level.

As pointed out by Uphoff and Buck (2017) on the theory of Institutional Capacity, there was the need to build and support the capacity of the customary courts in a comprehensive and structural and socio-political way. They called for intervention aimed at increasing efficiency, effectiveness, and autonomy of the customary courts and their link with the official legal systems.

Looking at the case of Munuki Payam in particular, some of the challenges faced by the customary courts in the process of addressing the land disputes explained why the capacity-building of the extensive system was important. Some of the measures that could be taken include awareness creation for the court officials, increased availability of legal materials and records, and measures that would increase the openness of the decision-making process.

As much as the above challenges were noted, some areas were found to be lacking in the application of Institutional Capacity Theory in customary courts. There was one major weakness in the study: the lack of knowledge about the nature of the informal networks and social capital as the basis of these courts. What it failed to acknowledge was the fact that the courts relied on informal structures and community support to run their operations. However, more studies were required to establish these informal aspects and their contribution to the improvement or deterioration of the capacity of customary courts.

Furthermore, there was the need to establish the effects of intervention and support programs on the customary courts. According to Ubink (2018), external intervention to support customary institutions may have undesired effects like reliance on external support or dilution of tradition. This was important for formulating better and long-term approaches to capacity building.

1.13. Conceptual Framework

Conceptual framework was described as a guide to the study by outlining the ideas in an orderly manner and how the ideas were related to the various concepts and variables. It was very useful in making the findings of the research easy to comprehend and in categorizing the concepts (Maxwell, 2019). In this study, the variables and the theories were based on a conceptual framework that was supported by an illustrative model.

In the conceptual model, it described how customary courts handled such issues pertaining to land. This was also effective in filtering out the relevant evidence in relation to reasonable evidence when conducting data analysis. In order to assess the level of satisfaction of the citizen in the customary court, the perception of a fair trial or an unfair trial was adopted. In addition, issues of bias and lack of resources which are prevalent in customary courts in determination of land matters were also illustrated by data.

At times, the investigators contrasted the findings of the independent variable with the dependent variable in order to establish causality. In this case, the independent variable was understood as the cause, while the dependent variable was understood as the effect. Therefore, it is the concern of the present study where the independent variables affect the dependent variables.

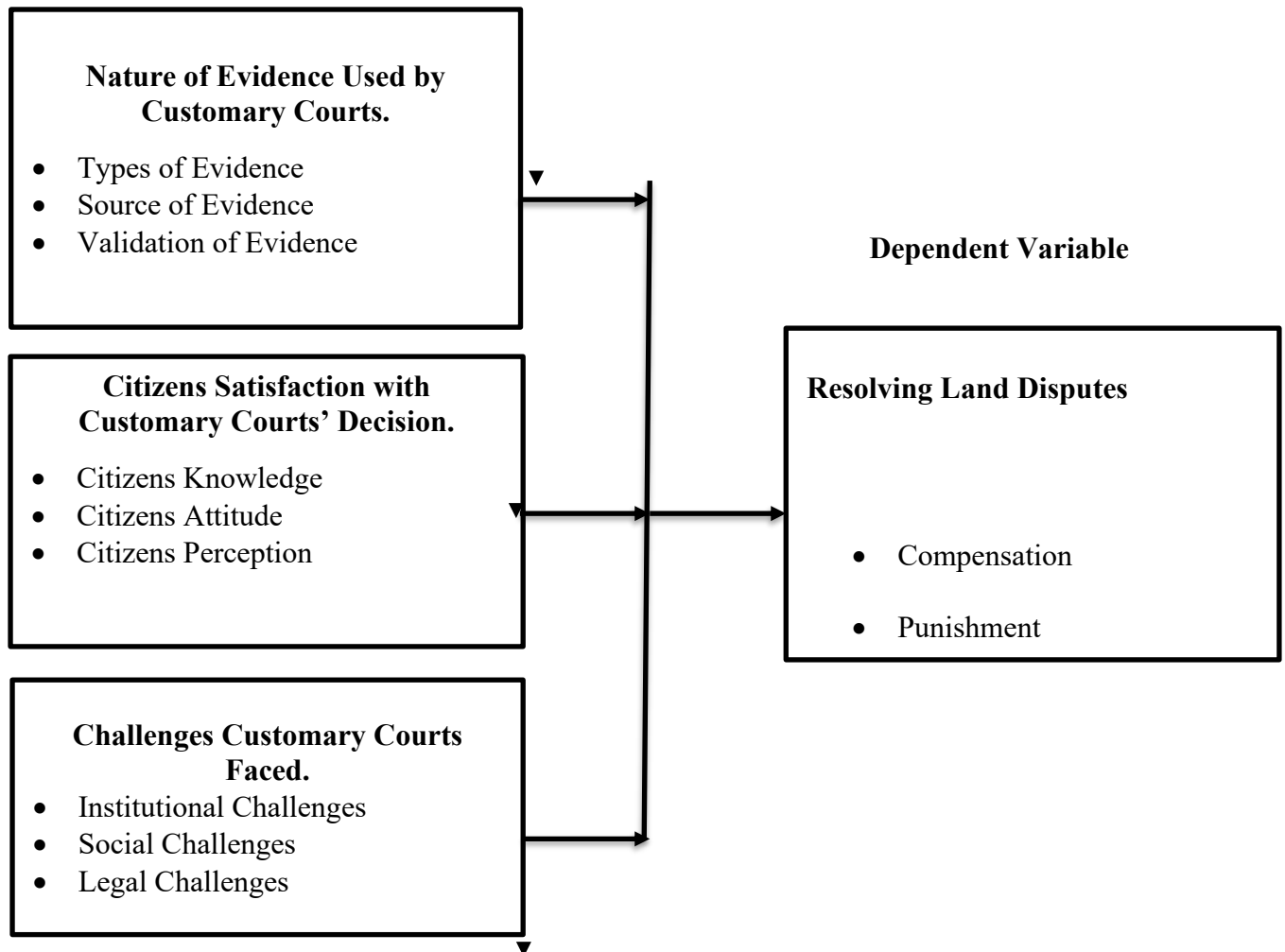
Independent variable was the one that could be manipulated in an experimental study to determine the effect of change. It was referred to as independent since the results could not be

influenced by other factors in the study (Creswell & Creswell, 2018). In this regard, the independent variables that were used were the types of evidence; admissible and logical, the nature of the trials; fair and unfair and the existence of the land title deeds.

Dependent variable on the other hand was the one in which changes were observed following the change in the independent variable. It was also the dependent variable which was subjected to the independent variable (Field, 2020). In this research work the dependent variables includes the outcome of the land issues such as the amount of compensation paid to the victims or the sanctions given to the offenders.

The conceptual framework therefore provided a guide on how the various independent variables affected the dependent variables within the customary courts in Munuki Payam. To establish which factors contributed to the determination of the outcome of the land issues resolved, the study aimed at comparing the methods of evidence tendered and the fairness of the trials conducted and if actual land documents were produced in the cases. This also raised some of the challenges that are faced by customary courts such as bias and lack of resources that affects the efficiency and fairness of the courts. Overall, the conceptual framework was beneficial in the following way, that is, in guiding the conduct of the study, analyzing the data collected and in identifying the relationships between variables. This not only enhanced the development of the research but also enabled one to arrive at the conclusions on the role of customary courts in dealing with the issues to do with land disputes in Munuki Payam.

Independent Variables



Source: Modified from Adeola (2021) and Oyugi (2022)

Figure 1.13: Conceptual Framework

Dispute resolution is greatly affected by the nature of evidence available in a case. For instance, the adoption of oral evidence and written records, which are cross-checked with the community leaders, can improve the community's confidence in the customary courts (Adeola, 2021). On the other hand, the use of informal types of evidence may contradict the formal laws and thus affect the degree of satisfaction and compliance (Ng'ong'ola, 2019).

The survey referred to as KAP positively relates the community trust in the customary courts to the citizen satisfaction. This is so because the more people have adequate information on the procedures followed in the court, their legal rights, positive attitude towards the fairness of the courts and positive perceptions towards the outcome of the courts, the less the rate of land disputes since people will be willing to accept the outcomes of the court (Singh, 2022). These relationships may also be influenced by other factors including the government policies and socio-economic factors that may impact on the overall satisfaction (Moyo, 2022).

The institutional, social and legal factors that are associated with the customary courts determine the time that it takes to address the issues of land and the efficiency of the system. For instance, political interference and inadequate funds hampers the process and reduces the capability of the courts in resolving the disputes (Deng, 2023). Some of the social factors that make the process of solving the dispute difficult include gender bias and conflicts in community (Kolok, Mahdi, & Ngar, 2020). To this end, it is important is to understand the type of cultural practices that prevail and the importance of the government to formulate policies that will improve on the capability and independence of the customary courts.

CHAPTER TWO

LITERATURE REVIEW

2.1. Introduction

This section aimed at reviewing the literature on Land disputes and customary courts in South Sudan in general and then focused on Munuki Payam. This section aimed at providing a definition and theoretical framework of land disputes and customary courts and described the origin of land disputes and the functioning of the customary courts in Sudan and South Sudan. This section also discussed a few legal frameworks in South Sudan that govern and guide Customary Courts and cases of Land disputes in South Sudan and lastly; it highlighted the research gap.

2.2 Review of Literature

Several literatures were empirically reviewed in accordance to study's specific objectives that were postulated in chapter one in the following sub sections.

2.2.1 The Nature of Evidence Used by Customary Courts in Resolving Land Disputes

Several researches have been conducted in the last couple of years on the type of evidence that customary courts employed in addressing land issues, which has given a broad perspective on the similarities and differences in the diverse cultural and legal systems. Hence, Zhang (2021) conducted a study in rural China with the main aim of determining which evidential forms are recognized in customary courts. The information as gathered from the interviews of the local judges and the legal records to determine that the common practice then was the use of oral evidence and the local maps supported by the community witnesses. Liu (2020) has also mentioned the role of ancestral records and family agreements in dealing with the land disputes in China and this was also found effective in the courts. Similarly, Wang and Chen (2022) also discussed the previous land usage and the fact that it occupies the same status as the written

records according to the chronicles. These studies also established that the customary courts prefer traditional procedures of evidence because they are easily obtained as the culture of the society favors oral evidence. Thus, they recommended that the modern techniques of evidence should be used in the system to enhance efficiency. However, a common weakness that was observed was that there was a poor documentation of the customary court precedents, (Zhang, 2021; Liu, 2020; Wang & Chen, 2022).

In Brazil, Pereira et al. (2020) presented the evidentiary rules applicable in the customary courts especially in the Amazonian region concerning indigenous people's land rights. This study also revealed that evidence in these courts were provided in form of historical narration, objects such as trees and rivers and group oral testifiers. This was further supported by Silva (2019) who only focused on the manner in which memory and geographical locations in the Amazonian forest are employed in the evidential pattern among the indigenous people. Additionally, Oliveira and Santos (2021) gave a clear understanding of the concept of a ritualistic and symbolic view of evidence while handling trial. As the findings made in these court such courts relied more on oral history and physical features of the land. The studies also supported the fact that such methods originate from culture; however, they could be deemed as illegitimate. They argued that there is a possibility of following the traditional practices but with a modification and with a legal support for the legal systems. The gap that was identified was that customary court judges had no training in addressing matters of evidence (Pereira et al., 2020; Silva 2019; Oliveira & Santos 2021).

As stated by Oduro (2022), the type of evidence used by the customary courts in the Yoruba land in handling the cases concerning land. It was also observed from interviews and document review that the customary courts relied on orally produced evidence, storytelling and documents on inheritance of land. This was further supported by Adeyemi, (2020) where he highlighted on the need to present lineage evidences and traditional court cases. Furthermore,

Bello (2021) specifically studied the significance of communal land agreements to which the study found that they are relevant in the decision-making process. These studies indicated that although oral and traditional sources can keep people informed on culture and tradition then it lacks scientific backing expected in the legal systems. They also suggested writing as one of the measures of gathering evidence or documentation. The studies in question revealed that the kind of evidence of the kind that has been described by other researchers as traditional was either unavailable or was not well documented (Oduro, 2022; Adeyemi, 2020; Bello, 2021).

Mbala (2019) has also conducted a study on the evidentiary practices of the customary courts in Democratic Republic of Congo especially in the rural areas. The study also found that evidence included the elders, the usage of the land as well as the history of the ownership of the land. In support of this, N'Souki (2020) examined how communal meetings and consensus aids in the validation of the ownership of land and Tshibanda (2021) on how physical features such as natural objects were utilized in the same. They also discovered that such evidence is valued for the fact that it is real as well as meeting the standards of the community. However, they urged the other formal structures in the land registry to be adopted for an enhanced clarity and legal acceptance of the structure. The issues of the training of the judges and the legalization of the customaries courts records were also underpinned by the following studies; Mbala (2019), N'Souki (2020), Tshibanda (2021).

In the research Kamau (2020) compared the use of evidence in the customary courts in the Kikuyu community of Kenya. As sources of evidence, word of mouth and statements from community members and traditional boundaries were also mentioned by the study. In the same year, Wambui's concern was on how to merge the two cultures of oral tradition and writing in the resolution of family land issues. In addition, Njeri and Mwangi (2019) have also explained that such things as traditional rituals and other validation processes are also considered as evidence. These studies opined that despite the fact that such evidence is highly culturally

invasive there is need to introduce technical evidence to support the legal systems. They opined that there is a way that traditional and new methods of documentation can be adopted. Some of them include; Poor record keeping and lack of judicial training (Kamau, 2020; Wambui, 2021; Njeri & Mwangi, 2019).

In Tanzania, Mollel (2021) conducted a research on the evidentiary processes in the customary courts of the Maasai people. It was found that oral history, land use history and customary practices were the most frequently employed. This agreed, in accordance with the study by Ngowi (2019) in which he concentrated on the elder testimony and traditional conflict solving practices. In addition, Nkya (2022) also focused on the aspects of geographical features and the genealogy details. These studies highlighted the fact that although the administration of traditional evidence is culturally acceptable, it may not be legally acceptable. He stated that the court should embrace the practices of the current generation of evidence in order to enhance the performance of the judiciary. From the literature, it was established that the customary court decisions are not well documented and legally recognized as valid legal instruments (Mollel, 2021; Ngowi, 2019; Nkya, 2022).

For South Sudan, Deng (2021) undertook a study on the types of evidence that can be accepted in customary courts in share of land disputes among Dinka people. The study also explored that the methods of evidence that were commonly Available included; oral history, artefacts and history. In support of this, Garang (2020) specifically on the role of communal memory and elder's testimony, and Wani (2022) on the use of symbols as evidence in the land cases. These studies also pointed out that such evidence has the general function of supporting cultural practices but it is not as polished as the evidence offered in the court. In their opinion, such practice should be a blend of both the approaches but with the customary court judges well trained and documented. The gaps that were noted included training and documentation which was not well done systematically (Deng, 2021; Garang, 2020; Wani, 2022).

2.2.2 To Assess the Extent of Citizenry Satisfaction with Customary Court Decisions in Resolving Land Disputes

Understanding the degree of satisfaction of citizens in the customary court in resolving land issues has become one of the hot topics of interest of empirical research in different cultures, according to several studies. In the present study Patel (2019) administered a survey in the rural area of Gujarat, India with the purpose of determining the citizens' perception over the customary court. The study adopted a cross-sectional survey design through administering structured questionnaires on 500 households that had been involved in land disputes in the last five years. The survey revealed that 78% of the respondents were satisfied with the decisions because the courts were in harmony with the local culture and the fast pace of the processes. But in the study conducted by Sharma and Kumar (2020) in Rajasthan which adopted the similar methods revealed a lesser satisfaction level of 60% due to perceived prejudice and lack of legal training among customary judges. In another study done by Rao in 2021, the study was conducted in the tribal areas of Andhra Pradesh and the satisfaction rate was noted to be higher at 85% largely because the community has faith in the elder who mostly acts as a judge. These studies established that, although satisfaction levels are high because of culture relevance and fast processing, impartiality and legal training are the main concerns. They suggested that there should be training sessions for customary judges and ways to handle any form of bias (Patel, 2019; Sharma & Kumar, 2020; Rao, 2021).

Rodríguez (2020) conducted a mixed-methods study with both quantitative questionnaires and focus group discussions in the Cauca region of Colombia to examine satisfaction with customary court decisions among indigenous peoples. The study showed that 70% of the participants were satisfied with the courts with many of them acknowledging that the courts are culturally appropriate and easily accessible. On the other hand, González and Pérez (2019)

in their study done in the Amazonas region reported a slightly lower level of satisfaction at 65 % due to delays and some inconsistency in decision making. Additionally, Moreno (2021) conducted a study in the Chocó region and reported a satisfaction rate of 72% in the study, especially the inclusion of traditional rituals in the resolution of the conflict. These researches established that cultural relevance and accessibility are two advantages of the customary courts but there are issues of inequity and effectiveness. Some of the recommendations that were made were the establishment of standard operating procedures and increased training for the adjudicators (Rodríguez, 2020; González & Pérez, 2019; Moreno, 2021).

In Ghana, Owusu (2021) sampled the Asante community to establish their satisfaction level with the customary court in addressing land related cases. In the study, 600 households were engaged and the satisfaction level that was reported was 80 percent and some of the issues that were pointed out by the participants included; the need for community participation and respect of culture. This concurred with the findings of Agyeman (2019) who also established a satisfaction rate of 95.9 % in the Northern Region by reason of perceived fairness and cultural practices in the courts. However, according to Mensah (2020), the satisfaction rate in the Volta region was slightly low at 65%; the participants' main grievances were corruption and favoritism. These studies helped reveal that while People's courts are recognized for their cultural receptiveness and participation, factors of corruption and partisanship hinder them. They suggested that there should be legal watchdogs in order to monitor the courts for the sake of delivering justice (Owusu, 2021; Agyeman, 2019; Mensah, 2020).

Kabila (2020) undertook a study in Democratic Republic of Congo to assess the satisfaction of people with decisions made by the customary court in Kasai region and the study involved quantitative and qualitative research methodology. According to the survey, 75% of the respondents were satisfied with the courts while the others appreciated the ability of the courts in addressing disputes as well as the cultural competence of the courts. Similarly, Bemba

(2019) study that was conducted in the Ituri region showed a 78% satisfaction level where the factor of respect of traditional authority was highlighted. However, Lumumba (2021) stated that the satisfaction rate of 68 % among the residents of the Kivu region is slightly lower which can be blamed on the anger over the worries of inconsistency and lack of transparency. These studies pointed out that compared to other courts, customary courts are faster and more culture sensitive but they lack transparency and are not consistent. Other recommendations were improvement of bureaucratic procedures and the degree of decision-makers' responsibility (Kabila, 2020; Bemba, 2019; Lumumba, 2021).

In the same regard, Njoroge (2019) undertook a study to assess the level of satisfaction of the citizens with decisions made by the customary courts among the Kikuyu community in Kenyan through questionnaires to 450 households and focus group discussion. The survey showed that the participants' satisfaction level was 82% and they acknowledged that the courts were knowledgeable in culture and efficient. Similarly, Muriuki (2020) established a high level of satisfaction at 80 percent among the Maasai highlighting the relevance of elder's power in decision making. However, Mwangi and Wanjiru (2021) research conducted in the coastal region established a slightly low satisfaction rate of 62% the influence and pressure from external forces in the court. These studies found out that while people rely on the customary courts because they are culturally sensitive and effective, they are worried about bias and external influence. They opined on the increase of the independence of the customary courts and on the training of the judges incessantly (Njoroge, 2019; Muriuki, 2020; Mwangi & Wanjiru, 2021).

To achieve this in Uganda, Mugisha (2020) conducted a study in the Buganda region to determine the level of satisfaction that people have with the decisions made by the customary courts particularly with regard to land issues. The study adopted both household survey and key informants' interviews and thus the satisfaction rate was 77%. The respondents also

approved the courts' conventional values and the swift disposal of cases. Likewise, Katumba (2019) established a satisfaction level of 75% in the Acholi region with regard to communal participation in decision-making. Nonetheless, Okello (2021) indicated a lower satisfaction rate of 63% in the Busoga region whereby some of the concerns highlighted included partiality and lack of formal legal education among the judges. All these studies pointed out that although cultural relevance and convenience of customary courts are advantages, impartiality and legal literacy are the challenges. They advised that customary judges should be trained often, and that there should be mechanisms of accountability (Mugisha, 2020; Katumba, 2019; Okello, 2021).

In South Sudan, Kuol (2021) conducted a quantitative study and interviews to examine satisfaction with the customary court decisions of the Dinka community. The satisfaction level was 70%, most of whom appreciated the fact that the courts operate in accordance with the local culture and the short time it takes to resolve cases. Similarly, Lado (2020) conducted a study among the Nuer community where the satisfaction rate stood at 68% and the reason was the respect for traditional authority. But, Deng and Ajak (2022) reported a slightly lower satisfaction level of 60% in the Equatoria region where people complained of corruption and interference of external forces in the court. These studies held that as much as the cultural relevancy and effectiveness of customary courts are valued, the vices of corruption and external interferences negatively impact the functioning of the courts. They suggested that there is a need to improve the accountability and openness of the customary courts and to provide the judges with constant training (Kuol, 2021; Lado, 2020; Deng & Ajak, 2022).

2.2.3 Examine Challenges the Customary Courts Encounter in Resolving Land Disputes

The customary courts encounter several challenges in the resolution of land cases due to some social, economic, and political factors. India is another country where Gupta (2021) explored the difficulties encountered by customary courts in Jharkhand. The study involved conducting interviews with the customary judges and members of the community and it was identified that the challenges were; the customary judges had no formal legal education, political influence in the customary court and lack of record keeping. These findings were similar to Choudhary (2020) who also observed similar challenges in the tribal areas of Odisha, particularly the external political pressure and corruption. Similarly, Singh and Verma (2022) pointed out that one of the challenges of customary laws was the conflict between the two systems that are customary and formal laws where there are disparities between them. These studies found that, although customary courts are a vital part of the community justice system, they have several problems regarding the training of the legal professionals, political interferences, and documents. Some of the recommendations made were training programs for judges, better anti-political influence measures, and record-keeping measures (Gupta, 2021; Choudhary, 2020; Singh & Verma, 2022).

Silva (2020) did ethnography research in the Amazon, Brazil to explore the difficulties that customary courts face in indigenous societies. The study also identified that lack of recognition by the formal legal system, inadequate resources and internal conflict as the major challenges. Santos (2019) stated that, to this effect, the problem of the dual court system that involved the customary and formal courts was that the two were confusing and came up with conflicting decisions. Likewise, Almeida (2021) pointed out that another challenge is the issue of neutrality that was challenging particularly when the customary judges were somehow

connected to the parties in the dispute. These studies found that the three key areas of concern were the legal status, resource management and neutrality. According to them, such legal reforms should be made to turn the customary courts into formal ones, the increase in funding and training should be done in order to make sure that the courts are bias free and therefore fair (Silva, 2020; Santos, 2019; Almeida, 2021).

The study of Mensah, (2020) used the cross-sectional survey and focus group discussion to assess the challenges of the customary courts in the Ashanti region in Ghana. The challenges include corruption, inadequate standard working procedures, and a poor legal culture among the members of the superior court of judicature. This was in accordance with the findings of Appiah's (2019) and Agyekum's (2021) researches on corruption and favoritism in the Northern Region and the Volta Region respectively which indicated a negative influence on the authority of the customary courts. They were able to find out that some of them included corruption, procedural injustice and lack of education in law. The following are recommendations for improvement were made for the improvement of the customary courts, the formation of supervisory authorities to superintend the court, norms and practices, and educational programs for the customary courts' judges (Mensah, 2020; Appiah, 2019; Agyekum, 2021).

To the best of the researcher's knowledge, Adeoye (2019) surveyed Nigerian society, especially the Yoruba region to examine the challenges faced by the customary courts in the resolution of land-related disputes. When conducting this qualitative study, interviews and document review were used and the themes identified as political interferences, corruption, and lack of legal frameworks. This was further supported by Balogun (2020), some of the challenges such as judicial corruption and influence from local elites were also pointed out. Furthermore, Eze (2021:176) stated that one of the inevitable issues that arises with customary decision-making is the issue of how to assimilate the decision into the legal system, with which

there is no known legal way of how it can be done as well. In these studies, political interference, corruption and absence of a good legal environment were noted as the major reasons. They are legal reforms such as the alterations of the degrees of independence of the customary courts, anti-corruption measures and the relationships between customary law and written law (Adeoye, 2019; Balogun, 2020; Eze, 2021).

Koigi in his 2021 study conducted a qualitative research on the challenges that are faced by customary courts in the Luo traditional setting in Kenya, he carried out interviews and had a focus group discussion. It also revealed that there was no legal training, absence of resources, and interference as some of the factors experienced in the study. Wanjohi (2019) also noted political interference and absence of paperwork as other factors in the kikuyu community. Moreover, Karanja and Mwangi (2020) also pointed out a study on the Maasai community and identified that the effort to meet the cultural standards and the legal requirements were a problem. They concluded that these some of the factors included; inadequate legal training, insufficient resources for investigation, and political interferences. Some of the recommendations made were; training of judges, provision of adequate resources, and demystification of political influence (Otieno 2021; Wanjohi 2019; Karanja and Mwangi 2020).

According to Mukiibi (2019), the findings on the challenges of the customary courts in the Buganda region were obtained through interviews and the analysis of the archives. The priorities that has been identified include corruption, lack of legal formalism and inadequate resources. In a similar vein, Nsubuga (2020) noted in Busoga region that their political interferences and biasness of the courts have affected the performance of customary courts. Further, Byarugaba (2021) noted that there is another problem of how the decisions made by the customary courts are connected with the legal systems. These studies identified the following factors as causes of constraints in the health system; corruption, procedural

irregularities and politics. They proposed measures against corruption, the setting of standard practices as well as integration into the laws (Mukiibi, 2019; Nsubuga, 2020; Byarugaba, 2021).

Deng (2020) has identified some challenges faced by the customary courts among the Dinka people of South Sudan through the use of interview and community questionnaires. This study was able to establish that political interferences, lack of legal knowledge, and unavailable resources were some of the issues at hand. Supporting this, Gai (2019) established the same challenges in the Nuer community where they influence the bias of customary courts due to local issues. The same year, Lado was also concentrating on the Bari community and explained that it is quite difficult to be procedurally proper and thereby earn the trust of the community members. These studies noted political interference, lack of legal education, and resource shortage as some of the issues. Some of the recommendations made were the need to establish a better training program for the judges and enhancement of the resource mobilization and independence of the judiciary (Deng, 2020; Lado, 2021; Gai, 2019).

2.3 Summary and Research Gap

Customary courts as a method of solving the land disputes was a rather vast and heterogeneous subject matter that included various cultural and regional practices. As much as the researcher is concerned, it was evident that the customary court system embraced cultural values, was easy to access and their procedure was efficient. In countries like China, Brazil, Nigeria, Ghana, the Democratic Republic of Congo, Kenya, Uganda, and South Sudan, the customary courts are using the oral evidence, historical and cultural stories, and consensus, which is more familiar with the culture or society. Such high satisfaction levels in these areas show that the community participation and the courts' integration of indigenous practices are relevant. Nonetheless, these courts had their weaknesses, and some of the challenges that affected them

include political influence, lack of proper training, corruption, and poor record keeping, which affected their credibility.

The following gaps should be filled in order to improve the role of customary courts in the resolution of land disputes from a research perspective: One of them is the absence of the systematic documentation or formalization of the court decisions that is crucial for transparency and integration with the official legal frameworks. Also, the problems of impartiality and bias, which are closely connected with the relation between the judges and the members of the communities, as well as political pressures, call for the need to develop effective safeguards to guarantee fair and unbiased decision-making. It is also apparent that there is a need to increase the quality of the training of customary court judges to improve their legal expertise and the predictability of their decisions. Furthermore, while early satisfaction has been explored as the most significant aspect, further study on the influence of customary court decisions on the relations in the community and stability of tenure in the long-run has not been researched. This is important for the researchers and policy makers who would wish to improve on the effectiveness and fairness of the customary courts in handling land cases especially in Munuki Payam, Juba City South Sudan.

CHAPTER THREE

RESEARCH METHODOLOGY

3.1. Introduction

This section also outlined the research proposal design, the geographical location of the research, the population of interest, the methods of sampling, the estimation of the sample size, data collection instruments and finally, the credibility, accuracy, ethics and the law in the research.

3.2. Research Design

Accordingly, Creswell and Creswell (2018) have defined a research design as a plan adopted by the researcher during the process of carrying out study that aids in observation, data collection, analysis and interpretation. This research employed a mixed approach research design with both qualitative and quantitative research techniques in order to determine the extent to which customary courts are effective in addressing the issue of land disputes in Munuki Payam, Juba City, South Sudan. In this case, the reason for using the mixed-methods research design is because it is effective in obtaining both the trends data and qualitative data that gives the background of the customary courts in handling land disputes. The quantitative method help in determining the level of satisfaction of the citizens and the efficiency of the courts while the qualitative method is aimed at determining the feelings, incidences and difficulties of a certain process. This was helpful in enhancing the credibility, reliability, and validity of the data collected since the study offered a wider perspective in the legal as well as policy making processes in South Sudan.

As the research methodology in the qualitative section of the study, participant observation, unstructured interviews, and direct observation were employed in the study. Interviewing participants was very helpful in getting data on the actual procedures and attitudes to the decisions made by the customary courts. The qualitative data was useful in giving a background and details of how the land disputes are solved and the difficulties encountered.

The quantitative part included questionnaires that helped in collecting data from a larger number of participants. This made it possible to quantify some aspects of satisfaction, frequency of certain kinds of evidence produced, and other aspects of the court's functioning. Thus, the use of both methods was effective in providing a sound and extensive understanding of the research problem.

Inter-observer reliability was also used to determine the level of agreement between the judges in making the assessment. Inter-rater reliability is important because different people may have different perception of responses and this way it made sure that responses were evaluated in a consistent manner. To ensure validity, in this study, the sampling validity technique was adopted just as in the case of content validity where the measure covers a wide range of areas within the concept under study. This study therefore sampled items from all the domains to ensure that the subject is well captured.

3.3. Research Site

The research location was the particular place where the study was conducted (Yin, 2018). This study was carried out in South Sudan in Munuki Payam, Juba City. Munuki Payam is located at 4.8517° N, 31.5825° E. They include Hai Simba, Nyakuron West, Nyakuron North, Munuki Block A, B and C, Hai Mauna, Rock City, Hai Seminary, Dar Salaam, Hai Kuwait and Gudele 1 (see annex V). The study focused on the customary courts, the statutory courts, South Sudan Police, Payam Block Council Department of Land and the people of Munuki Payam.

This is because the area is used to host both the host community and the Internally Displaced Persons (IDPs). Munuki Payam is one of the biggest payams in the Juba City and at the same time, is endowed with the largest number of customary court chiefs. Due to this demography and institutional differences, the country provides a perfect research environment. This area is ideal for ascertaining the role of customary courts in addressing land disputes, and any demerits that may be present to ensure the information acquired from such institutions is reliable and exhaustive.

3.4. Target Population

It can be described as a distinct group of people, services, elements, events or household that is of interest in a particular study as described by Mugenda & Mugenda (2019). Thus, in regard to the selection of Munuki Payam and Juba City as the specific population of interest for this study which aims at establishing the role of customary courts in the resolution of land disputes in South Sudan the following population of interest has been considered. These are chiefs of the customary courts, judges of the statutory courts, police officers from the police department, staff from Payam Block Council Department of Land and any other citizen from Munuki Payam whether an IDP or the host community.

The target population of this study was 2166 and these included 54 heads of customary courts, 12 heads of statutory courts, 15 key personnel from the police unit, 15 full time staff from the Payam Block Council Department of Land, and 2070 Munuki Payam citizens composed of IDPs and the host community. This selection aims at covering as many aspects and cases of the land dispute issue as possible.

Table 3.1: Sample Distribution

Category	Population	Percent (%)
Head of Customary Courts (Sheikh Hila)	54	2.5
Judges of Statutory Courts	12	0.6
Citizens (IDPs and Host Communities)	2070	95.6
Payam Block Council Department of Land	15	0.7
Police Unit Key Personnel	15	0.7
Total	2166	100

Source: Munuki Payam Institutional Records, South Sudan (2024).

3.5 Study Sample

Sampling is an important process in conducting a research whereby a part of the population is chosen to represent the whole. According to Moore and Butner (2011), sampling is a technique that involves choosing a small part of a population to stand for the whole population. Sampling is important as it helps in generalizing from the results of the study to the entire population.

3.5.1 Study Sample Size

The sample size is deemed to represent the population in order to generalize the results of the study in the same manner in the population. According to Kombo & Tromp (2006), the sample size should be representative of the whole population in terms of the characteristics. As per the formula provided by Yamane (1967) which uses a confidence level of 95 percent and a margin of error of 5 percent the calculation of the sample size is as follows:

$$n = \frac{N}{1 + N(e^2)}$$

Where: n=minimum sample size, N=population size, e=margin of error (0.05)

$$n = \frac{2166}{1 + 2166(0.05^2)} = 338$$

Table 3.2: Sample Size Distribution

Category	Population	Sample Size	Percent (%)
Head of Customary Courts (Sheikh Hila)	54	9	2.7
Judges of Statutory Courts	12	2	0.6
Citizens (IDPs and Host Community)	2070	323	95.6
Payam Block Council Department of Land	15	2	0.6
Police Unit Key Personnel	15	2	0.6
Total	2166	338	100

Source: Researcher (2024)

3.5.2 Sampling Procedures

Nahmias (2010) defined the sampling technique as a method of choosing a portion of the population as the focus of research for the ease of the researcher. The use of multi-stage sampling techniques was applied in this study because it is suitable for dealing with diverse populations at different stages and areas. In each phase, some of the sampling techniques that were employed include random sampling, purposive sampling, and stratified sampling. The first technique used in the selection process is the stratified sampling to group the population according to some identifiable features or positions, for instance, management positions. This categorization helps in the way that all subgroups in the population are included in the study. After stratification, simple random sampling is used to sample actual respondents from each of the stratum. It also increases the probability of having a representative sample and at the same time saves on costs and time required to conduct interviews. In this study, purposive sampling is used to identify respondents who are in a good position to provide the necessary information on the study's focus area, which is the function of customary courts in addressing land disputes. This method involves targeting informed people from the judiciary, law enforcement agencies, land administration agencies, and local people to ensure that the data gathered is adequate and relevant to the research questions.

3.6 Data Collection

3.6.1 Data Collection Instruments

In order to achieve systematic and reliable data, the study used two instruments; questionnaires and Key Informant Interview guides. Each tool is aimed at ensuring that both quantitative and qualitative data is collected from different groups of the population that are involved or affected by the operations of the customary courts in Munuki Payam.

3.6.1.1 Questionnaires

In this research, questionnaires were used as the main data collection instruments to obtain responses from the respondents. Questionnaires are useful in a large population where the respondents are literate and capable of filling the questionnaires on their own. Orodho (2004) has it that questionnaires are effective in reaching a large number of people within a short time. In order to obtain diverse responses, the questionnaire contained both open-ended and closed-ended questions. The nature of questions adopted in this study aimed at capturing respondent's opinions and recommendations as opposed to closed questions which only require Yes/No answers or options to choose from (Mugenda & Mugenda, 1999). On the other hand, closed-ended questions help in getting standard answers that are easier to analyze and compare quantitatively. This makes the study more reliable since it combines the quantitative data with the respondent's qualitative opinions.

The questionnaires consisted of several sections which were to cover all aspects of the study. The first section covers demographic information consisting of questions on the respondent's sex, age, education level, employment status and years of residence in Munuki Payam. This information is important for demographic profiling and potential impact of these factors in relation to customary courts.

The subsequent sections of the questionnaire delve into the core study areas. This Study examines the type of evidence accepted by customary courts, the level of satisfaction of citizens with the decisions of the courts, the problems faced by the courts, and ways of enhancing their functionality in land disputes through responses to questions that were answered on the Likert scale ranging from Strongly Agree to Strongly Disagree. This format makes it possible to measure attitudes and perceptions concerning the effectiveness and impartiality of customary courts.

3.6.1.2 Interview Schedule

Interview schedule was used in order to get information from key informants of the study. Interview schedule is a list of questions that are prepared in advance and are to be asked in a planned manner. These schedules were formatted in such a way that the same questions are asked to all the interviewees in the same sequence. Interview schedules enable probing and this makes them less restrictive than questionnaires in terms of the following:

Two research assistants were employed to translate the interview schedules for the local community. In order to avoid gender bias, both male and female research assistants were incorporated. The criteria that were used when selecting the participants focused on people who have been raised in the area of study hence, they fully understand the area. Also, they had to be proficient in the local language or dialect to be able to communicate with the respondents who may not understand Arabic. It was also important to be fluent in English when dealing with informants who are comfortable speaking with strangers in English.

The research assistants were provided with a brief training on how to conduct the interviews, which included the correct manner of putting and asking the questions in the interviews so as to achieve standardization of the responses. The interview instruments were first checked by the study supervisors and other experts to determine its relevance for this study.

3.6.2 Pilot Testing of Research Instruments

It is worth noting that a pilot test of the questionnaire sufficiency was conducted before the main data collection process. This was useful in establishing some gaps in the research instruments that would require some enhancement before the actual data collection exercise (Saunders et al., 2019).

In this regard, the study conducted a pilot test in the neighboring Kator Payam, which shares similar socio-economic and demography with Munuki Payam since they are both in Juba City, South Sudan. The study used the common suggestion that a pilot test should be conducted with 10% of the sample size (Bryman, 2018). To check the reliability and validity of the research instruments used in this pilot, the results were analyzed to determine the effectiveness of the instruments that will be used in the main study (Creswell & Creswell, 2023).

3.6.3 Instrument Reliability

Reliability is the degree of consistency that a measuring instrument provides for yielding the same results whenever it is used repeatedly (Saunders, Lewis & Thornhill, 2019). To maintain reliability, validity, reliability and relevance, the research instrument was pre-tested on a sample population as stated earlier.

The reliability of the study was assessed by using the test-retest method where the same questionnaire was administered to the same respondents after 3 days to compare the results (Bryman, 2018). Any modification was made to ensure that the instrument was reliable as much as possible. The expected result of the reliability test is that the outcome of the tool should be fairly constant across various areas and trials, which will demonstrate that the data collection tool is stable and dependable (Creswell & Creswell, 2023).

3.6.4 Instrument Validity

Validity can be defined as the degree to which a particular research instrument measures what it is supposed to measure and produces the expected results (Cooper & Schindler, 2014). Gall and Borg (2014) have stated that validity ensure that the items in the test reflect the content that is being measured.

The credibility of the research tool was established by the use of proper sampling technique and the assistance of experts. The research supervisor, who has adequate knowledge in the research techniques, assisted in the process of developing the instruments. Also, a panel of subject-matter experts composed of researchers and professionals in land governance and legal fields reviewed and approved the instruments to fit the study variables and objectives.

3.7 Data Analysis

Data analysis is a process of arranging data, processing it and interpreting it to come up with useful information. As this research adopts the mixed-methods approach, both quantitative and qualitative data was analyzed to respond to the research objectives adequately.

Namely, at the end of each day of data collection, the questionnaires were checked for accuracy, completeness, and coherence before their storage. The data was coded in a way that like responses was grouped together to make it easier to analyze. The data was cleaned, recorded and input into the Statistical Package for Social Sciences (SPSS) version 26. In quantitative data analysis, the use of percentages, means, standard deviations, and frequencies were employed to describe and display the numerical data in the form of tables and graphs.

For the qualitative data, the responses to the open-ended questions and interviews were analyzed using the thematic analysis approach in which the themes and patterns were identified and grouped. Transcriptions of interviews and questionnaires were used to back up the themes, so as to give the views of the participants. It helped to reveal the contextual and experiential aspects of the study and enrich the data obtained from the quantitative analysis.

3.8 Ethical and Legal Considerations

Ethical and legal considerations in research are the principles and standards to be followed in the conduct of the study and the rights of the participants to be protected, the study to be conducted with integrity and the legal requirements to be met (Resnik, 2020). In ethical

research, there must be informed consent and anonymity of the participants as well as minimizing the risks to the participants (Creswell & Creswell, 2023).

To access the respondents, the researcher first got an official letter of introduction from Africa Nazarene University (ANU). This letter was delivered to the local administrative authorities, chiefs of the customary courts, and heads of institutions in Munuki Payam of Juba City, South Sudan. Further, the letter was taken to the customary court judges, statutory court officials, police personnel, land council and the community members for the purpose of enhancing the legitimacy of the study.

In order to ensure that the study is credible, the researcher ensured that the data was collected neutrally and appropriately (Bryman, 2018). They were not biased in any way in order to give the study the authenticity that it deserved. To avoid identification of the respondents, their identification details were not captured in the questionnaires and interviews, but only codes were assigned to each of them. Participants were asked to read and sign a consent form and they were free to refuse to participate or drop out from the study at any given time.

Furthermore, at the end of the research the researcher made a formal communication to the concerned authorities with the permission of the respondents regarding the study results. The subjects were allowed to fill a consent form to ensure that they were volunteers and well conversant with the ethical standards.

In conclusion, this study maintained its objectives to the letter, so that the research respects the ethical and legal requirements as well as the nature of evidence accepted by the customary courts, the satisfaction of the citizens with the decisions of the customary courts and the challenges faced by these courts in the resolution of the land disputes in Munuki Payam, Juba City South Sudan. Also, the study also highlighted measures of strengthening the role of

customary courts in the resolution of land disputes and how to conduct ethical research (Saunders, Lewis, & Thornhill, 2019).

CHAPTER FOUR

DATA ANALYSIS AND FINDINGS

4.0 Introduction

This chapter disclosed the data analysis and conclusion of the study on the Role of Customary Courts in Solving Land Disputes in Munuki Payam, Juba City, South Sudan. The study was conducted in line with the objectives of the study which were to identify the type of evidence that customary courts relied on, the level of satisfaction of citizens with the decisions made by the customary courts and the difficulties that the customary courts encountered in handling land issues. Data collected was analyzed using Microsoft Excel 2016, IBM SPSS Version 24, and MAXQDA and results were presented in tables, statistical summaries and thematic analysis. Frequency and percentage were used to analyze the survey data, while weighted means were used for the computation of the survey data means; interviews were also conducted to complement the survey results.

4.1 Rate of Return

The results were presented in the table below.

Table 4.1: Rate of Return for Questionnaires and Interview Guides

Instrument	Distributed	Returned	Not Returned	Response Rate (%)
Questionnaires	323	321	2	99%
Interview Guides	4	4	0	100%
Total	327	325	2	99%

Source: Survey Data (2025)

The study revealed that the data collection exercise was very effective with the response rate for the questionnaires being 99% while that of the interview guides was 100%. The 2 non-

returned questionnaires would mean that the non-response rate was 1%, which was negligible. Bryman (2016) opined that anything above 70 percent is regarded as excellent in social research hence the credibility of the study.

This high level of participation indicated that the issue of land disputes was a sensitive one among the residents of Munuki Payam which made them contribute a lot. This was in agreement with other research studies carried out in conflict affected regions where land ownership was a key factor. For instance, Agyekum (2021) in Ghana and Moyo (2022) in Zimbabwe noted the high response rate in the land governance studies as the result of the powerful economic and social consequences of the land tenure. The high response rate in this study ensured that the research findings were useful to the local people, and such findings can be useful to policymakers and advocates of legal reform in South Sudan.

4.2 Demographic Data

Demographic information of the respondents was also described to determine the distribution of the demographic variables in the sample population. The findings of this section were provided in the following sub-sections;

4.2.1 Gender

The gender factor was of significance in determining the views on the land issues and the customary courts in Munuki Payam. The study also aimed at determining the sex distribution of the respondents. These results were presented in the following table.

Table 4.2: Gender Distribution of Respondents

Gender	Frequency	Percentage (%)
---------------	------------------	-----------------------

Male	294	92
Female	27	8
Total	321	100

Source: Survey Data (2025)

The results showed that the male respondents were more dominant in the sample size with 294 (92%) while the female respondents were 27 (8%). This meant that men were more involved in issues to do with land and issues of conflict resolution as it was seen that men had more power over the use of land in South Sudan. This meant that women had little involvement in the land disputes, which could be as a result of cultural restrictions that barred women from participating in the determination of land issues. In most of the customary laws that were practiced in Africa, the women were subjugated to the men and particularly the male members of the family who had the final say on matters to do with property ownership and succession. The study also showed low representation of female participants in the study due to exclusion of women from the rights to land in Munuki Payam.

These findings were in line with other research studies done in other African settings. Adeola (2021) noted that customary courts in Nigeria were predominantly male populated and upheld the male-dominated customary law of land ownership that did not recognize women's rights. In the same way, Agyekum (2021) in Ghana's Volta Region noted that the women's access to land dispute resolution mechanisms was limited by socio-cultural factors.

4.2.2 Age Bracket

The results were presented in the table below.

Table 4.3: Age Distribution of Respondents

Age Bracket	Frequency	Percentage (%)
25 – 35	139	43
36 – 45	104	32
45+	78	25
Total	321	100

Source: Survey Data (2025)

The analysis of the age distribution of the respondents revealed that the largest proportion of the respondents were in the age range of 25-35 years with 139 (43%) while the second largest group was the 36-45 years age group with 104 (32%). Aging respondents made up 78 or 25% of the sample with 45 years and above. The fact that the majority of the respondents were young meant that the land disputes were more actively participated by people in the productive age, who were involved in the acquisition of land for residential or commercial purposes. The conclusion drawn from the research indicated that most of the conflicts surrounding the ownership of land was between the young people who wanted the land for business, settlement or to inherit it. This was especially so in growing urban centers such as Juba City where competition for the scarce land resources was on the rise due to increased population and displacements as a result of conflicts. The older respondents seemed to be engaged in advisory positions in the disputes but were not involved in litigation or claims as much.

In Uganda, Deininger and Castagnini (2018) established that youth were the most affected by land conflict as most of them were denied access to their ancestral land due to inheritance challenges. Also, Boone (2017) noted that the conflict in the land in African urban areas was among the young people who were in the process of establishing their property rights. A similar

observation was made by Forsyth (2017) when conducting his research in Kenya, where the young people were in conflict with the elders over the issues of land inheritance and allocation.

4.2.3 Highest Education Level

To achieve this objective, the study aimed at finding out the educational level of the respondents. The results were as follows: The results were summarized in a table as shown below.

Table 4.4: Education Level of Respondents

Education Level	Frequency	Percentage (%)
Illiterate	2	1
Primary	13	4
Secondary	71	22
College	125	39
University	110	34
Total	321	100

Source: Survey Data (2025)

The findings revealed that most of the respondents had college education, 125 (39%) and university education 110 (34%). Seventy-one of the respondents had secondary education, 13 of them had only primary education and 2 of the respondents were illiterate. This meant that a good number of the respondents involved in land disputes had achieved some level of literacy. This was a clear indication that it was not due to ignorance of the community since the majority of the respondents were educated but due to structural and legal factors in the ownership of the land. This knowledge made the educated to be more aware of their rights to land than the illiterates and therefore would approach the customary court or contest any injustice done on them. This was expected since a considerable number of the respondents could not read and write, meaning that the illiterate people relied on the community's way of addressing issues of dispute rather than on the law.

This was in concordance with the study done by Eze (2021) in Nigeria, whereby the educated were found to prefer the customary court since they have improved knowledge in legal matters. Similarly, Deininger and Feder (2018) confirmed in Kenya that education increases the tendency of the land owners to seek formal means to resolve the issues rather than mediation. Almeida (2021) also found the same in his study conducted in Brazil where he observed that higher education levels among indigenous people affect their legal interaction with customary land courts.

4.2.4 Occupation

This Study sought to look at the occupations of the respondents with regard to socio-economic factors influencing their involvement in land disputes. The results were presented in the table below.

Table 4.5: Occupation of Respondents

Occupation	Frequency	Percentage (%)
Employed	89	28
Police	74	23
Trader	56	17
Chief/Judge	3	1
Unemployed	99	31
Total	321	100

Source: Survey Data (2025)

The survey findings indicated that the majority of the respondents were unemployed 99 (31%) while the rest were employed 89 (28%). Out of the sample, 74 participants were police officers (23%) and 56 participants were traders (17%). In terms of the occupational grouping, chiefs and judges were the least in the list, forming only 3 (1%). These were in line with the works of Bello (2021) in Nigeria and Wani (2022) in South Sudan where the authors established that economic factors such as economic instability and unemployment were causes of land-related conflicts. Likewise, in his study conducted in Ghana, Agyeman (2019) found that the economically less privileged people were more likely to be involved in disputes over land since it was considered as an economic investment and a source of social security.

4.2.5 Duration of Residence in Munuki Payam

The study also aimed at finding out the number of years the respondents had been residing in Munuki Payam, Juba City. This was the case because the duration of residence was an important factor in determining the extent of their knowledge of the land disputes and the extent of their interaction with the customary courts. The results are as follows: The results have been summed up in the following table.

Table 4.6: Duration of Residence in Munuki Payam

Duration of Residence	Frequency	Percentage (%)
Below 5 years	58	18
5 – 10 years	91	28
11 – 15 years	87	27
16 years & above	85	27
Total	321	100

Source: Survey Data (2025)

Of the respondents, 223 (68 %) indicated that they had been living in Munuki Payam for more than 5 years, 91 (28 %) of the respondents had been living in Munuki Payam for 5-10 years while 87 (27%) of the respondents had been living in Munuki Payam for 11-15 years. The rest of the respondents 85 (27%) had lived in the area for a period of 16 years and above. Regarding the length of time that they have been living in their current place of residence, only 58 of the respondents have been living in Munuki Payam for less than five years. The assessment revealed that the majority of the participants had been residing in the area for a long time and that most of them had been involved in or aware of land disputes and the operation of the customary court.

The implication of the finding was that land issues were not confined to the new settlers as was expected but also to those who had been living in the area for some time now. Based on the above variables, the respondents who have been living in Munuki Payam for over ten years may have accrued knowledge on the changes in land tenure system, conflict arising from expansion of urban areas, and the use of customary courts in the settlement of disputes. This also pointed to the fact that the respondents also included the new settlers, hence, there could be issues to do with migration and displacement due to conflict that might be causing land disputes in the area.

These were in concordance with other studies conducted in other African urban centres that are defined by population and land use change and conflicts Deininger and Castagnini (2004) noted that both the long stayers and the newcomers in Uganda were involved in land disputes since the competition for the land was likely to increase following expansion of urban areas. Likewise, Agyeman (2019) working in the Northern Region of Ghana also noted that both the new comers and those who have been living in the area for a longer time were involved in land disputes because of the fact that the ownership of the land was not well documented. Similar findings were observed by Atuhair (2021) in Uganda where internal displacement of people

led to land use disputes since new occupants had no proper rights of ownership against other prior occupants.

4.3 Nature of Evidence Used by Customary Courts

To this effect, the study aimed at assessing the perception of the respondents on the type of evidence admissible in customary courts in the resolution of land related cases. A summary of the results was made in the following table.

Table 4.7: Respondents' Perceptions of the Nature of Evidence Used by Customary Courts

Statement	SA (5)	A (4)	N (3)	D (2)	SD (1)	Total	Weighted Mean
Customary courts and officials were aware of their roles in resolving land disputes	45 (14%)	61 (19%)	32 (10%)	99 (31%)	84 (26%)	321	2.6
The evidence used in ruling land dispute cases in customary courts was admissible and logical	29 (9%)	47 (15%)	40 (12%)	113 (35%)	92 (29%)	321	2.4
The ruling of customary courts was in line with the Land Act (2009)	37 (12%)	54 (17%)	36 (11%)	108 (34%)	86 (27%)	321	2.5
Customary courts delivered fair and justifiable rulings when it came to land dispute cases	41 (13%)	68 (21%)	35 (11%)	105 (33%)	72 (22%)	321	2.7
Customary courts were not intimidated by ruling and influential elites	24 (8%)	35 (11%)	30 (9%)	126 (39%)	106 (33%)	321	2.2

Source: Survey Data (2025)

Awareness of Customary Court Officials in Resolving Land Disputes

The study also showed that 45 (14%) of the respondents strongly agreed that the officials of the customary court understood their roles in handling land issues and 61 (19%) agreed. However, 99 (31%) participants disagreed and 84 (26%) strongly disagreed with the statement, which shows that the participants hold a lot of doubts concerning the competence of these officials. The mean score of 2.6 showed that the respondents had a negative attitude towards the awareness levels of the people to the customary court officials. These findings showed that many of them had the impression that customary court officials lack legal knowledge and are unfit to handle the cases of land. This may be due to lack of adequate legal training, political interferences or variation in the implementation of customary laws. This could be due to the fact that most of the customary court officials were not operating by formal procedures as the respondents suggested.

The same had been seen in other African nations. According to Adeyemi (2020), most of the officials of the customary courts in Nigeria had no legal education and therefore produced wrong decisions on legal issues. Like any other customary court in Ghana, Agyekum (2021) in the Volta Region of Ghana opined that they are inclined to make their decisions on the arbitrary basis of the judge and not by the legal precedents hence the irregularity of the decisions made in land cases.

Admissibility and Logic of Evidence Used in Customary Courts

The study also found that only 29 (9%) of the respondents strongly agreed that the kind of evidence which is used to make a ruling in the land dispute cases in the customary courts was admissible and logical, 47 (15%) agreed. On the other hand, 113 participants responded negatively in the scale while 92 responded strongly negatively. This is because the overall mean of 2.4 meant that the respondents had a negative attitude towards the quality of evidence

taken by the customary courts. These findings pointed to the fact that the customary courts in Munuki Payam relied on hearsay evidence or other forms of evidence that may not have been admissible in court. This might have been due to the fact that most of the information that was used was based on people's word, lineage, and stories from different communities and not documented evidence. As it has been observed that countries like South Sudan barely had any formal systems of land registration and therefore, the absence of written land titles posed a challenge to the courts as they were unable to authenticate the ownership of the land.

Compliance of Customary Court Rulings with the Land Act (2009)

Out of the respondents, 37 (12%) strongly supported the statement that the decisions made by customary courts were in line with the provision of the Land Act (2009) while 54 (17%) supported the statement. However, 108 (34%) disagreed, and 86 (27%) strongly disagreed. The average response of the respondents was 2.5 which showed that they had a perception that customary courts did not adhere to provisions of the Land Act (2009) most of the time. These findings pointed to the fact that the customary courts depended on traditional laws in their decisions on land issues instead of statutes. Since the Land Act (2009) aimed at harmonizing the customary and statutory systems of land management, the findings pointing to the fact that customary court decisions were inconsistent with the act indicated that legal pluralism continued to exist in the management of land.

The same had been observed in other African countries. Wily (2021) stated that many of the African states are operating under two legal systems and this has created conflict between customary law decisions and national land laws. Likewise, Ntsebeza (2021) in South Africa stated that traditional courts provided precedence to culture rather than law in cases of land disputes that led to legal ambiguity.

Fairness and Justification of Customary Court Rulings

In general, 41 (13%) of the respondents strongly agreed that the customary courts provided fair and justifiable verdicts while 68 (21%) agreed. However, 105 (33%) disagreed, and 72 (22%) strongly disagreed. The average rating of 2.7 meant that the respondents were divided half and half and many of them perceived the rulings as biased or unfair. These results indicated that a very high proportion of the respondents believed that the decisions on the land disputes made in the customary courts were influenced by bribery, bias or extraneous pressure. It is thus believed that political and ethnic situations in conflict ridden nations such as South Sudan played a role in determining bias in customary courts.

These results accorded with other studies from other parts of the world. Balogun (2020) in Nigeria also found that the intrusion of elites in the land issues mainly leads to partiality in the customary court. Lumumba (2021) also explained how power relations at the local level influenced the customary courts and their decisions as unjust.

Influence of Ruling Elites on Customary Courts

With regards to the last question on whether customary courts were not intimidated by ruling and influential elites, 24 employees strongly agreed while 35 employees agreed. However, 126 (39%) disagreed, and 106 (33%) strongly disagreed. The mean weight index of 2.2 established that the respondents agreed to the extent that powerful people influenced the customary court's decisions. From the above observations, it can be deduced that customary courts in Munuki Payam were politically and elated interferences, hence they were not independent. Given the circumstances in South Sudan, political elites, military and other powerful people may have influenced the decision of the trial in the cases of land dispute.

The same had been reported in other African nations. According to Moyo (2022), traditional courts in Zimbabwe served the interest of the elites within the communities and not the poor. In the same regard, Kolok et al. (2020) in South Sudan also noted that political interference was prevalent in the customary courts where political leaders wanted to influence the courts in their favor.

In addition, qualitative data was also gathered by interviewed questionnaires of 15 respondents from the Payam Block Council mainly from the Department of Land and 15 respondents from the Police Unit Key Personnel in Munuki Payam. The five objectives that formed the basis of the study include; the awareness of the officials of the customary courts about their roles and responsibilities, the acceptability and the rationality of the type of proof that is produced in the customary courts, compliance with the provisions of the Land Act (2009), the fairness of the decisions made by the courts, and; the influence of the ruling elites to the customary courts.

Awareness of Customary Court Officials in Resolving Land Disputes

Most of the respondents complained that the officials of the customary courts were not well informed of their roles in the resolution of land disputes. According to one of the Payam Block Council officials:

“Some of these customary court leaders do not understand the legal framework of land laws. They rely only on traditional knowledge, and sometimes their rulings contradict national laws.”

However, a few of the respondents’ respondents thought that some of the court officials were qualified. One of the Payam Block Council member said this in defending the courts of Payam Block Council.

“While some chiefs may lack formal education, they have deep knowledge of the customs and traditions that govern land tenure in our community.”

However, the general conclusion was that most of the customary court officials had a poor understanding of their roles and responsibilities in the legal process due to which they issued conflicting decisions and wrong interpretation of the land laws.

Admissibility and Logic of Evidence Used in Customary Courts

Some of the concerns that were raised included the type of evidence admissible in the determination of the land disputes, which most of the respondents argued that the court relied on the oral evidence as opposed to documentary evidence. A police officer noted:

“In most cases, land ownership is determined by word of mouth. Witnesses just say, ‘this land belonged to my grandfather,’ and that is enough to decide a case.”

A Payam Block Council official added that:

“It is difficult to verify land claims when there are no official records. Even those with documents sometimes lose cases because the courts trust verbal testimonies more.”

However, some respondents defended the system, arguing that traditional forms of evidence were essential in communities where formal land registration was weak. One respondent stated:

“Customary land inheritance has always been based on family lineage. Even if we don’t have written records, the elders in the community know the truth.”

In general, the study indicated that the absence of documentation in the customary courts hindered the evidentiary process and made the land decisions arbitrary and easily influenced.

Compliance of Customary Court Rulings with the Land Act (2009)

Many of the respondents complained that the customary court decisions were not consistent with the Land Act (2009). Some of the interviewed police officers described their frustration in the following words:

“Customary courts do not follow the Land Act. If they did, we wouldn’t have so many disputes where one ruling contradicts another.”

But some respondents justified the practice by claiming that the customary system has remained relevant long before the introduction of the Land Act. One council member explained:

“The Land Act is relatively new, but our customary courts have been resolving land disputes for generations. It is unfair to expect chiefs to abandon long-standing traditions overnight.”

Nonetheless, the respondents agreed with these arguments that lack of conformity to the national laws by the customary courts lead to legal disparities and erode the authority of these courts.

Fairness and Justifiability of Customary Court Rulings

Some of the respondents were of the opinion that the customary courts’ decisions on the issues of land were prejudiced and unjust. A police officer expressed his/her dissatisfaction with the courts saying that

“Most decisions favor those who have connections. If you are not well-known in the community, you are likely to lose your case.”

Similarly, a Payam Block Council official observed:

“In some cases, the chiefs make decisions based on who can offer them gifts or money. This is not a fair way to handle land disputes.”

However, a few respondents defended the courts, arguing that some chiefs genuinely sought to deliver justice. One Payam Block Council member stated:

“It is true that some chiefs are influenced, but others are honest and try their best to be fair. Not all customary courts are corrupt.”

The study also showed that some of the customary courts’ decisions were fair while others were biased especially when influential people were involved.

Influence of Ruling Elites on Customary Courts

The study revealed that people had fears that customary courts were biased by the ruling elites and therefore people could not get justice in cases of land disputes. A police officer stated:

“Powerful individuals have control over these courts. If a politician or wealthy businessman wants land, the customary court will rule in their favor.”

A Payam Block Council official also acknowledged elite influence, stating:

“There have been cases where chiefs receive pressure from top government officials to rule in a certain way. If they refuse, they risk losing their position.”

However, some respondents argued that not all customary courts were under elite control. One official mentioned:

“There are still some chiefs who stand for justice and refuse to be manipulated, but they are very few.”

The study supported the fact that political and elite interference was a key factor that hinders the independence and impartiality of the customary courts in Munuki Payam.

The thematic analysis supported the survey results that most of the customary courts in Munuki Payam were overwhelmed with challenges to deliver fair and efficient justice in land cases. Some of the respondents complained of lack of legal knowledge among the court officials, weak evidence and most of their decisions were found to be contrary to the provisions of the Land Act (2009). In this regard, the following reasons contributed to the deterioration of the legitimacy of these courts: corruption, bias, and influence of the elites.

4.4 Customary Court Decisions in Land Disputes

Respondents' perception on satisfaction with customary court decision on land issues was also assessed in the study. The results were as follows: The results of the study are presented in the table below.

Table 4.8: Citizens' Satisfaction with Customary Court Decisions in Land Disputes

Statement	SA (5)	A (4)	N (3)	D (2)	SD (1)	Total	Weighted Mean
Guilty persons/offenders of land disputes were punished by customary courts	21 (7%)	38 (12%)	45 (14%)	127 (40%)	90 (28%)	321	2.3
Victims of land disputes were compensated	16 (5%)	29 (9%)	31 (10%)	138 (43%)	107 (33%)	321	2.1

Statement	SA (5)	A (4)	N (3)	D (2)	SD (1)	Total	Weighted Mean
Fair trial by customary courts in resolving land disputes	24 (8%)	41 (13%)	36 (11%)	119 (37%)	101 (31%)	321	2.3
Rulings and decisions made by customary courts were respected	19 (6%)	36 (11%)	33 (10%)	126 (39%)	107 (34%)	321	2.2
Individuals had the right to petition customary court rulings	14 (4%)	27 (8%)	30 (9%)	144 (45%)	106 (34%)	321	2.0

Source: Survey Data (2025)

Punishment of Guilty Persons in Land Disputes

As for the efficiency of the customary courts in punishing offenders involved in the land disputes, only 21% strongly agreed and 12% agreed with the statement. However, 127 (40%) disagreed, and 90 (28%) strongly disagreed. Thus, the weighted mean score of 2.3 indicated that the respondents had a perception that offenders were set free in the customary courts most of the time. This inference suggested that customary courts in Munuki Payam did not have the necessary mechanisms of enforcing the laws against the offenders. The legal system was also very weak and coupled with the rampant corruption the offenders had a relatively easy time of getting off the hook. In South Sudan, land grabbing remained rampant, especially by influential individuals who would use legal means to acquire the land. This was because the customary justice system failed to punish offenders and this led to continued land disputes among the people.

These findings were in line with other research that has been done in other fragile states. Adeola (2021) in his research on land dispute offenders in Nigeria observed that offenders rarely received any punishment because the political system interfered with the customary laws of the country. In the same manner, Moyo (2022) established that elite influence was a hindrance to the customary courts to address the perpetrators, and hence continuous emergence of disputes.

Compensation for Victims of Land Disputes

The survey established that only 16 out of the respondents strongly agreed that victims of land disputes received compensation and 29 mildly agreed. On the contrary, 138 participants (43%) opined in the negative while 107 (33%) strongly opined in the negative. This was an average of 2.1 which showed that most of the respondents had a perception that victims seldom recover their lost land through disputes. The study indicated that even if customary courts provided justice to the victims, there were no ways through which they would be compensated. Most of the land related conflicts in South Sudan resulted to displacement due to armed conflict and in such cases, land was seized by those with force and power in defiance of the court orders. This was further compounded by the fact that there was no compensation and this affected the vulnerable groups such as women and internally displaced persons (IDPs) in as much as they struggled to gain control of their land rights.

These findings supported the study done by Atuhairi (2021) in Uganda whereby most of the victims of land disputes did not receive compensation because the customary court had little power to enforce its decisions. For instance, research done by Deng (2023) in South Sudan revealed that most of the land disputes led to forced evictions and the affected individuals could not reclaim their property or receive compensation.

Fair Trial in Customary Courts

In a similar manner, out of the respondents, only 24 (8%) strongly agreed that customary courts were fair in the trials in land cases while 41 (13%) agreed. However, 119 (37%) disagreed, and 101 (31%) strongly disagreed. This was a weighted mean of 2.3 and it showed that the respondents had a perception that trials in the customary courts were unfair or biased. These findings indicated that there was outside influence in the delivery of customary courts where the judges were accused of bias through bribery, political influence or favoritism. Another factor that contributed to unfair decisions was that most of the customary court officials did not have any formal legal education, and therefore, most of their decisions were based on their discretion. In Munuki Payam, people relied on oral evidence in most of the land disputes and this favored people with influence as they could easily twist the truth.

These findings echoed with the study conducted by Lumumba (2021) in Democratic Republic of Congo where the author established that the customary courts favored the politically connected people thus compromising the legitimacy of their decisions. Similarly, Kamau's study on the Kenyan courts conducted in 2020 also revealed that the traditional courts were highly unfair procedurally and therefore unpopular.

Respect for Customary Court Rulings

The study also found out that only 19 (6%) of the respondents strongly agreed that the rulings made by the customary courts were respected while 36 (11%) agreed. However, 126 (39%) disagreed, and 107 (34%) strongly disagreed. The overall weighted mean of 2.2 meant that the majority of the respondents agreed with the statement that court decisions were often disregarded. These implications suggested that the customary courts had no jurisdiction to implement their decisions. In South Sudan, legal institutions were comparatively still very young, and that was why influential people could afford to ignore unfavorable court decisions. In addition, there was no way of enforcing compliance with the decision made by the courts in

the case of land disputes, which resulted to the continued use of force to assert control over the said pieces of land.

These findings were consistent with Boone (2017) where he discovered that in many African customary legal systems most of the decisions made were more of a show than a legal decision. Likewise, Ntsebeza (2021)'s study conducted in South Africa revealed that traditional court judgments were often questioned and reversed by those who had power of the state.

Right to Petition Customary Court Rulings

The study revealed that only 14 (4%) of the respondents strongly agreed to the statement that the individuals had the right to petition the customary court rulings while 27 (8%) agreed. However, 144 (45%) disagreed, and 106 (34%) strongly disagreed. The weighted mean score of 2.0 signified that the majority of the respondents perceived that they had low ability to appeal customary court decisions. The study indicated that there was a lack of appeals or they were prohibited within the customary court system. In South Sudan, most of the customary decisions were conclusive and the affected parties had no further legal means to appeal. The absence of an appeal process was a major factor that led to dissatisfaction and raised tensions in land issues.

These findings were in line with those of Mukiibi (2019) in Uganda who observed that people who undergo unfair customary courts have no redress. Similarly, Zhang (2021) study in China also revealed that the traditional court decisions were not reviewable as they did not undergo a review process.

In order to support the quantitative data on citizens' satisfaction with the customary court decisions, qualitative data was collected from fifteen (15) respondents from the Payam Block Council Department of Land and fifteen (15) respondents from the Police Unit Key Personnel.

The responses gave more understanding on the perceived efficiency of customary courts in Munuki Payam, Juba City, South Sudan. The thematic analysis was done based on five themes namely; punishment of offenders, compensation to the victims, fairness in trials, recognition of customary court decisions and the right to appeal. As the situation in South Sudan deteriorated, corruption, political influence, and weak legal systems became prominent, and the findings showed that people had little confidence in customary courts as a means of addressing land disputes.

Punishment of Offenders in Land Disputes

This study also revealed that most of the respondents had a perception that people who engage in land offenses are hardly ever penalized. Some of them said that corrupt individuals used customary courts to avoid accountability. One police officer said: “It is very frustrating, I have to carry out my work, but I do not have the energy to do it properly.”

“Most of those involved in illegal land grabbing are either military officials or politically connected individuals. How can a local chief punish someone who has government protection?”

However, some respondents argued that there is nothing wrong with the customary system because at times courts have set traditional fines or mediation solutions. One official explained:

“Some chiefs still follow traditional justice and issue fines, such as requiring land to be returned. The problem is that enforcement is weak, and many ignore these rulings.”

These findings aligned with research by Adeola (2021) in Nigeria, which found that customary courts struggled to hold powerful offenders accountable due to corruption and political interference. Similarly, Moyo (2022) in Zimbabwe reported that customary courts often failed to enforce their rulings when influential figures were involved.

Compensation for Victims of Land Disputes

A majority of respondents expressed those victims of land disputes were rarely compensated. Many pointed out that even when courts ruled in favor of victims, enforcement was weak or non-existent. One police officer explained:

“Even when someone wins a case, they rarely get back their land or receive compensation. The ruling is just words, and no one follows up to make sure justice is done.”

A few of the respondents observed that customary courts attempted to negotiate compensation, although the success of the process was dependent on the culprit. One official stated:

“Chiefs try to encourage compensation, but there is no legal force behind their decisions. If the offender refuses, there is nothing the court can do.”

These findings were in agreement with Atuhaire (2021) study in Uganda where it was established that the courts granted the victims of land disputes the orders but no orders were enforced hence no compensation was made. Similarly, Deng (2023) in South Sudan pointed out that the customary court decisions that provided relief to displaced people were not implemented, making the victims exposed.

Fairness of Trials in Customary Courts

The majority of the respondents stated that customary courts in Munuki Payam did not afford justice with fair trials; they cited the issues of corruption, bias, and outside interference. A police officer remarked:

“A fair trial in South Sudan is almost impossible. If you do not have money or powerful connections, you will lose your case.”

A Payam Block Council official added that gender and social status played a role in biased rulings:

“Women rarely win land cases, even if they have evidence. Chiefs still follow outdated customs that do not favor women in land ownership.”

However, few of the respondents opined that some of the customary courts attempted to be impartial but they were forced to withdraw. One respondent mentioned:

“There are some honest chiefs who try to deliver fair rulings, but they are threatened or bribed to change their decisions.”

These findings were similar to the study conducted by Lumumba (2021) in the Democratic Republic of Congo that revealed that customary courts worked under the influence of elites, thus denying the accused a fair trial. In the same regard, Kamau (2020) in Kenya noted that favoritism in the customary courts eroded the confidence of the people in the justice delivery system.

Respect for Customary Court Rulings

This study also showed that the majority of the respondents were of the opinion that the decisions of customary courts were not recognized. Some said that there were those who could get away with disobeying orders of the court. A police officer observed:

“Even when a ruling is made, it doesn’t matter. People with money or weapons can ignore the decision, and no one will enforce it.”

A Payam Block Council official shared a case where a ruling was disregarded:

“A group of IDPs won a land dispute case, but the people occupying the land refused to leave. The customary court had no power to enforce the ruling, so the IDPs remain homeless.”

These findings supported Boone (2017) who observed that most African customary courts’ decisions were not enforceable since they lacked the necessary means of enforcing the decisions. The same has been observed by Ntsebeza (2021) in South Africa where customary land dispute resolutions were often disregarded by those with political influence.

Right to Appeal Customary Court Rulings

Most of the respondents said that people did not have a genuine right to appeal against the customary courts. A police officer explained:

“Once a chief makes a decision, it is final. There is no formal appeal process, even if the ruling is unfair.”

Another respondent pointed out the lack of higher authorities to review cases:

“If you disagree with a ruling, you have nowhere to go. Even if you complain, no one will listen.”

These were in line with Mukiibi (2019) studies in Uganda that showed that the customary courts did not allow appeals hence people had no way of challenging unfair verdicts. Likewise, Zhang (2021) in China observed that the traditional courts had no structured way of appealing a decision hence final decisions were final irrespective of the merits.

This view agreed with the survey results that showed that citizens in Munuki Payam were highly dissatisfied with customary court decisions in land issues. The study showed that the offenders were hardly punished, the victims were not compensated, the trials were not fair, the

court decisions were not complied with, and the people had no right to appeal against the decisions made. These challenges pointed to the need for reforms in order to enhance the credibility, effectiveness and fairness of the customary courts in South Sudan.

4.5 Challenges Faced by Customary Courts

The study aimed at assessing the perceptions of the respondents on the following major issues affecting the customary court decisions on land matters. The results obtained were as follows which are presented in the table below.

Table 4.9: Challenges Faced by Customary Courts in Resolving Land Disputes

Statement	SA (5)	A (4)	N (3)	D (2)	SD (1)	Tot al	Weighted Mean
Customary court officials were competent enough to handle land dispute rulings	27 (8%)	41 (13%)	35 (11%)	118 (37%)	100 (31%)	321	2.3
Contemporary issues like culture and religion affected customary court judgments	109 (34%)	96 (30%)	42 (13%)	41 (13%)	33 (10%)	321	3.7
Nepotism and corruption affected the smooth operations of customary courts in resolving land disputes	152 (47%)	94 (29%)	29 (9%)	26 (8%)	20 (6%)	321	4.0

Source: Survey Data (2025)

Competency of Customary Court Officials in Handling Land Disputes

Out of all the participants, only 27 of them strongly agreed that customary court officials were competent enough to handle land disputes with 41 of them agreeing to the same. However, 118 (37%) disagreed, and 100 (31%) strongly disagreed. The overall mean score of 2.3 indicated that the majority of the respondents had a perception that the officials of the customary court were not competent enough to handle land related cases. The study revealed that most of the officials in the customary courts had no legal education and therefore could not understand the provisions of the land laws. Inadequate adherence to formal legal processes was one of the reasons why there was lack of legal precedent and legal chaos. Also, some of the traditional court officers were considered to be biased since they made their decisions based on the pressures from the community, political influence, or monetary gains.

These findings were consistent with Adeyemi (2020) study in Nigeria where he noted that many of the officials of the customary court had no formal legal training, and therefore had wrong interpretation of the land laws. In the same manner, Boone (2017) conducted a study and observed that the chiefs in Kenya make decisions based on their own discretion and not the law, which makes the decisions and ruling inconsistent.

Influence of Culture and Religion on Customary Court Judgments

Overall , 109 (34%) of the respondents strongly agreed with the statement that culture and religion influenced the judgments of the customary court while 96 (30%) agreed. On the other hand, 41 (13%) respondents disagreed and 33 (10%) strongly disagreed. The average score of 3.7 indicated that the respondents agreed with the statement that cultural and religious biases influenced customary court decisions. It was also revealed that customary courts in Muniki

Payam sometimes made their decisions based on cultural norms and not legal procedures. For instance, customary practices in the case of South Sudan show that women have no rights to land ownership because it is a patriarchal society. Also, some of the decisions were made based on religious practices where traditional courts provided reasons for their decisions based on religion and not the laws of the country.

These findings were in line with Adeola (2021) on Nigeria where he noted that religious and cultural beliefs influenced the decisions of the customary courts most of the times even if it was unfair legally. In the same regard, Agyekum (2021) noted that in Ghana's Volta Region, customary courts tend to uphold traditional norms more than the national laws hence bias in their decision making.

Impact of Nepotism and Corruption on Customary Court Operations

Regarding the impact of nepotism and corruption on the performance of the customary courts in the resolution of the land disputes, 152 (47%) strongly agreed while 94 (29%) agreed. Only 26 (8%) disagreed, and 20 (6%) strongly disagreed. The score obtained was 4.0 which showed that the respondents agreed with the statement that corruption and favoritism were major issues in customary courts. It was established that bribery and favoritism were some of the major factors that affected the decision-making process in customary courts. The nobles and the rich as well as those with political influence got fair trials while women, orphans, refugees and the poor were denied their rights. The respondents also stated that some of the officials of the customary courts demanded some sort of informal charges before entertaining any case, thus denying justice to those who could not afford to pay the bribes.

These results are in agreement with Lumumba's (2021) who established that corruption within the customary court in the Democratic Republic of Congo has a bearing on the biased decisions

made on the land related disputes. Similarly, Balogun (2020) pointed out that the Nigerian local elites influenced the customary court's decisions through monetary and political influence.

In order to make up for the quantitative data, 15 respondents from the Payam Block Council Department of Land and 15 from the Police Unit Key Personnel in Munuki Payam, Juba City, South Sudan were asked open-ended questions. The research was focused on the following three areas; efficiency and effectiveness of the officials in the customary courts, the influence of culture and religion on the decisions made in the courts and the influence of nepotism and corruption in the courts. The current instability, poor governance system and social injustice in South Sudan have made it very difficult for the customary courts to operate efficiently in addressing issues to do with land.

Competency of Customary Court Officials in Handling Land Disputes

According to the study, it was clear that majority of the respondents were of the view that the officials of the customary court in terms of legal education and competency were not well equipped to handle cases to do with land. Some emphasized that it is a fact that most of the officials were following customs rather than laws. In an interview one police officer was to say:

“As it can be seen, these chiefs and local court officials do not possess formal legal education. How can they handle complex land issues when they have not even read one single policy on land?”

A Payam Block Council official confirmed these concerns, stating:

“Most customary court officials rely on their personal experiences or what they learned from their elders. The problem is that land issues today are more complicated than in the past.”

However, a few respondents defended customary courts, arguing that traditional knowledge remained relevant. One official stated:

“These chiefs may not have formal legal training, but they understand the land customs of their people. Sometimes, their judgments are better than those of formal courts.”

However, the general implication of the findings was that due to the fact that officials of customary courts were not legally trained, there was some confusion, poor implementation of the decisions, and susceptibility to external interferences. These views were similar to those of Adeyemi (2020) in Nigeria, whereby This Study noted that most of the customary court officials had little or no formal legal education; this led to wrong interpretations of the land laws. In the same way, Boone (2017) established that in Kenya, traditional approaches to handling conflict failed to address modern land disputes due to the time-honored decision-making processes.

Influence of Culture and Religion on Customary Court Judgments

The respondents agreed that cultural and religious beliefs played a significant role in determining the decisions made in customary courts more often than not disregarding fairness in the legal system. A police officer explained how gender prejudices influenced the court's actions:

“In many cases, women automatically lose land cases because customary courts believe land belongs to men. Even if a woman has legal proof, she is likely to be denied justice.”

Religious factors also played a role in decision-making. One police officer noted:

“Some court officials use religious teachings to justify rulings rather than relying on legal principles. If a case involves a Christian and a Muslim, there is always a possibility of bias.”

Another respondent pointed out that cultural influences often overrode formal legal frameworks:

“Even though the Land Act (2009) recognizes women’s rights to own land, customary courts still prioritize traditional beliefs over legal provisions.”

Despite these criticisms, some respondents defended the influence of culture, arguing that customary courts should respect traditions. One official stated:

“South Sudanese culture is deeply rooted in land matters. If we abandon cultural values in land dispute resolution, we risk losing our identity.”

The conclusion that has been made was that although cultural practices were still relevant, they led to prejudice and bias decisions. These findings were similar to those of Adeola (2021) in Nigeria where customary courts relied on traditional practices and beliefs than the statutes resulting to unfair treatment of women and other vulnerable persons. Likewise, Agyekum (2021) in Ghana noted that religion and culture often influenced the unfair decisions of the land disputes.

Impact of Nepotism and Corruption on Customary Court Operations

The research established that nepotism and corruption were some of the major issues that affected the customary courts in Munuki Payam. Some of the respondents provided examples of how court officials acted in their self-interest and received monetary benefits. Police officer openly stated:

“If you do not have money or political connections, do not expect to win a land case in a customary court.”

Another respondent shared an experience where a wealthy individual manipulated the system:

“A businessman illegally took land from a poor family. The court ruled in favor of the family, but the businessman bribed a senior chief, and the ruling was overturned.”

Nepotism was also a major concern. A police officer noted:

“If you are related to a court official, you have nothing to worry about. Cases are decided based on family ties rather than evidence.”

Despite these negative views, a few respondents argued that not all customary court officials were corrupt. One official stated:

“Some chiefs try to deliver justice, but they face threats or pressure from powerful individuals.”

The study thus supported the notion that corruption and nepotism reduced the legitimacy of customary courts in Munuki Payam. These findings were in congruent with Lumumba (2021) who found out that the customary courts in the Democratic Republic of Congo were presided over by elites who controlled the outcomes to their favor. Similarly, Balogun (2020) found out that favoritism and bribery are some of the barriers to fair dispute resolution in Nigeria’s traditional courts.

4.6 Strategies to Strengthen Customary Courts

This study aimed at determining the attitude of the respondents towards the existing strategies aimed at improving the operation of the customary courts. The results were presented in the table provided below.

Table 4.10: Approaches to Strengthening Customary Courts in Resolving Land Disputes

Statement	SA (5)	A (4)	N (3)	D (2)	SD (1)	Toa l	Weighted Mean
Customary courts received training in matters related to land rights, ownership, and tenure	32 (10%)	49 (15%)	41 (13%)	112 (35%)	87 (27%)	321	2.5
Corruption and nepotism did not allow customary courts to resolve land disputes fairly	138 (43%)	99 (31%)	34 (11%)	30 (9%)	20 (6%)	321	4.0
Much had already been done to strengthen customary courts	28 (9%)	37 (12%)	42 (13%)	119 (37%)	95 (30%)	321	2.3

Source: Survey Data (2025)

Training of Customary Court Officials in Land Rights, Ownership, and Tenure

The study also showed that only 32 out of the respondents strongly agreed that the officials of the customary courts received training on land rights, ownership and tenure, 49 out of the respondents agreed. However, 112 (35%) disagreed, and 87 (27%) strongly disagreed. The mean response score of 2.5 showed that the respondents' perception of the level of training of the customary courts was low as far as land laws were concerned. It emerged that the fact that the officials in customary courts received little or no formal training was a factor that resulted in the decisions made being irregular since the officials made the decisions based on what they knew and not the law. This was a disadvantage for the customary courts in their effort to enforce the provisions of the Land Act (2009) as well as other national land laws. The

officials of the customary courts were not legally qualified and practiced customary law that was different from the statute laws.

These findings were in agreement with other studies that have been undertaken in other African countries. Adeyemi (2020) identified that the officials of the customary court were illiterates in law and therefore provided wrong legal provisions on disputes over land and thus boosting the probability of the disputes. Similarly, Moyo (2022) established in his study done in Zimbabwe that there is a need for the customary courts to be trained on structured training in order to increase their effectiveness in addressing land matters.

Impact of Corruption and Nepotism on Customary Court Decisions

As a result, the study found that 138 (43%) of the respondents strongly supported the fact that corruption and nepotism limit customary courts from delivering justice in land issues and 99(31%) supported it. Only 30 (9%) disagreed, and 20 (6%) strongly disagreed. The mean score of 4.0 meant that corruption and favoritism were perceived as a major hindrance to the proper disposition of the disputes regarding the land. The outcome of this study was that bribery, favoritism, and political interferences were some of the influential factors in the customary court decisions. The rich and the influential people exploited the situation when the weak and vulnerable people like the refugees and women hardly could be compensated. These are such things as offering bribes to the court officials to have cases withdrawn or delayed, awarding of cases to relations and other influential persons instead of those who own the land.

These findings were similar to the study done by Lumumba (2021) in Democratic Republic of Congo that revealed that corruption in customary courts resulted in the control of land by the elites to the exclusion of the minorities. In the same vein, Balogun (2020) established that nepotism and financial considerations influenced the decisions of the court in Nigeria and therefore the citizens could not easily get justice.

Effectiveness of Existing Measures to Strengthen Customary Courts

In the same vein, only 28 (9%) of the respondents strongly agreed that much had already been done to strengthen customary courts while 37 (12%) agreed. However, 119 (37%) disagreed, and 95 (30%) strongly disagreed. The result of the weighted mean score of 2.3 showed that the respondents had the perception that there had been little improvement in the customary justice system. The study also indicated that while there were some attempts to reform the customary courts, they remained informal, inadequately funded and easily influenced. Some of the respondents were of the view that the government and the international organizations have not done enough to standardize and institutionalize customary courts. This was due to the failure to harmonize the statutory and customary legal systems making it difficult to enhance the customary courts.

These were in line with the research done by Ntsebeza (2021) in South Africa where the attempt to harmonize the customary and formal legal systems was slow, thus traditional courts remained stagnant and vulnerable to external interferences. Likewise, Boone (2017) in Kenya also pointed out that due to lack of policy changes, customary courts have little powers and resources to perform their tasks.

In addition to the quantitative data, 15 officials from Payam Block Council Department of Land and 15 Police Unit Key Personnel in Munuki Payam of Juba City, South Sudan were interviewed. The research was based on three major areas of interest: government support for the customary courts, corruption and nepotism, and how to improve the functioning of customary courts in the field of land disputes. Due to the poor governance structures, inadequate funding, and political interference in South Sudan, these themes were useful in establishing how the customary courts could be enhanced to address the land disputes effectively and fairly.

Government Support for Customary Courts

According to the study, most of the respondents noted that the government had not done much in the area of funding, capacity building and policy support for the customary courts. One of the police officers complained about the absence of any financial support:

“Customary courts are left to operate on their own without any financial support from the government. Most chiefs and court officials are not even paid for their work.”

A Payam Block Council official confirmed that customary courts lacked essential resources:

“These courts do not have offices, transport, or proper record-keeping systems. How can they function effectively without basic resources?”

This was in contrast to the respondents’ perception that the government has completely neglected the customary courts; some of the respondents observed that some attempts have been made but poorly done. One official stated:

“There were efforts to train chiefs on land matters, but the training was short, and no follow-up was done to ensure they applied what they learned.”

These findings were in line with Adeyemi (2020) who observed that dearth of funds provided by the government to traditional courts handling this docket in Nigeria has resulted into poor management of the resources. Similarly, Moyo (2022) in Zimbabwe pointed out that most of the times, poor policies led to the incapacitation and vulnerability to elite capture of customary courts.

Impact of Corruption and Nepotism on Customary Courts

When asked on their impressions on the prospects of the customary courts, the respondents' reply was that corruption and nepotism were the major impediments to the efficiency of the courts in the determination of land cases. Police officer openly stated:

“Justice in customary courts is for sale. If you want to win a land dispute, just pay the right people.”

Nepotism was also identified as a key issue, with one police officer stating:

“If you are related to a court official, you are guaranteed to win your case, no matter what the evidence says.”

However, some respondents defended customary court officials, arguing that not all of them were corrupt. One official mentioned:

“There are still honest chiefs who try to make fair decisions, but they are under a lot of pressure from people with power and money.”

These were in line with the study by Lumumba (2021) in the Democratic Republic of Congo where corruption in customary courts made the poor suffer because justice was only given to the wealthy and those with influence. Likewise, Balogun (2020) in Nigeria also found out that customary courts were influenced by elites who offered bribes to influence the outcome of cases.

Strategies to Strengthen Customary Courts in Resolving Land Disputes

The following are some of the suggestions given by the respondents on how the customary courts can enhance the efficiency of the courts in the resolution of land disputes. The three top mentioned strategies were training and development, legal change, and anti-corruption.

Most of the respondents stressed that there is a need to train the officials of the customary court on the laws relating to land and the legal processes. A police officer stated:

“Most customary court officials have never received any legal training. They need education on land rights and dispute resolution methods.”

A Payam Block Council official highlighted the importance of structured capacity-building programs:

“The government should organize regular training sessions for chiefs and court officials so they can understand modern land laws and resolve disputes fairly.”

These were in concordance with the studies conducted by Boone (2017) in Kenya where training of the customary court officials enhanced their efficiency in the handling of complex land cases. In the same vein, Adeola (2021)’s study conducted in Nigeria called for further capacity enhancement interventions to ensure that customary court judgements are in compliance with the legal systems of the country.

Most of the respondents emphasized the necessity of incorporating the customary courts into the formal legal framework. A police officer noted:

“There should be a clear connection between customary courts and statutory courts so that their decisions follow the law.”

The same was supported by Ntsebeza (2021) in the South Africa context where legal integration facilitated the enhancement of the customary court’s authority and the enforcement of its decisions.

A number of the respondents suggested that the enhancement of customary court involved fighting corruption. A police officer suggested:

“There should be a mechanism to monitor and punish corrupt customary court officials. If they take bribes, they should be removed.”

These findings were in tandem with the study conducted by Lumumba (2021) in the Democratic Republic of Congo, where the author noted that the establishment of anti-corruption watchdogs assisted in minimizing bribery in customary courts.

CHAPTER FIVE

DISCUSSIONS, CONCLUSIONS, AND RECOMMENDATIONS

5.1 Introduction

This chapter aimed at discussing the findings of the study, making conclusions and recommendations based on the findings of the study. The chapter was divided into four major parts. The last part of the paper discussed the findings with regards to the study objectives and previous research. The last section of the paper provided an evaluation of the findings and determined whether the goals of the study were achieved. The recommendations provided measures that would help in making the customary courts more efficient in the resolution of land issues. Finally, the chapter concluded with the recommendation of further studies that may not have been covered in the study.

5.2 Discussions

This section discussed the research findings under each of the research objectives that were outlined in this study. The discussion section included both quantitative data obtained from descriptive analysis and qualitative data from thematic analysis. The results were discussed in light of the literature on land dispute resolution, customary courts and legal pluralism in Africa. The discussions were guided by the highlighted objectives of the study as outlined below.

5.2.1 Nature of Evidence Used by Customary Courts

The research also found out that the evidence produced in the customary courts was primarily oral and included lineage and community memory rather than documented evidence. Out of the total respondents, only 29 (9%) strongly agreed, 47 (15%) agreed that the evidence used in ruling the land disputes were admissible and logical. On the other hand, 113 of the respondents disagreed while 92 strongly disagreed making the weighted mean to be 2.4 meaning that the respondents had little confidence in the credibility of evidence used in the customary courts. These findings pointed to the fact that decisions made in customary courts were made based on the stories of the parties involved and not on any evidence. The thematic analysis supported these findings whereby the respondents pointed out that the issue of land ownership was often based on oral agreements and not legal deeds. A police officer said that “in most cases, people own the land through word of mouth.” They just stand and say, ‘this piece of land belonged to my grandfather,’ and that is enough to determine a case.” These findings corroborated with a study by Adeola (2021) on Nigeria’s customary courts which noted that many of them relied on the oral evidence as opposed to written documents which makes the decisions of the court very arbitrary.

The study also revealed that the officials of the customary court lacked adequate knowledge of their legal duties hence the decisions they made were not so valid. A total of 45 (14%) of the respondents strongly agreed with the statement while 61 (19%) agreed with the statement that customary courts and officials understood their roles in handling land disputes. However, 99 (31%) respondents disagreed and 84 (26%) strongly disagreed, making the weighted mean of 2.6, thus, showing that respondents hold a negative perception towards the competence of customary court officials. The thematic analysis yielded the same sentiments as those expressed in the quantitative analysis, with the respondents arguing that the court officials worked under tradition. An official of Payam Block Council said, “Most of the chiefs have never undergone through a course on land law.” They go by what they feel is right or what they have been taught by their parents or grandparents which does not conform to the national policies. These findings were in line with the studies done by Boone (2017) in Kenya where he noted that traditional leaders used customary laws to govern instead of statutory laws in land thus creating legal flaws.

The study also established that customary courts were operating beyond the provisions of the Land Act (2009). Out of the respondents 37 (12%) strongly agreed with the statement, 54 (17%) agreed with the statement that the customary court rulings are in compliance with the statutory land laws. On the contrary, 108 (34%) participants disagreed and 86 (27%) strongly disagreed; therefore, the weighted mean was 2.5, which indicated that customary courts often acted outside the legal procedures. The thematic analysis backed these findings, one of the police officer said “customary courts does not adhere to the provision of the Land Act. They employ their own ways, which are unlawful a good number of the times.” These findings echoed the work of Ntsebeza (2021) in South Africa where the traditional courts were seen to be violating national land laws and thus creating legal tensions between formal and informal courts. This Study recommended that there is a need to train and coordinate both customary and statutory laws to enhance legal coherence in the resolution of land disputes in Munuki Payam.

5.2.2 Citizen Satisfaction with Customary Court Decisions in Land Dispute Resolution

The research also found that the satisfaction level of citizens concerning the customary court decisions in the resolution of land disputes was low. As for the question on whether guilty offenders were punished, only 21 (7%) strongly agreed and 38 (12%) agreed while 127 (40%) disagreed and 90 (28%) strongly disagreed with a weighted mean of 2.3. These findings revealed that most of the respondents perceived that customary courts did not punish the offenders especially if they were accompanied by influential people. The thematic analysis also pointed out similar sentiments, a police officer said, “Many land grabbers are set free even after being convicted.” The courts do not have enforcement authority, thus, individuals charged with the violation of the law disregard the decisions made. These findings were in concordance with Moyo (2022) study conducted in Zimbabwe revealing that customary courts had no way of enforcing their decisions hence many people went scot-free in cases of land related offences.

The research also revealed that most of the victims of land related conflicts received no compensation even when the courts had ruled in their favour. Of the respondents, only 5% strongly agreed and 9% agreed, 43% disagreed and 33% strongly disagreed, thus giving a weighted mean of 2.1. The thematic analysis supported these findings where one of the Payam Block Council officials said, “Even if somebody wins a case, most of the time he or she is never compensated or gets his or her land back.” It is just an empty statement and no one comes to ensure that justice is served. These findings were similar to those of Deng (2023) on the situation in South Sudan where the study revealed that land disputes affected persons especially the IDPs and other vulnerable persons had challenges in regaining their land or being compensated financially.

5.2.3 Challenges Faced by Customary Courts in Resolving Land Disputes

The research established that customary courts were considerably impaired by corruption and nepotism, 152 of the respondents strongly agreed while 94 agreed. On the other hand, 26 (8%) participants disagreed and 20 (6%) strongly disagreed yielding a weighted mean of 4.0. These findings pointed out that corruption was rife in the customary justice system since the decisions were made based on bribery, political influence, and bias. The thematic analysis also brought out these concerns, as one of the police officers mentioned that ‘justice in customary courts is for sale’. According to the author, the key message of the article is: “If you want to win a land dispute, just pay the right people.” These were in line with the studies conducted by Lumumba (2021) in the Democratic Republic of Congo, where corruption in traditional courts enabled the elites, and politically connected persons to control the land at the expense of the poor.

The study also revealed that due to inadequate support and funding customary courts have been diluted. As for the question on whether the government has done enough to strengthen customary courts, only 28 (9%) of the respondents strongly agreed while 37 (12%) agreed. However, 119 participants (37%) disagreed, and 95 (30%) strongly disagreed; therefore, the weighted mean was 2.3. These observations indicated that customary courts worked with limited resources, lack of legal education, and poor institutional support. These concerns were further supported by the thematic analysis where one of the Payam Block Council officials said, “customary courts do not have offices, transport or record keeping systems. They must ask how they can function effectively without the most basic resources? These findings were in sync with Boone (2017) study in Kenya where customary courts were found to have inadequate facilities, no legal supervision and financial challenges that made them vulnerable to compromise.

5.3 Summary of Main Findings

This study aimed to establish the effectiveness of customary courts in the settlement of land disputes in Munuki Payam, Juba City, South Sudan, with special reference to the type of evidence admissible, the satisfaction of the citizens with the outcome of the case, and challenges faced by the customary courts. The study also established that the customary courts mainly relied on oral evidence, lineage and people's memory rather than legal documents like land deeds and contracts. As for the admissibility and logic of the evidence used in the customary courts, only 9% of the respondents strongly agreed with the statement while 64% disagreed or strongly disagreed (Mean = 2.4). This led to a lack of checks and balances, and thus, variations in the decisions made by the customary courts as well as legal insecurity. The satisfaction with the customary court decisions was also poor since only 8% of the respondents strongly agreed that trials were fair, whereas 64% disagreed or strongly disagreed (weighted mean = 2.3). Most of the respondents complained that offenders were not punished, victims received little or no compensation, and that the decisions were based on political or financial gain and not the merits of the case. Furthermore, corruption and Nepotism was rated high, 47% strongly agreed while 29% agreed that favoritism was a factor in the court decisions (weighted mean = 4.0). The thematic analysis also showed that women and displaced persons were more affected since most of the decisions provided for the traditional inheritance system rather than the statutory provisions of the land laws that uphold the rights of every citizen.

The findings were relevant to the research problem in the following ways as they showed that although customary courts are still relevant in the resolution of disputes, they suffer from weaknesses such as weak standards of evidence, procedural irregularities, and institutional problems. These findings enriched the understanding of legal pluralism and land governance; the study demonstrated that while the customary courts afford people with practical means of seeking justice, their autonomy from the statutory legal systems results in contradictory

decisions and legal vacuums. The study also revealed that the level of trust of the people in the customary court decision was also low and this was evident in women, displaced persons and the politically powerless. It is important to understand these challenges in order to design policies that would further the principles of procedural justice. The conclusions underlined the necessity of the legal and institutional changes, such as the enhancement of the training of the CC officials, the fight against corruption, and legal regulations that would link the CC decisions to the statutory land laws. The capacity of the customary courts should be built up to increase the efficiency and effectiveness of the delivery of justice in land issues hence increasing the credibility of the customary justice system.

The results obtained offered significant support to Legal Pluralism, Participatory Justice, and Institutional Capacity Theories. The study supported Legal Pluralism Theory developed by Griffiths (1986) and Merry (2015) as the study showed that the customary courts and statutory courts co-existed and at times arrived at different legal conclusions. However, the study also provided arguments made by Peters and Van den Meij (2016) that Legal Pluralism can serve to strengthen the control over land by the elites and subordinate other actors. Only Partial support was given to the Participatory Justice Theory by Tyler and Huo (2002) as the study showed that even though the customary courts involved the community, the citizens did not consider the decision made as fair and unbiased. These findings were in line with Kritzer (2017) who pointed out that the participatory justice may perpetuate power relations of oppression if the oppressed are not involved in decision making. Institutional Capacity Theory advanced by North (1990) and Ostrom (2015) was supported in this study as it was noted that customary courts did not have legal education, funds, and supervision; they were easily corrupted and controlled from outside. These facts were in line with Deininger and Feder (2018) who pointed out that weak institutional capacity in customary courts causes inefficiency, delay, and elite control.

5.4 Conclusions

This Study aimed at establishing the efficiency of the customary courts in the settlement of land disputes in Munuki Payam, Juba City, South Sudan and the type of evidence admissible in the court, the satisfaction of the citizens with the decisions made in the court as well as the challenges faced by the customary courts. The study showed that although customary courts continued to act as the primary forum for addressing land disputes, they were less effective due to low standards of proof, irregular procedures, and organizational flaws. As predicted in the hypothesis, the paper determined that the customary courts relied on oral evidence and community endorsement rather than documentary evidence, which also caused the inconsistency in the decisions given and legal vagueness. However, low citizen satisfaction, corruption and lack of government support were also a key factors that led to the decline of the credibility and efficiency of these courts. These findings complemented the answer to the research problem and enumerated the challenges which customary courts face in providing effective and enforceable resolution of the land disputes and structural and procedural challenges. The study established that in order to enhance the land governance and treatment of cases in South Sudan, there was a need to enhance the institutional capacity of the customary courts, adopt legal frameworks and also enhance procedural justice.

5.5 Recommendations

The following are the proposed suggestions to improve the performance of customary courts in the consideration of land cases in Munuki Payam, Juba City South Sudan.

5.5.1 Recommendations to Local Communities in Munuki Payam, Juba City, South Sudan

The traditional system of justice delivery cannot be deemed to be functional if it does not entail the participation of the community members. This is so because many of the cases were occasioned by lack of legal awareness of the people, non-availability of legal documents and

irregularity of the customary procedures. The following recommendations are made to address the above mentioned issues:

Members of the community should be empowered on matters to do with land rights and documentation in order to be in a position to provide evidence that will be admissible in the customary courts. This leads to increased awareness of the Land Act (2009) as well as the formal processes of land registration as opposed to the reliance on oral evidence, which has been cited as one of the causes of the inconsistency of the rulings.

There is need for local monitoring committees to be formed in order to ensure that the customary courts are fair in their dealings. This would ensure that the oppressed groups in the society including women, refugees, and other land owners who do not have any political influence are given an opportunity to be heard when they are involved in any land disputes.

5.5.2 Recommendations to Customary Court Officials and Legal Practitioners

The survey established that most of the officials who preside over customary courts were not legally qualified; thus, they applied the law on land in a rather arbitrary manner. Moreover, corruption and favoritism were other issues that hindered impartiality of the court. The following recommendations are proposed:

The officials of the customary courts should be trained on the laws regarding land, conflict solving techniques and fairness. The training programs should be undertaken in consultation with legal personnel to ensure that the customary court officials are well equipped to deal with the complexities of the land issues.

It is for this reason that the courts should embrace some standard procedures in record keeping to ensure that they are accountable. Appropriate documentation of the court decisions and the

evidence given during the cases can go a long way in ensuring that the decisions given are not influenced in any way, and that the cases are handled fairly and impartially.

5.5.3 Recommendations to Policy Makers and Government Authorities

The study also showed that customary courts were informal structures and had no backing, funding, and support from a formal institution. Based on the analysis of the above findings the following policy recommendations are made:

It is also important that the government should try to formalize the customary courts and at the same time retain their cultural value. The recommendation was that the government should provide a legal basis that would link the customary court decisions to the statutory laws on land to make the decision more consistent and enforceable.

There is a need to support the customary courts in terms of financial and logistics so that they can work effectively. To improve the efficiency and credibility of the dispute resolution processes, more funds should be allocated to infrastructure, training programs, and legal resources.

5.5.4 Recommendations to Non-Governmental Organizations (NGOs) and International Bodies

Since customary courts are challenged by issues of legal ambiguity and procedural justice, there are many roles that can be played by NGOs and international organizations to enhance the access to justice. The following recommendations are proposed:

The NGOs should encourage the legal aid programs to inform the citizens on their rights, land registration and the legal procedures on the customary court decisions. This would enable the vulnerable groups especially women and displaced persons to seek justice in any land issues.

5.6 Areas of Further Research

The study identified several gaps that future research can explore to enhance understanding of customary court systems and land dispute resolution in South Sudan.

There is a gap in understanding the effectiveness of integrating customary and statutory legal systems. Future research can examine *"The Impact of Legal Integration on Customary Court Decisions in South Sudan."*

The study found that women and marginalized groups face discrimination in customary court rulings. A future study could explore *"Gender and Land Dispute Resolution: The Role of Customary Courts in Protecting Women's Land Rights in Juba."*

There is limited empirical data on how corruption affects land dispute outcomes in customary courts. Future research can investigate *"The Influence of Corruption and Political Interference on Customary Court Rulings in South Sudan."*

The study revealed inconsistencies in evidence verification within customary courts. Future research could focus on *"The Role of Evidentiary Standards in Customary Courts: Strengthening Transparency in Land Dispute Resolutions."*

The lack of appeal mechanisms for customary court rulings remains a major challenge. A future study can assess *"Developing an Appeals System for Customary Court Decisions: Challenges and Prospects in South Sudan."*

REFERENCES

- Adanma, U. M., & Ogunbiyi, E. O. (2024). Evaluating the effectiveness of global governance mechanisms in promoting environmental sustainability and international relations. *Finance & Accounting Research Journal*, 6(5), 763–791.
- Adeola, L. (2021). *Oral testimonies and traditional land markers in African customary courts: The case of Nigeria*. *Journal of African Law*, 65(2), 215-237.
- Adewumi, T. (2021). The Land Use Act of Nigeria: Implications for land governance and conflict. *Journal of African Law*, 65(2), 234-261.
- Adeyemi, S. (2020). *Lineage testimonies and arbitration records in Yoruba customary courts*. *African Journal of Legal Studies*, 13(1), 56-78.
- Agyekum, D. (2021). *Challenges in Ghana's Volta Region customary courts*. *Journal of Legal Pluralism*, 58(2), 221-243.
- Agyeman, A. (2019). *Citizen satisfaction with customary court decisions in Ghana's Northern Region*. *Journal of African Studies*, 47(3), 398-419.
- Akot, A. (2022). Historical land dispossession in Bahr el Ghazal and its contemporary implications. *Unpublished master's dissertation, University of Juba*.
- Akot, A. (2022). *Historical land dispossession in Bahr el Ghazal and its contemporary implications*. *Unpublished master's dissertation, University of Juba*.
- Alden, W. (2021). Colonial land policies and their lasting impact on Africa. *African Studies Quarterly*, 22(4), 312-338.
- Almeida, J. (2021). *Ensuring fairness in Amazonian indigenous customary courts*. *Ethnography and Society*, 44(4), 329-353.
- Anderson, B. (2021). The Dawes Act and its implications for Native American land ownership. *American Historical Review*, 126(3), 456-487.
- Anderson, B. (2021). *The Dawes Act and its implications for Native American land ownership*. *American Historical Review*, 126(3), 456-487.

- Appiah, K. (2019). *Corruption in Ghana's Northern Region customary courts. Journal of Modern African Studies*, 54(1), 175-198.
- Atuhaire, P. (2021). Land grabbing in Uganda: The effects of rapid urbanization and agricultural expansion. *Journal of East African Studies*, 15(2), 211-236.
- Balogun, T. (2020). *Judicial corruption and local elite influence in Yoruba customary courts. Journal of African Legal Studies*, 21(2), 143-167.
- Banner, S. (2022). Terra nullius and the dispossession of Aboriginal and Torres Strait Islander peoples. *Australian Journal of Historical Studies*, 45(1), 89-112.
- Becker, H. (2021). Land reform in Namibia: Balancing restitution and economic stability. *Journal of Southern African Studies*, 47(3), 452-475.
- Bello, K. (2021). *Communal land agreements in Nigerian customary courts. Journal of African Development*, 16(1), 91-112.
- Bemba, M. (2019). *Traditional authority in Ituri region customary courts. African Journal of Law and Society*, 12(2), 243-266.
- Boone, C. (2017). Customary courts and land disputes in Africa: Community satisfaction and procedural justice. *Comparative Politics*, 49(2), 171-189.
- Bryman, A. (2016). *Social research methods*. Oxford University Press.
- Byarugaba, D. (2021). *Reconciling customary and formal legal systems in Uganda. Journal of African Studies*, 48(3), 276-299.
- Campbell, A. (2021). The Oka Crisis and its legacy in Canadian land rights movements. *Canadian Journal of History*, 56(2), 345-367.
- Chirayath, L., Sage, C., & Woolcock, M. (2015). Customary law and justice reform in Sub-Saharan Africa: Balancing state and community justice. *Journal of Legal Pluralism and Unofficial Law*, 47(1), 85-109.
- Choudhary, R. (2020). *Political pressure and corruption in Odisha's tribal customary courts. Journal of South Asian Studies*, 19(2), 211-235.

- Cleaver, F., & De Koning, J. (2015). Institutional bricolage and adaptive capacity: Exploring the resilience of customary courts. *World Development*, 70(2), 20-29.
- Cooper, D. R., & Schindler, P. S. (2014). *Business research methods*. McGraw-Hill/Irwin.
- Creswell, J. W., & Creswell, J. D. (2018). *Research design: Qualitative, quantitative, and mixed methods approaches*. SAGE Publications.
- Davies, R. (2023). Land reform and public access debates in the United Kingdom. *Journal of British Studies*, 62(1), 99-123.
- Davies, R. (2023). *Land reform and public access debates in the United Kingdom*. *Journal of British Studies*, 62(1), 99-123.
- Deininger, K., & Castagnini, R. (2004). Incidence and Impact of Land Conflict in Uganda. *Journal of Economic Behavior & Organization*, 60, 321–345. <https://doi.org/10.1016/j.jebo.2004.04.008>
- Deininger, K., & Feder, G. (2018). Land dispute resolution mechanisms in rural settings: A comparative analysis. *World Bank Research Observer*, 33(3), 313-336.
- Deng, D. (2020). *Challenges of customary courts in the Dinka community of South Sudan*. Unpublished undergraduate dissertation, University of Juba.
- Deng, D. (2021). Land governance in South Sudan: Customary and statutory frameworks in conflict. Unpublished undergraduate dissertation, University of Juba.
- Deng, L. (2021). *Land governance in South Sudan: Customary and statutory frameworks in conflict*. Unpublished undergraduate dissertation, University of Juba.
- Deng, L. (2023). Challenges of customary courts in South Sudan: Political and resource constraints. Unpublished master's dissertation, University of Juba.
- Diallo, A. (2022). Climate change, land conflicts, and pastoralist-farmer relations in Mali. *Journal of African Development*, 17(2), 274-297.
- El-Katiri, M. (2021). Land conflicts and marginalization of Berber communities in Libya. *Journal of North African Studies*, 26(4), 485-509.

- Eze, C. (2021). *Integrating customary decisions with formal legal systems in Nigeria*. *Journal of Legal Pluralism*, 22(3), 234-257.
- Fernandez, R. (2021). Indigenous land rights in South America: The cases of Brazil and Argentina. *Latin American Research Review*, 56(2), 314-337.
- Forsyth, M. (2017). Legal pluralism in conflict: Challenges for land dispute resolution. *Journal of Legal Pluralism and Unofficial Law*, 49(2), 165-189.
- Forsyth, M. (2019). Sustainable satisfaction and trust in legal systems: The role of participatory justice. *Development and Change*, 50(1), 156-178.
- Gai, J. (2019). *Local conflicts and customary court impartiality in the Nuer community of South Sudan*. Unpublished master's dissertation, University of Juba.
- Galanter, M., & Krishnan, J. (2018). Village councils and dispute resolution in rural India. *Journal of Empirical Legal Studies*, 15(3), 412-437.
- Gall, M. D., & Borg, W. R. (2014). *Educational research: An introduction*. Pearson.
- Garang, G. (2020). *Communal memory and elder testimonies in the Dinka customary courts of South Sudan*. Unpublished master's dissertation, University of Juba.
- Gatkuoth, P. (2021). Oil reserves and land conflicts in the Upper Nile region of South Sudan. Unpublished master's dissertation, University of Juba.
- Getachew, T. (2023). Inter-regional land disputes and federalism in Ethiopia. *Journal of Ethiopian Studies*, 58(1), 78-103.
- González, A., & Pérez, M. (2019). Indigenous community satisfaction with customary courts in the Amazonas region of Colombia. *Journal of Latin American Studies*, 51(3), 498-521.
- Griffiths, J. (1986). What is legal pluralism? *Journal of Legal Pluralism and Unofficial Law*, 24(1), 1-55.
- Gupta, S. (2021). *Challenges faced by customary courts in Jharkhand, India*. *Asian Journal of Legal Studies*, 18(1), 89-111.

- Hassan, S. (2021). Land expropriation and displacement in Egypt: Urbanization policies and rural communities. *Middle Eastern Studies*, 57(2), 208-229.
- Hassan, S., Schattner, P., & Mazza, D. (2006). *Doing a pilot study: Why is it essential?* *Journal of Medical Education*, 14(2), 132-135.
- Holzinger, K., Kern, F., & Kromrey, D. (2016). The use of oral testimonies in African customary courts. *African Journal of Legal Studies*, 9(3), 201-221.
- Isser, D. H., Lubkemann, S. C., & N'Tow, S. (2017). Customary justice and the rule of law in war-torn societies. *Journal of Peacebuilding and Development*, 12(1), 63-82.
- Jok, J. (2015). The impact of displacement on customary courts in South Sudan. *Unpublished undergraduate dissertation, University of Juba*.
- Kabila, J. (2020). *Citizen satisfaction with customary court decisions in the Kasai region of the Democratic Republic of Congo*. *Journal of African Law*, 64(3), 199-222.
- Kamau, W. (2020). *Oral testimonies and customary land demarcations in Kikuyu customary courts*. *Journal of East African Studies*, 14(2), 211-234.
- Karanja, J., & Mwangi, K. (2020). *Balancing traditional practices with formal legal requirements in Maasai customary courts*. *Journal of Modern African Studies*, 54(3), 333-355.
- Katumba, J. (2019). *Citizen satisfaction with customary court decisions in Uganda's Acholi region*. *African Journal of Legal Studies*, 15(1), 67-89.
- Kimaro, E. (2022). Agriculturalists and pastoralists: Land disputes in Tanzania. *Journal of Rural Studies*, 58(4), 322-345.
- Kolok, D., Mahdi, S., & Ngar, M. (2020). Political interference and customary court decisions in Munuki Payam, South Sudan. *Unpublished undergraduate dissertation, University of Juba*.
- Kovacs, M. (2022). Land restitution in post-communist Poland and Hungary. *East European Politics and Societies*, 36(2), 275-298.

- Kriesberg, L. (2015). Community trust and the role of customary courts in conflict resolution. *Journal of Conflict Resolution*, 59(5), 850-873.
- Kumar, A., & Singh, R. (2022). Knowledge, Attitude, and Perception (KAP) survey in evaluating community satisfaction with legal processes. *Social Science Research*, 99(3), 291-312.
- Kumar, A., & Singh, R. (2022). *Knowledge, Attitude, and Perception (KAP) survey in evaluating community satisfaction with legal processes. Social Science Research*, 99(3), 291-312.
- Kuol, B. (2021). Customary law and statutory law: A study of land governance in South Sudan. *Unpublished master's dissertation, University of Juba.*
- Kuol, B. (2021). *Satisfaction with customary court decisions among the Dinka community of South Sudan. Unpublished master's dissertation, University of Juba.*
- Lado, L. (2020). *Respect for traditional authority in Nuer customary courts of South Sudan. Unpublished master's dissertation, University of Juba.*
- Lado, S. (2021). *Procedural fairness in the Bari community's customary courts of South Sudan. Unpublished master's dissertation, University of Juba.*
- Li, Q. (2023). Land expropriations and protests in rural China: Urbanization policies and their impacts. *China Quarterly*, 244(1), 123-145.
- Liu, Y. (2020). *The role of ancestral records in land dispute resolutions in China. Asian Journal of Social Science*, 48(2), 167-189.
- Lokuji, A. (2022). The role of traditional leaders in land dispute resolution in South Sudan. *Unpublished undergraduate dissertation, University of Juba.*
- Lumumba, P. (2021). *Inconsistency and lack of transparency in Kivu region customary courts. Journal of African Development*, 17(3), 356-379.
- Mabior, P. (2022). Urban infrastructure expansion and land expropriation in Juba, South Sudan. *Unpublished master's dissertation, University of Juba.*

- Maghimbi, S. (2021). The legacy of Ujamaa policy and land tenure insecurity in Tanzania. *African Journal of Economic History*, 48(2), 142-167.
- Maxwell, J. A. (2019). *Designing a qualitative study*. In L. Bickman & D. J. Rog (Eds.), *The SAGE handbook of applied social research methods* (pp. 214-253). SAGE Publications.
- Mbala, J. (2019). *Evidentiary practices in customary courts in rural Democratic Republic of Congo*. *Journal of African Law*, 63(2), 197-219.
- Mensah, K. (2020). *Challenges in Ghana's Ashanti region customary courts*. *Journal of African Legal Studies*, 17(1), 101-124.
- Merry, S. E. (2015). *Legal pluralism and the modern world*. Routledge.
- Mitchell, T. (2022). Native American land claims and westward expansion in the United States. *American Indian Law Review*, 46(3), 265-290.
- Mitchell, T. (2022). *Native American land claims and westward expansion in the United States*. *American Indian Law Review*, 46(3), 265-290.
- Mlambo, A. S. (2021). Zimbabwe's land reform: Economic and social consequences. *Journal of Southern African Studies*, 47(4), 557-580.
- Mollo, E. (2021). *Evidentiary processes in Maasai customary courts of Tanzania*. *Journal of East African Studies*, 15(2), 211-234.
- Moreno, P. (2021). *Satisfaction with customary court decisions in the Chocó region of Colombia*. *Latin American Research Review*, 56(2), 314-337.
- Moyo, S. (2022). Land governance and customary law in Africa: A critical review. *African Journal of Legal Studies*, 15(1), 97-118.
- Moyo, S. (2022). Legal pluralism and land disputes in Africa: Customary and statutory conflicts. *African Journal of Legal Studies*, 15(1), 135-156.
- Moyo, S. (2022). *Legal pluralism and land disputes in Africa: Customary and statutory conflicts*. *African Journal of Legal Studies*, 15(1), 135-156.

- Muhereza, F. (2022). Pastoralist conflicts and land disputes in Karamoja, Uganda. *Journal of Modern African Studies*, 60(2), 221-244.
- Mukiibi, A. (2019). *Challenges of customary courts in the Buganda region of Uganda*. *Journal of African Law*, 63(4), 265-287.
- Mukwege, D. (2022). Mineral resources and land conflicts in the Democratic Republic of Congo. *Journal of Peacebuilding and Development*, 17(2), 133-157.
- Mukwege, D. (2022). *Mineral resources and land conflicts in the Democratic Republic of Congo*. *Journal of Peacebuilding and Development*, 17(2), 133-157.
- Muriuki, E. (2020). *High satisfaction rates in Maasai customary courts of Kenya*. *Journal of East African Studies*, 14(3), 276-298.
- Mushi, M. (2022). Agricultural and pastoral land conflicts in Tanzania: The role of customary courts. *Journal of East African Studies*, 16(1), 91-115.
- Mwangi, E. (2021). Post-election violence and land disputes in Kenya: Historical and contemporary perspectives. *African Affairs*, 120(3), 299-322.
- Mwangi, P., & Wanjiru, G. (2021). *Bias and external pressures in coastal Kenya's customary courts*. *Journal of African Development*, 18(2), 201-223.
- Ndzie, P. (2021). Customary land tenure and statutory law conflicts in Cameroon. *Journal of African Law*, 65(4), 432-455.
- Ng'ong'ola, C. (2019). Human rights and land governance in Africa: Customary courts and procedural justice. *African Human Rights Law Journal*, 19(2), 221-245.
- Ngowi, E. (2019). *The role of elder testimonies in Tanzanian customary courts*. *Journal of African Law*, 64(2), 178-200.
- Njeri, M., & Mwangi, J. (2019). *Traditional rituals in Kikuyu land dispute resolutions*. *Journal of African Cultural Studies*, 27(3), 311-333.
- Njogu, K. (2022). Customary and statutory land laws in Kenya: Dual legal systems and land conflicts. *Journal of African Law*, 66(1), 144-167.

- Njoroge, K. (2019). *Citizen satisfaction with Kikuyu customary court decisions in Kenya. Journal of East African Studies*, 13(1), 145-168.
- North, D. C. (1990). *Institutions, institutional change, and economic performance*. Cambridge University Press.
- N'Souki, P. (2020). *Communal gatherings and consensus in land claims validation in the Democratic Republic of Congo. Journal of Modern African Studies*, 58(1), 56-78.
- Nsubuga, D. (2020). *Political interference in the Busoga region customary courts of Uganda. African Journal of Legal Studies*, 14(2), 132-154.
- Ntsebeza, L. (2021). Land reform and historical inequalities in South Africa: Challenges and progress. *Journal of Southern African Studies*, 47(3), 378-403.
- Ntsebeza, L. (2021). *Land reform and historical inequalities in South Africa: Challenges and progress. Journal of Southern African Studies*, 47(3), 378-403.
- Obute, J. (2022). Communal clashes and land disputes in Jonglei, South Sudan. *Unpublished undergraduate dissertation, University of Juba*.
- Oliveira, P., & Santos, J. (2021). *Ritualistic evidence in Amazonian indigenous customary courts. Journal of Ethnographic Studies*, 22(2), 256-278.
- Ostrom, E. (2015). *Governing the commons: The evolution of institutions for collective action*. Cambridge University Press.
- Otieno, L. (2021). *Challenges of Luo customary courts in Kenya. Journal of African Law*, 64(3), 298-320.
- Owusu, K. (2021). *Citizen satisfaction with Asante customary court decisions in Ghana. Journal of Modern African Studies*, 17(1), 112-135.
- Park, K.-S. (2021). The history wars and property law: Conquest and slavery as foundational to the field. *Yale LJ*, 131, 1062.
- Pascoe, B. (2021). The Mabo decision and its impact on indigenous land rights in Australia. *Australian Journal of Indigenous Education*, 50(2), 203-223.

- Pearson, N. (2023). Mining and agricultural development: Challenges for indigenous land rights in Australia. *Journal of Australian Studies*, 47(1), 89-112.
- Pereira, M., et al. (2020). *Evidentiary standards in Amazon region customary courts*. *Journal of Latin American Studies*, 54(2), 198-223.
- Peters, P. E., & Van den Meij, M. (2016). Customary courts and power imbalances: Land disputes in Africa. *Journal of Modern African Studies*, 54(3), 333-355.
- Quaye, D. (2022). Customary land tenure and statutory law in Ghana: Roles of chiefs and traditional authorities. *Journal of African Law*, 66(2), 189-214.
- Rao, V. (2021). *High satisfaction rates in Andhra Pradesh tribal customary courts*. *Asian Journal of Legal Studies*, 19(3), 278-301.
- Rodríguez, A. (2020). *Mixed-methods study of satisfaction with customary courts in Colombia's Cauca region*. *Journal of Latin American Studies*, 57(1), 123-145.
- Santos, M. (2019). *Overlapping jurisdictions in Amazonian customary and formal courts*. *Journal of Legal Pluralism*, 21(1), 167-189.
- Sharma, P., & Kumar, S. (2020). *Citizen satisfaction in Rajasthan's customary courts*. *Journal of South Asian Studies*, 18(2), 123-145.
- Sharma, S. (2022). The Narmada Bachao Andolan movement: Displacement and resettlement struggles in India. *Asian Journal of Social Science*, 50(1), 45-67.
- Silva, L. (2019). *Oral histories and environmental landmarks in Amazonian customary courts*. *Ethnographic Journal*, 25(3), 276-298.
- Silva, P. (2020). *Challenges faced by Amazonian indigenous customary courts*. *Journal of Ethnographic Studies*, 27(4), 356-378.
- Singh, A. (2022). Land acquisition and displacement in India: Legal frameworks and community impacts. *Indian Journal of Law and Society*, 8(3), 190-215.
- Singh, R., & Verma, S. (2022). *Integrating customary laws with formal legal systems in India*. *Journal of Asian Legal Studies*, 23(2), 234-257.

- Tadesse, B. (2022). Land allocations and conflicts in Ethiopia: The legacy of imperial and feudal systems. *Journal of Ethiopian Studies*, 60(2), 210-235.
- Tamanaha, B. Z. (2021). Legal pluralism across the global South: colonial origins and contemporary consequences. *The Journal of Legal Pluralism and Unofficial Law*, 53(2), 168–205.
- Tshibanda, F. (2021). *Use of physical evidence in rural Democratic Republic of Congo customary courts*. *Journal of African Studies*, 47(2), 211-233.
- Tyler, T. R. (2016). Procedural justice and the legitimacy of legal institutions. *Journal of Empirical Legal Studies*, 13(2), 343-365.
- Tyler, T. R., & Blader, S. L. (2018). Enhancing public trust in legal authorities through participatory justice. *Regulation and Governance*, 12(3), 362-383.
- Tyler, T. R., & Huo, Y. J. (2002). *Trust in the law: Encouraging public cooperation with the police and courts*. Russell Sage Foundation.
- Tyler, T. R., & Huo, Y. J. (2002). *Trust in the law: Encouraging public cooperation with the police and courts*. Russell Sage Foundation.
- Ubink, J. M. (2018). Customary law and legal pluralism in Africa: Challenges and opportunities. *Journal of Legal Pluralism and Unofficial Law*, 50(2), 189-212.
- Ubink, J. M., & Van Rooij, B. (2017). Complexities and contradictions in legal pluralism: Land dispute resolution in Africa. *Comparative Law Review*, 36(1), 79-101.
- Uphoff, N., & Buck, L. (2017). Strengthening institutional capacities for land dispute resolution. *World Development*, 99(2), 160-183.
- van Leeuwen, M., Mathys, G., Vries, L. de, & van der Haar, G. (2022). From resolving land disputes to agrarian justice – dealing with the structural crisis of plantation agriculture in eastern DR Congo. *Journal of Peasant Studies*.
<https://www.tandfonline.com/doi/full/10.1080/03066150.2020.1824179>
- Wambui, J. (2021). *Integration of oral traditions and documented histories in Kikuyu customary courts*. *Journal of East African Studies*, 14(4), 299-321.

- Wang, X., & Chen, Y. (2022). *Historical land use patterns as evidence in Chinese customary courts*. *Asian Journal of Legal Studies*, 19(2), 167-189.
- Wani, L. (2022). *Symbolic evidence in land adjudication among the Dinka community of South Sudan*. Unpublished master's dissertation, University of Juba.
- Wily, L. A. (2021). Land appropriation and indigenous dispossession in colonial Africa. *Journal of Peasant Studies*, 48(4), 763-788.
- Yin, R. K. (2018). *Case study research and applications: Design and methods*. SAGE Publications.
- Zarama, D. (2022). *Civil conflict and land disputes in the Central African Republic*. *Journal of African Studies*, 61(2), 245-269.
- Zhang, L. (2021). *Examining types of evidence in rural China's customary courts*. *Asian Journal of Social Science*, 48(3), 234-256.

APPENDICES

Appendix I: Self – Introduction Letter

Ref: Research Questionnaire

Dear Respondent,

My name is Michael Gorjin Kuol a Master's of Science Governance, Peace and Security student in Africa Nazarene University. This is a questionnaire meant to gather information on the role of Customary Courts in resolving land disputes: a case study of Munuki Payam, Juba city, South Sudan. The purpose of this study is academic and all information received will be treated with absolute confidentiality.

Thanks for your time.

Michael Gorjin Kuol.

Appendix II: Questionnaires

PART A: BACKGROUND INFORMATION

1. What is your Gender?

a) Male []

b) b) Female []

2. Age bracket:

a) 25 – 35 []

b) 36 – 45 []

c) 45+ []

3. Highest Education Level:

a) Illiterate []

b) Primary []

c) Secondary []

d) College []

e) University []

4. Occupation

a) Police () b) Trader () c) Judges/chief () d) Unemployed ()

5. For how long have you lived in Wau Municipality?

a) Below 5 years []

b) 5- 10 years []

c) 11-15 years []

d) 16 years & above []

**PART B: NATURE OF EVIDENCE USED BY CUSTOMARY COURTS IN
RESOLVING LAND DISPUTES**

Fill the following table by ticking on what you agree with. **SA** denotes Strongly Agree with the statement, **A** denotes Agree, **N** denotes neutral, **D** denotes Disagree with the statement, **SD** denotes strongly disagree

Related to Research Question 1.

No.		SA	A	N	D	SD

1.	Customary courts and officials are aware of their roles in resolving Land disputes					
2.	The evidence used in ruling land dispute cases in customary courts are admissible and logical					
3.	The ruling of Customary courts in line with the Land Act (2009)					
4.	Customary Courts deliver fair and justifiable rulings when it comes to land dispute cases					
5.	Customary Courts are not intimidated by the ruling and influential elites					

Descriptive information related to RQ 1

1. Are Customary courts officials aware of their roles in resolving Land disputes?

.....

2. Is the evidence used in ruling land dispute cases in customary courts admissible and logical?

.....

3. Is the ruling of Customary courts land dispute cases in line with the Land Act (2009)?

.....

4. Does Customary Courts deliver fair and justifiable rulings when it comes to land dispute cases

.....

5. Are Customary Courts are intimidated by the ruling and influential elites in cases related to Land disputes?

.....

**PART C: CITIZENS SATISFIED WITH CUSTOMARY COURTS DECISIONS
WHEN RESOLVING LAND DISPUTES.**

Fill the following table by ticking on what you agree with. SA denotes Strongly Agree with the statement, A denotes Agree, N denotes neutral, D denotes Disagree with the statement, SD denotes strongly disagree

Related to Research Question 2.

No.		SA	A	N	D	DA

1.	Guilty persons/offenders of land disputes are punished by customary courts					
2.	Victims of Land disputes are compensated					
3.	Fair trial by Customary Courts in resolving Land disputes					
4.	Rulings and decisions made by Customary courts are respected					
5.	Individuals have the right to petition Customary Courts ruling					

Descriptive information related to RQ 2

1. Are guilty persons/offenders of land disputes are punished by customary courts?

.....

2. Are Victims of Land disputes are compensated?

.....

3. Does Customary Courts deliver Fair trial in resolving Land disputes?

-
4. Are Rulings and decisions made by Customary courts are respected?

-
5. Does Individuals have the right to petition Customary Courts ruling?

**PART D: CHALLENGES CUSTOMARY COURTS FACE IN RESOLVING LAND
DISPUTES**

Fill the following table by ticking on what you agree with. **SA** denotes Strongly Agree with the statement, **A** denotes Agree, **N** denotes neutral, **D** denotes Disagree with the statement, **SD** denotes strongly disagree

Related to Research Question 3.

No.		SA	A	N	D	DA
-----	--	----	---	---	---	----

1.	Customary Court officials are competent enough to handle land dispute rulings					
2.	Contemporary issues like culture and religion affects Customary Courts judgement					
3.	Nepotism and corruption have affected the smooth operations of customary courts in resolving land disputes					

Descriptive information related to RQ 3

1. Are Customary Court officials competent enough to handle land dispute rulings?

.....

2. Does Contemporary issues like culture and religion affects Customary Courts judgement?

.....

3. Does Nepotism and corruption have affected the smooth operations of customary courts in resolving land disputes?

.....

**PART E: APPROACHES OF IMPROVING THE ROLE OF CUSTOMARY COURTS
IN RESOLVING LAND DISPUTES.**

Fill the following table by ticking on what you agree with. **SA** denotes Strongly Agree with the statement, **A** denotes Agree, **N** denotes neutral, **D** denotes Disagree with the statement, **SD** denotes strongly disagree

Related to Research Question 3.

No.		SA	A	N	D	DA
1.	Do the Customary courts get trained in matters related to Land rights, Ownership and tenure?					
3.	Corruption and nepotism do not allow the Customary Courts resolve land disputes fairly					
4.	Much has already been done to strengthen the Customary courts					

Descriptive information related to RQ 3

1. Does the government provide support in terms of funding to help develop the capacity of the Customary Courts as well as to come up with strong policies guiding it?
2. Does Corruption and nepotism do not allow the Customary Courts resolve land disputes fairly?.....
3. How can the Customary Courts be strengthened to improve their performances in solving land disputes?
.....

Many thanks and God bless you.

Appendix III: Ethical Clearance



P.O.Box: 53067 – 00200
Nairobi, Kenya.
Tel: 020 252 7170/1 – 5
Email: vc@anu.ac.ke
www.anu.ac.ke

22nd October 2024

RE: TO WHOM IT MAY CONCERN

Africa Nazarene University is a private Christian University and an institution of the Church of the Nazarene International, who follows the Wesleyan holiness traditions.

Michael Gorjin Kuol (21J01DMGP021) is a postgraduate student at Africa Nazarene University pursuing a master's degree in Governance, Peace and Security Studies. This program entails coursework and research. He has successfully completed his course work and defended his thesis proposal entitled: -

“Role of Customary Courts in Resolving Land Disputes: A Case Study of Munuki Payam, Juba City, South Sudan”.

To complete his program and graduate, he is required to conduct research. This involves collecting and analyzing data, hence write a report. In that regard, I present Mr. Gorjin to you for approval to conduct research.

Any assistance you will grant him will be highly appreciated.

Prof. Orpha Ongiti
Dean of Postgraduate Studies & Director of The Institute of Research

Appendix VI: Research Clearance



National Security Service
Internal Security Bureau
Central Security Division

Ref: NSS/ISB/CSD/J/Office of the Chief/_18_/024

Date: 29th October, 2024

To whom it may concern

Mr. Michael Gorjin Kuol-21J01DMGP021, a postgraduate student at Africa Nazarene University, pursuing a master degree in Governance, peace and Security studies. Under the subject "***role of customary courts in resolving land disputes: A case study of Munuki Payam, Juba City- South Sudan***"

Hence, whoever comes across **Mr. Micahel Gorjin** is hereby directed to render him the necessary assistance and support to facilitate his data collection respectively.

Thanks.

Brig- Gen. Dominic Deng Kuoc

A/ Chief of Central Security Division
Internal Security Bureau/NSS- Juba

Cc: File

Appendix V: Map of Munuki Payam

