# Title: State-building South Sudan. International intervention and the formation of a fragmented state

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# Acronyms

ARCSS: Agreement on the Resolution of the Conflict in South Sudan

BDC: Boma Development Committee

CANS: Civil Authority of the New Sudan

CAT: Civil Administration Training

CDC: County Development Committee

CLSA: Civil Society Land Alliance

COTAL: Council of Traditional Authority Leaders

CPA: Comprehensive Peace Agreement

CRS: Catholic Relief Services

CSO: Civil Society Organization

DFID: Department for International Development

FAO: Food and Agriculture Organization

GIZ: German International Cooperation

GoSS: Government of Southern Sudan

GTZ: German Technical Cooperation

ICSS: Interim Constitution of Southern Sudan

IDP: Internally Displaced Person

IOM: International Organization of Migrations

LGA: Local Government Act

LGB: Local Government Board

LGF: Local Government Framework

LGRP: Local Government Recovery Program

LGSD: Local Governance and Service Delivery

MAF: Ministry of Agriculture and Forestry

MDTF: Multi-Donor Trust Fund

MoFEP: Ministry of Finance and Economic Planning

NPA: Norwegian People's Aid

OECD/DAC: Organization of Economic Cooperation and Development/Development Assistance Committee

OLS: Operation Lifeline Sudan

PDC: Payam Development Committee

SANU: Sudan African National Union

SPLM/A: Sudan People's Liberation Movement/Army

SPLM/A-IO: SPLM/A In Opposition

SRRA: Sudan Relief and Rehabilitation Association

SSLC: South Sudan Land Commission

STAR: Sudan Transitional Assistance for Rehabilitation

TCRSS: Transitional Constitution of the Republic of South Sudan

UNDP: United Nations Development Program

UNICEF: United Nation Children Fund

USAID: United States Agency for International Development

WFP: World Food Program

**[Place Map 1 here - L]**

## Introduction

In the early morning of 15 December 2013, Juba residents awoke to the noise of a bloody battle fought with heavy weaponry that left over 700 people dead in the streets of the capital (Human Rights Watch, 2013). A few days later, as expatriates residing in the country rushed to the airport to catch one of the first resumed flights, the world watched appalled at the fading away of South Sudan's independence success story.

Months earlier, in July, vice-president Riek Machar Teny had declared his intention of running in the presidential elections scheduled for 2015. His declaration instigated a political crisis that led to the removal from office of one of his closest allies, Unity State governor Taban Deng Gai, and, a month later, the exclusion of Riek Machar from the vice presidency. Political tensions mounted in the following months, culminating in a group of senior members of the ruling party, the Sudan People's Liberation Movement (SPLM), holding a press conference in early December to accuse the government led by Salva Kiir Mayardit of "dictatorial tendencies". Just one day before violence broke out, the same group – including other prominent SPLM figures such as Pagan Amum, Deng Alor and Rebecca Garang, the widow of the SPLA's late leader John Garang – quit the SPLM National Liberation Council meeting as a form of protest.

Among the expatriates residing in the country, everybody knew something was about to happen. The birth of the new country had been marred by unresolved cleavages within its political elite as well as in its broader society, and by a huge financial fatigue that had been aggravated by the decision to halt oil production in 2012 as part of a number of skirmishes with the government of Sudan. The austerity measures that followed had caused huge cuts to state expenditures, not only heavily affecting the salaries of lower ranking government and military officers, but also the capacity to sustain patronage networks (de Waal, 2014).

However, few people expected such a rapid and wide spread of ethnic violence, stretching even to the most remote areas of the country. This was a consequence of the legacies of ethnic militarization of the previous wars (Hutchinson, 2000; Johnson, 2003), but also of a system of "incentives" created by post-conflict reforms to rely on ethnicity to secure access to power and resources in the new state. What was described as the "collapse" of the South Sudanese state (International Crisis Group, 2019) was merely consistent with South Sudan's non-linear pattern of state formation, characterized by the rise and fall of multiple political entities with various attributes of statehood. However, the focus on the state-building enterprise, undertaken with the support of international donors after the end of the war with Sudan, led observers to emphasize the failure, if not

of South Sudan itself, then of the state-building (Belloni, 2014), overshadowing the continuities between the war and post-war period as well as those between the pre-war and war period.

Analyses of the conflict that broke out in December 2013 have largely blamed donor-supported state-building projects for their poor timing or for scarcely considering South Sudan's deep ethnic fragmentation (Dowden, 2014; Howden, 2013). These arguments rely on a critical theoretical perspective on peacebuilding and state-building that emphasizes the alien and artificial character of reforms supported by international actors in post-conflict contexts (Blieseman de Guevara, 2010; Lemay-Hébert, 2009; Richmond, 2013) and have been criticised for excessively victimising local actors. Other observers have rather emphasized internal political dynamics within the ruling party and the lack of centralized control over the army (Brosché & Höglund, 2016; de Waal & Mohammed, 2014; Johnson, 2014a; Rolandsen, 2015). Both these perspectives capture a partial truth but do not provide a satisfactory explanation of how the South Sudanese state started functioning and then collapsed. This book is an attempt to answer this question, focusing on the time span of the international state-building intervention.

Its main argument is that, to understand the political dynamics of contemporary South Sudan,[1] we need to look at the intersection between externally supported state-building projects and the historical process of state formation, shaped by endogenous forces that have, since the very inception of Southern Sudanese statehood, captured and reinterpreted resources of various kinds provided by external actors. If existing literature on post-conflict South Sudan addresses either international intervention and "high" national politics (LeRiche & Arnold, 2013; Young, 2019) or local political dynamics (Badiey, 2014; Johnson, 2016; Leonardi, 2013, 2020; Thomas, 2015; Vaughan et al., 2013), this book argues that it is not possible to understand contemporary South Sudan without simultaneously looking at both.

The underlying research question – how do local actors at various levels capture and manipulate the international state-building intervention, and with what outcomes? – took shape during my first fieldtrip to Southern Sudan. It was October 2010: the region was still under the jurisdiction of the Government of National Unity based in Khartoum, yet the Government of Southern Sudan acted – and was treated by its international partners – as the de facto ruler of a sovereign state. I was completing a Master's degree in Development Studies and doing an internship with the Italian NGO Mani Tese. Mani Tese was supporting a South Sudanese NGO in the organization of grassroots peace initiatives between Nuer and Dinka communities in the border region between Unity and Warrap states, which had been pitched against each other for over fifteen years during the civil war.

[1] This book will refer to alternatively to Southern Sudan or South Sudan to indicate the region before and after its secession from Sudan.

I participated in a significant number of grassroots peace conferences also organized by other international and local NGOs: these gatherings typically saw the involvement of local traditional authorities, other community representatives such as youth and women's representatives, and sometimes a faint presence of local government officials. The organizers transported people from one place to another, providing them with food and overnight accommodation (and, sometimes, sitting allowances), allowing local authorities to give their ceremonious speeches, facilitating the participants in the advancement of claims directed to the government, writing down resolutions and getting somebody (traditional authority, local government officials or both) to sign them. Moreover, they created joint committees, courts and various other hybrid structures with ambiguous legal statuses, which in fact very rarely lasted more than one season, as they were usually tasked with the regulation of movement of people and cattle.

After a while, I started asking myself how much of all this was really about peacebuilding – a distant concept in a country still flooded with weapons and ravaged by cattle-raids and memories of inter- and intra-ethnic massacres – and how much it was instead about different sources of authority displaying their respective roles and positions, their respective capacity for showing their worthiness to their local constituencies through being involved in events organized by external resource-providers, and their ability to harvest the aid that was sometimes delivered to support the implementation of peace agreements.[2] More importantly, how much of it was contributing to state formation and to the creation of local polities, at a time when the international state-building effort in South Sudan was blooming?

## State-building in "post-conflict" South Sudan

"Post-conflict" South Sudan was neither stable nor peaceful. The signing of the Comprehensive Peace Agreement in January 2005 represented an important step towards the normalization of the security situation in the area, but localized violence and militia attacks remained a constant feature of people's everyday lives. The Juba Declaration, signed one year after the CPA, absorbed most of the existing armed militias into the Sudan People's Liberation Army (SPLA) – which turned into the Southern army. Yet, some militias refused to give up their arms and others were formed out of local grievances or the greed of local big men, continuing to pose threats to civilians' security. Inter-communal violence over access to natural resources such as water and pastures also remained widespread, particularly in areas where pastoralist communities competed for access to the same resources and

[2] Especially in early 2000, peace conferences were often followed up through the provision of material improvements such as boreholes or roads to be jointly maintained by conflicting communities. On the role of meetings in the establishment of hierarchies, see also Leonardi (2015).

where the war had exacerbated existing cleavages along ethnic lines. The widespread availability of firearms amongst the local population, together with successive failed disarmament attempts (O'Brien, 2009; Young, 2006) contributed to a worsening security situation to the extent that in 2009 the number of casualties of intra-south violence was higher than that of the ongoing conflict in Darfur (International Crisis Group, 2009). Things did not change much after independence: since then, South Sudan has occupied the lowest ranks of the Fragile State Index.[3]

As has been shown by several authors (Cramer, 2006; Debos, 2013; Doornbos, 2010; Péclard & Mechoulan, 2015), the neat division between conflict and post-conflict is a discursive artifact. It plays a foundational role in state-building projects in conflict-affected societies, justifying the deployment of international apparatuses of intervention. Interventions often rely on the idea that a state after war is a "blank state": this assumption was quite visible for example in the case of Afghanistan, often defined as "ground zero" after the Taliban were defeated (Cramer, 2006). Rather, war and peace are better understood as the two extremes of a continuum along which statehood is negotiated. Didier Péclard and Delphine Mechoulan (2015), for example, draw attention to the literature on rebel governance to better understand the reproduction of modes of governance in the process of state formation. Similarly, Roland Marchal (2002) invites one to look at the continuities of economic practices of rebel leaders and at their strategies of control of the population characterizing war and peace.

While these continuities were also evident in South Sudan, the international community – the US, particularly – had great expectations of the new country. As soon as the CPA was signed, "an army of capacity builders" (Larson et al., 2013, p. 9) moved to Juba to support the construction of the new state. For years, the southern region of Sudan had represented a bastion against the Islamic expansionism of the government in Khartoum that was also feeding international terrorist networks; after the end of the war, mitigating state fragility through state-building became a top priority for the international actors that had supported the SPLM/A[4]'s struggle.

State-building programmes were part of a new wave of interventionism in developing countries initiated by the end of the Cold War "veto season", which saw the United Nations assuming a leading role in the attempt at keeping the world at peace. The emergence of the so-called "new wars" (Kaldor, 1999), together with rising international threats linked to terrorism and organized crime, prompted the strengthening of a security-development nexus that saw the establishment of

[3] The Fragile States Index, formerly Failed States Index, is an annual report published by the United States think tank Fund for Peace and the magazine *Foreign Policy* since 2005 https://fragilestatesindex.org/data/ (accessed on 24/01/2021).

[4] This book will refer to SPLM when discussing the political wing of the rebel movement turned ruling party in the government of Southern Sudan after the signing of the CPA in 2005; to SPLA when discussing the armed movement, which dominated in the war years between 1983 and 2005; and SPLM/A when discussing the rebel movement as a whole.

functioning state institutions as the most effective means of countering global threats (Duffield, 2001; OECD, 2008). The more unstable the country, the higher the risks: thus, the 1990s also saw an increase in international interventionism in the name of peace.

In 1992, the then Secretary General of the UN, Boutros Boutros-Ghali, released *An Agenda for Peace*, in which the term "peacebuilding" was introduced and described as "an action to identify and support structures which will tend to strengthen and solidify peace in order to avoid relapse into conflict" (Boutros-Ghali, 1992, p. 5). *An Agenda for Peace* thus inaugurated the era of what has been called "liberal peacebuilding". Liberal peacebuilding relies on a broad understanding of Kant's theory of democratic peace, which maintains that democracies are less likely to fight each other and to experience internecine conflicts than other regimes (Newman et al., 2009). Even though "state failure" in Africa did not become an international problem per se at least until the bombing of US embassies in Kenya and Tanzania in 1998 (Morris, 2013), liberal peacebuilding interventions typically had a state-building component in the belief that peace could not be sustained in the absence of strong states controlling their territory and centralizing violence. In 2004, the UN report *A more secure world* made the integration between peacebuilding and state-building more explicit: "(T)oday we are in an era where dozens of states are under stress or recovering from conflict, there is a clear international obligation to assist states in developing their capacity to perform their sovereign functions effectively and responsibly" (UN, 2004, p. 83).

State-building interventions involve a variety of international actors – donors, international development agencies, NGOs – and have for a long time focused on institution- and capacity-building. They typically address technical and managerial aspects, aimed at maximising states' effectiveness and efficiency with very little concern for their political repercussions (Darbon, 2003). In 2008, however, the Development Assistance Committee of the Organization for Economic Cooperation and Development also added "legitimacy" among the characteristics of an effective state. It defined state-building as the "purposeful action to develop the capacity, institutions *and legitimacy* of the state in relation to an effective political process for negotiating the mutual demands between state and societal groups" (emphasis added) (OECD, 2008, p. 14). The need for state legitimacy was also emphasized by the New Deal for Engagement in Fragile States[5] presented at the 4th High Level Forum on Aid Effectiveness in Busan (2011) as an initiative of the G7+ group of conflict-affected states.[6] If state-building had so far focused on the creation and capacity building of central state institutions and on actions aimed at strengthening the security apparatus and the rule of law, this slight shift produced two consequences in terms of intervention design. First, the focus on states' capacity to control the

[5] See the New Deal's website: http://www.newdeal4peace.org/about-the-new-deal/ (accessed on 23/09/2015)
[6] See the G7+ website: http://www.g7plus.org/ (accessed on 23/09/2015).

territory and exercise the monopoly of violence began to be complemented with a focus on delivery capacity (Batley & Mcloughlin, 2010; Denney et al., 2015; Mcloughlin, 2014; Slater, 2015). Second, the attention was gradually shifted to the local level, targeting sub-national levels of government as well as other types of more or less institutionalized local authorities with capacity-building programmes. Support to decentralization reforms and emphasis on local governance in the framework of state-building enterprises can thus be ascribed to this shift.

## Between Politics and policies

State-building interventions have been criticised by several authors. Roland Paris compared them to the colonial *mission civilisatrice* (Paris, 2002), and several others have described them as an imperialist enterprise (Chandler, 2006; Richmond, 2011). In analysing their visible failures and shortcomings, some have adopted a problem-solving approach, while others have criticized more radically the very premise of state-building. In the first group, state-building is reduced to technical institution-building, and the debate focuses on finding the right devices and timing to achieve democracy, accountability, efficiency, etc. (Paris, 2004). The second approach advances radical critiques on the alien and depoliticized nature of the reforms supported in non-Western countries, blaming their failure on the continuous re-emergence of politics. These critiques also support a more nuanced understanding of local realities targeted by state-building programmes, recognizing the variety of the actors involved and the hybrid nature of orders emerging from the encounter between the "local" and the "international" (Belloni, 2012; Chandler, 2006; Heathershaw & Lambach, 2008; Richmond, 2011). The main argument advanced by these authors is that state-building, in its depoliticized institution-building form, takes politics out of the broader picture, reducing it to top-down policies (Bliesemann de Guevara, 2010; Heathershaw & Lambach, 2008).

African Studies literature has, to some extent, addressed a similar debate about development. Developmental discourses and institutions have been described as vehicles of depoliticization of reforms in the era of conditionality (Ferguson, 1994; Gentili, 2004; Harrison, 2010). The state was studied as the domain of Politics (with capital P), and studies have focused on the way it oscillated between its role vis-à-vis globalization (Hibou, 2004) and its embeddedness in local power relations and dynamics of domination (Bayart, 1999, 2006). Particularly, in the 1980s, a rich debate on the place of Politics in Africa developed around the French review *Politique Africaine*, departing from the study of the post-colonial state in order to account for the "*modes populaire d'action politique*" (Bayart et al., 1992). These studies sought to rehabilitate "*les dynamiques du dedans*" vis-à-vis "*les dynamiques du dehor*", which had prevailed in the study of the African continent from

developmentalist and dependentist perspectives. They contested the understanding of African Politics as a mere emanation of an apparatus of control and described the African state as a field of relations between different actors. In questioning the idea of the state as a set of Western institutions alien to the African context portrayed by Badie (1992), these authors emphasized the role of different histories (cultural, political, etc.) in shaping state institutions (Bayart, 1996), arguing that "politics makes policies" (Darbon, 2002). The state was seen as wrapped up in social relations producing political modes of interaction, even though this risked at times underplaying the external constraints on the agency of African societies (Médard, 1991). Neither policies and actual practices nor actors of the state emerged from these studies, leading Copans (2001) to talk of "*État sans fonctionnaires*" in Sub-Saharan Africa.

In the last twenty years, however, a rich African Studies literature, grounded in ethnographic studies of the state in Africa, has redirected the focus from Politics to policies, taking the production and implementation of public policies as a privileged point of observation of the practical manifestations of the state even in areas where states may appear weak or failed. These studies focus on the everyday practices of the state and its routinized encounters with its citizens (Bierschenk & Olivier de Sardan, 2014; Blundo & Le Meur, 2009; Olivier de Sardan, 2008). They bring attention back to the double relation between Politics and policies: if it is true to some extent that "politics makes policies", it is also true that "policies make politics" (Boone, 2014; Darbon, 2002).

In contemporary Africa, policies are largely agreed upon by governments and international donor agencies (Lavigne Delville, 2010a). This coordination happens to such an extent that in some cases it produces awkward narratives as to who does what in specific contexts, as recounted by Esser (2012) with regard to Sierra Leone where international agencies are the ones launching "the government's agenda". Many similar situations in which policies and laws are designed and written by foreign consultants and then signed by government officials characterize the everyday exercise of state functions in South Sudan as well. If they theoretically constitute separate institutions which have for a long time been described as being in opposition to one another, with donors imposing conditionality and governments of poor countries obliged to accept them so as not to be cut off from global financial flows, this opposition has almost completely eroded in the era of "post-conditionality" (Harrison, 2001). Thus, the literature looking at the everyday functioning of the state proves particularly useful in analysing how the state, in its plural character, appropriates external inputs in the policy-making process at various scales and how this shapes Politics and the very formation of polities.

## Extraversion and the agency of local actors

This process of local appropriation of external resources can be well understood through the concept of extraversion formulated by Jean-François Bayart. Extraversion can be defined as the capacity of individuals or groups to profit from their situation of dependence upon external resources, strategically using these resources for the pursuit of their own goals (Bayart 2000; Tull 2011). In other words, it is the process by which individuals or groups "employ their dependent relationship with the external world to appropriate resources and authority" (Peiffer & Englebert, 2012, p. 361). The concept was used to criticise the victimizing narrative that saw Africa as a victim of its subaltern position in the world economy, and to emphasise the capacity of its elites to take advantage of their position of dependence to strengthen their grip on power. Extraversion strategies evolved over time: if the colonial and immediate post-colonial years were dominated by trade relations between Africa and the rest of the world, development aid and democratization gained increasing importance in the 1990s together with migration flows (Bayart 2000), followed by state-building, security and counterterrorism (Hagmann 2016).

South Sudan is no exception: its incorporation into the political economy and the territorial jurisdiction of the colonial and post-colonial state occurred through strategies of extraversion that enabled the southern political elites to play on its marginalised position to attract external support and to extract rents (Johnson 2003; Leonardi 2013). They continued to use it as a strategy to occupy power nodes during the civil war and in the post-war period, when external resources in the form of aid and support to post-conflict reconstruction increased. Speaking about externally supported reforms in Mali, Isaline Bergamaschi argues that:

> Extraverted reform remains fundamentally superficial and ambivalent: if, at first glance, recipients display openness and willingness towards donors' logics, at a deeper level, they are reluctant and partially reject the content of the reform through informal, creative practices, "weapons of the weak" intended to bypass donor control or elude hegemonic regulation (Bergamaschi, 2014, p. 291).

Even though local elites' levels of agreement and compliance with donors' programmes can be much deeper than that which Bergamaschi recognizes in the case of Mali (Harrison, 2001), the implementation of state-building programmes in post-conflict contexts definitely provides a space for negotiation among different visions and actors. Many have drawn attention to the continuous appropriation, manipulation and reinterpretation of "alien" ideas and policies structuring the modern state by local societies from several theoretical perspectives (Belloni, 2012; Bergamaschi, 2014; Berman & Lonsdale, 1992; Bliesemann de Guevara, 2010; Hagmann & Péclard, 2010; Migdal & Schlichte, 2005; Newman et al., 2009; Olivier de Sardan, 2005). These studies distance themselves from a structuralist perspective, according to which local dynamics and institutions would be

determined by externally imposed "rules of the game", and re-focus the analysis on the agency of local actors at different scales. In particular, it is useful to mention Bruce Berman's analysis of the Marxist concept of "articulation", and his critique of a structuralist version of it, directly addressing the relation between structure and agency in the field of economic relations in capitalist development. He argues that articulation should be conceived as "a process of struggle and uncertainty, the particular historical field in which European capital and the colonial state attempted to control the labour power and production of African societies" (Berman, 1992, p. 133). They "attempted", but were faced with constant resistance, leading to "a process of uneven capitalist development" (p. 133), which was only possible thanks to the development of internal capitalist forces.

In their relations with external resource-providers, local actors are never passive: they find multiple and creative ways to engage with structural constraints through a web of complex negotiations that interact with structures and processes and that ultimately might have transformative outcomes (Beswick & Hammerstad, 2013; Brown, 2012). In doing so, multiple state-building projects may co-exist and compete in the same arena. Once these processes of negotiation result in the creation of national laws, policies and state structures, they might indeed contribute to the creation of "a structure of opportunities for the negotiation of rights and the distribution of resources and the result is neither coherent policy implementation nor complete disregard of law and policy" (Lund, 2008, p. 4). In other words, the process of implementation of state-building programmes can be seen as an arena of negotiation in itself, which does not necessarily result in coherent law and policy implementation, but contributes to a process of state formation produced by the multiple interactions between diverse actors. These actors variously draw on resources and discursive repertoires taken from the state-building enterprise as well as on long-term cumulative legacies of state formation in the southern region of Sudan.

## State-building or state formation?

State-building and state formation refer to two profoundly different processes. Berman and Lonsdale have defined the first as "a conscious effort at creating an apparatus of control" (Berman & Lonsdale, 1992, p. 5). This definition resonates with how state-building programmes in the late 1990s and early 2000s have been designed and implemented: especially before turning to legitimacy as one of the attributes of a functioning state (OECD, 2008), state-building was indeed a matter of strengthening the capacity of control of state institutions, both in terms of security and through the establishment of administrative processes (Paris, 2004). Even then, states' delivery capacity as a means to strengthen their legitimacy was mostly considered instrumental to avoiding internal threats to the state (Rotberg,

2003). State-building can thus be broken down into single operations that usually involve the ruling elite and that become the object of international intervention in so-called fragile states, typically including Security Sector Reform, the strengthening of the rule of law, capacity building at all levels of the civil service, etc. These programmes and reforms may well be implemented, but their outcome in terms of actual state capacity is anything but guaranteed. Moreover, being presented as a set of technical steps to be taken to achieve functioning statehood, not much is said about their political "dark side", which in fact determines the very nature of the statehood in the making. Rather than by this "conscious effort" to build the state, the latter is produced by a much less linear process of state formation, which draws on past legacies of statehood characterizing a certain region and involves a much wider set of actors.

Following Berman and Lonsdale, state formation can be defined as "an historical process whose outcome is a largely unconscious and contradictory process of conflicts, negotiations and compromises between diverse groups whose self-serving actions and trade-offs constitute the 'vulgarization' of power" (Berman & Lonsdale, 1992, p. 5). Just as Berman argued that capitalist development in colonial Africa was only possible through the development of endogenous capitalist forces (Berman, 1992), the state-building enterprise in post-conflict or fragile states constitutes a field of power in which externally produced ideas (democracy, decentralization, neutral administration, good governance, etc.) are brought from "outside" but are negotiated, appropriated, reinterpreted and occasionally resisted by local political actors. Just as capitalism penetrated the African continent and co-opted local pre-capitalist modes of production, connecting them to the broader capitalist system, the state-building enterprise is "captured" and manipulated, and states are formed at least partly out of this process of articulation between the original project and its reinterpretation.

The historical process of state(s) formation in pre-colonial Africa was deeply upset by the advent of colonialism and the imposition of a pre-determined, often alien, form of centralized state. As has been demonstrated by many authors (and as will be illustrated in greater details in chapter 1 with regard to Southern Sudan), the penetration of colonial rule was only possible thanks to the cooperation of local actors, who willingly came into relations with the colonial state and contributed to expanding its scope. Similarly, as will be shown in the following chapters, contemporary international state-building relies at least partially on the endorsement of its precepts by local elites, if only to maintain access to extraverted resources. As Didier Péclard puts it: "(S)tates cannot be engineered or crafted, even less so through outside interventions alone. They are constantly formed and re-formed by primarily 'endogenous' (OECD/DAC 2010) historical and social dynamics, which shape outside interventions at least as much as they are shaped by them" (Péclard, 2012, p. 4)

Indeed, states are formed by the "anonymous action of many" (Berman & Lonsdale, 1992, p. 15) in an arena of negotiation that is conflictive, non-linear and non-teleological (Hagmann & Péclard, 2010), leading to the emergence of different kinds of statehood. Efforts to accumulate power and rule may not necessarily have explicit state-building ambitions (Lund, 2008): rather, they may respond to local logics and dynamics, reminding us that the outcome of state formation is never a monolithic state but rather "a field of power whose confines are decided upon with means of violence and whose dynamics are marked by the ideal of a coherent, coercive territorial organization as well as the practices of social actors" (Migdal & Schlichte, 2005, p. 15).

The emphasis on the plural and conflicting character of state formation in Africa is important. Even though this process has been studied with regard to Western Europe (Tilly, 1985; Tilly & Ardant, 1975), post-colonial and post-socialist state formation processes unfolded in a radically different international context: these states did not have to resort to war against competitors to define their territory and to obtain international acknowledgement; their rulers' legitimacy was often sanctioned by external recognition rather than by internal legitimacy; they were absolved from taxation thanks to the possibility of financing their expenditures through rents, credits and aid (Bliesemann de Guevara, 2008).

Clapham argues that among these "second generation" states, countries in the Horn of Africa stand out for having been characterized by a similar history to that of Western Europe (Clapham, 2000). Even though South Sudan can be compared with Eritrea in terms of being born out of a liberation war that ultimately led to independence, and that at least partly shaped its statehood, its legitimacy as a new state and the resources to cover its expenditures largely came from a complacent international community. The basic capacities of the Weberian state – monopoly of violence, control of the territory and delivery capacity – were never really developed by the South Sudanese state. Therefore, without diminishing the importance of internal power struggles and historical legacies, the role played by the international donor community in South Sudan's state formation process cannot be disregarded, both in terms of the provision of material resources and of extraverted legitimacy (Doornbos, 2010; Péclard, 2012).

## Methodology

This book is the result of a six-year qualitative research project (from 2010 to 2016) that included several field visits in South Sudan, both as a researcher and as a consultant for development agencies.

## Space

South Sudan covers an area as big as France, but with its small population of 11 million[7] and its poor road and connection networks, it seems even larger. It is an extremely diverse country in many ways, ranging from ecological zones to ethno-linguistic groups and modes of local governance. The choice of case studies was therefore not a simple one, particularly considering the many constraints in terms of security and accessibility that needed to be considered. Aiming to cover multiple areas of the country to be able to account for a significant number of diverse situations, my field research focused on three specific locations: Central Equatoria State, particularly Lainya and Yei counties plus short stays in Juba town; Bentiu and its surroundings in Unity State; and Rumbek, Yirol and Mapuordit in Lakes State. These areas, respectively belonging to the greater regions of Equatoria, Upper Nile and Bahr el Ghazal identified by the colonial government, were characterized by diverse historical backgrounds in terms of their incorporation in the colonial state, of the presence of the post-colonial state and of their relations with the SPLM/A during the civil war (with Bentiu, for example, having remained a government outpost throughout the war whereas Yei and Rumbek were SPLA strongholds). Their contemporary relation with central power also differed, as well as the structure of local societies. All of them, however, shared elements of ethnic fragmentation and polarization that could be related to the creation of local government and administrative units or the land tenure system. In all of them, the presence of international actors supporting local government institutions and carrying out state functions was very evident, as it was the process of appropriation of discourses employed by external state-builders to pursue local political agendas. The case studies presenting evidence from these three locations cannot be simplistically generalized and applied to other locations; however, they have been tested through secondary sources and existing literature, and can therefore be considered as indicative examples of wider phenomena involving, to different degrees, the whole country.

The final fieldtrip, between April and June 2016, was conducted in the framework of a consultancy with an international development agency. As the consultancy focused on urban areas, I travelled to six municipalities of South Sudan (Yei, Yambio, Torit, Aweil, Wau and Kuajok) in each of which I spent three to five days. It was a very short time, compared to my other research stays, yet, the experience provided a useful general overview of South Sudan and enabled me to "test" many of the ideas I had developed during previous research trips. Though not representing the primary source of evidence for my arguments, data from this final fieldtrip has been used occasionally to support reflections throughout the book.

[7] Estimates of the World Bank: https://data.worldbank.org/indicator/SP.POP.TOTL?locations=SS (accessed on 15/02/2021)

## Time

Though the first chapter outlines the historical background of state-building and state formation processes since the colonial era, the time span to which this book refers goes approximately from 1999 to 2013. While the international state-building enterprise was officially launched in 2005, when the Government of Southern Sudan was created, the first programme aimed at building the SPLM's government capacity and the creation of a state-like structure capable of controlling southern "liberated areas" was funded by the United States Agency for International Development (USAID) in 1999. The book thus identifies that year as the inception of the contemporary international state-building enterprise in Southern Sudan. The outbreak of the civil war in December 2013 represents a sort of "closing date" for the analysis proposed. This is when the state-building project pursued by the international community was abruptly stopped, leaving room for more violent processes of state formation – and disintegration.

This is not to say that nothing is left of the experience of "conscious effort at creating an apparatus of control" (Berman & Lonsdale, 1992, p. 5): instead, together with past experiences of statehood, it left enduring consequences for South Sudan's political and governance system. However, since then, the scene of institutional settings and political settlements has undergone profound changes as new opportunities for claiming access to resources – through violence instead of negotiation – caused the emergence of new actors and the reorganization of existing power relations. Some observers started questioning the technical approach to state-building adopted in the early 2000s in South Sudan – as well as in other post-conflict societies (Maxwell & Santschi, 2014; Pantuliano, 2014). Donors' attitudes towards the country seemed to have changed for a while, with the former no longer willing to blindly support the government as they had done since 2005. The willingness to critically assess South Sudan's state-building experience is commendable: at the same time, however, it also speaks to changing circumstances at an international level, where attention has been shifted away from ambitious liberal peacebuilding projects towards the lower expectations of creating stability (Belloni & Moro, 2019) and to the need to conduct in-depth analysis grounded in empirical evidence about what went wrong in the process.

## Positionality

Access to the field was facilitated, in most of my research trips, by international NGOs. Even though this is likely to have influenced my positionality as a researcher vis-à-vis the subject of my research (Brabant, 2013), the one research trip organised in cooperation with the University of Juba proved that being attached to NGOs in fact had a less substantial influence than I had expected. Requests for schools, health centres, water and sanitation facilities, consultative workshops to assess community needs and so on were a constant presence in my encounters with the local population. These requests

were the same if I arrived with a white NGO car, or if I jumped off and on *tuc-tucs*, *matatus*, or *boda-boda*[8] – though in this second case, providing a much more hilarious show for my interlocutors, who were clearly not accustomed to seeing a *khawaja*[9] wandering around without a car.

My identification with the aid industry thus had more to do with being a white person outside of the capital city in a region that had been flooded with aid for years, than with actually being close to NGOs and other development agencies. Possibly, being Italian also played a role: with Italian Comboni fathers having been the only education-providers in the Southern Sudan for decades, I was often identified with some kind of Catholic relief organization. Even when people realised that I had nothing to do with the Comboni or the Catholic Church more generally, Rome and the Pope remained popular topics I was asked about, which eased interaction and the building of friendly relations with many of my interlocutors whose names (Paulino, Santino, Teresa, Maria, Kerubino, Rebecca) recalled biblical settings.

### Sources

During fieldwork, I conducted over one hundred semi-structured interviews with a variety of local actors, which provided extremely interesting ethnographic material to inform my analysis. Even though some of these interviews are not directly referred to in this study, all of them helped shape my understanding of the context. The ethnographic part of the work relied on four kinds of research tools: interviews with "key informants"; group interviews; casual encounters with ordinary people I met at the market, on Sunday morning walks, while waiting for some bigwig to show up; and direct observation of a number of situations. While most of the government officers spoke English, all the interviews with traditional authorities or rural communities were translated into English from Dinka, Nuer or Juba Arabic with the help of local translators.

"Key informants" were of different kinds. They included representatives of the Local Government Board, officials in national ministries, local government officials, officers, and administrators; they also included field staff and national representatives of donor agencies directly involved in supporting projects and programmes targeting the local government or land governance, as well as NGO staff. I also interviewed several representatives of South Sudan's civil society (local NGOs, community-based organizations, activists on special causes, etc.) and members of the state legislative assemblies, who proved to be a good link between people's grievances and the state administration, and were often used as "peace mediators" if problems with a particular community arose.[10] In the case of interviews conducted on specific development projects or state-building

[8] Local public transport names: open taxi on three wheels, mini-bus and moto-taxi.
[9] Local expression used to identify white people.
[10] On this kind of role of local Members of Parliament, see also Rolandsen (2011).

programmes, I always crosschecked information with available written documents which I could access either because they were public (on the internet), or through fieldwork (in an archive or in development agencies' field offices). In these cases, I chose to rely on oral sources to account for people's understanding of projects and their underlying dynamics. People interviewed were often able to give more precise details on the process of implementation, once what had been written on paper had to meet realities on the ground.

While extensively engaging with local government representatives, state officers and traditional authorities involved in the processes of state building and state formation, I deliberately excluded the church and its religious leaders. Christian churches have played an outstanding role in the history of the southern region of Sudan as education and healthcare providers. During the SPLM/A liberation struggle, they actively supported the local population, providing relief and promoting peace conferences to solve inter-communal conflicts inflamed by the fault-lines created by the civil war. More importantly, religious leaders actively participated in the liberation struggle, forming the New Sudan Council of Churches and, later, becoming involved in the CPA peace process (Tounsel, 2021). However, South Sudanese churches and their leaders were never directly involved in the state building enterprise. They were the engine of multiple grassroots peacebuilding processes – the most remarkable being the Wunlit conference (see Bradbury et al., 2006) – and educated almost the entirety of the Southern Sudanese political elite, but the role of the church was rather side-lined when it came to the establishment of the new state: as a form of reaction against the threat of Islamization, South Sudan declared itself a secular state. Even though the clergy keeps undisputed – and under-researched – links with processes of accumulation of power, the purpose of this book is rather to focus on the institutional outcome of the state building/state formation enterprise. Moreover, while Christianity could have provided a powerful symbolic resource to the state formation process in the form of a unifying narrative contributing to nation-building, the Southern political elite seems to have rather preferred other forms of identity-building. For these reasons, churches are mentioned only occasionally in my analysis and only when their contribution was directly related to state building.

To protect people's privacy and security in times of deep political turbulence in the country, most of the interviews have been anonymized even when the interviewees had agreed to being named. Only the names of people occupying high ranking official positions have been left in the final list of interviews, as they usually spoke in the exercise of their official functions. In some cases, particularly those concerning civil society representatives or NGO/international organizations staff, the interviewee's position is also described in generic terms and the name of their employer is not provided to guarantee an even higher degree of anonymity.

Local archives were also of invaluable importance to my research, even though they were rather informal and did not conform to a conventional definition of archive. The richest was the Local Government Board Archive: a huge store of cartons full of documents located in a room of the Local Government Board building, covering a period ranging approximately from 1999 to 2012, with a few older documents, concerning the SPLM/Government of Southern Sudan's relations with donor agencies. The documents were of various kinds, ranging from project timetables, working plans and reports, to correspondence between representatives of donor agencies or NGOs and local government officials, from agenda and minutes of meetings to drafts of laws and policy frameworks, from budgets of projects to budgets of local governments. These documents were progressively brought to that room from Rumbek and SPLM/A big men's houses in Juba starting in 2011/12.[11] As far as I know, this was the closest attempt to the creation of a contemporary archive that has been willingly undertaken by the SPLM government. These documents provided a rich source of information about SPLM-donor relations and negotiations around the state-building enterprise and are therefore frequently referred to throughout the book.

Another important source of information was the Land Commission Archive, which was even more informal than the Local Government Board's. It was referred to as an "archive" by Robert Ladu Luki,[12] the Land Commission chairperson, but it was in fact no more than a big shelf in his office to which he granted me access. This "archive" was rich in papers documenting border disputes and provided me with insights about areas I could not visit but that were however interesting to compare with those to which I had been able to travel.

Finally, I visited the Juba Archive. At the time of the fieldwork, it was the only one in the process of being established as an official archive thanks to the South Sudan National Archive Project, funded successively by the United States, the British Institute in East Africa and the Rift Valley Institute, and finally by the government of Norway. When I visited the archive, which stores government documents from the colonial era to the early 1990s, work was in progress and I was only able to access a very limited number of documents, very randomly, which I however acknowledge in the historical chapter of this book.

Another important source for this work was the extremely rich and variegated world of reports, working papers, discussion papers and policy papers produced by international organizations and think tanks on state-building, both in general and more specifically on South Sudan – what is commonly defined as "grey literature". Even when they did not use the word state-building and rather referred to local governance, empowering local government for service delivery, decentralization,

[11] Interview with watchman, Local Government Archive, Juba, 20/10/2013.
[12] Interview with Robert Ladu Luki, Land Commission Chairperson, Juba, 05/11/2013.

etc., still they were addressing issues that fell into the hodgepodge of state-building activities. This literature was used not so much as a source of raw data (which were sometimes provided in specific reports), but rather to account for the definition of concepts by the actors who were actually operationalizing them in the context of the intervention, particularly when these concepts were originally created in relation to completely different situations.

## Outline of the book

The book starts with a historical chapter outlining the interplay between state-building efforts and state formation processes since 1820, which is identified as the year when external forces introduced the idea of a centralized state in the southern region of Sudan, interfering with the local endogenous process of formation and collapse of political units. It identifies three main patterns of state-building: physical violence/coercion, bureaucratization of government practices, and the creation of legitimacy. The Turco-Egyptian conquest of the region initially introduced the idea of a centralized source of power over local polities through violence, but later it evolved into the routinization of government practices, which gave some degree of predictability to the relations between local societies and the state administration. Local political entrepreneurs who managed to master this predictability found a new source of legitimacy in the colonial state, implementing, for the first time, a strategy of extraverted accumulation of power. Colonial-era local leaders (the so-called traditional chiefs) retained their legitimacy during post-colonial attempts at building the local state in the southern region of Sudan, giving continuity to a process of state formation that relied on ethnic belonging as the major vehicle to access state resources. This process contributed to the outbreak of the civil war after the collapse of the Addis Ababa Agreement in the early 1980s.

Chapters 2–5 turn to the contemporary state-building enterprise, focusing on three specific aspects: the creation of a decentralized government, which started before the end of the war in the areas of Southern Sudan under the control of the SPLM/A; the establishment of a decentralized system of service delivery relying on local administrative units; and the reform of the land tenure regime officially recognizing communal land ownership. These aspects share several features. First, they are characterized by a significant presence of external actors involved not only in the design of the respective legal and policy frameworks, but also in their implementation, allowing local political elites to rely on a vast repertoire of extraverted resources. Second, they are characterized by the official incorporation of the so-called traditional authorities in local governance systems, playing on their historical ambiguous position of community gatekeepers, at the edge between state and society. This incorporation was supported by multiple actors involved in the state-building enterprise, for multiple reasons ranging from the consolidation of patron–client networks to an effort to protect local

communities' rights to self-rule and control of their natural resources; nevertheless, its major consequence was the recreation of a colonial-esque system of local governance based on ethnic belonging that contributed to the exacerbation of societal fragmentation and ethnic conflict over access to state resources.

Chapter 2 introduces the contemporary state-building enterprise in Southern Sudan, analysing the experience of the guerrilla government of the SPLM in the areas under its control during the war and international programmes supporting this experience. It argues that such programmes, started by the end of the 1990s, represented a new thrust of externally led state-building efforts aimed at establishing a central source of authority capable of controlling and governing the "liberated areas". Similarly to colonial times, this thrust only partially influenced the local process of state formation in the region, but provided valuable resources that the local politico-military elite could exploit to strengthen its positions and to pursue its own agenda. The ability of the SPLM leadership in implementing strategies of extraversion to capture external resources, as well as the depoliticizing discourses around international state-building, made possible a convergence between different state-building projects, with SPLM governance structures progressively turning into state structures through international support.

Chapter 3 analyses the post-conflict creation of a decentralized government system as one of the most important aspects of the state-building enterprise in Southern Sudan. Decentralization was sponsored by both the SPLM, which turned into the ruling party leading the government of Southern Sudan, and by the international donor community, which considered it a vital means through which local conflicts could be deactivated and local governance could be made more effective and transparent. The chapter briefly analyses the theoretical background of decentralization reforms in post-conflict societies before turning to the creation of local government institutions in Southern Sudan. It shows how the technical approach to what was treated as a mere administrative reform by the international donor community allowed a superficial implementation, overwhelmingly dominated by efforts to create some sort of "aesthetics of the state" and to increase its legibility vis-à-vis external actors. The chapter argues that the political elite's engagement in such window-dressing reforms constitutes another form of extraversion in the process of state-making as it allows the elite to retain access to donors' resources while substantially keeping power relations between the centre and the periphery untouched.

Consistent with a more general trend of devolving administrative tasks to traditional authorities in Africa, local chiefs in Southern Sudan have been involved in decentralized state building with various functions and their historical role as local communities' gatekeepers has therefore been confirmed and even reinforced. Chapter 4 shows that this was the result of the SPLM's

reliance on local traditional authorities during the war – and the consequent need to reward them – as well as of several donors' desire to "work with the grain", empowering local authorities that could facilitate the broadcasting of state power over the predominantly rural Southern Sudanese society without implementing radical reforms. This, however, resulted in an unclear division of roles between customary and statutory authorities, sometimes causing competition between the two, as well as resulting in a confused understanding of what was needed for basic services to be delivered to the local population. It thus feeds into bottom-up understanding and expectations about the state, as well as strategies of partaking in state-related resources. In a context dominated by a neoliberal approach to service delivery, in which donors have actively engaged to strengthen state legitimacy and to prevent an otherwise arguably inescapable return to civil war, local traditional authorities have become the major channel through which the local population attempts to "capture" the state structure and be recognized as part of it. Through a case study from Yirol West County, targeted by a donor-funded project supporting local level service delivery, the chapter dissects the process of progressive administrative fragmentation involving communities increasingly defined in ethnic and kinship terms. While this trend is a consequence of the opportunity structure created by state-building programmes and by the decentralization reform, it impacts deeply on the underlying process of state formation, encouraging fragmentation as a means to place claims of recognition and access to resources on the state.

Finally, Chapter 5 analyses the land governance reform in post-conflict Southern Sudan. While not traditionally included in classic state-building programmes, land reforms represent an important arena where public authority is negotiated and claimed. After briefly illustrating the post-conflict legal framework and the historical linkages between access to land and ethnic identity inherited by the colonial era in much of rural Africa, this chapter sheds light on the overlaps between the land governance framework and the decentralized government system in post-conflict Southern Sudan. It argues that these overlaps resulted in the dilemma of clearly identifying borders and boundaries – not only administrative ones, but also more symbolic ones – between communities, between modernity and tradition, and also within communities. Through case studies from several regions of South Sudan, this chapter analyses land – and boundary – related conflicts that result in societal fragmentation along ethnic lines as a means to access the resources expected from the newly established state. It thus strengthens the argument that the donor-sponsored state-building reforms have contributed to the creation of an opportunity structure incentivizing the politicization of ethnic identity as one of the major features of the state formation process.

# Chapter 1 – Patterns of state-building in Southern Sudan in a historical perspective

## 1. Introduction

At the dawn of South Sudan's independence, in 2011, the Council of Ministers passed a resolution recognizing the Egyptian invasion of the Sudan in 1820 as the official starting point of the Southern struggle for freedom against the penetration of external predatory forces (Sudan Tribune, 2011). While the formation of various kinds of political units had been ongoing for centuries in the various polities inhabiting the southern region of what became colonial Sudan, Muhammad Ali's invasion in 1820 can indeed be considered as the moment when the influences of the international system started becoming more intrusive into the local political landscape. If, until the early nineteenth century, the region had been characterized by economic relations and the ephemeral rise-and-fall of relatively small political units, the arrival, no matter how disorganized, of the emissaries of a big centralized bureaucratic state altered economic and political balances in an enduring way. The nineteenth century, with the Turco-Egyptian and Anglo-Egyptian rule over Sudan, was therefore a watershed century: it was the first time in history that a voluntary effort of building a centralized state physically started to overlap with pre-existing trends of state formation in the southern region of Sudan.

Though very far from establishing real control over the majority of the areas it claimed to have annexed, foreign rule brought an unprecedented level of violence, influencing local patterns of accumulation of power and the way people dealt with it (Johnson, 1989). In 1820, foreign forces were no longer far away, at the end of some inter-continental economic network, but started coming closer, building up commercial stations and imposing their military superiority through their armies. Many studies conducted in the last thirty years have demonstrated that the penetration of external powers was not entirely dependent on the capacity of the foreigners to reach remote areas and people (Bayart, 1996; Berman, 1998; Hagmann & Péclard, 2010; Leonardi, 2013). Putting African agency at the centre of the analysis, these studies argue that it was rather a product of endogenous strategies of relation with foreigners than of passive submission. Instead, foreign forces provided new resources that enabled local political entrepreneurs to adopt strategies of extraversion (Bayart 1999), which can, to some extent, still be observed today.

The idea of the state as a centralized power above local polities penetrated the southern region through three main patterns merging into one another for the full length of the colonial rule. The imposition of physical force was the main pattern in the early phases of the Egyptian and British

penetration into the southern region, and it was never completely supplanted by other more routinized – and less expensive – forms of domination. The second pattern was bureaucratization, understood as the routinization of certain practices of government in government outposts and wherever government officials managed to reach through local power brokers. Though government action was not uniform across the whole region, this gave a certain "degree of predictability"[1] to government-people's relations at least at the level of each locality. This contributed to increasing the government's legitimacy as a neutral authority – or at least a benevolent one towards its subjects – in solving disputes. The third pattern was the establishment of new sources of legitimacy for local aspiring leaders. Introducing new ways of power accumulation and new forms of authority, the colonial state flanked the sources of legitimacy of pre-colonial societies such as seniority, kinship and mutual relations, centralizing them and providing alternatives to those to whom they were not available (Berman & Lonsdale, 1992).

These patterns of state formation informed all successive state-building attempts in the southern region: even though some of the attempts tried to change these patterns, they achieved very little success. The system of local authorities that emerged out of the interaction with the colonizers is illustrative: it was formalized in fifteen years of Southern Policy under British rule, survived colonialism as in most of post-colonial Africa and, in spite of different types of state-building projects pursued by successive post-colonial regimes, it remained central in the exercise of rule and administration in the rural areas (Leonardi, 2013).

The second part of the chapter goes through the successive attempts at local state-building in Southern Sudan through the establishment of various forms of post-colonial administration. Local chiefs always maintained the vital role of community gatekeepers, broadcasting state power over the rural areas. Historical state formation in the southern region, adjusted to cope with the interference of "external" colonial state-building, thus again had to cope with new state-building attempts coming from new actors, and had to adapt again.

## 2. The pattern of physical force: violent encounters

### 2.1 From commerce to rehearsal of government

Southern Sudan's earliest contacts with a centralized bureaucratic state were largely driven by the search for slaves and ivory by an extremely cosmopolitan set of explorers and adventurers gravitating around the Egyptian province of the Ottoman Empire. Despite the invasion of the Sudan in 1820 and

[1] This expression is borrowed from Cherry Leonardi's work on local government in South Sudan. She talks of "predictability" with reference to the degree of standardisation in the interaction between the people and the colonial government: in other words, the government's actions became "predictable" when an agreement was reached on the relation of exchange. See Leonardi (2013).

the annexation of a number of Sudanic kingdoms along the river Nile, it was not until 1839–40 that emissaries of the Egyptian government managed to sail southwards through the White Nile to explore its commercial and strategic potential. The expedition, the first of a great number, managed to overcome the barriers presented by the Shilluk kingdom, the Dinka groups living along the Kiir (Bahr el Ghazal) river and, last but not least, the extremely challenging environmental conditions characterizing the White Nile.

The area was found to be very rich in ivory, increasingly requested in European luxury markets, but also inhabited by several peoples with different modes of livelihoods, often at war with each other. Adventurers, explorers and traders needed local cooperation to procure food supplies, interpreters and porters, but the local people were not always willing to comply with the foreigners' demands. In many instances, these needs were satisfied using coercion: raiding became a routine practice to extract slaves and cattle, often the only thing accepted as a means of exchange for ivory by friendly populations.

> Once the restricted demand for beads has slackened, these people [Nuer and Dinka] with a proud repugnance for clothing had no wants which could easily be supplied by the traders in return for further ivory or, what for the traders was equally important, their services as porters. [...] It was far easier and cheaper to accept the suggestion of a friendly chief that a portion of a neighbouring herd of cattle would be an acceptable reward for ivory and services (Gray, 1961, pp. 48–49).

Southern Sudan was only reached after the northern region was already under formal control. Huge numbers of enslaved individuals from the Nuba Mountains were conscripted into the armies accompanying explorers and government emissaries. There was no need for Southern men captured in raids to be employed in the station's armies: they were rather taught Arabic and used as porters for ivory, "commercial agents" and interpreters, while women were given to Arab settlers. These individuals were inadvertently given the outstanding power of mediating the contact between the foreigners and local realities. They played a great role in making the discovery of the White Nile and of the southern regions of Sudan possible for European and Arab traders and governmental explorers, and greatly influenced their understanding of tropical Africa. At the same time, very often they sought to exploit their intermediary position, using external military power against rival groups to pull the balance of local disputes towards their side. In some cases, local communities claimed this kind of support with threats: for example, Angelo Vinco, a missionary who arrived in Bari-land in 1851 with a commercial expedition, had to go back to Khartoum in 1852 because the Bari threatened him with death if he did not help them in a war against the Lokoya (Gray, 1961). Accounts of the nineteenth century contacts between commercial and exploration expeditions and the local southern population are full of similar cases; complying with such requests gave a formidable means of ensuring at least

temporary support from a group and increased foreigners' knowledge of local feuds that could be exploited to achieve deeper penetration and control.

Thus, while violence was one of the main forces of penetration in the southern region of Sudan long before any attempt of conscious state-building, it was never indiscriminate. Raids on hostile tribes became an integral part of the slave and ivory trade and persisted even after slave-trading was forbidden in 1877. At the same time, and despite the financial support to explorers granted by the Egyptian government, the Governor-General of Sudan "made no pretense at administration" (Collins, 2008, p. 14) of the territories where the Egyptian government extended its nominal authority well into the Turco-Egyptian period. Rather, government emissaries and commercial companies created small personal fiefdoms and simply focused on their maintenance through raids and trade (Johnson, 2003). Even with no pretense of administrative definition of the area, this contributed to the co-optation of Southern Sudan into the Turco-Egyptian political economy based on slavery and the ivory trade.

This co-optation was not imposed. Even though the governors of the commercial stations tried to coerce the local population into complying with the station's demands for food and labour, they could not really prevent them from escaping to remote areas if they so wished (Gray, 1961). Thus, those who settled around the commercial stations were generally people willing to develop some kind of relationship with it, and this relationship was very often mediated by brokers who were identified as "chiefs" and who themselves benefited from trade exchanges. Many people were attracted to the stations in search of alliances with merchants and their firepower to pursue local warfare or seeking to ransom women captured in raids by the Arab soldiers in charge of the traders' security. In this way, the *zariba* (commercial station in Arabic) became a new kind of frontier where coercion and violence were routinized in the relations between the foreigners and the local people, between competing local groups, and even between the "chiefs" and their followers as a consequence of their role as brokers (Leonardi, 2013).

It was only in the 1860s that the Egyptian government began to have more explicit imperialistic aspirations and increased its efforts to establish a stricter control over the southern region.[2] The Egyptian government thus took over some of the commercial stations, turning them into government outposts. In 1866, the government created the White Nile province. Attempts at reaching areas further south of the vast swamp of the *sudd,* along the river Bahr el Ghazal, were renewed. In 1869, with the aim of bringing "commerce and civilization", Samuel Baker managed to reach Gondokoro (about twenty kilometres north of Juba), sailing through the White Nile. In 1873, the Egyptian government

[2] By the mid-1850s, the Egyptian government was also trying to bring slave-trading and slave-raiding to a halt, as the phenomenon was becoming increasingly unpopular in Europe and in the Cairo diplomatic milieu.

also created the Equatoria Province, appointing Gordon as its first Governor-General, but in fact there was no substantial change in the government's capacity of controlling the territory. New government stations were forced to rely on intermediaries as much as the previous commercial stations (Gray, 1961). When European officers Gessi, Casati and Emin Pasha visited Rumbek in the late 1870s and early 1880s, they described it as a densely populated headquarters for slave-raiding to the south, and Gordon's frustration regarding the impossibility of exercising effective rule on his province clearly emerges in an extract of a letter quoted by Richard Gray:

> As far as Dufile and I may say Magungo the roads are safe, and I can do nothing more, for I cannot govern not knowing the language, and even if I did, I could not expect to change the habits of the officers etc. or of the natives. I feel it would be better for them to work out the problem of how to live together by themselves. I look upon any improvement in either as being quite hopeless, and at any rate, I do not see how in any way, I can better either parties by a longer stay (Gray, 1961, p. 112).

This pessimism did not however prevent him from making continuous efforts to subjugate people and punish non-cooperative groups through raids. This pattern of violence and the threat of coercion remained the only means of asserting the government's presence on the territory throughout the end of the nineteenth century and the first two decades of the twentieth but, as Herbst suggests, the violence of the colonizers could by no means be equated with control (Herbst, 2000).

The Mahdiyya[3] and early Anglo-Egyptian administration did not substantially change the spatial organization of former commercial stations and the way they interacted with the local population, also because ex-slaves from Sudan brought as army members still inhabited the stations. The control of the Mahdi did not reach areas beyond Fashoda, Rejaf and Bor, which were used as bases for slave and ivory raiding (Collins, 2008), while the inclusion of a few British officers after the return of the Egyptian-Sudanese army in 1898 was "a scarcely visible alteration to the fabric of authority" (Johnson, 2003, p. 10).

### 2.2 The Anglo-Egyptian condominium

The Anglo-Egyptian condominium was a peculiar form of colonialism. It formally restored Egyptian rule in Sudan, but in the framework of joint authority with Britain. Rule was practically exercised by a British Governor-General, who was a military officer appointed by the Egyptian Khedive upon recommendation of the British government. He reported to the Foreign Office through its resident agent in Cairo. British government officers (the highest-ranking positions in the colonial administration) were attached to the Egyptian army, which later also started incorporating Sudanese elements from the northern region until they had completely replaced the Egyptians by the mid-1920s

[3] The Mahdiyya is a word identifying both the religious movement headed by the 'Mahdi' Muhammad Ahmad bin Abd Allah, and the period of the latter's rule over Sudan. After proclaiming himself the 'Mahdi', he successfully defeated the Turco-Egyptian government, establishing his own rule over Sudan between 1885 and 1899.

(Chapin Metz, 1991). The first phase of British colonialism was more violent. In the early 1900s and 1910s, resistance from the local population, now more easily reachable thanks to the clearing of waterways and the construction of some roads, was repressed through pacification campaigns (Sanderson, 1981). Pacification campaigns were particularly tough in targeting the Nuer people, who were often portrayed as a "recalcitrant" group that needed to be "disciplined". As it had been during the Turkiyya and the Mahdiyya, "whoever gained earliest relations with the new government was likely to influence the subsequent patterns of government relations with the population" (Leonardi, 2013, p. 45). Many of the guides and porters of the initial British administrators were Dinka from Bahr el Ghazal or the area around Bor, who had been enslaved by Arab traders and employed as porters and guides during the Turco-Egyptian period. Given their historical competition with the Nuer people for access to natural resources, they contributed to shaping the government's negative attitude towards their rivals. Government officials were led to look at the Nuer and their leaders with particular suspicion, and often targeted them with punitive campaigns upon Dinka allegations of conspiracies (Johnson, 1994). This attitude persisted in the following decades and represented one of the typical features of colonialism: one of the consequences of the co-optation of local intermediaries in the system of control was the emergence of a zero-sum politics in which chiefs (or whoever could claim to be an intermediary with local populations) only protected their own clients from colonial extraction, dumping its weight on all the others (Blundo & Olivier de Sardan, 2007).

Despite wide areas remaining untouched by their presence, the British were there to administer rather than only to coerce, not least because of excessive military expenses and failures in securing local cooperation for productive and commercial purposes. This is where a more systematic effort at creating a system of control and government, as Berman and Lonsdale define state-building (Berman & Lonsdale, 1992), begins to overlap with historical processes of local state(s) formation.

# 3. Building predictability: localized bureaucratization

## 3.1 Government's first steps: monetization and taxation

Until the late 1920s, local administration was left to isolated individual initiatives and ad hoc decisions. A formal administrative structure was established with the Civil Administration Ordinance as early as 1902, but local government officers were backed by no consistent policy. British presence was very discontinuous in space and time: many areas were only reached in the last twenty years of colonial administration and its seasonality was only overcome in the 1930s. The Governor-General in Khartoum had only a very loose control over what happened on the ground. Each province was governed by a *mudir*, who supervised British inspectors, later called District Commissioners. Policies on how to govern the local population varied greatly from province to province, and sometimes from

district to district, according to the peoples encountered but also, and sometimes prominently, according to the attitude of the governor or District Commissioner (Johnson, 1994). This favoured the constitution of embryonic units where authority started developing standardized practices and rudimentary bureaucratic procedures.

While the use of force remained a constant characteristic of foreign rule over the Southern Sudan, it became too expensive to be used as a permanent means of control over an immense and scarcely populated region. Given local people's high mobility and capacity of using exit as a strategy to escape colonial rule, the colonial government started encouraging the establishment of more neutral relations with friendly populations, going beyond isolated decisions and personal relationships between individual administrators and intermediaries and co-opting locals into the civil service and the military. Agriculturalist communities in the Equatoria region were more accessible and more rapidly reached by the government. They were keener than Nilotic populations on developing relations with the British and, being sedentary, in many cases they were soon delegated important tasks in the daily life of the stations. The police were increasingly recruited locally and at least partly paid in cash. This was one of the forms in which power was bureaucratized. The direct recruitment of locals as individuals under direct British command meant that power was transferred from private hands to official hands. It was turned into "public" power, above society, directly dependent on the government and no longer on African "military contractors" (Berman & Lonsdale, 1992). The Equatorial Corps, a locally recruited army, replaced the Sudanese battalion inherited from the Turco-Egyptian government in 1910 and made an essential contribution to pacification campaigns against Nilotes (Johnson, 2003).

Pastoralist peoples were not so easy to co-opt in the colonial state, nor to keep under control, not least because they were much more mobile and elusive than agriculturalists. For this very reason, they were also looked at with stronger suspicion, and targeted more frequently by violent campaigns. Though both the Dinka and Nuer, the two major pastoral groups in the southern region, were co-opted into administrative structures to a lesser extent than the peoples from Equatoria and other peoples from Bahr el Ghazal, they were nevertheless reached by the colonial state through another form of bureaucratized power: taxation. The hut tax, paid in cash, cattle or grain, was considered more as a symbolic recognition of government authority than as a source of revenues. Even though resistance to the payment of taxes was frequent, it was usually related to dissatisfaction with what the government was able to provide in return (Johnson, 1994). Taxation was introduced as a means of extending control over the chiefs, and chiefs' control over their population. After an initial period of taxation in kind, cotton cultivation was introduced as a money-earning activity for the people to pay in cash and reduce the tribute-raiding campaigns targeting cattle particularly among the eastern Nuer

in the Upper Nile region (Hutchinson, 1996). Although the compulsory cotton scheme was largely a failure, the trend towards monetization continued through the development of local cattle markets, the collection of cattle as a fee by local courts, labour migration towards Uganda (particularly from the Equatoria region) and the cultivation of other cash crops (Hutchinson, 1996; Leonardi, 2013).

### 3.2 The development of administrative theory

In the 1920s, the British colonial government started formulating a policy of administration for Southern Sudan. Following the revolution in Egypt in 1919, the government's concerns over Sudanese rudimentary nationalistic aspirations led to efforts to disempower the educated Sudanese elite while transferring government functions to "traditional tribal authorities" (Johnson, 2003; Mamdani, 1996).

While Lord Lugard was formulating the administrative theory of indirect rule in his book *The Dual Mandate in British Tropical Africa* (1922), the Milner Commission (1919–20) advocated for decentralization in the Sudan and "the employment, wherever possible, of native agencies for simple administrative needs of the country" (Johnson, 1994, p. 15). In the Sudan, this policy was never called indirect rule, but rather referred to as "Native Administration policy" or "devolution". The report was turned into a policy in 1921. Administrators started searching for structures of "tribal organization" compatible with the devolutionary principle of native administration throughout rural Sudan. Rural leaders and courts were given legal status and their work was supervised by District Commissioners. Despite its high variability from one district to another, customary law gradually replaced violence as a form of control (Johnson, 1994).

In the 1930s, the number of chiefs had enormously increased to ensure control over smaller sections,[4] and in many cases they were created out of much less hierarchical forms of pre-existing authority. Contrary to the idea of rural tradition upon which administrative theory was increasingly based, chiefs were selected and educated by the colonial government to serve as local government officers. In spite of concerns about the creation of a "petty bureaucracy", the government also encouraged the education of chiefs' sons, especially in the Equatoria region, and local courts were encouraged to work in an increasingly bureaucratized manner with clerks and police (Leonardi, 2013). British influence on the functioning of courts was also evident in the fact that not all customary practices were accepted. A selection was made, based on British ideas of justice, humanity, reasonableness and governability, resulting in the wide restructuring of both the law and chiefly authorities and courts (Johnson, 1986, 1994; Makec, 1988).

[4] The term "section" was employed by Evans-Pritchard to refer to sub-units of the "tribe", which he described as the largest political unit within the Nuer people willing to resolve disputes without resorting to warfare. Sections can usually be associated with a territory, and can be primary, secondary or tertiary, with the latter sometimes corresponding to a clan or lineage. See Evans-Pritchard (1940); Howell (1954).

The dependence on the application of customs to enforce effective administration not only required reliable chiefs capable of enforcing orders, but also some degree of "tribal discipline" (Johnson, 1986, p. 12): people needed to stick to their government chief instead of moving through the flexible boundaries of their ethnic identity, continuing historical processes of fission and fusion. Administrative theory therefore became increasingly based on ethnic segregation. The Closed District Ordinance, enforced since the mid-1920s, aimed to regulate the movement of non-native persons into the south for the sake of "cultural integrity". It also aimed at economic control, regulating movements of Arab petty merchants and preventing the spread of Islam to the south. Control of movements was enforced through the creation of tax registers and lists of taxpayers to be submitted to the district administrative headquarters every year providing explanations for variations in numbers. While the government's capacity to enforce these rules remained questionable, particularly in pastoralist areas, collective movements did become more difficult.[5] In any case, the exit strategy to delegitimize an unwanted leader was now limited by the fact that chiefs continued to exercise their "legal" command over their subjects (Leonardi, 2013, 2020).

Tribal discipline was justified through the creation of irreconcilable oppositions between different tribes, for example portraying the Dinka as a people threatened by Arabs and Nuer, affirming the need to protect their customs and traditions (Willis, 1928). World War I increased the British fear of subversive tendencies among the Sudanese population: tribal segregation, together with the deliberate suppression of some forms of subversive local authorities (such as Nuer prophets) who were not keen on submitting to the government, was part of a strategy of control.[6]

### 3.3 The Southern Policy: territorializing communities

In 1930, the policy of devolution was institutionalized through the Southern Policy Memorandum, providing for administration to be conducted through indigenous structures of authority, employing a selected bundle of customary laws and practices («Memorandum on Southern Policy, 1930», 1968). One year later, the judicial powers of the native administration were recognized and put under British supervision with the Chiefs Courts Ordinance (Makec, 1988). In pre-colonial times, chiefs' power depended on the number of people who followed them; to make this more explicit, in 1930 the

[5] Personal communication with Sharon Hutchinson, 2015.

[6] The prophets' subversive potential relied on their appeals to a "moral community" which often went beyond the boundaries of the tribe as the colonial government recognized it. Many Nuer prophets had Dinka origins, and they attracted followers from many different sections as well as from other tribes, also sometimes causing movements of people who paid visits to them. They claimed their power on the basis of a direct link with the divinity, manifested through abnormal behavior or illness, and had to keep their legitimacy alive through constant expressions of their power, which could be protective, healing, or strengthening with respect to their followers (Hutchinson, 1996; Johnson, 1994). For an account of the role of prophets in contemporary South Sudan, see Hutchinson & Pendle (2015).

government started to pay salaries to chiefs, computing them on the number of taxpayers they had under their jurisdiction, based on tax registers.

The administration of land was also affected, to some extent, by the Southern Policy, in the sense that it recognized the power of local chiefs to distribute land to their subjects in the areas under their jurisdiction. Particularly, in agriculturalists' areas, people residing outside of the territory of their own chief were considered "squatters" (Leonardi, 2013), immediately identified and brought back to their area if they moved without the District Commissioner's consent.[7]

As in many African societies, in Southern Sudan land was administered by a flexible system of seasonal agreements for access to pastures and water points. Especially among Nilotic pastoralist groups, authority was not over territory but over people, and affiliation to ethnic communities, sections, sub-sections and clans was easy to change through marriage, or simple "adoption" of customs and allegiance to a spiritual leader. Francis Mading Deng argues that the concept of "property" in the customary right of Southern Sudanese Nilotic populations could only be applied to cattle, not to land (F. M. Deng, 1972). In fact, land was neither considered a scarce resource nor an individual commodity. Therefore, customary right did not develop around land tenure issues, but rather around issues more directly affecting individuals and families, such as property of cattle and marriage. In an attempt to ascertain Dinka customary right in 1984, land was not even included on the list of what was considered "property" (Makec, 1988).

In non-cattle keeping societies, where the use of land for farming was on a smaller family basis, local leaders' control of the land was more on territorial terms: for example, among the Azande, the chiefs extracted labour from whomever farmed in the area under their jurisdiction not as a form of payment for the land, but rather as a form of allegiance towards their authority (Guttmann, 1956). Both in pastoralist and in agriculturalist societies, the potential for land disputes to escalate from individual to inter-communal conflict, stemming from the need to belong to a group in order to access land (F. M. Deng, 1972), was thus mitigated by an extreme flexibility of both customary arrangements and the very membership of groups, both of which were partly lost during colonialism. Officially, British colonialism in the Sudan asserted the government's ownership of all "unutilized" lands. Since 1899, all the laws and ordinances produced by the British colonial government demonstrated the increasing effort to centralize control over rural land (De Wit, 2004; Pantuliano, 2007).[8] Despite theoretically recognizing settlement and use rights for rural populations, they aimed primarily at safeguarding the government's capacity to take the land it needed for "development projects" such

[7] Interview with journalist, South Sudan TV, Rumbek, 21/11/2013.

[8] These laws and ordinances were: Titles of Land Ordinance, 1899; Land Acquisition Ordinance, 1903; Land Settlement Ordinance, 1905; Land Resettlement and Registration Act, 1925; Land Acquisition Act, 1930. See De Wit (2004); Pantuliano (2007).

as building infrastructures, expanding the towns and implementing large-scale agriculture projects. In 1925, the Land Resettlement and Registration Act introduced the possibility of registering land titles for local communities, by stating that "all waste, forest and unoccupied land" belonged to the government unless differently demonstrated through the presence of settlement or farming activities (De Wit, 2001).

Nevertheless, these laws were only implemented in parts of northern Sudan, where the colonial government's presence was stronger. The southern region remained largely out of governmental control and *de facto* administered by local chiefs even before their role was officially recognized with the Southern Policy. Emerging as a product of the encounter between the local peoples and the colonizers, these chiefs represented a "modern" evolution of pre-existing spiritual leaders and ended up being entitled with the administrative authority to distribute land rights within their community and negotiate access to land with neighbouring ones even when their pre-colonial predecessors had never had such power (Lentz, 2006b; Leonardi, 2013).

As shown, the Southern Policy (1930) bounded government-sanctioned ethnic communities to specific "homelands", theoretically for the sake of "cultural purity", in practice for that of movement control. By the early 1940s, when the fortune of the Southern Policy was already declining, the policy of limiting people's movements was confirmed together with chiefly taxation. Since chiefs were encouraged to control wide territories comprising of different clans and kinship groups, they increasingly became important in administering land rights among these groups. Blame for favouring their own group in the allocation of land, matched with the impossibility of moving away to another chief for discontented people, worked towards the fragmentation of chiefdoms (Leonardi, 2013).

In some circumstances, the British policy on the territorialization of tribal communities also created coincidences in the borders of chiefdoms and provinces. Douglas Johnson retraces one such situation on the Nuer-Dinka border between Upper Nile and Mongalla provinces, characterized by the involvement of both colonial governments in the feud between the groups, each in support of its own people (Johnson, 1994).

### 3.4 The creation of intra-south inequalities

Although the Southern Policy provided for a homogeneous administrative approach in the southern region, administration in practice continued to vary greatly in relation to different ecological zones and peoples, and different degrees of inclusion into government offices persisted. Access to education, which entirely relied on missionary schools, became vital for accessing the limited government positions open to the locals, while the great majority of these positions remained occupied by Arabs. Indeed, one of the legacies of the Anglo-Egyptian condominium was that Arabs (both from Egypt and the northern part of Sudan) could easily be employed in the administration

thanks to their literacy in Arabic and to their familiarity with bureaucratic modes of government, making it less necessary than elsewhere in Africa to raise a local civil service. Indeed, the fact that missionary schools were virtually the only education system available in Southern Sudan at least until the last fifteen years of British rule speaks to the scarce interest of the colonial government in directly engaging in the education of the Southerners. By 1920 there were only a dozen schools offering more than practical skills training and religious instruction, and they only enrolled about 400 pupils (Sanderson, 1980).

Instead of directly running schools as happened in other parts of British Africa, the government only started subsidizing missionary schools when it realized it needed local administrators. According to Douglas Johnson, the distribution of schools between the 1920s and 1940s reveals which peoples were more strongly co-opted into the new system thanks to their proximity to education opportunities. In Bahr el Ghazal, for example, the Jur and Fartit could access missionary education in Wau and Raga, leaving the Dinka majority heavily under-represented in the local administrative apparatus. The only Dinka who could access schooling were those around Bor, thanks to a school run by the Christian Missionary Society in Malek. However, the bulk of local civil servants hailed from the Equatoria region, as had already been the case with military recruits, while the Nuer were the most excluded (Johnson, 1994, 2003).

The number of locals in the southern colonial administration increased in the late years of the Anglo-Egyptian condominium. The colonial government policy of protecting "cultural integrity" involved a progressive removal of Egyptian and northern Sudanese civil servants and policemen serving in the south, creating a paradox: if on the one hand, more educated Southerners were needed to fill these positions, on the other hand the increasing number of educated Southerners was cause for concern, as education was seen as an interference with customary systems of rule and the "purity" of local customs (Sanderson, 1980). Secondary education was therefore seriously obstructed and, by the time of independence, there was only one secondary school in the whole of the southern region (Hutchinson, 1996). If attempts at limiting access to education were more successful among Nilotic semi-nomadic populations, sedentary communities in the Equatoria region were more permanently exposed to education and took advantage of this primacy through occupying most of the positions in the administration and on the political scene in the post-independence period (Johnson, 1994; Leonardi, 2013).

Less than ten years after the Memorandum on the Southern Policy, the British administration had to acknowledge that the idea of creating discrete tribes had proved a total failure (Johnson, 1981): administrative practice thus moved towards a territorial form of local government, based on counties and parishes, abandoning the idea of having ethnically homogeneous chiefdoms (Leonardi, 2013).

In the 1940s, when the British started considering their exit strategy from Sudan, the Native Authority was no longer considered positively as a legitimate means to broadcast the government's power. Instead, the latest colonial officers considered it a source of tribalism, hindering the formation of a genuine national sentiment. In fact, ideas on how to transfer power and government functions to local actors remained confused: on the one hand, ideas about nation-building and self-government became more prominent; on the other, the preference for ethnically homogeneous political units spoke of the difficulties of governing a non-homogeneous society from the British perspective.[9]

The British were not keen on encouraging the development of a southern nationalist political elite independent from the chiefs, nor were the latter keen on being excluded. Moreover, the British administration system in the southern region only covered a small portion of the actual territory, and the limited perspectives of expanding it or improving communication facilities made it nearly impossible to avoid dealing with the chiefs. In 1951, after the dissolution of the Anglo-Egyptian agreement, the Local Government Ordinance outlined the new local government structure under the government of Sudan, relying on advice contained in the Marshall Report (1949). The new local government was based on provinces and district councils made up of local chiefs and elders, confirming their persistent centrality in local governance in the rural areas. In the towns, where the number of educated and politically active Southerners had increased in spite of the colonial policies of ethnic segregation, councils theoretically included educated members, but they were only set up in Torit, Yei, Juba and Wau (Madut-Arop, 2012). District Commissioners kept great autonomy in the areas under their jurisdiction, hindering the consolidation of a proper bureaucratic centralized system with more universalistic orientations (Tvedt, 1994).

The war that broke out a few years later also jeopardized the formation of a bureaucratic institutional culture: with the Torit mutiny and the subsequent emergence of various armed militias, any formal state structure created in the early 1950s again retreated into the towns, from which many Southerners fled, and its presence was again mostly visible in the form of violence.

# 4. Rise and fall of modern state legitimacy

## 4.1 The emergence of local power brokers

The issue of legitimacy of the state in a context of overlapping processes of state formation and state-building like the one that started taking shape between the late nineteenth and early twentieth centuries, is a thorny one. In pre-colonial times, the legitimacy of local leaders had been derived from their mastering of some kind of specific knowledge. The mastery of specialist valuable knowledge

[9] Fabian Colonial Bureau (1947). Problems of the transfer of power from Britain to the colonies. Preliminary Questions. Private Conference. Juba Archive.

such as rain-making, peace-making, hunting and iron-working attracted non-agnatic followers, transcending kinship ties and producing mobile and flexible political units gathered around one or more leaders. Their followers abided to their authority and agreed to recognize them as chiefs. This "wealth in knowledge", as Guyer and Belinga (1995) call it, mattered even more than the "wealth in people", upon which African power was usually based, but was also a prerequisite to increase the number of followers. In fact, most southern peoples had numerous leaders with different kinds of specialized knowledge who competed for authority among themselves, and the choice of whom to rely upon could easily depend on the contingent necessities of a family or individual (Leonardi 2013).

The early colonial rulers did not look for alternative sources of legitimacy, as they made no pretence of governing the region. They simply relied on whoever introduced himself as a leader and was able to comply with the stations' demands for food, porters and ivory. In this way, since the very beginning, Egyptian officers had provided new sources of legitimacy for local political entrepreneurs, whose valuable knowledge was increasingly that of government. A class of brokers with some degree of political power, often overlapping with traditional lines of chieftainship but not necessarily hailing from the same families, emerged in this early phase of commerce and exploitation.

Despite their difficult position in between the government's demands and the people's resistance, brokers were able to guarantee the protection of their followers from government coercion, directing it against their local enemies. The capacity of brokering relations with what later became the colonial government also offered an opportunity of wealth accumulation thanks to the early practice of buying loyalty in exchange for goods. In many areas of Southern Sudan, the only good that did not rapidly lose its value was cattle, thanks to its outstanding role in the making and unmaking of social relations (Hutchinson, 1996); therefore, cattle raids were encouraged, and looted cattle were redistributed to friendly populations (Gray, 1961; Leonardi, 2013).

Towards the end of the century, the government's control requirements increased, and its officers soon realized that it was not possible to rule with force only. Something more than rewards for raids and military assistance for internal warfare needed to be provided to the locals. In the 1880s, Emin Pasha, Governor-General of Equatoria at that time, founded a mosque, a koranic school and a hospital in Lado and, for the first time, tried to promote the image of a neutral government, standing above, judging and repressing internecine feuds among local peoples within and around the station (Gray, 1961). For the first time, coercion was consciously directed towards the establishment of a form of legitimacy of government presence through the delivery of something more than hard security. Richard Gray shows that the number of communities seeking government protection during Emin Pasha's period in office increased. Many people voluntarily decided to attach themselves to the government, supplying porters and agreeing to pay taxes in grain. Emin Pasha was even occasionally

visited by neighbouring independent headmen asking for the construction of stations in their territories (Gray, 1961).

The degree of predictability given by Emin Pasha to the relations with the government was nevertheless very short-lived: Egyptian financial disarray forced the government in Cairo to down-scale its presence in the farthest provinces, often leaving the stations to the mercy of Arab ex-slave soldiers whose only contact with the surrounding population was through raids. Rumbek, one of the oldest stations to entertain amicable relations with the Dinka Agar, was attacked and destroyed as a consequence of the increased coercive demands for food with no protection provided in exchange (Leonardi, 2013).

It was only under the British colonial administration, especially in its latest phase, that a willing state-building effort was pursued and strategies to ensure some degree of acceptance by the local population were implemented. The British needed to prevent excessive resistance and keep government cheap: they therefore sought to build the institution of chiefship as the basis for local government from the very beginning of the colonial administration, searching for "native chains of command through which to govern" (Johnson, 1994, p. 9). Evans-Pritchard's ethnography was a structured and scientific effort to understand local political and social systems to identify secular forms of authority that could channel a sufficient amount of power. Unlike northern Sudan, where hierarchical socio-political structures prevailed, in the southern region the only two people who had centralized lines of authority were the Shilluk and Azande kingdoms. Most of the other southern peoples were rather identified as "acephalous" societies: social order was maintained through a complex system of ritual practices and beliefs, administered by one or more ritual experts who did not have administrative powers (Gray, 1961). According to Douglas Johnson:

> (T)he questions of 'legitimacy' and 'loyalty' became confused, for loyalty to the government did not always carry legitimacy with it, and 'disloyal' leaders were not always illegitimate in the eyes of their people. The government ultimately claimed to be the defender of tradition and custom, but not all of its allies were so traditional (Johnson, 1994, p. 23).

The pattern of emergence of local leaders as mediators between government and communities continued under the Anglo-Egyptian condominium. Though often not "so traditional", when not directly appointed by the government, these figures managed to accumulate power within the pre-existing framework of what Leonardi calls the "political economy of knowledge": they knew how to deal with the government (Leonardi, 2013, p. 48). Voluntary settlement near to government centres, volunteer enrolment in the government army and more generally volunteer contacts made to establish relations with the government were the real engine of state expansion rather than the government's coercive action of submission, and this voluntary contact was usually sought for protection and alliance.

The accumulation of wealth of these new "government chiefs" turned them into influential patrons, despite their sometimes marginal origins. Chiefs are often described as rich and generous people, who "take care" of their community and its needs. Through their relations with colonial government, they provided protection to their people in exchange for some sort of bribery, and "tributes" to the government, often collected with guns.

### 4.2 The state as a source of legitimate power

The legitimacy of both the colonial state and its local emissaries, built through a dialectic relation of exchange in which new spaces for local political entrepreneurs were inadvertently opened, started to be challenged towards the end of the colonial period when a scant class of educated leaders with nationalist aspirations emerged. The latter started to mobilize politically to participate in national politics and partly took upon themselves the chiefs' "knowledge of the government". At the same time, however, both British and Sudanese administrators were keener on continuing to deal with the chiefs as representatives of the communities, perpetuating the idea of traditional, rural southern folks, instead of politically active intellectuals (Leonardi, 2013).

This uncertainty over the most legitimate local political figures has survived to the present day, but it was only possible thanks to the "vulgarization of power" that the colonial state, though weak and with limited influence over the territory, had introduced, intertwining with local patterns of power accumulation. This opened spaces of power beyond the formal state influence, though always in relation with it. Increasingly, anyone who aspired to accumulate power needed to abide with the politics of the state if he wanted to enhance his social patronage, and the relation to the state itself became an outstanding source of power. The emergence of an educated Southern elite despite the British policy of keeping the South "traditional" was one of the outcomes of this process of opening up new opportunities for new actors. In the early 1950s, at the dawn of independence, this elite claimed a role on the political scene which it was systematically denied.

The Sudanization Committee, in charge of replacing British and Egyptian personnel in the civil service, excluded Southerners, assigning them only six positions out of 800 available. Only one Southerner before independence and only three after independence were included in the Constitution committee, with the result of the Southern-sponsored federal system being rapidly left behind (McCall, 1969). The exclusion of Southerners was motivated by an undeniable education gap, but it also responded to a precise political vision of the northern elite who firmly believed that Sudan's united future had to be built through Arabization and Islamization. This "bitter pill" was not even sweetened with economic development: economic development projects were also Sudanized, and later relocated to northern areas or just abandoned (Collins, 2008). The British managers of the Western Equatoria agriculture scheme, started in 1943 in Nzara and providing the only alternative

source of wage employment besides the civil service, were replaced by northern Sudanese. Fearing the increasing politicization of Southern workers protesting against the exclusion of Southerners from managerial positions, the Sudanese managers started firing activist employees. The strikes and demonstrations that followed in Nzara and Yambio were repressed with violence, though the government only blamed the local commander in Yambio for "mishandling" the situation (Madut-Arop, 2012).

The military sector, one of the most sensitive both in symbolic and material terms – for it provided employment and the control over physical force – was also subject to the process of Sudanization. The command of the Equatorial Corps was assigned to northern commanders. Southern troops were ordered to relocate to Khartoum, while a Southern company of the Sudan Defense Forces was sent to Juba for an indefinite period (Madut-Arop, 2012). According to Arop Madut-Arop, it was particularly these last two elements that swept away any residual legitimacy of the central state and the newly established administration: "If there had been some confidence left in the administration, it had then disappeared completely" (Madut-Arop, 2012, p. 39).

# 5. The post-colonial state and war

## 5.1 The Anyanya rebel movement: attempts at controlling the territory and establishing (a little) legitimacy

Sharif Harīr and Terje Tvedt (1994) have argued that the Sudan as a whole, and particularly its southern region, underwent a process of "state decay" due the continued state of war since its very independence. Indeed, the state control over southern territory, if it ever existed, was constantly challenged by the armed uprisings of the 1950s, starting with the Torit mutiny in 1955. These uprisings expressed widespread Southern discontent with the Sudanization process, and a firm desire for political inclusion in the post-colonial state. The mutiny was carried out by the soldiers of the Equatorial Corps against their Sudanese command who wanted them to redeploy from Torit to Khartoum, and provoked reactions that spread to several other southern military outposts. The two services that the state had been providing during the colonial period, policing and dispute-resolution, were increasingly left to newly localized forms of governance. If the British never wanted to establish a centralized bureaucratic system and left great autonomy to District Commissioners as local representatives of the state, the capacity of local administrators to control anything beyond a few garrison towns was weakened by the mass flight towards the rural areas, far from state control. In the towns, state presence became more violent and oppressive.

The Torit mutiny, commonly considered the starting point of the first Sudanese civil war, was a failure in terms of undermining government positions in the southern region. Even in areas such as

Torit and Wau, where northern government officers took flight, the central government's control was re-established within weeks (Madut-Arop, 2012). The episode had however the effect of strengthening the division between the urban government-controlled areas, where the central power was able to enforce its rule, and the rural areas, where a myriad of scarcely coordinated armed uprisings continued between 1955 and 1963.

In the same years, other important events took place. In 1956, Sudan became independent, but the idea of a federal system supported by the small Southern educated elite to preserve the Southern provinces from Northern overrule was rejected. This caused great discontent not only in the southern region, but also in other peripheral areas in the west and in the east of Sudan, and ultimately brought about the military coup of General Abboud. The latter stopped any public debate about Sudan's identity, imposing policies of Arabization and Islamization. In the early 1960s, the bulk of Southern Sudan's educated elite either left to neighbouring countries, where they founded the Sudan African National Union (SANU), or to the bush, where they started guerrilla movements.

The various uprisings in the three provinces of Equatoria, Bahr el Ghazal and Upper Nile had remained independent from one another and also deeply divided, demonstrating that until 1963 there was no organized military movement (Madut-Arop, 2012). In 1963, when the rebel movement of Anyanya (a Madi word for a type of snake poison) was launched, an attempt at establishing a unique Military High Command with five decentralized commands (Eastern, Central, Western Equatoria, Bahr el Ghazal and Upper Nile Commands) was made, with limited results. According to Douglas Johnson, in the late 1960s there were nine competing rebel groups in the south, busier fighting each other than fighting the government in Khartoum (Johnson, 1998). These splits were caused by changing political conditions in Khartoum, where in 1964 the military government led by General Abboud stepped down and left power to a caretaker civilian government that legalized political parties. The exiled political movement, the SANU, was divided between those who still claimed self-determination, and those who accepted a federal solution. A number of Southern provisional governments, often relying on ethnic constituencies, mushroomed in the late 1960s, but their function was more symbolic, to claim Southern independence, rather than to establish any kind of functioning administrative system at the local level (Niblock, 1987).

It was only in 1970 that Joseph Lagu managed to establish a certain degree of control over the myriad of militias, provisional governments and rebel movements active in the South. Lagu intercepted the Israeli government's concerns about Nimeiri's socialist coup (1969), which brought Sudan closer to the Soviet Union and to Nasser's government in Egypt. Israel provided military assistance to Lagu, putting him in the position of delivering military hardware and training to his

allies. He thus managed to centralize Anyanya leadership and brought the movement to sign the Addis Ababa Agreement with the government of Sudan in 1972.

Because of this decentralized and deeply divided character of the Anyanya, the movement never managed to establish actual control over significant portions of the territory. For this reason, Douglas Johnson argued that the first civil war did not substantially change local administrative structures, with the rural areas largely ruled by local chiefs and no alternative parallel rebel administration (Johnson, 1998). Others, however, suggested that at least in the later phases of the civil war, under Joseph Lagu's leadership, Anyanya-controlled areas did have some kind of civilian administration, while the government acknowledged that it lacked control over much of the region (Niblock, 1987). Despite not controlling any towns, the Anyanya must have had a sufficient degree of control over the territory at least in some areas, if it managed to impose something similar to a bureaucratic system for releasing licenses to and collecting taxes from Dinka cattle traders while keeping courts and schools operating (Leonardi, 2013).

In 1967, a national convention of political and military leaders in Angudri, Western Equatoria, made a first attempt at improving Anyanya's coordination and created a formal administrative structure based on provinces and districts under commissioners' authority, and counties under the chiefs. In the early 1970s, Anyanya civil administrators were trained near the Ugandan border and were able to establish border customs posts and to run courthouses enforcing the laws of Sudan. If it is likely that the Anyanya used to appoint its own chiefs, the latter acted as judges or arbitrators and were empowered to take action also against members of the movement, for example if they abducted women without paying bride-wealth. In 1971, a report written by a European traveller to Southern Sudan described local people's and chiefs' positive attitudes towards Anyanya fighters: at least in the later phases of the civil war, they were fed and hosted every time they came "out of the bush" without needing to resort to coercion, confirming that the rebel movement enjoyed some degree of legitimacy among the Southern population (Leonardi, 2013). This pattern of local governance, strongly relying on chiefs, was resumed and strengthened by the SPLM/A in later years, particularly after the mid-1990s.

### 5.2 The local state in times of peace: attempts at changing the pattern of state formation

The Addis Ababa Agreement came just one year after the most comprehensive effort to reform the local government after independence. Jafaar Nimeiri took power with a coup d'état in 1969 and established a socialist regime committed to creating a bureaucratic decentralized state, undermining ethnic divisions and their symbol: the Native Authority. Consistent with what was happening in the rest of the continent in the late 1960s and early 1970s, the Native Administration Act (1970) abolished the customary authorities which had remained pretty much untouched since the end of colonial rule.

One year later, the People's Local Government Act established a three-layer administrative system: the central government, provincial councils – six in the southern region – with appointed chairmen, and local elected councils (district, towns, rural areas, villages and nomadic people). It was an attempt at changing the pattern of state formation that had unfolded so far around the traditional authorities and ethnic allegiances, and to promote a state-building project based on civic values.

The number of local administrative units was hiked from 86 to 5,000, but it was not until 1978 that most civil servants – including teachers, nurses and doctors – were deployed at the provincial level. One senior local government officer appointed in 1972 described the situation he found when he reached his duty station in these terms:

> Those political commissioners were so powerful, the councils had no elected members, councillors were not there […], the commissioner was appointed and he used the council to approve whatever he wanted. […] We as local government officers, we used to make our budgets, with revenues and expenditures, including grants that might be coming from the government. The revenues that were collected and the grants from the government were misused during that period. There was a lot of mismanagement of funds.[10]

In fact, according to studies of Nimeiri's local government reform, no real devolution of power took place due to the weak political will of the ruling elite and the financial weakness of the Sudan, whose arrears on foreign debt services reached US$1 billion by the end of the decade, hindering the allocation of resources to the local level of government (Rondinelli, 1981). The latter's revenue-raising capacity was extremely limited, and the financial viability of local government remained a constant issue throughout the 1970s (Rondinelli, 1981; University of Birmingham, 1974).[11] Of the 7 million Sudanese Pounds earmarked for 1973–74, only 400,000 were actually transferred. International aid agencies' budgets for programmes destined for the southern region continued to be amazingly higher than those prepared in Khartoum.[12]

Regime-nominated Provincial Commissioners remained in control of local councils (Rondinelli, 1981). The senior local government officer I interviewed maintained that "their main purpose was to propagate the policies and ideology of the Sudan Socialist Union (Sudan's ruling party)".[13] While many local councils only existed on paper, several new institutions were created to challenge the authority of the native administration, including the Sudan Socialist Union Basic Units, the Village Development Committees, the Village Councils, and the People's Executive Committees.

[10] Interview with Eli Achol Deng, senior member of the Local Government Board, Local Government Officer since 1972, Juba, 13/12/2013.

[11] See also "Commissioners hold conference" (1977). *Southern Sudan: a monthly review of events in the Southern Region*. Local Government Board library.

[12] In 1974, the Sudan Council of Churches devolved US$2 million for the education sector, the World Food Program US$1.8 million for an agriculture project in Aweil, and the World Bank US$10.7 million in reforestation and rural development projects (Prunier, 1989).

[13] Interview with Eli Achol Deng, member of the Local Government Board, Juba, 13/12/2013.

However, in most of the southern region, chiefs and Court Presidents from the Native Administration retained their authority at the local level:

> In the local government, the traditional authority was the most effective means through which the Local Government could be implemented in the Sudan. Traditional Authorities were the link between the rulers and the communities, and everything had to be done through these local chiefs, whether it be a policy or service delivery, or developmental aspects. So, it was passed to the communities through the chiefs and they became more strong and influential to the communities. They were highly respected by the communities and they were exercising both judiciary powers and administrative functions. When Nimeiri came in, he would change the image of the local government: the traditional chiefs were a bit reduced or abolished in northern Sudan, but not in Southern Sudan.[14]

A report prepared by the University of Birmingham on the state of the administration in Southern Sudan provinces in 1974 confirmed that: "In a number of areas there [was] as yet no practicable alternative to the chief as an agent of tax collection and as the chief link with government's extension services, or to the court president as the legal authority in the locality" (University of Birmingham, 1974, p. 17). While enabling the government to loosely reach southern rural areas at least in terms of tax collection, this once again strengthened the position of the local chiefs as legitimate gatekeepers of their communities. In other words, despite the efforts undertaken by Nimeiri's government to change the pattern of state formation through local government reform based on statutory institutions, no visible changes were brought in terms of legitimization of different institutions and of the level of bureaucratization of local government practice in the region.

The divide in the implementation of local government reforms in the north and south was accentuated by the creation of the Southern Regional Government as a product of the Addis Ababa Agreement, granting some degree of formal autonomy to the southern region. This event marked a major turning point for Southern citizens: for the first time, local government positions were filled with Southern Sudanese officers, increasing the perception of participation in the state.

Even though Nimeiri's reforms failed to substantially change the nature of local government in Southern Sudan, the creation of the Southern Regional Government represented a new opportunity to broker relations with power, protecting the interests of one's own community.

### 5.3 Strengthening centralization: the management of land

In contrast with the proclaimed decentralization reform of the 1970s, Nimeiri's government also supported a policy of firm centralization of land, at the time one of Sudan's most promising natural resources. Here too, however, the implementation of central directives proved to be very unequal between northern and southern Sudan.

[14] Interview with Senior Administrator, Ministry of Local Government and Law Enforcement, Lakes State, Rumbek, 19/11/2013.

As in many other African post-colonial situations, the government of Sudan inherited the colonial approach to land administration: official centralized control over natural resources, with actual delegation to local customary authorities of land management functions wherever the government was unable – or unwilling – to reach (Mamdani, 1996). Central control was effective in the areas where the elite had interests, such as towns and agriculture/forestry project sites, while most of the rural areas remained under the authority of the colonial chiefs in the approximate ethnic homelands identified by the British government. In 1970, with oil explorations on the way, the Nimeiri regime abolished the traditional authority, centralizing land administration. The Unregistered Land Act (1970) introduced compulsory registration in accordance with the provisions of the Land Resettlement and Registration Act (1925). The registration was to be done before the implementation of the new act: all unregistered land would otherwise be considered government property. Customary ownership was not recognized, neither was there any right to compensation for government acquisition, sale or lease of the land. In Southern Sudan, most of the land was not registered, and no transition period was foreseen before the implementation of the new act.

Together with oil exploration, the formulation of this law coincided with Nimeiri's policy aimed at turning Sudan into the "African breadbasket" through large mechanized agricultural schemes in Southern Kordofan, which caused mass displacement towards the southern region and increased the demographic pressure on southern resources (Ayub, 2006). Other examples in which the law was applied were the Gezira scheme, the Jonglei Canal project, and oil explorations in Greater Upper Nile (De Wit, 2001, 2004; Shanmugaratnam, 2008). Again, however, the implementation of laws promulgated in Khartoum did not reach wide areas of the South, and customary regimes continued to regulate ordinary people's land access and use. The land was given by chiefs or land priests and was kept until abandoned. If trees or other more permanent improvements were made on the land, hereditary claims could be advanced on that land and usually caused disputes that were solved through customary compensative justice systems. In the context of a predominantly rural society, a local chief's power was left unchallenged even if Nimeiri's decentralization reform had tried to reduce it.

Land and natural resources administered in this way were however constantly under threat of expropriation and exploitation by the central government in Khartoum, whose interests were widely perceived as alien to the southern region, taking all the revenues and development opportunities away from their legitimate Southern beneficiaries. This was in fact one of the reasons for the new uprising in 1983.

## 5.4 The crumbling of state legitimacy: failure of the Addis Ababa Agreement

Once the local state could manifest itself again, limiting its coercion, putting some effort into the creation of new bureaucratic institutions operated by Southerners and creating new ties with the local chiefs to implement its minimum functions of administering law and order, its legitimacy in the eyes of the local population could have been restored. But expectations were deceived due to a number of broken promises. To win people's support for the newly established government institutions, government spokespersons travelled throughout the southern region promising the provision of social services in exchange for people's contribution in kind and labour. People thus believed that if they constructed a building for social services, such as a school or a health clinic, it would be automatically staffed and equipped by the government. Teachers and students expected the government not only to activate schools, but also to provide transport from rural areas.[15] The failure to meet these expectations fostered rumours and discontent. People, especially returnees who needed to be resettled, refused to pay taxes because they were not getting any access to social services. Ex-Anyanya fighters, particularly, claimed jobs or pensions and free services in compensation for their role in securing regional independence (University of Birmingham, 1974).

Southern internal political divisions also contributed to the failure of the experience of regional autonomy. After the signing of the Addis Ababa Agreement, Abel Alier, a Dinka lawyer who remained in Khartoum advocating for peace negotiation throughout the war, was appointed Vice President of Sudan and President of the Southern Regional Government. This provoked former Anyanya fighters' discontent, especially Joseph Lagu's: not only was Abel Alier an "insider" who had never joined the armed rebellion, but he was also a Dinka, believed to protect the interests of Dinka only, especially in terms of job provision to his own constituency. With the state being the only source of salaried jobs in the South, the number of Dinka in government positions increased, and even though according to Johnson this had to do with proportional representation of the population in government institutions (Johnson, 2003), Sharon Hutchinson reminds us that there was only one Nuer minister in the Southern Government cabinet despite Nuer being the second largest group in Southern Sudan.[16]

In the 1978 election, however, Alier was not re-elected. One of the reasons that may have contributed to his defeat was the decision taken by Nimeiri's government to seek a political alliance with Islamist parties after the 1971 attempted communist coup.[17] According to Gérard Prunier, Alier was considered responsible for this policy of "National Reconciliation", and Joseph Lagu was elected

[15] Personal communication with Sharon Hutchinson, November 2015.

[16] Ibid. This argument remained a burning one and was later used by Riek Machar to justify the split from SPLM/A in 1991.

[17] From this time on, Nimeiri started being heavily subsidized by US foreign aid (African Rights, 1997).

in his place also with the majority of Dinka votes (Prunier, 1989). Lagu's stay in office was extremely short: besides accusations of corruption, he was also criticized for his failure in bringing development to the South (Tvedt, 1994).

In 1980, Nimeiri replaced Lagu with the moderate Abel Alier, causing rage among Equatorian politicians. This provided a timely encouragement to the latter to align with a design of further decentralization, which Nimeiri had been thinking of since the discovery of oil in Upper Nile in the late 1970s in an attempt to recentralize taxation. The Addis Ababa Agreement gave the Southern Government the right to tax resources exported from the region, which would have prevented the central government from benefitting from oil revenues. The discontent of the Equatorian political elite[18] provided him with political support to re-divide the south, blaming internal animosity.

The re-division was against the peace agreement, while it represented a full application of the Regional Government Act (1980), creating five decentralized regions in northern Sudan. One year later, a new Local Government Act was passed, turning District Councils into Area Councils and increasing their number from 24 to 48 (Anzai, 2012). Area Councils had elected councils with a chair and a chief executive officer working as a secretary. They were in charge of service delivery and of formulating recommendations for Provincial Commissioners. In the words of a senior local government officer of that time: "the Area Councils were designed to have powers, but the government did not fund them".[19] The government was under strain because of financial problems and the increasing pressure of its Islamist allies, and neither could it afford the financial demands of a working local government system with a weak local revenue base, nor risk missing out oil revenues.

When the re-division of the South was finally approved, the Addis Ababa Agreement collapsed, the Southern Regional Government was dissolved and Southern Sudan was divided into three regions in a process that became known as *kokora*.[20] *Kokora* was not successful, not even for Lagu: the new provinces had very limited autonomy as Nimeiri managed to effectively re-centralize taxation. At the local level, the most visible and immediate consequence was an unprecedented level of ethnic separation, with the expulsion and repatriation of civil servants deployed in areas away from their homes (Johnson, 2003; Prunier, 1989). Many southern local government officers joined the insurgency in 1983.[21]

[18] Different from other political identifiers using ethnic categories, such as Dinka and Nuer, "Equatorians" rather refers to the geographical area of residence of the various, mostly sedentary agriculturalist, groups inhabiting the Greater Equatoria region. The term started to gain political connotation precisely between the 1970s and 1980s, in opposition to the threat of "Dinka domination".

[19] Interview with Eli Achol Deng, member of the Local Government Board, Juba, 13/12/2013.

[20] *Kokora* is the Bari word for 'division', which today retains a strongly negative sense for most non-Equatorian peoples (Lupai, 2013).

[21] Interview with Eli Achol Deng, member of Local Government Board, Juba, 13/12/2013.

## 6. Conclusions

This chapter has addressed the intertwining of voluntary state-building efforts with processes of state formation along with the recent history of Southern Sudan, identifying three main patterns of state building: physical violence/coercion, bureaucratization of government practices, and the creation of legitimacy. The Turco-Egyptian conquest of the region was the first moment in history when the idea of a centralized power above local polities started penetrating the region, initially through violence but later evolving into the routinization of government practices, which gave some degree of predictability to the relations between local societies and the state administration. Local political entrepreneurs who managed to master this situation found a new source of legitimacy in the colonial state, implementing, for the first time, a strategy of extraverted accumulation of power. Colonial-era local leaders (the so-called traditional chiefs) retained their legitimacy during post-colonial attempts at building the local state in the southern region, giving continuity to a process of state formation that relied on ethnic belonging as the major vehicle to access state resources. State-building attempts in the late 1960s and 1970s, which tried to change this historical pattern of state formation, were only finalized to enable the central government to grab southern resources, with no effort at promoting inclusive development or an inclusive political system. This resulted in the exacerbation of Southern political divisions, also fomented by the central government, and in the collapse of the Addis Ababa Peace Agreement in the early 1980s.

# Chapter 2 – SPLM and state-building: playing the "fragile state" card

## 1. Introduction

> One good thing of South Sudan is that they don't have a baggage of bad stuff that was done for decades before, so you don't have to try to destroy something to build something else in its place, 'cause there is nothing there![1]

This statement comes from an interview with a member of the senior staff of a USAID subcontractor that in 2013 was working on land tenure in South Sudan. Sitting in his refrigerated office in Juba, he told me about how hard it was to work in South Sudan, how low the capacity and technical preparation of government officials and civil servants was both at the national and sub-national level, and how tiring the process of formulation and approval of the Land Policy had proven so far. In his view, the lengthiness of the process of law and policy-formulation was primarily due to the lack of capacity of local policy and law-makers, and constituted the major obstacle to getting things done. Once the laws were in place and their implementation initiated, things would follow smoothly.[2] In the one-hour interview we had, he never appeared to consider the idea that political dynamics entrenched in local contexts where the company had started running pilot County Land Authorities could play a part in why things were not being done.

Though many international practitioners are far less naïve about the political reality in South Sudan and perfectly aware that the history of (limited) institutionalized statehood in the region does not mean that it is a virgin space clear of processes of accumulation of power, it is true that the technicality with which the state-building enterprise was started has completely obscured its political nature, often reducing it to a matter of teaching good-government manners to the SPLM. The SPLM, for its part, had its own state-building project, which it started implementing when the war was still ongoing. Irrespective of the actual final goal of the movement – unity or secession – the SPLM aimed to establish a state-like form of control of the territory through mechanisms of limiting the use of violence, administrative practices, and the creation of some degree of legitimacy through the delivery of goods and services to the local population. As will be argued in this chapter, the SPLM effectively established a state-within-a-state thanks to the support of the international community in the form of relief aid in the first place, and secondly through direct support to the movement's structures towards the very end of the war.[3]

[1] Interview with senior staff member, international organization, Juba, 01/11/2013.
[2] Ibid.
[3] This chapter was partly published as a paper in the *Journal of Modern African Studies* (de Simone, 2018).

One could argue that the SPLM/A was no better than many other insurgent groups that emerged out of the numerous splits that so often complicated the war scenario, that it was not the only force that controlled some territory, and that its leaders were no more democratic than all the others. After all, as a senior SPLM local government officer said in an interview recalling his days "in the bush", there was not much room for administrators: "We were all trained as soldiers".[4] What made the SPLM emerge among the others, besides its endurance (notwithstanding the continuous defections), was the capacity of its leadership to maintain coherence in its public discourses about the movement's positions on issues of governance and human rights, even though their implementation was far from uniform and sometimes even far from real. In other words, besides representing one of the forces struggling to gain the monopoly of violence and to establish routinized patterns of resource extraction from the local populations (Tilly, 1985), the SPLM also had a state-building project that gave it a comparative advantage both in internal propaganda, and externally, through its mastery of buzzwords from the international aid industry.

In 2003, Ken Crossley called for the international community "not to state-build the New Sudan"[5] for a number of reasons predominantly related to the authoritarian and hopelessly self-interested and opportunistic nature of the SPLA and its leadership (Crossley, 2004). Perhaps for lack of alternatives, this call was ignored and the New Sudan, understood as the portion of southern territory under the rebels' control and later sanctioned by the CPA as the territory under the jurisdiction of the Government of Southern Sudan, was "state-built" through an impressive effort directed to institution building, policy making, capacity building and training projects targeting SPLM administrators for the sake of administrative effectiveness and efficiency. The international state-building project looked impressively similar to the SPLM's: both shared the language of the modern democratic state, with its charge of universalism and legitimacy and its emphasis on development and service delivery.

In fact, the idea of building the Southern Sudanese state concealed a fundamental bias: it was the SPLM and its leadership, rather than an abstract state object, that was to act behind the legitimate mask of statehood in the process of being established. The SPLM, fragmented as it was, extensively drew on external material and symbolic resources to build a statehood façade in which the claims of the lack-of-capacity and the lack-of-resources became outstanding elements in a strategy of

[4] Interview with Eli Achol Deng, Local Government Board member, Juba, 13/12/2013.

[5] If at the beginning of the insurgency the expression New Sudan was used to indicate a democratic, reformed, united Sudan, since the mid-1990s the term started being increasingly used to refer to the southern region and the three areas (Abyei, Southern Kordofan and Southern Blue Nile) only. The shift is clearly visible in a number of SPLM documents from the early 2000s, and reported by Crossley when he recalls: "In workshops conducted by international humanitarian agencies [in SPLM-held areas], regardless of the subject matter, always at least one participant will rise and request that the facilitator use the terminology of New Sudan" (Crossley, 2004, p.137).

extraversion of the South Sudanese state. International donors' projects and programmes, designed to support nascent governmental, judicial and bureaucratic institutions, were not at all imposed by funding and implementing agencies, a charge often used by critics of international state-building/peacebuilding enterprises. Rather, they were planned and, in many instances, called for by the SPLM leadership using an extremely donor-friendly language, but with a fundamentally different understanding of how to manage the political dimension of state-building. While the latter was completely overlooked by the technicist approach based on New Public Management theories, it was in fact held in high consideration by local actors involved in the process of institutional design and reform implementation. The shortcomings and inefficiencies in the process were the product of voluntary omissions and actions rather than unexpected outcomes.

Evaluating the effectiveness of these programmes constitutes by no means the purpose of this chapter. Independently of how effectively they were implemented, I suggest looking at them as a new thrust of externally led state-building efforts in Southern Sudan, in other words the "conscious effort at creating an apparatus of control" described by Berman & Lonsdale (1992, p. 5). Similar to that of colonial times, this thrust only partially influenced the local process of state formation in Southern Sudan, but provided valuable resources that the local politico-military elite exploited to strengthen its positions and to pursue its agenda. The ability of the SPLM leadership in implementing strategies of extraversion to capture external resources, as well as the depoliticizing discourses around international state-building intervention, made this convergence possible, with SPLM governance structures progressively turning into state structures through international support. Such programmes helped strengthen the civil character of the SPLM and configure what, by the end of the 2010s, already looked like an independent state, once again confirming the extraverted character of modern state formation in the southern region of Sudan.

## 2. The SPLM: local guerrilla government

### 2.1 A unifying narrative (and contradictory practices)

The SPLM/A was created in 1983 with the Bor mutiny, which is also generally considered the start of the second civil war. The movement managed to unify the majority of the armed militias that, since the early 1980s, had started conducting occasional attacks against police stations and markets especially in the Upper Nile region (D. H. Johnson, 1998).

The SPLM/A offered a more complex analysis of the Sudan political system based on centre-periphery dynamics. Its leader, John Garang de Mabior, was a PhD graduate from Iowa University who had the capacity of gathering consensus both internally, involving other regions in the struggle besides his home Dinka area around Bor, and externally, finding support in neighbouring countries.

Differently from Anyanya[6] and any other rebel movements before, during the twenty-two-year civil war, the SPLM/A came to control vast portions of the territory, including important towns such as Rumbek and Yei. In the 1980s, the movement considerably expanded the areas under its control: by the end of the decade, it almost entirely controlled the border areas with Kenya and Ethiopia, had extensive presence in southern rural areas, on the Nuba Mountains, in Blue Nile and was able to put Juba under siege (D. H. Johnson, 1998).

This capacity of territorial conquest was one of the factors that compelled the SPLM/A to develop a system of administration for the "liberated" areas: an overreliance on coercion and military force would have been too costly, both in terms of popular support and in terms of actual resources needed to combat local resistance. Indeed, many senior SPLM/A members who played an active role during the war still quote Mao Zedong and his metaphor of guerrilla fighters having to "swim in the people like a fish in the water".[7]

Initially, the SPLM/A invested in the creation of a unitary identity of Southerners through its leaders' public discourses: this was vital to ensure the cohesion and loyalty of the rank-and-files transcending ethnic and kinship allegiances and to mobilize people from different areas of the region. Joseph Oduho, a prominent member of the SPLA from Equatoria, greatly emphasized the element of unity and of an identity based on a shared condition of marginalization:

> My dear brothers and sisters, the SPLA is not your enemy. The SPLA will not disarm you. The SPLA will only train you, educate you politically so that you can understand your rights... fight for your rights. My dear Equatorians you are the most advanced people of the Southern region. You have the most highly educated people. These educated people could be the ones to guide you and guide you correctly. Some of them guided you to division, in order that they could get big jobs, which they would never have dreamt of getting in a united country. Today these people we understand are scheming, deceiving you in the countryside, throughout all the districts trying to tell you that we must fight for our home, Equatoria. I can assure you of one thing, that the problems of division have gone, as I have said... And this is happening before you and you can see that this is the real enemy. It is not the Dinka who is your enemy. It is not the Nuer who is your enemy. It is not the Nilotic who is your enemy. It is the system that has been exploiting you for centuries which is your enemy, not your brother, the Dinkas or the Nuers. Rise up therefore and join the SPLA... And remember, united we stand, divided we fall.[8]

The unitary identity of the South was also promoted by the movement through a policy of "reshuffle", as it was often termed by former combatants, characterized by the deployment of troops and commanders far from their area of origin.[9]

[6] Anyanya is now referred to as Anyanya I to distinguish it from Anyanya II, a predominantly Nuer militia that was active in the 1980s in Upper Nile and was absorbed into the SPLM/A by the end of the decade.

[7] Interviews in Rumbek, Yirol, Juba, November–December 2013.

[8] Summary of World Broadcasts, 5 January 1985, quoted in Scott, 1985, p. 74.

[9] This was a substantial difference from the policy of Anyanya I, which allowed its members to stay in their home areas. At the same time, according to Sharon Hutchinson, this can also be considered the cause of the massive atrocities to civilians that characterized the second civil war in Sudan (Hutchinson, 2000); personal communication with Sharon Hutchinson, November 2015.

The centralized command and the unifying narrative of the struggle were matched with a strong stance on the people's rights to self-rule and access to resources (which later became a call for decentralized governance). In particular, the SPLM refused centralized control over the land and claimed that Southerners had the right to enjoy the benefits deriving from their natural resources, declaring that "The land belongs to the community" (De Wit et al., 2009; Pantuliano, 2007). Because of its economic and symbolic value, land was a central element in the movement's opposition to the northern domination and resulted in targeted attacks on investment infrastructures such as the Jonglei Canal and Chevron oil facilities (D. H. Johnson, 2003; Shanmugaratnam, 2009).

### 2.2 The embryo administration

SPLM local governance structure has been studied by several authors, and there is general agreement that the years between 1991 and 1994 constitute a watershed in the movement's attitude towards civil administration, at least in its official stances (African Rights, 1997; D. H. Johnson, 2003). Øystein H. Rolandsen, in his book *Guerrilla Government*, traces the history of the rebel movement's local administration, highlighting two major interpretations of the first phase of SPLM/A local administration, from its inception to the early 1990s. On the one hand, a report issued in 1997 by the British advocacy group African Rights, analysing the living conditions of the local population and the impact of humanitarian aid, suggested that no local administration existed in the SPLA-controlled areas before the beginning of Operation Lifeline Sudan (OLS) in 1989,[10] and even then civil administrative institutions remained a mere façade. According to the report, the possibility of accessing external resources made it less urgent for the rebels to pursue local support (Rolandsen, 2005). On the other hand, Douglas H. Johnson argues that the SPLA already had a local administrative structure relying on chiefs and courts under the supervision of the Civil/Military Administration of the rebel movement. Chiefs were granted paramilitary powers such as the recruitment of rank and files by local commanders, and were able to keep inter-communal cattle-raiding under control (Johnson, 1998).[11] Indeed, Sharon Hutchinson documents in detail a quite complex administrative system set up in the Western Upper Nile region under the supervision of the local zonal commander Riek Machar. This system allowed the SPLA to extract regular taxes on cattle auctions and trade, impose fines in kind for violent crimes, establish courts and appeal courts, collect an annual tax in grain from male adults and even conduct a population survey to better organize the administrative system (Hutchinson, 1996).

[10] Operation Lifeline Sudan was the first and arguably the biggest humanitarian umbrella operation coordinated by UNICEF, involving international NGOs and UN agencies. It started in 1989 and continued throughout the 1990s and early 2000s, despite huge criticism of its inability to avoid the diversion of humanitarian aid in the extremely politicized local context. For a comprehensive analysis of OLS and its shortcomings, see African Rights (1997).

[11] Nonetheless, cattle-raiding increased after the 1991 split as it became the expression of the feud between Garang's and Machar's supporters, especially on the border between Western Upper Nile and Bahr el Ghazal.

The Civil/Military Administration, characterized by a high turnover of its personnel as a form of reward or punishment, was appointed by the zonal commander and was in charge of tax collection. Were it not for this governance structure at the grassroots level, Johnson argues, the SPLA would not have been able to survive the major split it experienced in 1991, when the Nasir faction led by Riek Machar and Lam Akol turned its weapons against Garang's men (Johnson, 1998). At the same time, it was for the same reason that Machar managed to mobilize supporters, as he was known in Upper Nile for being a just and effective administrator (Hutchinson, 1996; D. H. Johnson, 1998).[12]

Despite SPLM's initial diffidence vis-à-vis the chiefs, who were considered a symbol of backwardness, it is generally acknowledged that the movement started co-opting chiefs in its local governance structure long before announcing it officially. This first phase was nevertheless characterized by a strictly military logic, linked as it was to the military conquest of territory. The administration was primarily focused on the extraction of resources from the local population and limiting inter-communal cattle-raiding, which was kept under control by local customary courts. The effectiveness – and the very existence – of this system varied greatly from one place to another, and it was influenced by a number of factors including people's movements, the distance from the frontline and also the personal attitude of the local zonal commander. Indeed, no standardized system of local administration existed before the early 1990s.

### 2.3 The Civil Administration of the New Sudan

The first civil institution created by the SPLM at the central level was the Sudan Relief and Rehabilitation Association (SRRA), acting as an administration in its own right in refugee camps in Ethiopia with the blessing of the host government. To face the virtually complete lack of relief aid to the rebel-controlled areas in the early years of the war, when the UN and many donors accepted the government's claim that only 3% of the southern civilian population lived in rebel-held areas, the SPLA encouraged and organized the movement of refugees to its friendly neighbour, where food and health supplies were available, and where the movement had its training and schooling camps (Johnson, 2003).[13]

The early 1990s were difficult for the SPLA. The fall of its major ally, Mengistu Haile Mariam's socialist regime in Ethiopia, pushed the movement's military bases and refugee camps out of the country. John Garang's authority, based at least in part on his capacity to distribute military supplies, was weakened by the loss of Ethiopian support. Within months, the rebel movement was split by the

[12] This also emerged in a focus group discussion with elders in Mayom County during the implementation of a grassroots peace initiative led by a local NGO in 2010. The participants in the focus group argued that Machar, together with his local commander Peter Gadet, were very dear to the people of the area because of their great capacity for handling local disputes peacefully, particularly those emerging with the Missiriya coming from the north.

[13] Personal communications with three SPLA ex-child soldiers in Bentiu, 2010, regarding English schooling camps in Ethiopia.

aforementioned attempted coup led by Riek Machar and Lam Akol aimed at replacing John Garang in the leadership of the movement. They accused Garang of possessing a dictatorial attitude and of hindering Southern secession in favour of a united Sudan. The Nasir splinter faction soon took control of vast regions of the Upper Nile province and shortly after accepted an alliance with the government of Sudan to fight against the SPLA.[14] Local militias, often defined in ethnic terms, mushroomed and contributed to the weakening of the rebels and the strengthening of government positions, relying upon the widespread discontent with what, in several areas, was perceived as an occupation of hostile troops, rather than a liberation. SPLM's early attempts at trying to foster a unique allegiance to the movement, stronger than kinship ties, failed. Between 1992 and 1994, the SPLM lost control of all the towns but Yambio.

After the interruption in supply flows from Ethiopia, support from the local population became crucial. Moreover, a change in the movement's rhetoric was also needed to "democratize" its external image in order to convince the donor community that it was the worthiest of aid-recipients among the rebel movements. The SRRA played a crucial role in the diversion of humanitarian aid to the rebels (African Rights, 1997; Rolandsen, 2005), but the creation of the New Sudan Council of Churches and local NGOs also provided more independent interlocutors to international counterparts.

In 1994, the SPLM's first national convention was held in Chukudum, Eastern Equatoria, with the participation of hundreds of delegates coming from the liberated areas. The Chukudum convention is considered a landmark by the bulk of SPLM members, laying the basis for the local government structure that was institutionalized after the signing of the Comprehensive Peace Agreement (CPA). At the central level, a National Liberation Council and a National Executive Council with legislative and executive powers respectively were created, and they were at least formally independent from the Military High Command. A national convention of the SPLM was to be convened every five years. A judiciary system was also instituted with two parallel systems of courts, customary and statutory courts, each hierarchically organized into three levels. SPLM-led courts had an appeal function. Once again, chiefs were co-opted into local governance structures. New civil administrators were appointed for the three new levels of administration: county, *payam*

[14] After successive splits within the SPLM/A Nasir faction, Riek Machar agreed to sign the Khartoum Peace Agreement, a part of the government's strategy of divide and rule known as "peace from within". For detailed accounts of the internecine wars in Southern Sudan during the 1990s, see Johnson, 2003; Jok & Hutchinson, 1999; Young, 2003, 2006.

and *boma*;[15] some had already served as local government officers in the 1970s, while others were just transferred from the armed forces to the civil service.[16]

At the lowest level of administration, the *boma*, authority was split between the chief, selected by the local community, and a *boma* administrator, appointed by the movement and serving as a liaison with the people. The *payam* was composed of four to six *bomas* and headed by an appointed *payam* administrator overseeing legislative, executive and judicial bodies at *payam* level. *Payam* legislative councils were formed of a mixture of elected and selected members. The *payam* executive branch was led by an appointed executive administrator, often a native from the area, who had the responsibility of daily administration. Counties were the highest level of the civil administration. They covered large, often discontinuous areas, and were governed by a county commissioner with military background and ranks given by the rebel movement. Taxes were collected at county level, mostly to ensure local people's support. The tax base was mostly fed by relief goods (Mampilly, 2011).

**[PLACE TABLE 1 HERE]**

The first national convention, which started the process of "civilization" and formal democratization of the SPLM, was followed by a number of other conferences and conventions. In 1996, the Civil Authority of the New Sudan (CANS) was officially instituted. Between 1998 and 2000, conferences about the role of women, law enforcement, rights, livelihoods and good governance were held, suggesting that not only was the SPLM attempting to create a comprehensive policy framework for the liberated areas, but that it also mastered the language spoken by international donors, focused on good governance and peacebuilding. In February 2000, the booklet *Peace through development: Perspectives and prospects in the Sudan* outlined SPLM's strategy of achieving peace through good governance and economic development, a very popular idea in the humanitarian and development communities at that time.

The actual creation of local administrative structures designed in the convention, including local liberation councils, executive branches and departments in charge of different sectors (education, agriculture, etc.), varied greatly from one place to another. In fact, several observers report that actual

[15] The terminology of the new administrative structure has various origins: county seems to come from the British administrative system, which is divided into counties and which also inspired the naming of local government structures elsewhere in Africa (in Uganda, for example); *payam* seems to be an ancient word derived from the kingdom of Kush; *boma* is the name of the first village captured by the SPLM/A. Interviews with Senior Administrator, Ministry of Local Government and Law Enforcement, Lakes State, Rumbek, 19/11/2013; Daniel Awet Akot, Member of the National Legislative Assembly, former Chairperson of SPLM Local Government Secretariat, Juba, 12/12/2013.

[16] Interview with Eli Achol Deng, member of the Local Government Board, Juba, 13/12/2013.

change was very limited. Rolandsen (2005) suggests that the lack of visible forms of resistance to the reforms may mean that they were unanimously considered as only theoretical, with no actual effects on internal power balances. The SPLM /A power structure remained extremely top-down and dominated by military personnel. Most of the civil servants appointed to new local government positions in the CANS were soldiers, and not really independent from zonal commanders, who were often considered uncontested leaders in their areas. The military courts, more than customary ones recognized in the New Sudan judicial system, continued to be used for dispute-resolution in many areas (Mampilly, 2011). John Garang retained the power of making ultimate decisions both in the military and civil sphere and, especially in some areas, physical force remained a constant characteristic of the SPLA presence. According to Branch and Mampilly, for example, Greater Equatoria was in many instances treated more as an occupied territory than as a liberated area, with the local population harassed by the predominantly Dinka and Nuer rank-and-files (Branch & Mampilly, 2005).

Nevertheless, SPLM administrative experience proved to be extremely important in the later state-building effort. The double judicial system of statutory and customary courts, as well as CANS government structure in three layers – owing pretty much to the colonial Marshall Report[17] – were later institutionalized as the local government and judicial structure of the Government of Southern Sudan. Most of SPLM administrators were absorbed into the Southern civil service after the signing of the peace agreement; some of them had already been trained as administrators in the 1970s under the Addis Ababa Agreement, but most of them received training from international aid agencies in the late 1990s and early 2000s because of their role in the SPLM. At the same time, the SPLM/A experience also contributed to the process of local state formation, again on a very localized basis. The restoration of some limited degree of predictability in terms of input and output in the relations with what increasingly came to be seen as a "government", was indeed the result of the capacity of the central level to keep relations with local commanders through the transfer of various kinds of resources (both military hardware and symbolic resources linked to the liberation ideology). If in many instances local commanders were closer to warlords than to governors, in others they did reproduce structures and modes of governance (loosely) based on central directives.

## 3. The role of relief aid in establishing SPLM/A's "state-within-a-state"

As mentioned earlier, in the 1990s the SPLM/A was under severe pressure. The movement had lost its most precious ally, Mengistu Haile Mariam, and its major source of supply. Centrifugal thrusts had

[17] Interview with Senior Administrator, Ministry of Local Government and Law Enforcement, Lakes State, Rumbek, 19/11/2013.

led to significant losses in terms of manpower and territory, now controlled by the splinter SPLA-Nasir faction headed by Riek Machar and Lam Akol, which itself underwent several splits, causing a hike in the number of ethnic militias fighting against each other with the support of the Khartoum government. To cope with these losses, the CANS was increasingly formalized, taking the shape of a "state-within-a-state", reaching areas beyond the control of the Sudanese government. Spear (2004) defines states-within-states as entities that "have imposed effective control over a territory within a larger state and may have an impressive array of institutional structures that, among other things, allow taxes to be collected, services to be provided, and business with other international actors to be conducted" (p. 16). In spite of the extreme variation in the establishment and functioning of local governance structures, the SPLM indeed managed to collect taxes, provide limited services to the civil population – including security and, to some extent, education and primary healthcare through the exploitation of international aid agencies' programmes – and to conduct "business" with other international actors – primarily in the form of negotiations with the donors (Mampilly, 2011).[18] Even though, in Spears' definition, one of the features of states-within-states is non-recognition by the international community, the SPLM/A received support from several East African governments (Ethiopia and Uganda above all), and entertained relations with Western donors and international organizations on a regular basis, especially in the second half of the 1990s.

Though not officially recognized as a government force in the right of ruling the Southern territory it claimed to control, international donors' relief programmes undoubtedly contributed – both willingly and unconsciously – to the creation of "proto-government" structures, as the SPLM Governance Cluster defined them in its final report.[19] This was true to such an extent that, according to the African Rights 1997 report, "some aid workers consider(ed) themselves to be helping to create an SPLA government in the South" (African Rights, 1997). This contradicts the popular idea of a "stateless situation" (Riehl, 2001) in Southern Sudan: even though the Sudanese state had extremely limited capacity of controlling the southern region, the process of Southern state formation was ongoing, drawing on external contributions and benefiting from diverging, sometimes undeclared, state-building objectives pursued by different actors.

Two relief enterprises that targeted the SPLM/A during the 1990s particularly contributed to this process, producing long-lasting legitimizing and strengthening effects on the movement. The following sections will analyse them and reflect on their legacies.

[18] The negotiation of aid and relief programmes was not the only form of business the SPLM conducted during the war. The SPLM/A was also known for its smuggling activities of teak and gold from the Greater Equatoria region to neighboring countries (Ashamu, 2010).

[19] SPLM Governance Cluster (2005). Report of the SPLM Governance Cluster [Presented at the Workshop on Governance Clusters held in Rumbek]. Local Government Board Archive.

### 3.1 Building SPLM's legitimacy: Operation Lifeline Sudan

Operation Lifeline Sudan (OLS), the biggest UN-coordinated humanitarian operation ever, was negotiated between the UN, donor governments and the government in Khartoum between 1988 and 1989, following the devastating famine in Bahr el Ghazal. The SPLM, initially excluded, joined the partnership shortly after Garang's letter expressing the movement's readiness to cooperate with relief operations (Akol, 2005). Signed as a tripartite agreement and involving over forty international NGOs, OLS was divided into a Northern Sector, in charge of northern Sudan and of government garrisons in the South, coordinated by UNDP in Khartoum; and a Southern Sector, in charge of SPLA-controlled areas and coordinated by UNICEF from Nairobi. Despite the effort of the then UNICEF's executive director in making clear that the UN did not intend to give any official recognition to the SPLA while dealing with it only for humanitarian purposes, it was the first time that a UN-coordinated operation openly engaged with a rebel movement to negotiate access. This was extremely innovative at the time and has been described as a pragmatic victory of the humanitarian community (Pegg, 2004, p. 141), preventing – or at least reducing – mass starvation and gaining access to many areas that would have remained totally off-limits for any humanitarian operation.[20] There is no doubt about the innovative character of negotiated access, and very little evidence of how much worse things could have gone without OLS. It is reasonable to think that without the humanitarian operation, the Southern population would have experienced even more dire suffering and collapse in the provision of basic services. Instead, some evidence suggests that, at least in some areas, provision of basic services increased during the war years (Biong Deng, 2006).

At the same time, OLS has been criticized for several reasons, ranging from the interference in local power balances providing resources for patronage (Duffield, 2002), to its lack of neutrality when supporting capacity-building and institution-building projects for the SPLM, providing a rebel movement with diplomatic recognition (Bradbury et al., 2000; Maxwell et al., 2014; Washburne, 2010). Indeed, since the very beginning of the operation, "humanitarian recognition" resulted in a *de facto* political recognition of the movement, enabling it to negotiate with international actors for the sake of civilians' protection. This benefited the SPLM/A in terms of an increased visibility and legitimacy both internally and externally. In the words of Lam Akol, who in 1989 was the director of the SPLM Office of Co-ordination and External Relations: "The advent of OLS provided an opportunity for the SPLA High Command to have a presence outside Addis Ababa, facilitating sustained direct access to the SPLM/A leadership for the international community and the press" (Akol, 2005, p. 54).

[20] Interview with former humanitarian advisor for WFP in Khartoum, Skype interview, 21/05/2015.

The humanitarian principles animating OLS left little option than negotiating with all parties who could claim control of portions of the territory, which later came to include SPLA splinter factions and their respective relief agencies.[21] The government in Khartoum always retained the power to prevent access to areas of the country outside its control and, indeed, used it especially when the regime of Omar el Bashir came to power with a coup in 1989, replacing the elected government of Sadiq al Mahdi. Bashir had an extremely uncooperative attitude, which brought to a halt the peace negotiations between the government and the rebels started in 1986 while increasing the use of food and famine as weapons of war. Moreover, Bashir's Islamist positions increasingly alienated the sympathies of the international community, whose concerns about international terrorism grew stronger in the 1990s. In search of a new strategy to weaken the government in Khartoum, the US ambassador Donald Petterson visited John Garang in Kampala in 1993, after it became clear that the SPLA-Nasir faction did not provide any real alternative to the SPLA-mainstream. This provided the movement with more encouragement to move towards liberalization within its structure.

The SRRA became OLS's major southern counterpart in the field, although it always remained under the control of the military: due to lack of expatriates and staff in many areas, data collection and food distribution could only rely on SRRA. As the institution was never really separated from the military command, this information was often biased by military concerns. In the words of the chairperson of the SPLM-SRRA for UK and former SPLA commander: "OLS filled the vacuum left by the dissolving USSR and Mengistu regime in Ethiopia. The comrades then left us alone 'in the fire'. We needed continuous support. Now America and the United Nations started to help us" (Riehl, 2001, p. 6). While diversion of relief aid was a constant characteristic of warfare from all parties to the war, it became particularly important for sustaining the rebel movement. Indeed, the SPLA extracted food in the form of taxation from the local population to sustain its war effort, and it was able, to some extent, to control its distribution.

The creation of the civil administration of the SPLA, the formal separation between the political and military wings, the adoption of a human rights, democracy and development-friendly rhetoric, all helped attract increasing support to the movement. This support was both in the form of relief to its controlled areas, and of direct aid to the movement, despite its poor human rights record, the blatant diversion of relief aid, and its negligible commitment to ensuring the protection of humanitarian workers on the ground. In 1994, the killing of four humanitarian workers led OLS leadership to negotiate the Agreement on the Ground Rules with the SPLA, the South Sudan Independence

[21] In fact, after the split of the Nasir faction into SSIM/A and SPLA-United, the latter's relief agency, the Fashoda Relief and Rehabilitation Association (FRRA), was excluded from the range of partners for fear that continued recognition of splinter factions would have encouraged factionalism among the rebels. The SPLA-United and the FRRA were however included in the Ground Rules Agreement (1995), which they signed in 1996 (see below).

Movement/Army (SSIM/A) led by Riek Machar and the SPLA-United led by Lam Akol. The agreement marked another step forward for the international credibility (and locally usable legitimacy) of the SPLA: if in partnership with OLS the government of Sudan retained the power to prevent access to rebel-controlled areas, this time the rebel movements were treated as equal partners, receiving great legitimacy as political actors from OLS Southern Sector (Bradbury et al., 2000).

The Ground Rules Agreement has been described as a form of "humanitarian governance", an expression employed to indicate the use of humanitarian principles to influence the behaviour of state and non-state actors (Maxwell et al., 2014). Its seven sections determined reciprocal property rights, responsibilities, and obligations of the INGOs working within OLS and the rebel movements with their humanitarian wings. While Autesserre (2002) maintains the ineffectiveness of the Ground Rules Agreement in preventing the diversion of relief and undue appropriation of NGO assets by all the rebel factions, Human Rights Watch records that after the signing and the dissemination of the Ground Rules principles through workshops targeting the military and local leaders, the attitude of the SPLA towards civilians improved (Rone, 1999). This improvement can nevertheless also be attributed to the movement's internal reforms and to the growing number of opportunities to establish different forms of control of the territory that went beyond the mere use of force. These included the creation of local NGOs as a channel of service provision to the population and the strengthening of bureaucratic procedures of administration within the Civil Administration of the New Sudan.

In the early 1990s, a great thrust among the international aid community to fund non-governmental organizations led to the mushrooming of local NGOs in many aid-receiving countries, which were considered as alternative channels for aid to ineffective and corrupt state apparatuses (Chimiak, 2014). Acknowledging this international "civil society-building" effort, John Garang formed the first secular indigenous NGO in SPLA-held areas, the Cush Relief and Rehabilitation Society. It was the first of a number of local NGOs created around the mid-1990s, providing new channels for relief aid and international funds. In fact, most of them were "briefcase NGOs", run by former SPLA members based in Nairobi or Kampala. Capacity building workshops for local NGO members were organized within OLS and by USAID, giving SRRA the authority of selecting the members who had to attend and, consequently, who were then eligible for foreign funding (Reno, 2010).

Local NGOs were not only supported in the framework of the humanitarian operation for relief supplies distribution. From the mid-1990s, USAID, one of the most generous donors behind OLS, started supporting development projects such as seed production, roads rehabilitation and markets establishment, claiming that it was time to start "doing relief developmentally" (Dembowski, 2002, p. 3). This shift came at the same time as the worsening of US diplomatic relations with Sudan, which

was listed as a "rogue state" in 1993, subjected to international sanctions in 1996 and to bilateral US sanctions in 1997 because of its links to international terrorism. While according to Séverine Autesserre (2002) these sanctions were symbolic rather than substantial, in the late 1990s the relations between the US and Sudan were so tense that, following the terrorist attacks on US Embassies in Kenya and Tanzania, the US bombed a pharmaceutical factory in Khartoum suspected of producing chemical weapons on behalf of Osama Bin Laden. Together with continued advocacy campaigns by American Christian and human rights groups supporting the Southern cause, this may explain why in the course of the 1990s, US direct support to the SPLM increased not only through OLS, but also through more flexible non-OLS INGOs such as Norwegian People's Aid (NPA).[22] In 1999, following a meeting between the Secretary of State Madeleine Albright and John Garang in Kampala, in which she expressed solidarity with the movement's objectives and the will to provide it with direct support, USAID earmarked US28.6 million to non-OLS NGOs of its total US$159 million spent in aid assistance to Sudan (Autesserre, 2002).

The continued flow of aid funds and relief items to the rebel-held areas through the SRRA and the web of local NGOs allowed the rebels to access easy supplies without distraction from fighting. At the same time, it had the effect of fulfilling one of the basic functions to which the CANS committed itself: the provision of basic services to the population under its control. Southern Sudan statehood confirmed once again its extraverted and privatized nature which first emerged in the 1970s, when the Southern Regional Government did not have the resources, nor the capacity, to provide for its citizens (Tvedt, 1994). While in that case the legitimacy of the state rapidly faded, in the 1990s the SPLM took advantage of only being a rebel movement: it used aid flows in its controlled areas to prove it was better able than the government to provide for the citizens and, through the attraction of external resources, to demonstrate that it could be a government itself (Reno, 2010). Moreover, continued interaction with INGOs brought a decrease in the level of violence for extractive purposes towards the local population, and an increasing bureaucratization of the civil administration established in 1994. For example, taxation practices became less violent towards the end of the 1990s. Reports from WFP quoted in *Food and Power in Sudan* suggest that households included in follow-up visits after food deliveries often reported SPLA taxation of the food delivered (African Rights, 1997), rather than violent appropriation by the military.

[22] NPA was never part of OLS. It was supportive of the rebel movement to such an extent that it was accused of repeatedly smuggling weapons to rebel held-areas through its humanitarian flights (see Royal Ministry of Foreign Affairs (1997); The European-Sudanese Public Affairs Council (1999). Christian organisation and missions also remained active at community level throughout the war, mostly distributing relief aid and providing health and education services.

### 3.2 A difficult relationship

At the same time, however, the relationship between relief organizations and the SPLA were contentious, and always characterized by suspicion: the rebels, particularly, thought that international agencies were too complacent about government conditions and too independent from the movement's directives. By the end of the 1990s, the discontent towards the humanitarian industry increased. As a working paper on service delivery written by one of the SPLM senior Local Government officers in 2004 summarizes:

> Since the beginning of the war to-date, the donor policy towards the SPLM administration remained the same. The former does not fund the latter for a range of reasons which includes avoiding having its credibility undermined. It is for this reason among others that INGOs are given the priority for funding. INGOs become governments by proxy in a bid to bridge the ever-growing service gap, especially in the war setting.[23]

The increasing demands of coordinating and controlling the relief aid and the activities of aid agencies led the movement to adopt sometimes extreme measures such as the expulsion of the French NGO *Action Contre la Faim* in 1997 upon vague allegations that it was threatening security in rebel-held areas (Mampilly, 2011). In 2000, the SPLA forced OLS and international NGOs to sign a Memorandum of Understanding, declaring it could no longer guarantee the security of those who did not sign it. The MoU was considered an unacceptable and illegitimate imposition, and provoked the withdrawal of many (mostly European) organizations (Mampilly, 2011).[24] If the SPLM did not officially claim to be a separate government – though it was *de facto* referred to as such by many local chiefs and the general population – the MoU contained typical state demands: payment of fees to the SRRA for issuing work permits, payment of taxes on NGO assets, permission to access SPLA-held areas. In William Reno's words: "Travelling to rebel-held parts of Sudan at that time was like traveling to a new country, with SPLA travel permits, registries, and other administrative paraphernalia typical of a sovereign state" (Reno, 2010, p. 117). The MoU was thus an attempt at enforcing the movement's decision-making capacity over external resource providers, overcoming the authority of the government of Sudan.

Despite contradictory analyses of the actual impact of the MoU (Riehl 2001; Mampilly 2011), it seems likely that it contributed at least in part to the empowerment of local rebel administrative structures that were used to distribute relief and development funds. The channelling of at least a part of aid funds through its own structures also allowed the SPLM to nurture its political project of winning

[23] Man, Nikodemo Arou, Diu, Frank Duoth, Aburas, Hassan Abbas, & Riak, Angelo Makoi (2004). Service Delivery Output. Ministry for Local Government; Local Government Board Archive, p. 8.

[24] By the early 2000s, the SPLM could count on continued and substantial US support and could therefore afford the consequences of such hasty moves towards the aid community. Mampilly (2011) cites an interview with a former SPLM/A pilot working for Norwegian People's Aid making it very clear that USAID asked all US-funded NGOs to pass through SRRA structures for all their operations.

hearts and minds in non-Dinka areas, where its presence was often contested despite the common goal of defeating the "Arabs" (Mampilly, 2011). Humanitarian aid and the provision of basic services it made possible were used as a form of penetration into the liberated areas after they were taken by force, contributing, to some extent, to the creation of some degree of legitimacy for the SPLA presence. This legitimacy was strengthened also through the co-optation of local natives into the administrative structure, especially at the *boma* and *payam* levels.

### 3.2 Preventing governance failures: the STAR project

Even though it is likely that most of the new local institutions remained only on paper and that the SPLM's major interest was to impress international donors (Mampilly, 2011, p. 15), its strategy proved successful: by the end of the 1990s, the movement was not only an active partner in relief distribution, but also the major target of donor-funded capacity-building and institution-building efforts. Several projects aimed at strengthening the SPLM government capacity were implemented, justified by the need to make local institutions more effective in managing relief flows.

The Sudan Transitional Assistance and Rehabilitation (STAR) project was the first capacity building project explicitly targeting the SPLM civil administration. It was not the first time that the SPLM/A was directly supported and involved in capacity building: in the second half of the 1990s, UNICEF funded organizational development workshops, office equipment and even the construction of office facilities for the SRRA (African Rights, 1997; Riehl, 2001). These activities were always justified as part of the work needed for the sake of humanitarian effectiveness: it was in the interest of the humanitarian operation to increase the organizational and coordination capacity of the SRRA because it was *de facto* controlling territory and actual delivery depended on it.

The same argument was used to explain why UNICEF/OLS accepted a grant of US$1 million for the realization of one of the STAR project components, the Civil Administration Training (CAT).[25] The STAR project was conceived immediately after the first visit of the US Secretary of State Madeleine Albright to John Garang in Kampala in 1997, when US–Sudan relations were deteriorating. It linked development and humanitarian objectives with US foreign politics, and represented exactly the kind of "non-lethal support" that Washington was willing to offer to the SPLM/A besides relief food (Autesserre, 2002; Human Rights Watch, 2003).[26] The democratic and

[25] Lyons, C. E. (1998, September 24). Award No. 623-G-00-98-00070-00 [Letter from USAID Grant Officer to Carl Tinstman, OLS Coordinator, United Nations Children's Fund.]. Local Government Board Archive.

[26] Even though the US had temporarily supported Riek Machar's faction and its declared objective of Southern secession, by the end of the 1990s it was clear that this was no longer an option: after having been receiving arms and ammunitions from the government in Khartoum to fight the SPLA Mainstream for more than five years, the SSIM/A signed the Khartoum Peace Agreement with the government in 1997 in exchange for a vague promise of self-determination for Southern Sudan. The "peace from within" strategy also involved other rebel militia active in the Upper Nile region: its main purpose was to enable the extraction of crude, which indeed began in 1999. As soon as oil revenues started reaching the government's coffers, the defense budget doubled.

developmentalist ideals to which the rebel movement was increasingly paying lip service in the second half of the decade looked like steps in the right direction to improve the movement's poor human rights records. A report commissioned by USAID on its activities in Southern Sudan between 1993 and 1999 praised the establishment of the CANS and maintained the need to acknowledge its control of wide regions, while at the same time strengthening its democratic nature and its capacity of protecting human rights. The US Congress earmarked US$7 million for the three-year programme, with the overall goal of increasing "participatory democracy and good governance practices in opposition-held areas of Sudan while reducing heavy reliance on relief" (Salinas & D'Silva, 1999, p.35). More specifically, it aimed at expanding participation in "community-level administration", rehabilitating dwellings and infrastructures, promoting local economic development and increasing the levels of accountability, transparency, and respect for human rights among civilian authorities.

The STAR project had three components: a national level component providing training to the National Democratic Alliance, the umbrella organization of political opposition parties to Omar el Bashir's regime in Khartoum – including the SPLM; a county/regional level component providing training to local administrators, delegated to UNICEF/OLS; and a local/community level component to promote economic recovery and development, targeting Sudanese civil society organizations and delegated to Catholic Relief Services (CRS). Two other components, the Strategic Analysis/Capacity Building Component and the Social Organization and Administrative Rehabilitation Component, were added in 2000 and 2001 respectively, with the first aimed at producing Sudanese-led studies and assessments in the agriculture and natural resource sectors, and the second at strengthening the health sector at county level through training and provision of better facilities (Dembowski, 2002). While the first component failed to be implemented and the fourth and fifth were implemented only partially and targeted very specific sectors, the second and third components can be considered part of the donor-sponsored state-building project. They targeted two fundamental aspects of state functioning: the creation and strengthening of a non-violent institutional apparatus working through bureaucratized procedures and practices; and the delivery of basic services, in a more or less privatized form, to a population under strain because of the war.

The Civil Administration Training (CAT) component only absorbed a small percentage of the total STAR funds (US$1 out of US$7 million), yet it was remarkable at least from a symbolic point of view: for the first time, it provided direct support to SPLM members, helping them to develop local administrative capacities and structures. This component was delegated to UNICEF and implemented in the framework of OLS until 2001, despite UNICEF's scepticism over the training of rebel

administrators as part of a humanitarian operation.[27] The organization repeatedly made clear that its role could not go beyond the "empowerment of grassroots level communities and [...] the promotion of efficient administration in local governance" through the strengthening of universal good governance principles such as the recognition of "grassroots communities [as] the legitimate holders of political rights and entitlements and [...] local government administrators [as their] representatives".[28]

UNICEF's work under the STAR project consisted of the organization of workshops and conferences with various purposes. Besides several workshops for the dissemination of the humanitarian principles contained in the Ground Rules, between May and June 1999 a civil society conference in Mapel was also held, mainly to discuss the root causes of the famine that had hit Bahr el Ghazal the previous year. A preliminary document prepared by Mario Muor Muor, a senior SPLA official, identified the causes of famine with "chronic insecurity" and "lack of basic services".[29] The unreliability of food supplies, he argued on behalf of the SPLA, was due both to Khartoum's war strategy of starving the "New Sudan", and to food diversion by SPLA individuals beyond the control of the central command. The individualization and criminalization of what was, in fact, a tactic of the rebel movement as a whole allowed him to make a further point: looting of food and other relief supplies had occurred because of weaknesses in local governance.

> What happened in Ajiep during 1998 is a case in point. Due to lack of viable presence of SPLA and civil administration, food was stolen and looted at will without anybody questioning the culprits. There was also widespread diversion of food by the chiefs who were given a free hand to distribute food, as they liked.[30]

To establish law and order was thus "imperative" for the SPLM/A:

> After all, those who loot and steal food are unruly soldiers of the SPLA and armed militias. SPLM/SPLA is legally [*sic*] and morally obliged to protect the civil populations from these criminals. It is not a policy of the movement to divert, loot and steal food and other relief items, but for SPLM/SPLA to allow these elements to continue to divert, loot and steal food and other relief items with impunity can be construed otherwise by other people.[31]

With this apparent *mea culpa*, the SPLA was thus asking for its government and judicial structures to be reinforced, perfectly in line with the purpose of the STAR project. Muor further suggests that it was time for "southern people's friends" to shift from an insufficient relief provision to development, if

[27] UNICEF (1999). *UNICEF/OLS – Sudan Transition and Rehabilitation Project. First Annual Report: October 1998–September 1999 (Operation Lifeline Sudan – Southern Sector)* [Annual Report]. Local Government Board Archive.

[28] Ibid., p. 8.

[29] Muor, Mario Muor (1999). Background to vulnerability in Bahr el Ghazal (BEG) Region. Learning from the past mistakes to find remedies. Conference on beneficiary rights and re-establishing resilience and sustainable livelihoods in Bahr el Ghazal (BEG) Region. UNICEF/OLS – SSRA/SPLM; Local Government Board Archive.

[30] Ibid., p. 7.

[31] Ibid., p. 8.

they were to tackle "the root causes of famine" rather than simply "cure its symptoms". This point is also reaffirmed in a conference document written by another SPLM official, complaining about the lack of sustainability of relief operations, the risk of "emergency-dependency syndrome" and the fact that the systematic bypassing of "local structures, institutions, staff" neglected local ownership and participation in processes controlled by NGO expatriates and the government in Khartoum.[32]

Consistently with the STAR plan of activities and with the SPLM-expressed needs, in July–September 1999 UNICEF and SRRA organized the first Civil Administration Training Course in Akot, Lakes State. While initially planned for 25 *payam* and county administrators, the number of participants was doubled following the high demand for attendance the course generated. Participants were selected by county commissioners under the supervision of the Secretariat for Interior and Public Administration, later renamed the Secretariat of Local Government, based on broad guidelines provided by the UNICEF project implementation team. The workshop, like other similar workshops that followed suit, aimed to improve democratic governance in the administration, increase civilian participation, accountability, transparency and respect of human rights by civil authorities, with particular regard to property rights and the rights of children and women. Besides setting general rules of behaviour for a "good administrator", the training also tackled technical aspects aimed at developing the civil administrators' capacity to deliver services effectively: keeping financial accounts, conducting general meetings, organizing public elections of various popular organs, and maintaining law and order in civil society were some of the topics addressed. In a training course held a short time later in Rumbek, administrators were even divided into categories in order to cover the different fields of social life they had to deal with.[33] By 2001, an indefinite number – ranging from 150 to 290 – of *payam* administrators and deputy administrators in Western Equatoria, Lakes and Bahr el Ghazal regions were trained, covering approximately half of the *payams* in the three regions (Dembowski, 2002).

The third component was designed to target the "community level" through the Grant Making/Capacity Building scheme (GB/CM), managed by CRS. Besides improving the people's living conditions through the provision of small grants for the start-up of income generation activities and loans for the purchase of capital equipment and supplies, the GM/CB component assigned a central role to County Development Committees (CDC). The CDCs came into existence in 1999 as a liaison

[32] Leek, P. T. (1999). Community participation and the role of traditional coping mechanisms in combating catastrophes, among the Dinka with special reference to 1998 crisis in Bahr el Ghazal. UNICEF/OLS – SSRA/SPLM Conference on Beneficiary Rights and Re-establishing Resilience and Sustainable Livelihoods in Bahr el Ghazal, Local Government Board Archive.

[33] They were: Law and Order, Social Services, Resources, Relief and Emergency, Cultural Development, and Representation and Policy. UNICEF/OLS (1999). Local Civil Authority Administration Course. Workshop Proceedings, second draft. Local Government Board Archive.

between INGOs, the SRRA and the population, a core idea of US development cooperation, considered an outstanding means of achieving good governance and peace (USAID, 2000). They were tasked with formulating development strategies and with implementing development programmes in their respective counties. CDCs were established in 17 counties and drew 30% of their membership from the civil authorities and 70% from civil society institutions such as women's organizations, cooperatives, farmers, traders, and disabled persons associations (Dembowski, 2002), though one might question how genuine all these forms of community organizations were in the wake of the "briefcase NGO" boom which had characterized the 1990s.

CDCs should have managed revolving funds when loans to selected beneficiaries for capital supply were repaid, but according to the STAR programme evaluation conducted in 2002 almost none of the loans were repaid. CDCs thus functioned as a channel to distribute external resources to local organizations and the local people, increasing the decision-making power of the civil administrators involved, who were also in charge of identifying the beneficiaries. In fact, the evaluation team noticed that the relationship between CDCs and the county administrators remained ambiguous, being described as ranging from independent to consultative to having a direct reporting responsibility (Dembowski, 2002). Despite being presented as a "major achievement" of the STAR project for bringing together representatives from the private and public sectors with local residents and thus being worth donors' technical assistance, CDCs proved not to be sustainable and disappeared shortly after.[34]

If we consider the objectives of the programme, STAR was not a success. Besides the lack of sustainability of CDCs, the extremely low rate of loans repayment and the short life of many of its initial achievements, many of the expected results of the CAT component – such as the creation of legislative bodies in counties and *payams*, preparation and approval of budgets, and keeping record of local administrators' activities – were not achieved. Accountability and transparency were not improved: planning, budgeting, revenue collection and expenditures records continued to be poorly managed and kept secret if they existed at all. The judiciary remained firmly under the control of the military, and it was unlikely to act independently when events such as rapes or requisition of property occurred. The SPLM expressed support for women's participation in the public sphere, but the 25% of seats for women in Liberation Councils at every level of the administration was not fulfilled and some women interviewed by the evaluation team claimed to have been invited to public meetings only to do the cooking. Despite specific training and the provision of some infrastructures, no service delivery from local authorities was in place after STAR had ended (Dembowski, 2002).

[34] Interview with Naoko Anzai, Programme Manager of Local Governance and Service Delivery project (World Bank)/former Project Manager for Local Government Recovery Project (UNDP), Juba, 02/11/2013.

Nevertheless, even if the commitment of the SPLM to good governance and democratic principles were only rhetorical, the "capture" of these programmes enabled the movement to acquire an increasing coordinating and controlling capacity over goods and services from external providers. On the one hand, this allowed it to position itself as a credible political interlocutor both for the internationally sponsored peace process and internally as the only force with governing skills and the capacity to attract external resources.[35] On the other hand, several observers provided evidence that, after 1998–9, living conditions in SPLM-controlled territory improved, with tax collection becoming less violent and NGO presence turning increasingly developmental (Dembowski, 2002; D. H. Johnson, 2003; Rolandsen, 2005).

## 4. Taking state-building "out of the bush"

Notwithstanding Mampilly's caution in looking at rebels as state-builders (Mampilly, 2011), it can be argued that, from the mid-1990s, the SPLM established a state-like structure, projecting its authority over the areas under its control. War-making and its rents, mostly in the form of relief aid flows, became a form of state-making in Tilly's terms (Tilly, 1985). Indeed, after a brief period of resistance against the Sudanese state, from the 1990s the movement engaged in the establishment of an alternative structure of governance with the clear ambition of taking on state functions in the New Sudan.

As the end of the war became increasingly likely with the signing of the Machakos Protocol in 2002, efforts at creating proper state structures, laws and bylaws increased. The "peace brigade" – as John Young (2015) called it ten years later – became more involved in the organization of workshops and training for civil servants and would-be government officials. The US, particularly, feared that the fragility of state institutions in the southern region could threaten the peace process, and committed itself to continued support to the nascent regional government. A large part of this engagement was – as suggested by the interview with a senior staff member of the USAID subcontractor quoted at the beginning of this chapter[36] – based on the assumption that the main reason for formally existing institutions to remain on paper was a lack of funding and capacity. While it is indisputable that South Sudan suffers from historical weaknesses in its education system, "lack-of-capacity" and "lack-of-resources" have become mantras for justifying the SPLM elite's continued requests for support from the donor community to strengthen the movement's structures and presence on the ground. These structures tended to be conflated with state and government ones in the post-

[35] This is an ability that has acquired increasing importance in the capacity of accumulating and holding on to power in South Sudanese society (Leonardi, 2013)

[36] Interview with senior staff, international organization, Juba, 01/11/2013.

2005 period. On the other hand, they became an easy leitmotif, providing an explanation for why they were not "getting things done" despite public declarations.

### 4.1 State-building the SPLM

As has been repeatedly argued, from the 1990s the SPLM leadership put great efforts into the adoption of a donor-friendly lexicon. *Peace through Development*, a pamphlet published by the SPLM in 2000, represents the most comprehensive endorsement of this kind of discourse, not only showing support to democratic institutions, but also linking democratic governance with development and peace. At the same time, the document testified the movement's increasing pretence of acting as the proper government of a nascent state, the New Sudan, which was to comprise the three southern regions (Equatoria, Upper Nile and Bahr el Ghazal, including Abyei), Southern Kordofan and Southern Blue Nile.

*Peace through Development* also contained a clear request for support for the movement's political and administrative structures necessary to improve governance and the provision of "social development" and services to the population. Both were considered outstanding necessities to allow Southerners' emancipation from relief and foster local self-reliance and economic development, ultimately leading Sudan out of the civil war (SPLM, 2000). Besides reaffirming the three pillars (or "tracks", as they are called in the document)[37] upon which the SPLM peace-building strategy was founded, *Peace through Development* also summarized the outcome of some of the workshops and conferences the SPLM leadership convened in the second half of the 1990s as part of the process of establishing the CANS. Among these were the conference on "Rehabilitation and Restructuring of Legal Institutions and Law Enforcement Agencies" (April 1999) and the Workshop on economic governance (October–November 1999), which designed the New Sudan fiscal system and foresaw the creation of a new independent banking system under the coordination of the Secretariat of Finance and Economic Planning.

Giving such a complete account of SPLM strategies of peacebuilding and development, so similar to international mainstream approaches to conflict resolution and post-conflict reconstruction in a liberal peacebuilding framework, *Peace through Development* confirmed once again the extreme ability of the SPLM to absorb and "digest" external inputs into its own political project, and its capacity of developing an astonishingly complex state-like structure, governing – or at least claiming to govern – every aspect of social life.

[37] These were: the negotiation of a political settlement with the Government in Khartoum (Track I); Strengthening the National Democratic Alliance – the umbrella organization of political opposition to the NIF regime – to provide a viable alternative to govern the New Sudan (Track II); "Peace through development", meant to bring socio-economic development and provision of services to the New Sudan (SPLM, 2000).

The signing of the ceasefire in January 2002 marked a turning point for Southern Sudan: the decrease in actual fighting left room for strengthening the structures of the local civil administration in a more comprehensive way (Mampilly, 2011). The Machakos Protocol, signed in June 2002, made prospects for peace between the SPLM/A and the government of Sudan more and more tangible, drawing a number of splinter militias back to the mainstream rebel movement. The SPLA's control of the Southern territory consequently increased through the co-optation of isolated military commanders (Young, 2006).

The beginning of the peace process was favoured by the normalization of the international community's relation with the government of Sudan, which, in 2001, agreed to sign key anti-terrorist regulations. In the same year, multilateral sanctions were lifted. The EU prepared a Country Strategy Paper for 2002–7 focused on supporting the peace process and delivering basic services in the form of food supplies and education. The UN established the Sudan Assistance Framework, aimed at supporting the peace process, recovery and development needs of the country, while the UNDP Country Cooperation Framework 2002–6 gave prominence to interventions at state level complemented by support to policy making at national level in the areas of peacebuilding, social inclusion, governance, environment and participatory rural development. Donors' coordination meetings were also held in Norway, the Netherlands and the UK to discuss and plan initiatives in support of the peace process to start recovery and reconstruction programmes (African Development Bank, 2003).

The years between 2002 and 2004 were characterized by intense institutional-design and policy-making activities, carried out on two parallel levels: a "diplomatic" level, resulting from the ongoing peace negotiation; and an internal one, led by the SPLM Secretariat of Local Government, Judiciary, Legal Affairs and Law Enforcement under the leadership of Daniel Awet Akot. The peace negotiations tackled political arrangements at national level and the creation of the Government of Southern Sudan. Despite the huge emphasis placed on decentralized governance in SPLM discourse, official documents produced in the framework of the peace process barely mentioned the local government level, with just a general reference to the decentralized nature of the government in the southern region. Both the CPA and the Interim Constitution of Southern Sudan (ICSS) rather focused on the national and state levels, as a consequence of the political nature of the negotiations led by John Garang. Indeed, his major concern was to ensure the highest possible degree of autonomy to the local communities vis-à-vis the Government of National Unity in Khartoum.

The establishment of the local government structures was thus left to negotiations within the southern elite and treated as an overall technical issue. Organizational structures (number of seats/positions in the civil service, number and kind of ministries, departments, commissions,

committees, organizational charts, etc.), infrastructural and equipment needs for newly established institutions and financial aspects (both resource-raising and expenditures) were discussed as priorities. The commitment to decentralization was constantly reaffirmed by the SPLM, resulting in each institution being replicated at all levels of the Local Government through decentralized or deconcentrated branches. SPLM local administrative structures – which, as has been shown, were never totally independent from the military command – were turned into local state structures, with politics being taken out of the picture. A division between what was allowed to be considered "political" and what was considered a matter of technical administrative arrangements thus began to consolidate in SPLM internal discourses. This division clearly emerged at the end of 2004 in the establishment of the SPLM Clusters, three working groups in charge of formulating recommendations on political, governance and military issues for the movement's leadership. Politics and governance were addressed separately: the Political Cluster was in charge of the SPLM transition from a guerrilla movement to a "robust political organization", transforming the "theocratic Sudanese state" into a democratic "people-based state"; the Governance Cluster, on the other hand, was concerned with the transformation of the CANS into the local government structure, comprising executive authorities, legislative institutions and the judiciary, all addressed from an organizational and functional perspective.[38]

References to the state as a whole are very rare in SPLM documents of the early and mid-2000s, while those to local government and local administration abound.[39] The Governance Cluster makes no exception, and only refers to "local government/governance structures" in its reports,[40] while in fact designing the local state. This contributed not only to the conflation of state and post-conflict government structures; also, it produced a conflation of SPLM and state structures as a whole, many of which were developed out of the movement guidelines or pre-existing administrative structures. In the words of the acting SPLM Chairman for Unity State:

> Historically, SPLM imposed itself as the leading and majority party. Everyone joined the armed struggle with us. Therefore, currently all the commissioners are from SPLM. The National and State constitution are shaped by SPLM constitution. It is the party that decides: for example on decentralization, on women quotas, etc. Most individuals in the government belong to SPLM. Our Governor is part of the SPLM political bureau. So, there is an overlapping between the government and the party. Some people say

[38] SPLM Governance Cluster (2005). Report of the SPLM Governance Cluster [Presented at the Workshop on Governance Clusters held in Rumbek]. Local Government Board Archive.

[39] Documents about the creation of the local government were stored, in 2013, at the Local Government Board Archive in Juba.

[40] SPLM Governance Cluster (2005). Report of the SPLM Governance Cluster [Presented at the Workshop on Governance Clusters held in Rumbek]. Local Government Board Archive.

this is not true, and that the government is not doing what SPLM wants, but this is not true. SPLM decides on everything, through its members.[41]

This exclusive character of the SPLM state-building project recalls the exclusivity of the CPA, which critics have identified as one of its major weaknesses (International Crisis Group, 2007).[42] However, in the CPA, this weakness was clearer, because politics had always been a crucial part of it and its influence on the outcome of the negotiation was very evident. The creation of Southern state structures, instead, was treated as a matter of finding the right institutional formula, but it resulted in an extremely exclusive exercise in which those who had proven to be capable of exercising local control or keeping relations with the international community received resources, training and, ultimately, political power.

### 4.2 Workshops as a "negotiation arena"

"Workshop" is a word that became very common in Southern Sudanese vernacular languages to refer to public meetings in which issues of public interest are discussed and some sort of decision is taken, at least in the form of the distribution of tasks or the creation of an ad hoc committee to address specific problems. The frequent use of the word "workshop" comes from the extensive organization of consultative workshops by development agencies not only for assessing local needs but also to engage local administrative and traditional authorities in the creation of government institutions.

SPLM local government institutions were involved in a wide range of workshops organized with the support of several international actors. UNDP in particular played a major role in the process of consolidation and development of SPLM's local state-like institutions between 2002 and 2005. This process received a major thrust in 2003, when the Secretariat of Local Government produced a number of "Laws of the New Sudan" addressing virtually every aspect of social, economic and political life.[43] This law-making impetus gave an even stronger image of the SPLM's commitment to building a democratic state apparatus based on the rule of law, a commitment constantly emphasized in every single internal policy document drafted during that period and strengthened through calls for international support for training and capacity-building for local administrators and would-be civil servants. In 2003, the SPLM appointed a seventeen-member Nairobi-based Focal Point on Local Government and Civil Administration, chaired by lawyer Richard Mulla, with the specific purpose of coordinating with donor agencies, mostly based in the Kenyan capital. UNDP promptly engaged

[41] Interview with SPLM Acting Chairperson for Unity State – Unity State Minister of Agriculture and Forestry, Bentiu, 01/02/2013. When asked what happened if a major government position such as the governorship of a state or commissionerships of counties were occupied by non-SPLM members, he candidly replied: "Well, we haven't thought of this possibility."

[42] Much of the negotiations took place between John Garang and the Sudanese vice President Ali Osman Taha behind closed doors (H. F. Johnson, 2016).

[43] Copies of the 'Laws of the New Sudan' are stored at the Local Government Board Archive, Juba.

with the Focal Point, not only providing it with office space in Nairobi,[44] but also discussing the way forward and the formulation of a Local Government Framework and Act to provide the forthcoming Government of Southern Sudan with strong local roots. By the end of 2003, the Focal Point had produced a draft "Framework for the Development of the Capacity of the Secretariat of Local Government and Public Administration in South Sudan", containing the core ideas upon which the SPLM wanted to develop its government structures, as well as detailed requests for the donor community, addressing them particularly to UNDP.

The first two drafts of the Framework drew from the 1981 local government system which introduced Area Councils, but kept the terminology adopted by CANS during the war, with county, *payam* and *boma* being identified as the three tiers of local government. In the initial drafts, the colonial administrative division between Bahr el Ghazal, Upper Nile and Equatoria was retained. The third draft, renamed the Local Government Framework of Southern Sudan, was completed in September 2004, right after the signing of the Power-Sharing Agreement (May 2004), and replaced the three regions with ten states as an intermediate level between the Regional Government of Southern Sudan and the local government. This was the result of a compromise with the northern system, where states had been introduced in 2003. In an unpublished note on the background to Local Government, Naoko Anzai, senior Project Manager for UNDP and the World Bank, asserts that the idea of states as an intermediate level of government was well-received by John Garang as a measure for counterbalancing the "risk of ethnic tensions" at local government level (Anzai, 2012) – something that had indeed emerged already after the establishment of CANS and the proliferation of administrative units.

Successive drafts were submitted for scrutiny to various international experts on governance and the public sector[45] and discussed in workshops organized by international donor agencies. The Local Government Technical Team, established in early 2004, was delegated further revisions, while other members of the Secretariat of Local Government were charged with assessing local administration in SPLM-controlled areas. They produced thematic papers on topics such as service delivery, democracy and participation, natural resource management, traditional authorities, fiscal decentralization and food and agriculture.[46] These topics were far beyond the scope of establishing the structure of the local government and, together with the process of constitutional formulation,

[44] Focal Point on Local Government and Public Administration (2003). *The Framework for the Development of the Capacity of the Secretariat of Local Government and Public Administration in South Sudan* (To be presented to a stakeholders consultative meeting on local government and public administration in Rumbek) [Draft]. Local Government Board Archive.

[45] Ibid.; Focal Point on Local Government and Civil Administration (2004). *The Framework for the Development of the Local Government and Civil Administration in New Sudan* (To be presented to a stakeholders consultative meeting on local government and public administration in Rumbek) [Draft]. Local Government Board Archive.

[46] Some of these papers were stored in the Local Government Board Archive, Juba, as per December 2013.

contributed to setting the scope and limits of would-be state policies. UNDP also contributed to the assessment effort, commissioning a study on the situation of the local government in three Southern garrison towns, Juba, Wau and Renk. The report highlighted the hike in nepotistic and clientelist practices in the appointment of civil servants after the regionalization in 1983 and the high variability of patterns of relations between the local government and traditional authorities. Poor infrastructural conditions of social service facilities such as schools and health centres, extremely limited financial resources raised locally or granted by the national government, as well as the lack of qualified personnel, caused systematic shortages in the provision of public services to the southern population even in government-controlled areas. The report also found huge gaps in civil servants' administrative capacity, which often resulted in lack of transparency in public expenditures and an overall lack of accountability towards the local population. Though these findings were limited to the (very few) government-controlled areas in the southern region, they reflected the image of fragility that the SPLM's documents had been advancing from the end of the 1990s[47] and strengthened the movement's demands for training and capacity building. These demands were met, again, thanks to the donors' financial support in the organization of technical and leadership training for SPLM local government officers. These officers were of two kinds: the newly recruited military-trained officers who had never received any administrative training, and older experienced civil servants who had served in the local government system in the 1970s and were redeployed as civil administrators as soon as the CANS was established after having joined the SPLA in the 1980s and 1990s (Anzai, 2012).[48]

A comprehensive mapping of all the workshops, meetings and training courses realized in the period 2002–5 and immediately thereafter, as well as a detailed study of the type of discourses they promoted, would be extremely useful in tracing the influences of international approaches to post-conflict governance on the SPLM's internal discourses and institutional development. Indeed, others have looked at capacity building initiatives as "points of interaction and spaces for dialogue between donors and recipient governments" (Bergamaschi, 2014, p. 274). However, the fragmentary nature of available documentation and the poor institutional memory of the international organizations involved in such processes make it very challenging to produce a comprehensive picture of all the "negotiating tables" (Hagmann & Péclard, 2010; Leonardi 2015) initiated in those years. With no pretence of providing a definitive and complete analysis, however, it is possible to advance some general reflections on how the SPLM co-opted the material and symbolic resources provided by these

[47] Kot Riak, A. (2004). Municipal Governance in Government of Sudan controlled Towns (Renk, Juba, Wau). UNDP/Institute of Public Administration and Federal Studies, University of Khartoum; Local Government Board Archive.

[48] See also Skills for Southern Sudan (2004, October 13). Administrators' training workshop. Workshop Proceeding. Administrators' training workshop, Rumbek. Local Government Board Archive.

workshops into its strategy of extraversion in the establishment of local state and government structures.

First, from the analysis of the lists of participants in both institutional and policy-design workshops and administrative training, an astonishingly complex pre-existing state-like structure emerges at the level of local branches of the SPLM. When signing up as participants in a certain workshop, people introduced themselves with very specific titles and positions following the institutional structure of a state in all its aspects: agriculture extension officers, child protection officers, finance officers, syndicated organizations representatives, economic commission, legal affairs and constitutional development secretariats, etc. These are only a few of the locally existing variety of SPLM-related offices and departments, with the clear ambition of regulating every aspect of life not only at the central level, but also in more peripheral areas, where nuclei of statehood were reproduced loosely based on directives from the headquarters. Of course, one could argue that there is very limited evidence that these distinctions in the roles of civil servants and public security forces were anything more than local initiatives. The variance in titles and groupings that people used to register themselves in the workshops may indeed account for the difficulties in circulating information and for a lack of actual coordination from the centre. Nevertheless, the idea of how a civil service should be structured and of the division of organized forces between the army and other civil security forces (such as police, wildlife, prison forces) was appropriated by the movement and clearly penetrated all areas under its control.

This leads to the second point: these training programmes and workshops provided a valuable meeting opportunity for SPLM's people in distant areas, and thus a tool for spreading the SPLM's vision and modes of governance. This would have been difficult otherwise, in a context where telecommunication and transport were still a challenge even fifteen years after the CPA. Provision of transport in the form of flight tickets, fuel and road rehabilitation was always one of the main concerns emerging from planning documents in preparation for these workshops.

Third, the involvement of SPLM civil administrators in the process of establishing the local government and other state institutions, as well as in training, meant the legitimation of people appointed to public functions often with no other merit than being a loyal ex-combatant in the movement. Leonardi (2015) has analysed the role of public meetings in the establishment of hierarchies and in the legitimation of the power of the participants, but in this case SPLM civil administrators were not only legitimized but also trained in successive workshops organized by several development agencies on the basis that they lacked capacity to implement good governance, and therefore acquired an aura of respectability as skilled local government officers in a society that places great value on education and expertise. If the lack-of-capacity claim thus justified massive

engagement in curricula development, training sessions and international experts consultancies, giving a semblance of serious commitment to good governance, the holding of screening examinations in 2007–8 to check the qualification of local government officers did not compel the SPLM to change its recruitment policy: claims of lack-of-capacity and lack-of-(human) resources were still used to keep in place or appoint people who did not undergo any – or very little – administrative training.[49]

Considered singularly, workshops constituted negotiation tables in which every move of the SPLM leadership regarding local government establishment was shared and discussed with donors, organizers of the workshop, NGOs and any other concerned "stakeholder" – a word very much in vogue in the framework of participatory approaches to development. However, the outcome of this process of discussion and negotiation taken as a whole goes beyond that of each workshop and meeting, suggesting the existence of a "negotiation arena" in the sense that Hagmann and Péclard (2010) attribute to the term. Negotiation arenas, they argue, transcend "classical political scales and units of analysis such as the state–society dichotomy or the local-national-international levels". Their special, social and temporal dimensions "need to be traced empirically on a case by case basis" and are characterized by "more or less formalized and routinized ways" of statehood negotiation (Hagmann & Péclard, 2010, p. 550). Workshops as a negotiation arena involved multiple actors and multiple scales of negotiation – the local, the national, the international; on the one hand, they helped strengthen SPLM's international legitimacy as a source of state-like power; on the other, they enabled the consolidation of modes of governance based on appearances and external resource-raising, ultimately encouraging a process of state formation largely dominated by SPLM's control.

## 5. Conclusion

This chapter has focused on SPLM's state-building attempts during the civil war and on how its experience of guerrilla government shaped its state-building project for post-war Southern Sudan. In particular, it analysed the strong relationship developed in the later years of the civil war between the rebel movement and international agencies providing humanitarian aid to South Sudan. International programmes represented a new thrust of externally led state-building efforts aimed at establishing a central, unique source of authority capable of controlling the "liberated areas". The convergence between the two state-building projects of the SPLM and of the international community, understood as the deliberate effort of concentrating power into the hands of an identifiable and structured ruler

[49] Interview with *payam* administrator, Geng-Geng *payam*, Yirol Town, 05/12/2013; personal communication with local officer at Local Government Board, Juba, November 2013.

within a circumscribed territory, was made possible by the de-politicized character of the discourses dominating the international arena of intervention in the name of peace, good governance and development. The ability of the SPLM leadership in capturing external resources, as well as the depoliticizing discourses around international state-building intervention, made this convergence possible, with SPLM governance structures progressively turning into state structures through international support. The SPLM confirmed extraversion as a defining characteristic of statehood in the southern region of Sudan. Its success in establishing a state-within-a-state cannot be separated from the support it received from external actors.

The external thrust to state-building, which has been analysed here with a specific focus on Operation Lifeline Sudan, on the STAR project and on the wealth of capacity-building and training workshops that were organized in the 2000s, strengthened the SPLM well beyond the humanitarian purpose of "deliver[ing] the loot without the good guys getting shot" (Crossley, 2004, p. 141). In doing so, it provided resources to continue a historical process of state formation based on violence-bureaucratization-legitimation without questioning the political control of the whole process that the SPLM elite managed to maintain, which was widely underestimated by its international partners together with the continuities between rebel governance and post-conflict governance. The SPLM's symbiotic relationship with aid, and particularly with aid directed to the governance sphere, survived to the creation of the Government of Southern Sudan and the country's independence, and continues to provide crucial material and symbolic resources feeding into internal political dynamics.

# Chapter 3 – Post-conflict decentralization

## 1. Introduction

> We have not wrested power from a hegemonizing national centre to allocate it to another centre that is based on the political elites of the South. Power shall be exercised by the states and indeed by local governments within the states. Armed with the necessary powers and equipped with the needed resources, this style of governance shall ensure a more efficient delivery system of development and services. The principle of decentralization of power is a time-honored principle since it responds to local social and economic situations, not least amongst which is the neutralization of the centrifugal forces [...] which are generally the consequence of failure by Central Authority to address local problems and concerns. Such local problems and concerns cannot be effectively addressed from the Centre since such Authorities are far away from the people; they can only be effectively addressed by empowered local authorities that have both the necessary power of decision making and the necessary resources to implement such decisions (Garang de Mabior, 2004).

With this speech, delivered after the signing of the Nairobi Declaration[1] in 2004, John Garang summarized the reasons for opting for a decentralized system in Southern Sudan. From an ideological point of view, a decentralized system was in direct contrast with the centralizing policies of the Sudanese Government. At the same time, more pragmatically, there was a general agreement between local, regional and international actors in considering it the only alternative to govern a highly diverse and fragmented society such as the South Sudanese one.

Garang used a language that could well be understood and shared by international donors: he mentioned the effectiveness of service delivery, the responsiveness to local needs and the right to self-rule, which would counter local centrifugal forces through the empowerment of local authorities. His speech was ultimately in line with mainstream approaches to decentralization in post-conflict societies, which tend to consider decentralization as a viable strategy to reduce violent political competition at the centre and make governments more inclusive and responsive to local grievances – also improving service delivery (Siegle & O'Mahony, 2019).

Southern Sudan's decentralized system of government was thus a shared project, designed in partnership with the international donor community, following the pattern of cooperation with the SPLM: a pattern made of consultative workshops, training, and consultancies. Its result was the formulation of a complex legal framework and the actual establishment of local government structures – including the construction of offices and the recruitment of personnel. The international community, and UNDP particularly, considered it a vital step in Southern Sudan's state-building process, and invested in it.

[1] The Nairobi Declaration opened the final phases of the peace negotiation that led to the signing of the Comprehensive Peace Agreement in 2005.

However, as this chapter will argue, the decentralized system of government established with international support was mostly implemented as a form of isomorphic mimicry. Far from passively accepting an externally imposed reform, as it was sometimes claimed by local politicians,[2] Southern Sudan's political elite actively engaged in claiming and implementing decentralization, but with a substantially different objective. Rather than democratizing local governance and making it more responsive, its aim was, firstly, to create the image of a state that could effectively negotiate with external resource-providers and display some degree of reliability: the fact that some aspects of the reform were being implemented – the establishment of local government institutions, planning and budgeting processes, periodic meetings across the country – showed commitment on the part of the government. The fact that other aspects were not being implemented (local election, thorough recruitment processes, procurement, etc.) was justified with vague but well-established claims of lack of capacity and lack of resources. These claims were repeatedly used to ask for more funds from the donors and were usually successful.

Secondly, besides displaying the image of a reliable state, the SPLM needed decentralization to widen the space to accommodate political opponents. To some extent, this reflected the idea that decentralization would widen the political arena to include local grievances and direct them to the local level; in fact, however, the SPLM co-optation strategy did not aim to address local grievances but rather to buy loyalty from individuals who could threaten the status quo, and therefore mostly expressed itself in the form of salaried positions – or positions from which it was easy to extract resources from the local population. This chapter thus shows how the apparent implementation of the decentralization reform was used by the Government of Southern Sudan as an effective strategy of extraversion to ensure continued flows of donor resources while leaving the relations between the centre and the periphery of Southern Sudan untouched.

This process highlights the increasing divergence between state-building, understood as the set of projects and programmes – and their outcomes – aimed at establishing the state apparatus; and state formation, understood as the process of "vulgarization of power" (Berman & Lonsdale, 1992) that enables different actors to accumulate and exercise power, building upon historical legacies and current opportunities. While it may seem that state-building and state formation are in a dichotomous relationship, with state-building running at a shallow level of the institutional settings and state formation involving deeper levels of the structuring of political constituencies, the two are strictly related: state formation is influenced by state-building, even though not always in the pre-determined direction.

[2] Interview with Daniel Awet Akot, Member of the National Legislative Assembly, former Chairperson of SPLM Local Government Secretariat, Juba, 12/12/2013.

## 2. The benefit of post-conflict decentralization: dream or reality?

From the early 2000s, in parallel with more traditional institution-building at national level, various international organizations have supported decentralization reforms in post-conflict countries. According to UNDP:

> Local governments are now increasingly considered to have a key role in responding to the socio-economic needs of affected populations in both the immediate post-conflict humanitarian/early recovery phase and in the long term, as part of the consolidation of peace and State-building. Local Government authorities are viewed as pivotal in bringing formal state institutions into direct contact with their citizens and thus play a crucial role in establishing inclusive patterns of post-conflict governance, responsively providing services to divided populations and consolidating resilient law and order. Furthermore, attention to local governance can give voice to the local population, and enhance their participation in the reconstruction and peace building efforts and thus alleviate tensions based on social exclusion, polarization and regional disparities that are often at the origin of conflicts. It is also an essential means for increasing national capacities and ownership to lead recovery efforts across all the key phases, from the identification of needs, to planning, programming, implementation and monitoring (UNDP, 2010, p. 3).

Decentralization reforms were included in the portfolio of donor's "good governance" reforms from the 1990s, when attempts at achieving democratic decentralization replaced the 1980s' privatization and localization of service delivery (Olowu & Wunsch, 2004; Rondinelli et al., 1983). They were given great expectations in terms of developmental and democratic outputs: to increase equity and efficiency in government action and delivery capacity; to increase the government's downward accountability, thus reducing corruption and improving the quality of democracy; to strengthen civil society and regimes' stability through improved participatory mechanisms (Crawford & Hartmann, 2008). Between the early 1990s and the first half of the 2000s, UNDP supported decentralization programmes in 100 countries. These included conflict-affected societies, where decentralization was also expected to mitigate social and political conflicts, to extend state authority to contested areas (Macedonia and Aceh/Indonesia) and to areas under the control of warlords (Afghanistan), as well as to strengthen states' penetration in remote areas (South Sudan), ultimately increasing the state's visibility, credibility and legitimacy (UNDP, 2004). In ethnically diverse societies, particularly, decentralization is believed to ensure minorities' representation and defuse competition at the central level through the creation of other local arenas of decision making, deactivating a possible "winner-takes-it-all" political dynamic (Siegle & O'Mahony, 2019).

Few studies exist on the relation between decentralization and intra-state conflict, and all raise doubts about the possibility of establishing direct links between decentralization and peace. Instead, radical critics of decentralization reforms argue that decentralization can have divisive outcomes, both because of elite capture and because of the strengthening of locally defined citizenship to the detriment of a national one (Boone, 2003; de Simone, 2013; Lentz, 2006a; Schelnberger, 2008). It

can also represent an instrument of reconstruction of the central state, bringing a re-articulation of the relations between centre and periphery and ultimately allowing the former to confirm its rule over the latter (Aalen, 2019; Otayek, 2007). One good example of re-centralization through decentralization is Museveni's Uganda: the transformation of Resistance Councils, which had formed the administrative structure of the National Resistance Movement during the war, into local government structures had the double purpose of strengthening Museveni's control of the rural areas (Green, 2010; Wang et al., 2005) while also dividing his political opposition through splitting its territorial base into relatively autonomous units (Romeo, 2002). If on the one hand this brought a demilitarization of politics, providing other means to assert the supremacy of the ruling elite, it also fuelled new local conflicts linked to access to resources (Schelnberger, 2008). Thus, the outcome of decentralization reforms does not necessarily strengthen democracy and peace: this is usually not because of poorly planned reforms, but rather because of a mixture of context-specific factors that range from the nature of the political system to historical legacies in the exercise of power (Aalen, 2019; Siegle & O'Mahony, 2019). Internationally sponsored programmes to create decentralized government structures in conflict-affected societies are therefore prone to being captured by local elites with alternative agendas following previous patterns in the exercise of power, reflecting the local political background and the structure of opportunities provided by their relationship with external resource-providers. This seems to be particularly true in contexts characterized by a very polarized political landscape, where decentralization may accentuate parochial interests, weakening the relationship with the centre (Siegle & O'Mahony 2019); as well as in contexts characterized by a weak monopoly of force by the central state, where decentralization can encourage (sometimes violent) centrifugal thrusts (Sambanis, 2002).

Some authors have noticed that donor-supported decentralization reforms have often failed to bring expected positive outcomes (Aalen, 2019; Crawford & Hartmann, 2008; Olowu & Wunsch, 2004). Leaving aside the normative approach to the analysis of decentralization, as well as the explanation relating its failures to poor implementation, Aalen (2019) encourages us to look at a government's motivation to pursue this kind of reform. A government's motivations are often pragmatic and rather concern regime survival and adaptive strategies to changing circumstances. In South Sudan, the political elite that took power after the CPA supported decentralization for both normative and pragmatic reasons. From a normative perspective, decentralization was in direct opposition to the centralized system of government implemented by the government of Sudan since independence. The short – and failed – experience with a "federalism lite" (Johnson, 2014b, p. 19) system established by the Addis Ababa Agreement (1972), as well as the subsequent claim by Omar el Bashir of having established a federal system in 1994, led SPLM leaders to distance themselves from

the historical southern claim for a federation and to turn to self-determination through a system of decentralized government. From a pragmatic perspective, decentralization was expected to create more space to accommodate political grievances at the local level, distancing them from the centre, displacing tensions from the central government to the local. Importantly, the inclusive character of a decentralized system and its potential for strengthening accountability and democratic participation were also important elements in the SPLM's negotiations with the donor community: SPLM's pragmatic motivations to support decentralization thus resonated with international motivations and became a successful extraversion strategy to continue receiving external support even in the absence of concrete results.

## 3. The establishment of the local government

Just days before his death, John Garang dissolved SPLM local governance structures, sanctioning the official start of Southern Sudanese statehood independent of party structures.[3] Decentralization was mentioned as a system of government by both the CPA and the Interim Constitution of Southern Sudan (ICSS), but neither detailed its structure and functioning.

A Local Government Board (LGB), provided for in the ICSS (art. 173), was created in May 2006 and replaced the SPLM Local Government Secretariat as the central coordinating agency for the local government. The LGB was composed of five appointed senior civil administrators. Its members were extremely disappointed by the absence of a proper Ministry of Local Government at central level: the LGB was located under the responsibility of the Office of the President and this was widely interpreted as the reflection of a lack of interest in empowering the local government on the part of the Government of Southern Sudan led by Garang's successor, Salva Kiir Mayardiit.[4]

Despite its limited autonomy, the LGB soon became donors' major counterpart in the negotiation of state-building and capacity-building programmes. DFID, GTZ, USAID, and various international NGOs, all had intense communications with LGB members to plan and implement their projects. UNDP in particular engaged with the LGB in the definition and dissemination of the local government legal framework, even though the LGB's proactivity in the process was described as very limited. According to a senior UNDP programme manager, the consultation process for the formulation of the Local Government Act was: "a combination of presentations by the drafters and acquiescence by workshop participants, instead of thorough discussion for clarifying the fundamental constitutional

[3] Garang de Mabior, J. (2005). SPLM Chairman Decree No.1, 2005: Dissolution of SPLM/LC, SPLM NLC, SPLM NEC and SPLM Regional and County Administrations. Local Government Board Archive.

[4] Interviews with Eli Achol Deng and Nikodemo Arou Man, Local Government Board Members, Juba, November 2013.

structure at the sub-national level" (Anzai, 2012). Daniel Awet Akot, former SPLM Local Government Secretariat chairman, stated in an interview: "We are trying to understand what system is better for South Sudan. [...] [The one we have], it's because the donors said: 'Please, East Timor is doing this, you should also do this!'".[5] He thus suggested that decentralization was a mere façade that the SPLM had to accept as a blueprint imposed by the donors. International agencies did play an important role in speeding up the law-making process and in supporting all the dissemination activities. To give just one example, at a public briefing on the draft Local Government Bill held in Juba shortly before the enactment of the law, it was a representative of UNDP who gave a "technical presentation of the bill, chapter by chapter", rather than any government representative.[6] Nevertheless, these attempts at portraying the local political elite as a passive recipient of policies designed and decided abroad account neither for the actual commitment on decentralized governance – at least on paper – expressed more than once by the SPLM leadership; nor for the ideological and pragmatic considerations that led the former rebel movement to adopt specific provisions within the legal framework.

Southern Sudan's government structure saw the light as a three-layered system, with a national level corresponding to the southern regional level, a state level, and a local level. According to the post-CPA legal framework, the territory under the jurisdiction of the Government of Southern Sudan was formed of ten states. These were retained from the Sudan local government reform of 1994, even though their establishment in Southern Sudan had remained largely on paper and their boundaries were often arbitrary.[7] Each state had a legislative assembly, a High Court and an executive branch led by an elected governor and its appointed ministries. States were collectively represented at national level by a Council of States and had considerable exclusive competences as well as concurrent powers with the national government. Even though the word federalism never appeared in the legal documents due to its perceived divisive character (Johnson, 2014b), the ICSS did delineate a federal system. It stated that government's authority derived from the "will of the people" (art. 53.3) and it decentralized services such as the judiciary, public attorneys, police, prisons, wildlife and fire brigade.[8]

[5] Interview with Daniel Awet Akot, Member of the National Legislative Assembly, former Chairperson of SPLM Local Government Secretariat, Juba, 12/12/2013.

[6] UNDP, & Local Government Board (2009). *Programme for the Briefing on the Local Government Bill 2009.* Local Government Board Archive.

[7] Douglas Johnson reports that Warrap state, for example, was only created upon the request of the governor of Bahr el Ghazal state to create a state in his home area (Johnson 2014b).

[8] This situation changed with the post-independence Transitional Constitution of the Republic of South Sudan, which defines a decentralized system of government where the government's authority is derived from the constitution (not the people) and where previously decentralized services are recentralized.

The structure of the local governments is detailed in the Local Government Framework (2006) and Local Government Act (2009). The highest level of local government is the Local Government Council, which can be of three types: rural council (known as county), urban council, and industrial council. The great majority of local government councils remained rural councils even years after the creation of the new system, with only a handful of urban councils[9] and no industrial councils. Councils oversaw two other layers of administrative units, which for counties were named *payam* and *boma.* The latter was the smallest administrative unit whose name was taken from the name of the first village of which the SPLA had taken control at the beginning of the civil war.

**[PLACE TABLE 2 HERE]**

Covering the whole, mostly rural, Southern territory, counties became the most important unit of local government. They were supposed to be governed by an elected commissioner and legislative council, and to be delegated service delivery and development responsibilities with a significant level of financial autonomy, which increased over time through the authorization to receive direct grants from international organizations as well as funding from the national government (Gurtong Project, 2013).

The Local Government Framework (2006) established 78 counties, reducing in number the 98 recognized by the SPLM at the end of the war. To counter the arbitrary – often ethnic – criteria of the creation of new counties and other administrative units during the war, the LGA introduced official criteria based on the size of the territory and on the population number. New Local Government Councils could not be established by sub-national authorities, as often happened during the war, but needed to be recognized by a presidential decree. These criteria had already been discussed in late 2004, during the refresher workshop for administrators held in Rumbek, in an attempt to replace the idea that the establishment of local government units was to be based on the number of sub-units within their jurisdiction. The new formulation tried to encourage the spontaneous merging of small communities for administrative purposes, separating the domain of statutory institutions from chiefdoms (Leonardi, 2013). The LGA set a population of 70,000–100,000 for a county, but it also kept the criterion based on sub-units, stating that a county could be formed of 3–4 *payams*, while a *payam* could be formed of 3–4 *bomas*. *Bomas* should have a population of 5,000–10,000 each

[9] During an interview in 2013, Naoko Anzai, senior Project Manager working on local government in the region since 2009, reported the establishment of urban councils in Juba and Malakal by the state governments of Central Equatoria and Upper Nile States respectively. The new urban councils were not ratified by the central government, excluding them from any financial transfer from the central government. The new urban councils remained dependent on their respective county for any expense, undermining the autonomy of urban councils. Interview with Naoko Anzai, Juba, 02/11/2013. By 2016, Juba, Wau, Malakal, Torit and Yei had (appointed) urban councils in place. Other municipalities (Bentiu, Aweil, Yambio, Kuajok, Rumbek and Bor) had been created but had no local government structures (de Simone & Hirblinger, 2016).

(Government of Southern Sudan, 2009b, Appendix I). The same section of the act also adds other criteria: economic viability (to be able to cover 35–45% of its total budget expenditures); effectiveness (to be effectively able to control the territory); and "common interest of the communities (consideration of minority or majority ethnic group cases as may be decided by the Southern Sudan Legislative Assembly)" (Government of Southern Sudan, 2009b). The latter criterion suggests that ethnic minorities may be considered entitled to a Local Government Council of their own on a mere ethnic basis. The rigidity of the other criteria introduced is also softened, since each of them "shall be variably applied for the creation of each council" (Government of Southern Sudan, 2009b), giving back a good degree of arbitrariness to the government.

Below each county, *payams* and *bomas* were headed by appointed administrators. *Bomas*, particularly, were defined as the "basic administrative unit of the county" (Government of Southern Sudan, 2009b, Definitions), but statutory administrators were rarely appointed at that level and administrative functions were delegated to the local chiefs.

## 4. Looking like a state

In spite of the minor role it played in Southern Sudan during the war, UNDP took a particularly active stance in state-building Southern Sudan during the interim period. It promoted what was perhaps the broadest programme – both in scope and budget[10] – targeting the local government in Southern Sudan: the Local Government Recovery Programme (LGRP).[11]

In early 2004, UNDP commissioned a study on the state of the local government in the southern region with a particular focus on structures created by the Sudan Local Government Act 2003. The expert concluded that: "The assessment of out put [*sic*] (quantity and quality) of each [local government unit] against the accepted world-wide principles of local government, has revealed that the existing local bodies are neither local government nor field or decentralized administration".[12] Indeed, he found that local governments only collected taxes, and were incapable of any sort of delivery to the local population. He suggested that this might have been caused by the lack of capacity, "tribalism" and patronage. He concluded that official local government structures existed only on

[10] The programme was funded by the European Commission and DFID for a total of $46.9 million dollars in its first phase (2006–8) plus US$11,5 million in the second phase.

[11] UNDP & Local Government Board/Government of Southern Sudan (2009). Local Government Recovery Programme Phase II. Local Government Board Archive; UNDP (2006). LGRP components and budget. Local Government Board Archive.

[12] Kot Riak, A. (2004). Municipal Governance in Government of Sudan controlled Towns (Renk, Juba, Wau). UNDP/Institute of Public Administration and Federal Studies, University of Khartoum; Local Government Board Archive, p. 1.

paper in many areas, and that there was a generalized lack of coordination, standardized procedures and rules of operation.[13]

Initially named the Local Government County Recovery, the LGRP came out of a process of consultation started in Rumbek in 2004, when a Local Government Recovery Planning workshop was held with the participation of senior SPLM commissioners, SPLM Regional Representatives, members of the secretariats (Finance, Local Government, Public Services, Health and Education) and representatives of seven donor and support agencies. It was funded by DFID, the Netherlands and the European Commission, and involved several international NGOs, with PACT and CRS in a leading position. The programme identified three priority areas of intervention: the formulation of recovery and development plans for counties and municipal councils; the creation of a Local Government Development Fund to finance the projects included in the plan; and capacity building at all levels.[14] Counties and municipal councils were identified as central players in the planning process, while implementation and service delivery had to be carried out by international partners and non-state actors.[15]

Actively engaging in the project formulation from the beginning, the Local Government Secretariat created three technical teams in charge of the three regions, Greater Equatoria, Greater Bahr el Ghazal and Greater Upper Nile. These teams were tasked with the organization of "state familiarization visits" to gather baseline data on the status of local government in Southern Sudan's SPLM liberated areas,[16] which would provide a complementary source of information to the study commissioned by UNDP in 2004. They found that counties were characterized by heavy over-employment and the very low educational level of the employees. Recruitment was often used as a reward for political and military allies, especially at the local level. Since more educated personnel were needed in SPLM secretariats to deal with development agencies and comply with nascent bureaucratic procedures, employees who did not meet basic education requirements (including being literate) were redeployed to sub-national levels of government. According to the LGB chairman, this compromised the effectiveness of the local administration: he complained about the local government being treated as a "dumping-bin for all the scums of other ministries",[17] and announced a "sieving"

[13] Kot Riak, A. (2004). Municipal Governance in Government of Sudan controlled Towns (Renk, Juba, Wau). UNDP/Institute of Public Administration and Federal Studies, University of Khartoum; Local Government Board Archive.

[14] SPLM Local Government Secretariat, UNDP, PACT, CRS, & British Council (2004). Report on Design workshop of Local Government Recovery and Development Programme. Local Government Board Archive.

[15] SPLM Local Government Secretariat, UNDP, PACT, & CRS (2005). SPLM Local Government Planning Workshop. Yei; Local Government Board Archive.

[16] Local Government Board (2006, August 22). Letter to the Presidency, Government of Southern Sudan. Local Government Board Archive.

[17] Suleiman, C.A. (2006). Speech of the Chairman of the Local Government Board on Commissioners Consultation on Local Government Framework in Yei. Local Government Board Archive.

process in 2006 to test all county administrative officers. This sieving process became one of the pillars of the LGRP, in which training and screening were included among the core activities. The requirements emerging from this process of consultation constituted the basis for the design of other projects and programmes in support of the local government and its coordination body, the LGB.

As with many other state-building projects involving staff training, the building of local government infrastructures, or the accomplishment of specific tasks to establish local government institutions, the outcome of LRGP was a form of isomorphic mimicry that has been observed by several authors in different domains. The concept of isomorphic mimicry comes from biology, where it is used to identify the capacity of certain animals to look like other animals to increase their chances of survival. Paul DiMaggio and Woody Powell (1983) applied it to organizational theory and argued that it can be a strategy of survival for both public and private organizations. The concept has also been applied to the study of public sector reform (Andrews 2009) and to international development (Pritchett et al., 2013). Isomorphic mimicry can be defined as "the ability of organizations to sustain legitimacy through the imitation of the forms of modern institutions but without functionality" (Larson et al., 2013, p. 10). Andrews et al. (2017) have described isomorphic mimicry as a technique of "successful failure", which enables states to display institutions that are not functioning, but that serve other purposes related to the survival and reproduction of the state. Developing countries' external legitimacy often depends on their adoption of international agendas and solutions, the so-called best practices. These best practices become effective if they are adapted to the local context through context-specific measures, but this only happens if there is some pressure on basing evaluation (and thus legitimacy) on performance rather than on the mere creation of institutions and procedures. Otherwise, reforms will only "enable [these countries] to 'look like a state' without actually being one" (Andrews et al., 2017, p. 46). The reproduction of the state shell can be effectively understood as a strategy of extraversion (Bayart, 1999) aimed at ensuring continued financial flows from the donor community, with the ultimate objective of strengthening the regime and enabling its reproduction.

This is pretty much what happened in Southern Sudan during the crucial phases of the establishment of its local state structure and local government institutions. In particular, the LGRP encouraged isomorphic mimicry in two major areas: the construction of an "aesthetics of the state" at the local level, and the enhancement of the legibility of local government practices to outsiders, which directly speaks to dynamics of legitimacy-creation both externally, with donor agencies, and internally, with the local population.

## 4.1 The aesthetics of the state

On the morning of 13 November 2013, just about a month before the outbreak of the civil war, I was conducting field research in Rumbek. That morning, I called my usual *boda-boda* (motor-taxi) driver and asked him to take me to the Hill View Hotel, one of the fanciest hotels in Rumbek. He looked impressed. "Are you going with the commissioners?" he asked. He had heard in town that all the county commissioners from Lakes State were in Rumbek for a meeting and that the Governor was expected to deliver a speech. The hotel parking lot was full of dark-coloured Land Cruisers (not the usual white UN/NGO ones) adorned with bizarre plastic decorations, and drivers sitting in the shade In the crowded hotel yard, there were a few white people, mostly representatives of various UN (including the United Nations Mission to Southern Sudan) and development agencies. Armed soldiers were everywhere, and their number increased as soon as the Governor stepped in. After a few introductory speeches in English, the Governor took the floor, addressing the audience in Dinka (the local majority language in the area) and suspending the meeting because many local government officials and officers had failed to meet the local government dress-code. He scolded them about the image of respectability of the local government that they were supposed to convey to outsiders and to the population observing them from the surroundings of the venue, and postponed the beginning of the meeting until they came back in uniform or tie and suit, depending on their role. The three hour delay with which the meeting started was later dumped on local government officers, as the time for their presentations and discussion was squeezed in order to allow the Governor to give his concluding eighty-minute speech.

Besides providing a revealing example of how hierarchies are affirmed and reproduced through speeches at public meetings (Leonardi, 2015), this episode is telling about the perception of the precise requisites that the local government's appearance needs to meet. In a militarized context such as South Sudan, this appearance has to do with the display of force (through the presence of the military), wealth (through the parade of decorated cars) and power (through arbitrary time management of the meeting and public scolding of the governor's subordinates). These elements can be related to what Achille Mbembe called "aesthetics and stylistics of power", referring to body metaphors of greed and to ostentation of wealth and coercive power through ceremonialism and exhibitions of grandiosity characterizing power in post-colonial Africa (Mbembe, 1992). In fact, what I am here referring to as the "aesthetics of the state" has rather to do with the *physique du rôle* of the local government and with ordinary aspects of its everyday life. These include the physical appearance of local government officials and officers, such as clothing. In several other instances

local government officers gave absolute priority to wearing proper clothes if they had to receive visitors, postponing the meeting if they for any reason failed to do so.[18]

The existence of local government buildings can also be considered an integral part of the aesthetics of the state at the local level. The lack of proper offices for *payam* administrators was often cited as one of the main reasons why local authorities were unable to work,[19] and in some cases, used as a justification for the absence of *payam* administrators from their own *payams*.[20] Conversely, the existence of a permanent office was a matter of great pride for *payam* administrators, and always asked for at meetings with development agencies.[21] It is not by chance, then, that the budget item "Infrastructure support for LGB, States and Counties" received the biggest share of the LGRP US$5,745,511 budget for 2006.[22]

The aesthetics of the local state, however, is not only limited to strictly physical features, but also includes the staging of meetings and forums, showing – or, to those who are excluded from it, such as ordinary citizens like the *boda-boda* driver, just giving a hint of – how the government process works. [23] In this, the LGRP played a remarkable role in the wake of UNDP's support in moving around SPLM officials right before the end of the war. This played a double role in the Southern Sudan state-building process: on the one hand, it provided important occasions of exchange among local government officers and officials that helped, just as they did before the end of the war with SPLM administrators, to generalize a set of government practices in a vast and extremely fragmented territory. On the other hand, it worked as a showcase of government to the local population, strengthening the legitimacy of and the expectations from the state. Louisa Lombard (2016) describes a similar phenomenon in the Central African Republic, where French efforts to fly government officials around so that they could be seen as representatives of the state at the local level helped increase people's expectations of the state as well as its legitimacy – no one would question the existence or the role of the state.

The organization of commissioners' meetings was one of the major tasks accomplished by the LGRP. After 2009, these meetings, initially held occasionally, were institutionalized into the Commissioners' Forums. They were held in different towns across the country, were facilitated by local NGOs with UN funding, and had the purpose of sharing the government experience of local government officials and officers in different areas. Sometimes, they focused on one specific topic;

[18] Interview with acting *payam* administrator, Nyeel *payam*, Nyeel, 25/02/2013.

[19] Interview with chief of Mundari Bura *boma*, Tindilo Payam, 03/04/2012; Speech of Kueryiek *payam* administrator during a peace-building workshop organized by the local NGO UCOET, 24/11/2010.

[20] Collective interview with residents in Tindilo *payam*, 03/04/2012.

[21] Interview with *payam* administrator, Nyal *payam*, Panyinjar County, Unity State, 25/11/2013.

[22] UNDP (2006). LGRP components and budget. Local Government Board Archive.

[23] On the role of local government public meetings in enacting the boundary between the state and local communities see also Leonardi (2015).

other times they provided the occasion for more general discussions about the role and duties of the local government. Interestingly, the presence of external facilitators hailing from the local civil society became an integral part of the aesthetics of the state at the local level: nobody was surprised, then, when the first to take the floor at the 2013 Commissioners' Forum in Rumbek was the chairperson of the local NGO facilitating the gathering with the support of international funds.

As the delivery capacity of local governments remained extremely low throughout the interim period and post-independence years despite the rise in financial transfers from the centre, the display of meetings and talks was given particular importance even when it did not provide immediate practical results. Local government officers are seen going out of their closed offices to meet other officers and to discuss unknown matters with other people that count: the Governor, representatives of the donor community, NGOs. Even if these matters remain impenetrable for most ordinary citizens, this reinforces the image of the government doing its job (see also Leonardi, 2015). As people widely believed that the government needed time to start delivering in the immediate post-independence years, this kind of image was crucial to enhancing the legitimacy of the local state. In another instance, in which a local civil society network was organizing meetings between local government officials and the local population to discuss land allocation, it was argued that the meeting was more important than its actual outcome: "government officials always talk away from here", while if they talk to the people "even if it takes time, at least the people can know that their voices have been heard".[24]

### 4.2 The legibility of local government

According to scholars working on isomorphism in the international development domain, making local government structure legible to external observers is one of the justifications for isomorphic mimicry: countries accept – or actively decide – to reproduce certain forms of institutional organization to comply with international "best practices" and increase their legitimacy and trustworthiness vis-à-vis international resource-providers (Andrews et al., 2017; Andrews, 2009). In a post-conflict situation such as Southern Sudan during the interim period, legibility was not only a matter of creating the right institutions with the right organizational chart; it was also a matter of reproducing standardized functioning modes for the newly established institutions – procurement, planning, budgeting, payroll management and so on. It was a matter of teaching newly appointed officers and officials what was appropriate and what was not in their daily work, and how to move away from practices relying on individual charisma and power to a more standardized set of bureaucratic procedures. For this reason, capacity-building played a pivotal role in enabling the local political elite to reproduce the shell of a modern state.

[24] Personal communication with members of the Civil Society Land Alliance, Bentiu, February 2013.

As shown in Chapter 2, capacity building had already become a major claim of SPLM leaders during the final years of the war, when its local administrators needed to be legitimized as the new local government of Southern Sudan. In 2005, according to the SPLM Secretariat of Local Government, everybody needed capacity building:

> Capacity building is needed in the fields of administration, management, public policy, decision-making, leadership, planning, budgeting, human resources management, management controls, office administration, accounting, public finance, local government finance, financial management, local government administration, council management, rule of law, gender and development, decentralization, land administration and other related subjects as well as computer skills, monitoring and evaluation.[25]

And indeed, many received capacity building as part of the countless programmes implemented under OLS and by various development agencies (USAID, GTZ, DFID, JICA). After 2005, an "army of capacity-builders" (Larson et al., 2013, p. 9) moved to Southern Sudan, each with their manuals and training modules. They drew on Western European history to emphasize the importance of establishing state bureaucracies and to develop an ethics of meritocracy and pursuit of common good, to replace the logics of integration and patronage. Manuals typically comprised a general overview of Southern Sudan's legal framework for local government and public administration, and a historical part on Sudan and its local government tradition – with, occasionally, a section on southern "tribes" and customs. Then, a more universalistic section would illustrate the required values and functioning of local government, sometimes providing examples from other African countries. This part usually focused on management, intergovernmental relations, revenue raising, organizational charts, recruitment processes and so forth, but also included sections focusing on individuals in the public administration, on the ethos they should develop, on their leadership functions, on how they should reject corruption and be animated by higher goals concerning the public good.[26]

The LGRP positioned itself in this large flow of capacity-building programmes with a particular focus on planning and budgeting. From UNDP's point of view, building the capacity of the local government in planning and budgeting was of vital importance for two major reasons: first, to ensure the ownership of projects funded by the international donor community and make sure that these were in line with locally identified priorities; second, to enhance a form of legitimacy of the local

[25] Anai, A. M. (2005). Concept paper on capacity building. New Sudan Secretariat of Local Government; Local Government Board Archive.

[26] See for example GTZ (n.d.). *Orientation Course Curriculum for Local Government Administrative Officers, Part One of the Diploma in Local Governance*, Local Government Board Archive; Jayne Songole and Alice Mudiri, (1999). *A Manual of Tranining Modules of County Administrators in Southern Sudan*. Nairobi. Local Government Board Archive; UNDP and Local Government Board (2007). *Module Two: The Legal Framework of Southern Sudan Local Government*, Muzumbe University Capacity Building Program, Local Government Board Archive; UNISIS Nile Options and Skills for Southern Sudan (2004). *New Sudan Local Government Secretariat Proposed Course for Training (Financial Framework)*, Local Government Board Archive.

government based on its delivery capacity. “In the absence of local government plans, big spending of external agencies are likely to marginalize local governments and undermine their credibility in the eyes of the people for years to come”.[27] In other words, it was important that deliveries brought by donors’ funds – particularly service delivery – passed through the local state in order to show its capacity and strengthen its local legitimacy. This gave a sense of urgency to a mechanism generally understood as a good entry point for building state capacity (Jackson & Scott, 2008; Romeo, 2002), as well as a vital step towards increasing local government transparency and consolidating its relationship with citizens – another objective of the LGRP.

In 2007, local governments started the “consolidated” process of planning and budgeting with the support of the LGRP. It involved one county in each of the ten states of Southern Sudan. State Task Forces were formed to carry out assessments in the counties and gather data on local needs in terms of development. The process had to overcome some resistance at state level, where this participatory planning exercise was perceived as a foreign interference with the aim of investigating how state governments spent their resources.[28] Nevertheless, in the following years planning and budgeting of development activities were routinely carried out on a yearly basis with the support of the programme, and managed to include, at least formally, lower administrative levels. Planning meetings gathered administrators, chiefs and representatives of Community Based Organizations and were held at *boma* and *payam* level. At county level, a meeting was then held with the participation of the county commissioner, the county executive director, *payam* administrators, representatives from county sectoral departments (education, health, etc.), *payam* chiefs, key traditional leaders, UN agencies and NGOs. Besides strengthening the hierarchical relationship from *boma* to county, needs and priorities identified in such meetings contributed to the county plan, which was to be submitted to the states for funding through government grants. The expenses for the organization of these gatherings were covered by UNDP.

The huge amount of paperwork that resulted from the consolidated planning and budgeting process contributed to the aesthetics of the state, demonstrating to any external observer that the government was actually working and, thus, that the state was functioning. As had happened before the end of the war with SPLM administrators, Commissioners’ Forums and other gatherings – including training workshops – helped the circulation of information and ideas within a highly fragmented and physically distant administrative class. It made local government functioning “legible”, organizing and standardizing at least the form through which different decisions were taken

[27] SPLM Local Government Secretariat, UNDP, PACT, & CRS (2005). SPLM Local Government Planning Workshop. Yei; Local Government Board Archive, p. 12.

[28] Sigin, James (2008). A short brief on the Programme performance in Unity State from 2nd July 2006 to 2nd April 2008. Local Government Recovery Programme; Local Government Board Archive.

and circulated, through which local levels of government could be asked to report to the centre and vice versa. The major beneficiaries of this enhanced legibility were external observers, primarily foreign donors: this enabled them to have more clearly identifiable and institutionalized interlocutors for the negotiation of their programmes, written documents to rely on for the designing of future interventions, as well as material proofs that their investments were bearing the expected outcome in terms of institutional setting and its functioning. This, in turn, strengthened donors' willingness and capacity to support state-building in Southern Sudan: the SPLM's extraversion strategy proved successful.

## 5. Decentralization: A Rashomon effect?

The decentralized system built at the end of the civil war in 2005 was the outcome of a joint effort between international aid agencies and the SPLM political leadership. The framework was well thought through: it drew on mainstream theories about the benefits of decentralization in post-conflict societies, building at the same time upon existing institutions; it tried to combine aspects of a modern state with traditions and customs; it emphasized the reasons why Southern Sudanese diverse society needed self-rule at the local level; it foresaw numerous steps to building local administrative capacity and to meet the infrastructural needs of the local administration.

Reforms take time to be implemented. By the time of my final fieldwork in South Sudan, in 2016, many aspects of the local government reform were still lagging behind. Nevertheless, decentralization has always kept an important place in the local public and political debates, the most evident example being the decisions concerning the reorganization of sub-national government units taken by Salva Kiir in 2015 and 2017, when he increased the number of states from 10 to 28 and then to 32. The lack of capacity/resources have often been used as reasons to justify the lack of progress in the implementation of the decentralization reform. These explanations have generally been accepted by international agencies working in the country: indeed, in the years between 2005 and 2013, capacity building was intensified, different types of resources were poured into the local government, and in some cases local institutions were bypassed for the sake of delivery effectiveness (see Chapter 4).

It is typical of situations characterized by isomorphic mimicry that "Organizations and leaders are constantly engaged in 'reforms' putatively to improve performance and yet very little performance is achieved" (Andrews et al., 2017, p. 40). This lack of progress has less to do with contingent problems such as the lack of capacity or resources and much more with a specific pattern of state-making involving the SPLM leadership and various social and political actors at sub-national level, who have used the empty shell of a decentralized modern state to ensure their political survival as

well as the stability of the new-born state through a logic of co-optation. The apolitical nature of donor-sponsored state-building reforms – including decentralization (Bliesemann de Guevara, 2010; Heathershaw & Lambach, 2008) – made this form of capture easy for local elites, as success and compliance is mostly measured on the establishment of institutions and processes, irrespective of their actual functioning and outcomes. A non-implemented reform may evoke images of abandoned buildings and empty halls, similar to the narrative around unsuccessful developing projects that failed to involve their beneficiaries and to ensure sustainability over time. In fact, the non-implementation of (certain aspects of the) decentralization reform does not imply that nothing is realized in its place. Rather, the empty shell of the local state, created through the deliberate strategy of isomorphic mimicry, is filled with multiple and often different contents. This gives rise to a sort of "Rashomon effect"[29] in local decentralization: government officials at various levels and international aid agencies all look at the same scene but see substantially different things.

### 5.1 Effectiveness or inclusion?

The international community supported decentralized state-building in Southern Sudan for a mixture of idealistic and practical reasons. Ideally, decentralization was expected to democratize the government system and to make it more effective and responsive to the needs of the local people. Practically, it was thought to deactivate conflicts at the central level, moving the stakes of political competition to the local level. In a post-conflict society with deep cleavages and very limited experience of statehood, these expectations were ambitious but believed to be inescapable and widely shared. Importantly, the two reasons resonated with those advanced by the SPLM: its political leadership also stressed the importance of decentralization for service delivery, for taking the government closer to the people and for pacifying divided communities that had fought for long years often against each other and that now deserved full access to the right to self-rule. What differed, in the SPLM's and international donors' understanding, was how to achieve these outcomes.

The UNDP, one of the most active supporters of Southern Sudan's local government in the post-CPA years, focused on fiscal decentralization as an entry point to the creation of a functioning system. Much of the LGRP budget was dedicated to the implementation of planning and budgeting activities at different levels of governments, to enable them to quantify their expenses and express shared priorities. Even though these local development plans were often little more than wish-lists waiting to be shared with the donors, UNDP sponsored planning and budgeting process did take place from 2007 on a yearly basis, mobilizing local administrators and variously defined community representatives from *boma* to state level. However, development plans were never implemented, and

[29] *Rashomon* is the title of a 1950 movie by Akira Kurosawa, based on two works by Akutagawa, in which witnesses of the same crime describe it in substantially different ways.

budgets always remained oversized compared to available revenues. In the absence of a strong fiscal base, local governments depended on financial transfers from state governments, which received block grants and sector-specific transfers from the national Ministry of Finance and Economic Planning (MoFEP). These transfers were supposed to cover salaries and county development grants, and were shared equally among all counties irrespective of geographical extension and the number of residents.

Financial transfers to subnational levels of governments always remained limited even in the years between 2005 and 2011, when Southern Sudan experienced a rapid inflation of its regional budget thanks to oil revenues. According to the MoFEP, transfers to states oscillated between 11 and 26% of the national budget between 2006 and 2011 (Thomas, 2015). The Sudd Institute, a local think tank, reported however that in 2012 transfers to the states only amounted to 16% of the total national budget (Mayai, 2012).[30] Moreover, they were the first expense to be cut following the austerity measures adopted in 2012 to cope with the suspension of oil extraction in response to skirmishes with the government of Sudan. If transfers to the states were limited and mostly remained in state capitals, transfers to the counties were nearly non-existent and barely sufficed to pay salaries.[31] In Unity State, in 2008, the nine counties received only 23,409,502 SDG: less than half of what was originally approved in the budget for that fiscal year and not even enough to cover the wages of local government employees.[32] Development expenditures were therefore neglected and depended entirely on external funding from international agencies.

While much emphasis had been put on service delivery as peace dividends in post-conflict societies, and while local government structures were established and officers trained, Southern Sudan's local governments did not manage to deliver any services for the whole length of their existence and always remained strongly dependent on external resources (Thomas, 2015). It is thus clear that UNDP's and other international agencies' efforts to improve Southern Sudan's local government capacity and responsiveness fell short of expectations. At the same time, through its approach to decentralization based on isomorphism, the Government of Southern Sudan rather focused on another kind of delivery: that of jobs, salaries and positions in the Southern Sudan political marketplace. As soon as it came to govern Southern Sudan, Kiir's SPLM implemented what has been defined as the politics of the big tent: an approach to government based on the co-optation of

[30] This figure increased to 19% in 2016, when the number of states had more than doubled. But these expenditures are fungible: there is no accountability required from the centre over how these funds are spent. These transfers of money can thus be used at the governor's discretion. This is why the creation of new states for patronage purposes was given such an high priority (De waal and Pendle 2019).

[31] Sarzin, Z., & Bekalu, T. (2011). Scoping Mission for Proposed Local Governance and Service Delivery Program [Draft Aide Memoire]. The World Bank; Local Government Board Archive.

[32] "Unity State 2009 Integrated County Plans and Budget (with Counties and Payams)," 2009, Local Government Board Archive.

opponents and possible threats to stability into the state and military apparatuses. The SPLA absorbed huge numbers of rank and files of various armed militias: the Juba Declaration in 2006 was the first instance of this kind, with the broad constellation of militias that had fought against the SPLA with the support of Khartoum being incorporated into what became the Southern army (Young, 2006), but it was followed by many more during the interim period. The creation of local state structures opened additional room to "accommodate" the leaders of these militias in the state apparatus. Alex de Waal and Naomi Pendle (2019, p. 177) describe it as a "payroll peace": the most effective way to end or prevent rebellion against the incumbent government became to give out shares of state resources in the form of a salaried position. Jobs replaced services in the expectation of peace dividends.

The capacity of higher levels of government to keep control of local appointments was therefore extremely important. Even though the legal framework provided for the elective character of local government institutions, both county commissioners and county councils continued to be appointed throughout the interim period and after independence. They were excluded from the general election held in 2010, when citizens were also called to elect state governors, allegedly due to a "lack of resources". The fact that county commissioners continued to be appointed by state governors made them vulnerable to a high politically-motivated turnover: in Mayom County, Unity State, the county commissioner was replaced four times between November 2010 and January 2013. In the absence of an elected county council to balance its power, the county commissioner was left with considerable arbitrary power and no downward accountability, as his stay in office entirely depended on the state governor. This arbitrary power was projected on *payam* administrators and local chiefs (as we shall see), who could be dismissed and replaced at his liking. In the first quarter of 2013, in Unity State, newly appointed commissioners for Rubkhona and Pariang counties removed all the head chiefs in *payams* under their jurisdictions and called for new elections. As one of the members of Bentiu Town Traditional Court put it to emphasize the role of the local government in the appointment of local traditional authorities: "[chiefs are] kept in office [...] as long as they [are] doing a good job. [...] It is the government that knows if a chief is good or not".[33]

These replacements of local government officials and officers were arbitrary, but never random. They responded to a logic of political allegiance to the SPLM, but this logic was also matched by another powerful one: that of identity politics. Based on a long history of politicization and militarization of ethnic belonging, the newly established South Sudanese state reproduced the overlapping of political units and ethnic communities. As we shall see, this overlapping can never be fully realized and is extremely problematic when it comes to the distribution of resources among local

[33] Collective interview, Bentiu Town Traditional Court, Bentiu, 07/02/2013.

residents. Salaried positions in the state apparatus can be considered part of these resources: as such, their distribution also needs to keep some sort of balance as exclusion from the payroll may worsen ethnic antagonism (Thomas, 2015). In Pariang County (Unity State), for example, the local population considered legitimate and even desirable the frequent replacements of commissioners by the state governor, as the commissionership was supposed to rotate between two major clans so that neither of them felt excluded from the sharing of the "national cake".[34] Even though the number of people that could possibly be reached by salaried positions was relatively small, it was rather a matter of ethnic representation and of expectations that this would increase the community's access to resources (see Chapters 4 and 5).

This logic has been confirmed and accentuated by the Transitional Constitution of the Republic of South Sudan, which conferred exceptional powers on the President to remove state governors in poorly defined situations threatening national security, and later by the decision to increase the number of states (and thus local government units) unilaterally taken by Salva Kiir in 2015 and 2017 (Schomerus & Aalen, 2016). Despite the higher number of sub-national governments, there was no substantial increase in the share of budget for the local governments; the focus was, once again, on the creation of positions based on ethnic affiliation and combined with a "licence to loot the resources of rival communities" (de Waal & Pendle, 2019, p. 184).

## 6. Conclusion

This chapter has shed light on one of the most crucial aspects of post-conflict state-building in Southern Sudan: the process of decentralization. It has argued that decentralization was a project shared by the SPLM ruling elite and the international donor community supporting Southern Sudan's post-war reconstruction. They agreed on similar arguments in support of a decentralized form of government, at least on paper: the idea that decentralization would bring the government closer to the people, making it more effective in service delivery, and that it would widen the political space, making it possible to accommodate political grievances at the local level, easing tensions at the central level.

In practice, however, motivations and strategies differed. Decentralization was mostly implemented as a form of isomorphic mimicry: the Government of Southern Sudan actively engaged in a shallow implementation of the reform with the aim of creating an image of the state that could strengthen its external legitimacy and its negotiation capacity with external resource-providers. This enabled it to access continued financial support despite its poor performance in terms of accountability and service delivery. The Southern political elite used isomorphism – the reproduction

[34] Personal communication with citizens from Pariang residing in Bentiu, February 2013.

of the structures and procedures of a modern state without their functionality – as a strategy of extraversion, capitalizing on its resource and capacity gaps to claim continued external support. In the words of a senior local government officer:

> There are more capacities [in South Sudan] now than ever. It is not a matter of lack of capacity. Yes, there is a lack of capacity because it is a modern world, a world of technology… but the basics do not require elaborated technology. [...]At this stage now, the government of Southern Sudan has a lot of procedures, frameworks and laws, but they are not respected. Here are new procedures to ensure the financial resources of the country. Some people are frustrated in using the financial forms, but not because they don't know! They don't want to. They want to take it like that without reporting.[35]

The relationship between the Government of Southern Sudan and international donors was largely built on the assumption that the major reason why things were not being done was that a vaguely defined capacity was lacking. This "lack-of-capacity" could be used, on the one hand, to justify why training courses on management, book-keeping and so on were rarely applied in practice[36] and, on the other, to mobilize more funds.[37] I am not arguing that all of the local government officers that were involved in training refused to apply what they learnt, nor that the LGB members were not truly motivated when they talked about the capacity-building needs of officers working under their supervision. Indeed, they were extremely passionate in their requests for support, linking them to broader developmental achievements,[38] and in their condemnation of how local government work was hampered by state governments and the central government.[39] In fact, the major reason for poor implementation had to do with the political use of decentralization as a strategy of co-optation of political and military opponents of the incumbent Southern Sudan government. Southern Sudan's ruling elite tried to pacify the would-be country through a "payroll peace" (de Waal and Pendle 2019), offering salaried positions in the local state apparatus. This ended up being the only peace dividend provided, and expected by the local population instead of services.

[35] Interview with Senior Administrator, Ministry of Local Government and Law Enforcement, Lakes State, Rumbek, 19/11/2013.

[36] See for example "Position Paper from Director Generals, Directors, Executive Directors and State Local Government Officials of the Government of South Sudan after the End of Capacity Building Training in South Africa in March 2008 Presented to the President of the Government of South Sudan" (18/03/2008). Local Government Board Archive.

[37] See for example "Correspondence on Support to Training of Local Government Administrative Officers between Joint Donor Team and Local Government Board," November 2010, Local Government Board Archive; Soro, Gordon (201, January 28). Letter to the Undersecretary of Planning of the Ministry of Finance and Economic Planning (GOSS): Requesting Development Partners' Support and Cooperation for County Planning and Budgeting. Local Government Board Archive. Moreover, training for county officers organized in the framework of LGRP usually recognized a daily sitting allowance (DSA) to participants of US$35 (Local Government Board, 07/04/2008). Communication to State Governments/Ministries of Local Government on County Planning and Budgeting Process for 2008/9, Local Government Recovery Project. Local Government Board Archive.

[38] Suleiman, C. A. (2006). Speech of the Chairman of the Local Government Board on Commissioners Consultation on Local Government Framework in Yei. Local Government Board Archive.

[39] Interviews with Nikodemo Arou Man and Eli Achol Deng, Juba, 2013.

Ultimately, this chapter has outlined a divergence between the state-building project and actual state formation, suggesting that state formation proceeded along pre-existing patterns in the exercise of power. As will be shown in more detail in the following chapters, however, the two processes are deeply related: even though state-building does not radically change the process of state formation, to some extent it influences it, providing structures of opportunities that local actors can take to pursue their goals in the most effective way.

# Chapter 4 – The state's delivery function

## 1. Introduction

Consistent with a more general trend of devolving administrative tasks to traditional authorities in Africa, local chiefs in Southern Sudan have been involved in decentralized state building with various functions and their historical role as local community gatekeepers has therefore been confirmed and even reinforced. This chapter shows that this was the result of the SPLM's reliance on local traditional authorities during the war as well as several donors' desire to "work with the grain", empowering local authorities that could ease the broadcasting of state power over the predominantly rural Southern Sudanese society. This, however, resulted in an unclear division of roles between customary and statutory units, whose boundaries came to overlap through a mixture of legal provisions and actual practices. Since local governments were tasked with service delivery and development, the involvement of the chiefs resulted sometimes in a confusing understanding of how service delivery actually worked.

This chapter addresses the "delivery function" of the state as one of the vital aspects of state-building, in which donors actively engaged with the purpose of strengthening the legitimacy of the new state and to prevent an otherwise arguably inescapable return to civil war. It relies on Bierschenk and Olivier de Sardan's definition of public goods and services as "goods and services that are perceived by the vast majority of users as a social necessity, and, either directly or indirectly, as coming under the state's duties towards these users" (Bierschenk & Olivier de Sardan, 2014, p. 400). In a context dominated by neoliberalism where multiple non-state actors are involved in the delivery function of the state, the practices of delivery produce certain images, conceptions and expectations of the state (Titeca & Herdt, 2011). Indeed, instead of simply focusing on the actual practice of service delivery, the focus of this chapter will rather be on "the kaleidoscope of popular expectations" (Bierschenk & Olivier de Sardan, 2014, p. 402), on how service delivery is perceived to work, and the ways in which these perceptions contribute to the process of state formation.

The chapter is divided into three parts. The first focuses on the role of the chiefs in local governance and on how they were incorporated in the local government structure of post-conflict and post-independence South Sudan. The second part addresses the role of the delivery of public goods and services in state-building, how in Southern Sudan the delivery function historically came to rely on the local chiefs and how international agencies engaged with it, considering it of vital importance in the strengthening of the local state's legitimacy and reducing the risks of violent uprisings against ineffective institutions. In the third part, using a case study from Yirol West County targeted by a

donor-funded project supporting local level service delivery, the chapter sheds light on how local traditional authorities have become the major channel through which the local population seeks to access public goods and services. In analysing bottom-up attempts to "capture" the state structure and be recognized as part of it, it dissects a process of progressive administrative fragmentation involving communities increasingly defined in ethnic and kinship terms. While this trend is a consequence of the incentives and opportunity structure created by state-building programmes and by the decentralization reform, it impacts deeply on the underlying process of state formation, encouraging fragmentation as a means to place claims of recognition and access to resources from the state.

## 2. The traditional temptation

### 2.1 Traditional resurgence with donors' support

Traditional authorities have, in recent years, increasingly been sneaking into local governance programmes, targeting "fragile" states and aiming to build stable and legitimate governments. Once considered relics of a pre-modern past, destined to disappear with the advancement of modernity and the strengthening of the modern state, they were ignored and at times repressed by post-colonial states, especially in socialist regimes. In the 1990s, however, across the African continent, a "traditional resurgence" (Englebert, 2002) led numerous states to incorporate local chiefs into more or less formalized government structures through constitutional changes. In 1999, a Beninese NGO even organized a World Conference of Kings, Queens, Traditional Chiefs and Religious Leaders to encourage the promotion of traditional systems (Englebert, 2002). South Africa, Ghana, Uganda, Botswana and Mozambique are just a few of the countries that officially recognized the role of traditional authorities in local governance systems.

This trend has been widely criticized by academic work. Drawing upon Mamdani's concept of decentralized despotism (Mamdani, 1996), Catherine Boone has described it as a "neocustomary trend", producing an exclusive and paternalistic system (Boone, 2014). Similarly, Jesse Ribot has criticized the involvement of local chiefs as a proxy for local communities in local natural resource management, assuming their representativity and accountability instead of engaging the local population in more genuine participatory processes (Ribot, 1999). Others have pointed at the reification of traditional authorities, as if they existed independently from any other form of political and social authority as the natural expression of a primordial community (Kyed, 2008), rather insisting on the processes of production and negotiation of chiefly authority and tradition in contemporary Africa (Bellagamba & Klute, 2008).

Nevertheless, in the early 2000s, international donors and development agencies started including traditional authorities in good governance projects as part of a process of localization of

governance, often in the framework of decentralization reforms. In 2004, in a report commissioned by the World Bank, two experts of the University of Bern argued that:

> It is clear that successful decentralisation is not just about building good political institutions, it is also essential to improve overall governance at the local level. This includes meaningful participation of the local population and their inclusion into decision making processes to foster transparency, accountability and responsiveness [...]. Informal and formal traditional structures have always played an important role and still do in many countries. In the rural areas of many developing countries with a weak presence of the state, traditional structures survived the colonial as well as the post-colonial period, and people maintained their traditional forms of social organisation (Lutz & Linder, 2004, p. 2).

The incorporation of traditional authorities in local systems of governance has been sustained by the conviction that this would ease the task of creating stable polities through "working with the grain". The idea of working with the grain of African societies and political systems supports the recognition and strengthening of social and political institutions that enjoy local legitimacy and that are therefore more likely to be effective than "imported" Western institutions and ideas around governance and development. Despite their varied history, customary authorities occupy a prominent position among these institutions and, while not being the solution in all circumstances (see for example Crook et al., 2011), they definitely deserve to be relied upon in some contexts (Kelsall, 2008).

Despite this charming argument, however, the official incorporation of traditional authorities in local government systems is problematic. It poses questions not only around their legitimacy and the scope of their power, often defined quite ambiguously, but also about the jurisdiction of their authority. In other words, it makes it necessary to identify the "local community" of which they are representatives, rulers and gatekeepers, mediating access to local governance and development. Since the colonial experience largely represents the baseline from which information on and practices of chiefs' involvement in local governance are drawn, the identification of local communities as chiefs' constituencies usually follows ethnic affiliation.

Dominique Darbon has defined the tendency of recognizing local variously defined communities as right-bearing subjects as a "communitarian trend" (Darbon, 1998). It emerged in the 1970s in North America as a critique of liberal individualism, considered inadequate for the protection of diversity. Members of cultural, religious, sexual or linguistic minorities started claiming individual rights through their belonging to a specific community rather than to the broader society. But in contexts where the state is weak and unable to encourage the development of transversal allegiances among different communities, the identity of local communities strengthens to the detriment of a broader national identity and society becomes organized on vertical lines headed by patrons. If it is true, as Darbon argues, that community identity in Africa is overwhelmingly expressed in ethnic terms, this trend is strengthened by the official recognition of traditional authorities as intermediaries

between the state and the local people. “Communities” and “traditional institutions” are co-opted into development projects as a sign of their participatory nature, but this increases the centrality of ethnic belonging all over the continent (Geschiere, 2009), resulting, as we shall see, in particularly challenging outcomes in conflict-affected societies.

### 2.2 Local chiefs and the SPLM

Local chiefs played an outstanding role in local governance throughout Southern Sudan’s colonial and post-colonial history. Successive governments with little control of the Southern territory relied on them for resource-extraction as well as for the delivery of (a few) basic goods and services. Even though in many instances they were appointed by the colonial government, distorting the nature of pre-colonial local authorities, local chiefs remained, for a long time, the only authority recognized by the rural people (Johnson, 1998).

During the war, both the government and the SPLM/A interfered with the local patterns of reproduction of chiefly power inherited from the colonial period more intensely than the post-colonial governments had during the first thirty years after independence. The SPLA was initially sceptical of local chiefs: some argue that John Garang considered them an expression of backwardness. He feared that their excessive empowerment would lead to ethnic fragmentation, and believed that the SPLA should rely on some form of military or civil administration (Hoehne, 2008; World Bank, 2010). Nevertheless, this idealistic position was soon confronted with the difficulties of ruling a highly fragmented and geographically dispersed population. Local chiefs had a long history as community gatekeepers, thus there was little alternative other than to co-opt them in local government rebel structures.

Local chiefs were not all supportive of the SPLA: indeed, some of them had been appointed by the government of Khartoum and paid allegiance to the Sudanese state (Duffield, 2004). Thus, in many cases, the rebel movement used its military might to replace unfriendly chiefs in its controlled areas with more friendly ones. They mediated the movement’s demands for food and manpower with the local population, supporting the war struggle, but also protecting local communities from excessive exploitation (Leonardi, 2013).

Some observers have suggested that, in different ways, the legitimacy of the chiefs was negatively affected by the co-optation from the superior powers of the government and of the rebel movement with their respective exploitative systems. Marcus Hoehne (2008), for example, argues that the proliferation of chiefs and traditional courts created by the SPLA contributed to the erosion of the legitimacy of chiefs’ authority. Chiefs were co-opted into the war governance system, but their decisions were liable to be ignored or nullified not only by military authorities but also by any random armed youth (Frahm, 2014; Hoehne, 2008). Indeed, the social fabric that guaranteed the effectiveness

of traditional conflict-resolution mechanisms was disrupted by the diffusion of small arms and the secularization of beliefs around the act of killing (Hutchinson, 2001).[1] Others, however, argue that, notwithstanding the increase in chiefs' numbers due to war-related appointments, the institution of chiefship was ultimately reinforced as both parties to the war acknowledged its role in mediating relations between the *hakuma*[2] and the local population (Leonardi 2013).

Towards the end of the war, the SPLM started building a public narrative about the contribution of the local chiefs to the liberation struggle, and officially thanked them with the Kamuto Declaration (2004). Chiefs were recognized as "custodian(s) of the people's customs and traditions"[3] and consequently included in the nascent local government system. This was encouraged by several actors, including the donors.

In the early 2000s, the Swiss Embassy in Kenya organized a workshop on traditional authorities in Southern Sudan. Its outcome was summarized in the booklet "The House of Nationalities" written by Paul Adwok Nyaba, a senior SPLA member who had re-joined the movement in the mid-1990s having fought for some years on Riek Machar's side. The booklet contained reflections supporting the idea of enhancing the multitude of ethnic and cultural identities of Southern Sudan, which should be placed "at the centre of governance" (Leonardi, 2013, p. 187). One year later, the House of Nationalities was launched as "A space for preserving the diversity and the unity of the South of Sudan", with the aim of strengthening the role of traditional authorities as representatives of ethnic communities, to be involved in any decision concerning the people and to protect cultures and customs as a basis for nation-building.[4] The project was supported particularly by non-Dinka SPLM/A members such as Riek Machar and Adwok Nyaba himself, more or less explicitly over fears of Dinka dominance in the movement and in the would-be regional government.

While Garang was always sceptical of attributing power and representativity to ethnic leaders, his successor was more open about this. In 2006, with the support of the Swiss government, representatives of Southern Sudanese chiefs undertook the first of a series of study tours to South

[1] In her work on Nuer society, Sharon Hutchinson (2001) shows how the diffusion of firearms – and the consequent increase in the number of violent deaths during the war – made it impossible to trace a direct link between the slayer and the slain, which represented one of the pillars of the Nuer social system of keeping violence under control. In order to justify the de-humanisation of the act of killing, people started associating victims of firearms with victims of lightning, which entailed the creation of a direct link between the family of the victim and the divinity. In order to prevent a loss of importance of this special link, previously reserved for the extremely rare victims of natural events, Riek Machar convinced the Nuer that victims of the "government war" were different from victims of local inter-ethnic fighting, and free from moral obligations.

[2] *Hakuma* is the Arabic word for government. In the vernacular, South Sudanese people use it to identify the sphere of the men in uniform, indistinctively including government and SPLA, to distance it from the community sphere. See Leonardi (2007)

[3] Deng, E. A. (2004). Traditional Authority in the Sudan. An Insider's Perspective. Local Government Secretariat; Local Government Board Archive.

[4] See the House of Nationalities website, http://www.houseofnationalities.org/objectives.asp (accessed on 20/10/2020).

Africa, Botswana and Ghana to learn how traditional authorities worked in other countries. In 2007, at a conference in Rumbek to disseminate the findings of the study tour, the chiefs were addressed as the representatives of the government at the grassroots level and were even charged with the realization of Millennium Development Goals (Leonardi, 2013). The study tour experience expressed for the first time the interesting conviction that, while being the manifestation of specific customs and traditions of the local communities, traditional authority's incorporation in the government structure could also have a blueprint.

A broad consensus solidified around the idea that traditional authorities were the only form of effective and legitimate authority in most of the southern region, finding agreement both among SPLM intellectuals and international agencies. For this reason, the inclusion of traditional authorities in the local government structure became a target of international state-building programmes.

### 2.3 The operationalization of chiefs' inclusion in the local government

Donors' support of the incorporation of chiefs in the local government system did not lead in a unique direction: some emphasized the traditional authority's role as a judicial and executive body (UNDP, Swiss government); others, as will be explored in Chapter 5, rather focused on its administrative functions with particular regard to land governance (World Bank, FAO, USAID). The involvement of external actors was called for by the chiefs themselves, who feared being marginalized by the proliferation of local authorities at *boma* level foreseen by SPLM war-time policies, which provided for the creation of *boma* administrators and *boma* Liberation Councils. Even if neither of these were ever created, the chiefs conveyed their complaints to the various teams of SPLM administrators and UNDP consultants who visited the villages in the liberated areas in the mid-2000s, contributing to shaping the latter's understanding about the dynamics of local governance in Southern Sudan's rural areas (Leonardi, 2013).

Donors' engagement with Southern Sudanese traditional authority was largely motivated by the fear of a relapse into violent conflict along the many ethnic fault-lines that had widened during the war. Reliance on the only form of authority whose legitimacy and effectiveness had endured the vagaries of history therefore assumed an important social and political significance. According to Prah, an experienced project coordinator in the field of integration of customary authority in local governance structures, who had worked with the Swiss government and the UN,

> We need to remember that given the eminently rural and traditional character of African societies, it's hard to reach out to the communities without using institutions they have trust in, institutions they have known and which have sustained them from time immemorial. In effect we are saying that, any government from Juba or Khartoum would need to work with institutions which have won the hearts of the people. We are suggesting that partnership and integration of [local government] and [traditional

> authorities] is under current historical and social circumstances ideal. Let us put the TAs to good use. There are no other effective ways presently of achieving local government in rural Africa.[5]

Local chiefs, referred to as the Traditional Authority of Southern Sudan, were ultimately included in the local government apparatus with multiple functions. Based on the assumption that they were able to exercise a form of ancestral power, the Local Government Act (2009) recognized their three-fold role: first, that of custodians "of the customs and traditions of the people of Southern Sudan as a source of legislation" (Government of Southern Sudan, 2009b). This reflected a highly romanticized image of local communities untouched by modernity and of forms of authority that reproduced themselves throughout history with very little external influence. This view was shared by both SPLM members involved in the state-building process and by UNDP and other agencies supporting it. In a speech delivered to a workshop organized by UNDP on the role of traditional authority in local governance held in Rumbek at the end of 2004, Deng Biong Mijak, the then Chief of Justice in the SPLM administration, argued that:

> Even after the introduction of modern central state in the Sudan, this traditional social organization continued in the rural communities in Southern Sudan and in the other marginalized areas, most of whose people remain up to date unexposed to modern ways of life and continue to lead their normal traditional life.[6]

A few years later, a report analysing UNDP projects in support of the local government in Southern Sudan made a similar statement:

> A major defining feature of Southern Sudan lies in the tribal nature of its social organization, identity and the adherence to traditional culture and systems. The only constant throughout history in terms of governance practice has been the role of traditional authorities in the leadership of their communities (Soux, 2010, p. 7).

Secondly, drawing on this understanding of the traditional authority's role, local chiefs were also recognized as the main justice providers in the rural areas, delivering one of the most typical public goods expected by a state. They ran a system of customary courts parallel to the local government structure, with A courts at *boma* level headed by one chief, B courts (also known as Regional Courts) at *payam* level made up of a panel of chiefs, and C courts at county level made up of B court presidents. This system recalls the one enforced during the colonial period and endorsed by the SPLM civil administration in the late 1990s – though subjected to military scrutiny.

Thirdly, Traditional Authority exercised administrative and executive powers. Chiefs "shall be institutions of traditional system of governance at the State and Local Government level which

[5] Local Government Board & Federal Department of Foreign Affairs of Switzerland (FDFA) (2009). Council of Traditional Authority Leaders (COTAL) Workshop [Draft Report]. Local Government Board Archive, p. 7.

[6] Biong Mijak, D. (2004). Present Role of Traditional Authority in South Sudan: The Judicial Functions (Presentation at the Role of Traditional Authority in Local Government workshop). Local Government Board Archive.

shall", among other things, "exercise deconcentrated powers in the performance of executive functions at the local government levels within their respective jurisdictions" (Government of Southern Sudan 2009b, section 112(1)c). With the notable exception of the Azande and Shilluk kings, who could extend their authority over their entire population irrespective of administrative boundaries, chiefs' authority was exercised within county borders (Government of Southern Sudan 2009b, section 113(1.b)). Chiefdoms were ruled by a paramount chief residing in the county headquarters who represented the most important instrument of self-rule for the rural people. Paramount chiefdoms were decentralized into smaller units headed by head chiefs and executive chiefs, respectively at *payam* and *boma* level. As for local government units, criteria for the establishment of new chieftainships referred to both the number of people and to the number of smaller units under their jurisdiction (Government of Southern Sudan, 2009b).

The LGA sanctioned a de facto overlapping between the hierarchical structure of chieftainships and that of the local government, increasing the stakes of having a community's leaders recognized as traditional authority. Having their chiefs and customary courts recognized meant that a community was recognized as such, and that therefore it could claim an administrative unit. This would make it entitled to goods and services from the government, including jobs in the government apparatus (Thomas, 2015).

This dynamic was paradoxically accentuated by the creation of the Council of Traditional Authority Leaders (COTALs), foreseen in the Local Government Act (2009). COTALs were attributed two different roles: a cultural one, protecting customs and traditions; and a legal one, as bodies for dispute resolution based on customary law, which could also become a source of legislation for the Government of Southern Sudan. Chiefs were to fill the glaring "institutional gap" at the local level (Prah, 2013), and to strengthen their local peace-building role (Fox, 2007) based on the assumption that traditional mechanisms, which had allowed Southern Sudanese communities to live in relative peace before the civil war, had to be restored. To make this point even clearer, the Swiss Federal Department of Foreign Affairs, which remained the major funder of this process, appointed a peacebuilding advisor as the agency's representative supervising the establishment of COTALs.[7] In 2010 the agency provided a template for the preparation of state-level COTAL bills and the South Africa-based Professor Kwesi Prah was appointed to coordinate the process.

However, once the discussion about cultural rights, ethnic identity and customary laws started heating up, it became clear that it was not possible to have representatives from each tribe, as the very process of identifying what constituted a tribe was an extremely contentious one. Thus, debates at

[7] Ibscher, E. (20/06/20). *Letter to the Undersecretary of Local Government Board: DSA for election/selection preparation mission concerning COTAL Upper Nile*. Local Government Board Archive.

state level rather resorted to representation on a county basis (Leonardi, 2013) and, in spite of references to ethnicity, customs and tradition, the definition of community rather shifted to geographical terms (Government of the Republic of South Sudan, 2012; Prah, 2013), strengthening the overlapping between ethnic chiefdoms and local government units. At the same time, ethnic affiliation popped up again in the few cases in which COTAL members were elected: in Upper Nile, for example, the Koma community, a minority group inhabiting part of Longoshuk and Maiwut counties, was granted special representation besides the three members foreseen for each county by the Council of Traditional Authority Leaders Bill of Upper Nile state.[8] The equation suggested by the LGA between the territorial definition of administrative units and the local Community (with capital C) defined also with reference to clan, family trees, tradition and customs bears obvious consequences for the structure of local government: it mixes something fluid and flexible, such as the affiliation to sub-clans and allegiance to one chief, with something fixed and permanent, such as the administrative apparatus of the local state in charge of development and of delivering public goods and services.

# 3. Providing services to Southern Sudan

## 3.1 Service delivery and legitimate state-building

In early 2013, a South Sudanese NGO mapped Civil Society Organizations (CSOs) in Unity State as part of a civil society empowerment project funded by an INGO. The representatives of over 60 CSOs declared, in most cases, that their mission was to "provide services" of different types to the members of variously defined communities (UCOET & Mani Tese, 2013). Many of the CSOs were created after the end of the war and had a lifecycle of 3–4 years, largely determined by their ability to become the "local partners" of international development agencies and get funds to pay some salaries, purchase some facilities (vehicles, laptops, satellite phones) and carry out a few activities. As they were many, and their effectiveness limited, only a few of them managed to secure long-term partnerships with resource-providers; once the funds of a development project were over, these CSOs typically languished to the point of disappearing.[9] Even though both CSO representatives and local ordinary people were well aware that the implementation of development projects entailing some form of service delivery largely depended on the resources provided by international development agencies, all of them routinely blamed the government for not being able to channel these resources to the community.

[8] Kun, J. R. (2011). Formation of Counties Elections/Selections committees for COTAL members. Ministry of Local Government and Law Enforcement, Upper Nile State; Local Government Board Archive; Pur, Peter Mayom (2011). COTAL Election/Selection Upper Nile State. Ministry of Local Government and Law Enforcement, Upper Nile State; Local Government Board Archive.

[9] Personal communication with INGO staff, Bentiu, February 2013.

The "image of the state" as a service provider was very powerful: it reflected the great expectations created by what was perceived as a victory of the SPLA, which finally brought the Southern Sudanese people their own state. The former rebel movement was expected to "mend the broken contract" between the state and its citizens (Rolandsen, 2011). The new government, it was repeatedly argued, existed only thanks to the support of the Southern people: it was now pay-back time, and the state was expected to provide services and development.[10] This belief was strengthened after independence, as mobilization for the referendum was added to the many struggles that the people and their local authorities had to undertake in order to be finally free and entitled to state resources.

Historically, the provision of public or collective goods and services has been an important part of state penetration and consolidation. It has represented the "soft" side of state-building and state formation in Western Europe, which conferred legitimacy to an otherwise rather violent process of establishing control (Tilly et al., 1975). Indeed, the delivery capacity has remained one of the major criteria upon which a state's success is evaluated, being what "give(s) content to the social contract between the ruler and ruled" (Rotberg, 2003, p. 3). While the strengthening of the service delivery capacity thus plays a key role in contemporary state-building, from the 1980s the advent of neoliberalism radically changed the way in which public goods and services were produced and delivered. A general trend towards privatization caused an increase in the number of service providers everywhere in the world (Hibou, 2004). In Africa, Structural Adjustment Programmes imposed by International Financial Institutions crushed post-colonial centralized state structures, justifying the move by claiming the irremediable corruption and ineffectiveness of African states (Bates, 2014; Bierschenk & Olivier de Sardan, 2014; Hyden, 1983). This trend of weakening states was reversed in the early 2000s, when they were rehabilitated as vital providers of security and stability both internally and internationally (Duffield, 2001; Morris, 2013; OECD, 2008) and thus needed to obtain a minimum degree of legitimacy in order to be sustainable. Nevertheless, the number of actors contributing to the delivery function has remained high. Growing efforts to realign donor engagement in development activities to address local governments' priorities (for example through the Paris Declaration on Aid Effectiveness, 2005, and the Accra Agenda for Action, 2008) targeted beneficiary states to take the lead in service delivery. They did not have to necessarily deliver services themselves; rather, they needed to exercise a coordination role to make overall delivery effective, and to boost their legitimacy vis-à-vis local citizens. Actual delivery was carried out by hybrid arrangements

[10] Collective interview with Bany Loum *boma* Court, Abang Payam, 04/12/2013.

involving both state and non-state actors, and partnerships for the delivery of basic services tended to replace the donor-beneficiary relationship typical of development projects.

From this perspective, the provision of public services in post-conflict or conflict-affected contexts is particularly sensitive. “These so-called fragile states”, reads a background paper to the World Development Report 2010, “lack either the political will or capacity to deliver public safety and basic services to all their citizens” (Baird, 2010). Therefore, if states need to deliver services as a means of legitimization and of preventing backlashes to war, service delivery has to be treated with special urgency. Services are framed as “peace dividends”, a sort of reward incentivizing the people not to resume fighting in the medium-to-long term.

International development agencies have looked at different approaches to support service delivery. If their involvement has repeatedly resulted in the creation of non-state actors running parallel structures to that of the state, more recently there has been a growing trend of engaging existing structures in the belief that this would contribute building the capacity of local government institutions, strengthening the state and supporting peace and stability (Denney et al., 2015). These structures are typically identified in the framework of decentralization reforms, where local government authorities are empowered to promote development and deliver services within their constituencies. However, as international aid agencies increasingly seek to work with the grain to maximize the effectiveness of their interventions, other types of local actors might be directly or indirectly involved in the development planning process. These might include local CSOs as project partners, but also local chiefs in their position of community gatekeepers.

### 3.2 Chiefs, local governments and the “delivery function”

From the very inception of the modern state in Southern Sudan, despite its overwhelmingly violent character, a minimum level of goods and services was delivered to the local population to reduce their resistance against the rulers. Colonial “government chiefs” were appointed to extract taxes and control the local population but, for their authority to be recognized by their subjects, they also needed to give something back in exchange. This was generally in the form of protection from excessive colonial exploitation, and channelling external resources to support local warfare against other groups. If the process of modern state formation is, in Tilly’s terms, a mixture of racketeering activities (in which the state itself is both the protector and the cause of threat) and defence from threats posed by “external marauders” (Tilly, 1985), chiefs represented a shield from both. They mediated relations with the racketeer colonial state, which offered some kind of protection to friendly populations and acted against unfriendly ones; as well as with other groups, which competed for the same source of protection and resources and could pose a threat to the community. Chiefs’ capacity of providing this form of protection granted them substantial legitimacy despite their increasing

incorporation into the colonial state structure (Leonardi, 2013). In the 1930s, the British government introduced salaries for government chiefs, encouraging the District Commissioners to merge chieftaincies to reduce the number of chiefs that had to be paid. Salaries were computed on the number of each chief's taxpayers, thus providing an incentive to expand large chieftaincies to the detriment of smaller ones – not without resistance. The provision of services – schools, water points, roads – tended to be concentrated in the chiefs' headquarters, and their number to be determined according to rough population numbers provided by the chiefs themselves. This created incentives for the people to group into settlements under the authority of chiefs that were able to successfully negotiate the provision of services with the colonial government (Leonardi, 2013).

This trend was completely reversed during the civil war fought by the SPLA. The movement based at least part of its liberation narrative on its capacity to provide access to services to the population in the areas under its control. It did so through effectively negotiating with humanitarian agencies: in the liberated areas, relief became a synonym for services. This equation between foreign aid and services became even stronger when, towards the end of the 1990s, humanitarian assistance shifted to development and the number of projects involving education, health or crops production increased. Even though *payam* administrators were officially in charge of dealing with humanitarian actors, the movement still relied on local chiefs for the distribution of aid and the mobilization of the local population for public utility works. The chiefs were no longer rewarded for creating large constituencies, as neither were they paid by the movement nor could they keep much for themselves of what they extracted from an exhausted population. Instead, their revenues increasingly came from outside, in the form of customs fees and taxes from NGOs. *Payam* boundaries were loosely drawn along those of chiefdoms, and the *payams* themselves increasingly identified as recipients of the "services" provided by international relief (Branch & Mampilly, 2005; Rolandsen, 2005). As chiefs and *payam* administrators were involved as representatives of local communities in the channelling of resources coming from outside, the incentive was rather the opposite: people started believing that they needed to control an administrative unit, a *payam* or a *boma*, in order to be recognized by and receive services from the SPLM (Justin & de Vries, 2018; Leonardi, 2013). This resulted in a process of fragmentation of the chieftaincies as well as the administrative units that, starting in the 1990s, undid many colonial amalgamations and persist to the present day (Justin & de Vries, 2018; Schomerus & Aalen, 2016).

The creation of new administrative units and the appointment or recognition of new chiefs by the SPLA followed a politico-military logic: it was used as a strategy to buy loyalty from local potential opponents and to co-opt them into the movement's structures. These alliances were also fed by the growing availability of international aid in the late 1990s and early 2000s: local communities

increasingly asked to be given administrative units as a means to independently negotiate access to resources brought by international NGOs (Johnson, 2003; Mampilly, 2011; Rolandsen, 2005). Due to the lack of reliable population figures and the mechanisms of aid distribution, the "wealth-in-people" (Guyer & Belinga, 1995) that a chief had to display during colonial times to access government resources lost importance and was replaced by a sort of wealth-in-chiefs, who were needed by groups of people to become an officially recognized community that could claim an administrative unit and be included in resource distribution. As a consequence, the importance of the "communitarian space" as the arena for claiming access to resources (Blundo & Olivier de Sardan, 2007) grew, as well as popular expectations of the chiefs' representativeness vis-à-vis the statutory authority.

Even after the end of the war, the incentive structure encouraging administrative fragmentation persisted and was, to some extent, strengthened by the increasing co-optation of the chiefs into the state apparatus. The Local Government Act did not stop this trend: accepting a vague criterion for establishing local administrative units based on the ethnic belonging of minorities (Government of Southern Sudan, 2009b, Appendix 1, 1), in the absence of reliable population data, it still left room for arbitrary claims based on the number of existing chieftaincies and lower administrative units.[11]

At the same time, in many areas of Southern Sudan, even years after the signing of the CPA, local chiefs and their customary courts remained the only visible manifestation of the existence of the local state through the administration of justice and through their capacity of "managing" the local population. As emerges from the following extract from a collective interview with the members of Bany Loum *boma* court in Yirol West County, the two functions are strongly related and the chiefs' judicial function is largely understood as a form of top-down control of the local population:

> Chief 1: "Cases are judged according to the sub clan. Each [*boma* level] executive chief is responsible for a sub-clan. If that sub-clan has a problem, they go to their executive chief. If the case is bigger, between two sub-clans, they go to the [*payam* level] Regional Court. Major cases, like killings, are referred to the educated judge."
>
> Chief 2: "Executive chiefs are responsible for the cases of a clan. If someone of your clan will do something, you will be contacted because he is under your government. That is why the chiefs are scattered. One can handle the problems here, not too far. This is why they are scattered."
>
> Researcher: *So you mean your clan has also other executive chiefs residing elsewhere?*
>
> Chief 3: "Those of Abang [*payam*], they were one originally, but they have split into six [executive chieftaincies, i.e. three *payams*] because one [chief] could not control all of them. Chiefs are six to manage the handling of the cases. What brings problem here is this discrimination. People are managed according to the section, clans. The government says the people must be handled by a certain person from them, from that particular clan, from their clan. That person will take control of their problems.

[11] Interviews with Member of Parliament in Lakes State Legislative Assembly, 06/12/2013; Eli Achol Deng, member of the Local Government Board, Juba, 13/12/2013.

> I don't know if it could be better if the management came just neutrally from whomever, one from a different section managing other people."
>
> R: *So is it the government asking the people to be managed according to their clan?*
>
> Chief 1: "Yes that was the request from the government, to bring your people to settle cases."
>
> R: *Was it SPLM government?*
>
> Chief 1: "It was the time of British, in 1905."
>
> R: *What does the government of South Sudan say now about this system?*
>
> Chief 3: "The GoSS accepted that statement. It is important because the executive chief knows his own people starting from sub-chiefs and *gol* leaders.[12] They know their own people and that is why they can manage the cases under their jurisdiction. If another person comes from outside, he or she cannot be responsible for the people residing in the place. He or she would not know them."[13]

The continuous reference to the kin relationship between the people and their chief, and to the latter's need to be able to "control" the people who were "under his government" are used as a justification for a continuous process of fragmentation of chiefdoms and administrative units, presented as a natural feature of indigenous social organization.

### 3.3 International support to local service delivery

In the early 2000s, increasing international attention was devoted to appropriate strategies to expand access to "peace dividends" in the form of basic services for the population. Along with donors' positions on service delivery in fragile contexts (OECD, 2008), SPLM's booklet *Peace through Development* (2000) emphasized the need to focus on the capacity-building of local institutions to deliver basic services. Multiple initiatives were staged and funding tools established at different levels and by various international agencies.[14] The broader framework for these programmes was defined by the Sudan Joint Assessment Mission, conducted in 2004 by the World Bank, UNDP and representatives of SPLM and the Government of Sudan. Its report became the major reference for aid assistance to Southern Sudan during the interim period 2005–11.

While international direct engagement with the GoSS to support the provision of basic services was a constant characteristic of the interim period, direct engagement with the local government was not considered a priority until South Sudan's independence. Despite the enactment of the Local Government Act, the focus of most of the programmes of capacity and institution-building involving the provision of services remained at national and state level. A senior project

[12] In Dinka areas, headmen are identified as *gol* leaders, the leader of an extended family living together.

[13] Collective interview, Bany Loum *boma* Court members, Bany Loum, Abang Payam, Yirol West County, 04/12/2013.

[14] Some of these were: the Multi Donor Trust Fund, coordinated by the World Bank; the Basic Services Fund launched by DFID; the Sudan Peace Fund coordinated by UNDP; and the Capacity Building Trust Fund, coordinated by UNICEF.

manager in the field of local government described this local turn as relatively new, defining it as "a shift in paradigm".[15] This shift in paradigm is likely to have had several different causes. First, the SPLM placed great emphasis on the role of local governments. The Local Government Framework (2006) attributed the responsibility of "tak(ing) the towns to the people" to Local Government Councils. An uncontroversial interpretation of this famous statement by John Garang is that the government, especially the local government, should expand its reach in order to provide services to the rural population, turning small settlements into towns.[16] Drawing on the historical legacy of the town as the locus for accessing services and for claiming participation in state resources, the then Local Government Board chairperson provided a very clear explanation of this statement at the Commissioners' consultation workshop on the Local Government Framework in 2006, bringing an example to the audience's attention:

> We should take an example from the commissioners of Kapoeta North county at Riwoto village. This is a county newly established with its Head Quarters at Riwoto Village. The commissioner never wasted time in Kapoeta or Torit where there are signs of civilization in the form of permanent infrashuctures [*sic*]. His Head Quarters is there in Riwoto village under a tree. Soon our partners, the UNDP, CRS, Pac and Dfit [*sic*] may visit him. They shall draw huge help to Riwoto village. In few years time Riwoto village shall turn into a vivid town, with all the developments that are associated with a town, mushrooming up. This commissioner shall have succeeded in taking a town to his people, as well as development. Those commissioners who are sitting in the Head Quarters of other counties shall be last to develop their areas. What a shame! Such commissioners should know they are together with the commissioner in whose counties capitals they are, seriously and actively developing alien County headquarters instead of putting such efforts in developing their own county Head Quarters.[17]

Secondly, the Local Government Act included the "provision of services to the people" and the "promotion of local development" among the responsibilities of Local Government Councils. Independence opened larger margins of manoeuvre in programme design, which no longer had to comply with northern institutional arrangements. In 2012 the Government of South Sudan developed several Service Delivery Frameworks for primary education, rural water and sanitation, basic healthcare and small-scale infrastructures, followed by a Local Services Support Initiative (LSSI) and a Local Services Support Joint Action Plan signed by six line ministries involved in the provision of services. Even though international agencies were strongly involved in these activities,[18] the

[15] Interview with Naoko Anzai, Programme Manager of Local Governance and Service Delivery project (World Bank)/former Project Manager for Local Government Recovery Project (UNDP), Juba, 02/11/2013.

[16] Interviews with local government civil servants and members of state parliaments and governments in Unity and Lake States, 2013; interviews with members of the Local Government Board, Juba, 2013.

[17] Suleiman, C. A. (2006). Speech of the Local Government Board chairman at the Commissioners' Consultation on the Local Government Framework. Local Government Board Archive, p. 5.

[18] The Service Delivery Frameworks and the LSSI were presented as internal strategies of the Ministry of Finance and Economic Planning and more broadly of the Government of South Sudan in all related documents I could access. However, during a personal communication, a senior worker of an international agency was very critical of the actual ownership of these strategies by South Sudanese governmental institutions and on their actual commitment to making the county level work. Talking about the Ministry of Finance and Economic Planning and the LSSI, he wryly specified: "when I talk about the Ministry of Finance, I basically mean ODI (Overseas Development Institute, UK) people that are running

Government of South Sudan still manifested its intention to engage the local government more deeply in delivering services. Indeed, local government capacity still needed to be strengthened: according to an LSSI document released by the Ministry of Finance and Economic Planning in early 2015: "Due to weak Local Government capacity, a lack of policy and procedural clarity, and poor oversight by national government, states have absorbed many Local Government functions" (Ministry of Finance and Economic Planning, 2015).

Corruption also contributed to squeezing the amount of government resources that actually reached lower levels of government from the very early years of the interim period, when the regional government and state governments of oil producing states were receiving consistent flows of oil revenues. Thus, most basic services such as education, health and water and sanitation continued to be mainly provided by non-state actors working with foreign resources (Ministry of General Education and Instruction, Republic of South Sudan, 2012; NORAD, 2009). Oil revenues fell short of expectations: skirmishes between the Khartoum and Juba governments repeatedly halted production and, even when this did not happen, corruption absorbed a large part of the revenues. These revenues were also severely affected by the drop in oil prices following the 2008 global financial crisis, which forced the GoSS to cut its oil-dependent budget by a third (Bennett et al., 2010). Over half of the national budget was absorbed by salaries, a particularly sensitive issue. With defence being the second largest expense, only limited resources were invested in basic services: in 2008, only 7% of the national budget was earmarked for health and education expenditures, and 3.4% to rural development (Bennett et al., 2010).

For these reasons, as well as a consequence of the acknowledgement that not much had been achieved over the previous five years in terms of service delivery, in 2010 the mid-term evaluation of the work carried out in the framework of the Joint Assessment Mission report suggested focusing on sub-state levels of government both in terms of expenditures, and in terms of promoting harmonization with existing customary systems of authority (Bennett et al., 2010). The fact that international development agencies started targeting local governments instead of – or aside from – state governments did not however change the fact that the delivery function was accomplished by hybrid bodies comprising governmental institutions and development agencies. In the eyes of the local population, both were part of the state and contributed to its production. As a consequence, not only is it extremely difficult to separate government deliveries from international agencies' deliveries (Slater, 2015) but also, access to resources and services tends to be equated with access to the state,

the Ministry. They work a lot on economic planning and public financial management. [...] There about 20 expats from ODI in the Ministry of Finance, [...] they basically run the Ministry. [...] LSSI was one of the initiatives from ODI, but it was always presented as a Ministry of Finance initiative". Personal communication, Juba, November 2013.

the two being perceived as inextricably linked. This has given rise to bottom-up state-making practices involving the capture of local state institutions as a means to negotiate access to resources provided through the state by external actors.

## 4. Using the local state: service delivery discourses and practices

### 4.1 Yirol West: "taking towns to the people" or people going to town?

Yirol West County, a relatively stable area of Lakes State, was one of the areas that experienced a strong thrust towards administrative fragmentation linked to its population claims of access to services. During the war, Yirol West area had remained firmly under SPLA control: decisions over the creation of new administrative units were thus taken – quite arbitrarily – by the local SPLA authority. Yirol West County itself was created between 2003 and 2004, following the split of Yirol County into Awerial, Yirol East and Yirol West. According to the Yirol West County Commissioner, the area was divided to "bring the administration closer to the community".[19] The division was done on ethnic lines, based on presumed colonial classification of settlements, giving administrative recognition to three sub-sections of the Dinka Agar. The Atuot subsection inhabiting Yirol West had six clans. At the time of my visit, in late 2013, Yirol West had a town council and six "officially" recognized *payams*. Given the lack of warrants of establishment for both counties and *payams*, their recognition was considered official as long as they were included in the county consolidated planning and budgeting process, which had been ongoing since 2007–8.

In 2013, the chiefs of three sub-clans submitted requests for the creation of three additional *payams*: Panlieth (currently in Geng-Geng area), Panakar and Wathcabath (currently in Abang area).

**[PLACE TABLE 3 HERE]**

The main argument advanced to justify the request was the lack of basic services in the areas far from the existing *payam* headquarters, together with the population increase. In the words of a *boma* customary court member in Abang *payam*:

> We were divided because we are many in Abang. If services come from the government, they cannot benefit everybody. The decision came from us to divide, so if the services come from the government everybody can benefit.[20]

The County Commissioner and the SPLM County Secretary substantially agreed with this position. The County Commissioner argued:

[19] Interview with Yirol West County Commissioner, Yirol Town, 03/12/2013.
[20] Collective interwiew with Bany Loum *boma* Court. Abang Payam, 04/12/2013

> The area [Abang] is very large. If you want to deliver the services to them, and divide the services given by the governor equally to *payams*, Abang will not receive enough because it's bigger. If it is divided, everyone will get its share and anyone will complain that [he/she] is being neglected.[21]

Being a native from the would-be Panakar *payam*, the SPLM County secretary was particularly supportive of the local chief's request and wrote a letter to the Governor of Lakes State to speed up the approval.

Although Garang's statement of "taking towns to the people" was never explicitly mentioned by local chiefs, only by government officials, reference to the territorial extension of existing *payams* and to the long distance between rural settlements and *payam* headquarters were frequent. Vague references to the increase in population numbers and to the impossibility of looking after such a large population with one customary court alone were also frequent, showing the tension between the wealth in chiefs, deemed necessary to access resources, and the wealth in people, which was nevertheless considered a justification of vital importance for splitting chiefdoms (Leonardi, 2013).

Even though the official establishment of new *payams* required the approval of the Lakes State Governor, all three of the proposed new *payams* had already established Regional Courts (*payam* level customary courts). These courts were regularly functioning: executive chiefs had been elected, and court members discussed cases related to marriages, divorces, adultery, dowry payment and so on, involving sub-clans that had agreed to be under their respective jurisdiction. If, as Lund argues, "When an institution authorizes, sanctions, or validates certain rights, the respect or observance of these rights by people simultaneously constitutes recognition of the authority of that particular institution" (Lund, 2008, p. 9), then the existence of these courts was undoubtedly recognized and legitimized by the fact that people were using them and accepting their rulings. The presence of functioning Regional Courts was used as a proof of the presence of the state on the ground, providing justice to the community: the only thing missing was thus official recognition of the *payam*, so that the state could also accomplish its delivery function and the local population benefit from development projects and services.[22]

Indeed, the idea of the *payam* as the basic unit for development projects or grant allocation was widespread:

> The government doesn't allow us to request enough relief unless we are splitting into many *payams*. The government considers the *payams*, not the population. [...]. Other things are also divided according

[21] Interview with Yirol West County Commissioner, Yirol Town, 03/12/2013.

[22] Interviews with: SPLM Secretary, Yirol West County, Yirol Town, 05/12/2013; Yirol West County Commissioner, Yirol Town, 03/12/2013; Geng-Geng Payam Administration, Yirol Town, 05/12/2013; collective interview with Watchabat Regional Court, Yirol Town, 04/12/2013. On the role of service delivery in asserting the presence of the state in the localities, see also Leonardi (2020).

> to *payams*. NGOs come to the people of the *payams*. They want two or three people from the *payams* to work with them. Having more *payams* will benefit more people.[23]
>
> The splitting of the *payams* is very important because it will accommodate many people. [...] For instance, if we are one, if you come to visit us, if Kunyiir is alone you can meet only Kunyiir. If we are two, Kunyiir and Panlieth, then you will meet both of us. This is why we want to be split, in order to be all accommodated by the services.[24]

In order to be "all accommodated by the services", however, the establishment of a *payam* through a functioning court alone was not enough. Chiefs had a vital role in the visibility that these self-proclaimed new administrative units managed to obtain. Playing on the ambiguous boundary between government and community, the chiefs stressed their position as community gatekeepers, at once expressing local grievances related to the lack of public services and claiming to "be the government" themselves. On the one hand, they claimed individual benefits – in the form of a government salary – for the support they gave to the creation of the new state and for providing justice to the local communities on behalf of it;[25] on the other, they were very well aware that they needed to prove their capacity to attract development to their constituencies, and that this was the major reason why local people agreed to recognize them as new legitimate authorities. Self-interest of the chiefs thus may partly explain the phenomenon of the fragmentation of chieftaincies, but the latter also keeps a strong collective dimension deriving from the participation of the local people. The understanding of how public services can be accessed provided an incentive to the local people to stress their belonging to the new chief (and the new court), as a form of active adaptation rather than of passive acceptance of chiefs' decisions.

Even though it was through local government facilitation – and sometimes with heavy interference[26] – local chiefs were aware that the bulk of basic services was provided by international NGOs: it was to their foreign representatives that the chiefs and their courts needed to be visible. Reflecting the development community's urban bias (Chambers, 1983; NORAD, 2016), they needed to be in town, close to centres where decisions concerning the location of development projects were made. The historical conception of the town as a centre of knowledge related to government

[23] Collective interview with Bany Loum *boma* Court, Abang Payam, 04/12/2013.

[24] Panlieth was one of the areas that presented a request to become an independent Payam. At the time of fieldwork it was a *boma* under Geng-Geng Payam, but it was inhabited by the Jillek section of the Dinka Agar while the rest of Geng-Geng *payam* was inhabited by the Akot section. Kunyiir was a *boma* under Geng-Geng Payam, also inhabited by Jillek, and it supported Panlieth's request to become a *payam* to become one of its *bomas.* In the long run, however, Kunyiir chiefs had plans to become a *payam* as well, claiming that all other *payam* headquarters (including Panlieth) were too far away from where the people lived to ensure proper service delivery.

[25] Interviews with Regional and *boma* local Courts, Yirol Town, December 2013.

[26] For instance, the INGO running Yirol Town Hospital consulted the County Commissioner on a regular basis in the organisation of outreach campaigns for vaccination and other routine activities for disease prevention. Personal communication with INGO staff, Yirol Town, December 2013. In another instance, in Pariang County (Unity State), the Commissioner even managed to interfere with an NGO's plans to implement an agriculture project, forcing it to include a third *payam* in its implementation schedule (personal communication with NGO field officer, Pariang county, February 2013).

(Leonardi, 2013) has enriched itself with knowledge about development projects and service delivery. Since the 1990s, the chiefs' courts have been increasingly gathering in the towns. In some cases, they were appointed by the SPLA to control urban areas; in others they moved to town with their courts because of insecurity in the surroundings. But insecurity was never the only reason: many were "people who knew the government" from having previously been traders or town-based, and they were expected "to deal effectively with government, and so to bring the material benefits of development projects and services" (Leonardi, 2013, p. 162).

When these chiefs resided in town instead of their own rural *payams*, local authorities were often reluctant to recognize it as the expression of a collective claim and rather blamed the chiefs for their unwillingness to be based in the rural areas, characterized by a chronic lack of basic services typically exemplified with the lack of water.[27] But the duty of the chiefs to channel the grievances of their community was emphasized by the members of Geng-Geng *payam* Regional Court:

> The role of chief [is] to be responsible with the life of the community, and responsible for the NGOs coming to the area [...]. If delegates from [the] government come, they only use state roads direct to executive chiefs. We have our local villages: if there is no road, we would not meet the delegate from the government. [We need] the chief [...] to meet executive directors from any NGO and the government.[28]

In the eyes of the local population, NGOs and government always go hand in hand in the exercise of the delivery function of the state. NGOs would go to the County Commissioner's office to consult the Local Government before initiating any development work, and there a decision on the location of projects would be taken. Chiefs believed they had to intercept this decision-making process and influence it by demonstrating that they represented a particular, officially recognized community. For this reason, most of the Regional Courts, including the newly established ones, did not gather in their *payam* headquarters, far from the town centre, but in the much more visible arena represented by the square just in front of the County Commissioner's office.

Whether they succeed in getting what they want or not, this speaks to the bottom-up understanding of how the delivery process works, and to the extent to which administrative fragmentation mediated by the chiefs was perceived as the only effective way of accessing resources for communities that did not have powerful patrons in top government positions.

### 4.2 Drivers of "administrative independence"

In 2013, following a scoping mission that highlighted the exclusion of a large majority of the population from access to basic services as well as poor coordination between service-delivery NGOs

[27] Interview with Abang Payam administrator, Yirol Town, 04/12/2013; Rubkhona County Commissioner, Rubkhona, 06/02/2013.

[28] Collective interview with Geng-Geng Payam Regional Court, Yirol Town, 05/12/2013.

and local government,[29] the World Bank launched the Local Governance and Service Delivery (LGSD) project. The project, also known as LOGOSEED, had the overall goal of providing "independence dividends" to the rural population through enabling local government, particularly counties and *payams*, to deliver services and promote development. The novelty of the project laid in the fact that it targeted directly the local government: "Instead of creating all these parallel service delivery systems", explained the LGSD project manager, "[we decided that] it was worth trying to directly strengthen the local government".[30] "Conflict prevention and post-conflict peacebuilding" was, unsurprisingly, the major component, as the project relied on the common understanding that the more services were delivered, the more legitimate the state would be, the less likely renewed conflict would become. Funded by Denmark, Norway and the Netherlands,[31] the project was implemented in partnership with the Local Government Board (LGB).

The implementation of LGSD started with a Fast Track Initiative financed by the Swedish International Cooperation Agency in 2012 in eight counties in four states, and it was expected to cover all the ten states through successive phases.[32] The target areas were identified by the LGB in cooperation with the Project Management Unit of the project, based on guidelines mainly concerning county capacity of accounting for grants (Government of South Sudan, 2013). Locations within counties were identified with the contribution of county commissioners.[33] Similarly to other projects targeting local government and service delivery, the project encouraged a participatory planning exercise to identify bottom-up development priorities; these priorities were then transmitted to higher levels of government, following the hierarchy up to the national Ministry of Finance and Economic Planning. However, differently from other projects, the funds would not transit through national or state coffers, but rather be transferred directly to county bank accounts.

In the initial phases of the LGSD project, the World Bank subcontracted international NGOs to "prepare" local communities and administrators for receiving grants and managing them in a transparent way. Pilot needs assessments were conducted in the selected areas and development

[29] Sarzin, Z., & Bekalu, T. (2011). Scoping Mission for Proposed Local Governance and Service Delivery Program [Draft Aide Memoire]. The World Bank; Local Government Board Archive.

[30] Interview with Naoko Anzai, Juba, 02/11/2013. In fact, while directly targeting the Local Government, the project created a separate structure at the national level to coordinate the work and to collect feedback and grievances from the bottom up as a means of overcoming government ineffectiveness (interview with World Bank Consultant at the Project Management Unit of the Local Governance and Service Delivery project, Juba, 25/10/2013). This process is known as "cocooning" in development jargon (NORAD, 2016).

[31] The initial budget for the project was of US$98 million in 5 years. In fact, the project was closed in February 2019 but only US$45 million were actually disbursed and the overall rating of the project on the WB website is "moderately unsatisfactory". See https://projects.worldbank.org/en/projects-operations/project-detail/P127079?lang=en&tab=ratings (accessed on 23/10/2020).

[32] Interview with World Bank Consultant at the Project Management Unit of the Local Governance and Service Delivery Project, Juba, 25/10/2013.

[33] Interview with project manager, INGO, Rumbek, 19/11/2013.

committees at county, *payam* and *boma* levels were set up. *Boma* Development Committees (BDC) elected their representatives based on the sub-clans inhabiting the area. BDC members were then to form the *Payam* Development Committee (PDC), with the *payam* administrator as a secretary.[34] These committees were in charge of grassroots needs assessments that passed through the different levels of government. The County Development Committee,[35] made of PDC representatives and chaired by the county Executive Director, would then merge the development plans and select projects to be funded within the year.[36]

Due to limited funds and time, the pilot project did not cover all *payams* in Yirol West. Abang, Geng-Geng and Mapuordit *payams* were selected. Again, within these *payams*, not all the *bomas* were targeted. One of these was Kunyiir *boma*, inhabited by the Jillek clan and administratively under Geng-Geng *payam*. However, due to its geographical proximity to Abang *payam* headquarters, the project management decided to place it under the responsibility of the latter in the implementation of the project. Nobody reacted to this: according to the local community mobilizer hired by the INGO working for the LGDS project, there was a big difference between such a decision made by a donor according to technical criteria, and a political one, "coming from up there (the government)", to "weaken" Geng-Geng by "giving one of its *bomas* to Abang".[37] Instead, the move received the County Commissioner's unofficial blessing: while having opposed a similar arrangement between Mapuordit and Anuol *payams*, he did not interfere in the case of Kunyiir.[38]

**[PLACE TABLE 4 HERE]**

Though the decision of the LGSD project management to move a *boma* from one *payam* to another was presented as a technical arrangement motivated by geographical proximity, the process set in place through the World Bank's *payam* development grants had more political consequences. It entailed the establishment of a mechanism for planning and budgeting, the definition of priorities for

[34] In the PDC, only one or two representatives of each sub-clan were allowed, according to the numbers of sub-clans in the area. If the *payam* administrator was a native of that area, he was counted in his sub-clan quota. Interview with INGO field officer, Yirol Town, 03/12/2013.

[35] Interview with project manager, INGO, Rumbek, 19/11/2013. County Development Committees were first created in 1999 in the framework of the US-funded STAR project (see Chapter 3) as liaison between INGOs, the Sudan Relief and Rehabilitation Commission and the population and were tasked with formulating development strategies and implementing development programmes. They did not survive to the project (Dembowski, 2002), but according to Naoko Anzai (interview, Juba, 02/11/2016) there was an attempt at reviving them in 2007 as the body in charge of making decisions over the use of Constituency Development Funds. In Yirol West, however, there was no CDC before LGSD according to the local community mobilizer involved in the project.

[36] Interview with project manager, INGO, Rumbek, 19/11/2013.

[37] Interview with field officer, INGO, Yirol Town, 03/12/2013; *Payam* administrator, Geng-Geng *payam*, Yirol Town, 05/12/2013.

[38] Interview with project manager, INGO, Rumbek, 19/11/2013.

a certain area, and decision-making on how funds would be spent through the formulation of plans that would be implemented by local government authorities and administrators.[39] This power was given to PDCs, which had the delicate task of merging *boma* plans in order to have just one project funded by the World Bank for the whole *payam*, and had to identify the exact location where the infrastructure linked with the project would be built. This decision-making process could be highly contentious, as suggested by the INGO project manager in charge of the LGSD project:

> When we were discussing the priorities, [the people living in Mapuordit p*ayam*] said a school in Aguraan *boma* and also in Mabui *boma*. When [the two plans] came to the *payam* for consolidation, the school became the first priority [of the *payam*]. Now there is a challenge, because both of [the *bomas*] want the school, [but] the budget cannot be passed with two schools [in one *payam*] the same year.[40]

In the case of Kunyiir *boma*, the project created a discrepancy between patterns of service delivery through the donor-funded initiative and the local administration hierarchy, to which Kunyiir still needed to respond regarding other issues (for example, tax collection or planning and budgeting related to other government funded programmes). At the same time, it also provided an alternative source of legitimacy for claims to administrative autonomy.

> Kunyiir has been identified as an area where the project will be implemented, but it doesn't matter in which *payam* it is located. Even if Panlieth is approved and Kunyiir decides to go with it, it will still be involved in the project.[41]

This sort of "administrative independence" seems to be one of the drivers of the attempted administrative rearrangement in Yirol West. As shown in Table 4.2, most of the *bomas* involved in the project had either requested to become *payams* in their own right, as in the case of Panakar, or to be part of new would-be *payams*, as in the case of Betoi and Wuntiit, claimed by Wathcabath, and Kunyiir, claimed by Panliet. This rearrangement had a double thrust: on one side, from those *bomas* such as Wathcabath and Panlieth, respectively under Abang and Geng-Geng, which had not been selected among the project implementation areas; on the other side from *bomas* that had been selected, but feared being subjected to the priority-selection process in *payams* where they felt themselves to be minorities. Indeed, Kunyiir *boma* Court did have the feeling of their priorities being overlooked

[39] Interview with field officer, INGO, Yirol Town, 03/12/2013.

[40] Interview with project manager, INGO, Rumbek, 19/11/2013. Aguraan project was selected because Aguraan BDC was considered more pro-active by the *payam* administrator – it had started a collective farming activity to contribute to the BDC subsistence. Mabui *boma* was promised that its project would have been considered as a priority in the second phase of the project, but Mabui BDC insisted on presenting its project to the PDC even after the latter had already approved the Aguraan project. Relations between Mabui and Aguraan were already tense due to a long-standing feud between the sub-clans inhabiting the two *boma*, Kuk and Peleu. When the feud became particularly intense, members of one sub-clan were prevented from entering the other sub-clan territory and from accessing any vital facility falling under the control of the rival faction, including the local hospital. It was therefore perceived to be of vital importance for both *bomas* to secure development projects and service facilities on their side (personal communication with local staff at the hospital, Mapuordit, 17–18/11/2013).

[41] Interview with field officer, INGO, Yirol Town, 03/12/2013.

during the needs assessment in Abang *payam*, and that since their needs were many, they had to be able to negotiate the priority interventions in their area from a stronger position:

> During the project meetings, Kunyiir community proposed water to be brought by the project, but [we] have been waiting up to now and water did not reach [us]. [...] We want to be a *payam* because we are very many, we have a big population. And we demand many things.[42]

Indeed, having to choose just one project in each *payam*, it seemed very unlikely that Abang PDC would have voted for the one proposed by a *boma* which was in fact part of another *payam*.

### 4.3. The politics of "taking towns to the people"

"Administrative independence" is seen as the best strategy to intercept resources and services from their providers, but also has a more explicit political dimension. Administrative units are the basis for the creation of electoral constituencies. In explaining why there were so many requests for new *payams*, a Member of Parliament in Lakes State Legislative Assembly mentioned the "political aspect" of "taking towns to the people":

> Those that will have a *payam* will have a chief that is a Regional Court, [...] and later on maybe they will have a constituency in the state assembly. [...] Taking towns to the people has a development aspect but also a political aspect.[43]

A revealing conversation with members of the Watchabath Regional Court (one of the proposed new *payams*) confirmed this point, stressing that until their clan had a *payam*, it would be impossible to obtain representation in the state legislative parliament and the benefits deriving from access to a stronger patron–client exchange.

> Court member: "Even though we are one [Luac clan in Abang], we are many and we need to be represented differently [in the State Legislative Assembly] so that the resources reach us. So that the resources are equally distributed."
>
> Researcher*: Do you think you have different priorities from the other areas of Abang and want to communicate separately with the government?*
>
> Court member: "[...] Since we were one we did not benefit from the government. Now that we have separated we expect more delivery like elevated tanks to be installed in Betoi *boma* [...].[44] [Now] there is no person representing us in the assembly, in the parliament, and any student representing [Wathcabath] *payam* is sponsored by the government. We expect that if we split from the other *payam* these things will happen in the future. That *boma* we mentioned, Betoi, we don't have clinic there. We

[42] Collective interview with Panlieth and Kunyiir Regional court, 05/12/2013.

[43] Interview with Member of Parliament, Lakes State Legislative Assembly, Rumbek, 06/12/2013. A similar point was made by other senior government officials (interviews with Senior Administrator, Ministry of Local Government and Law Enforcement, Lakes State, Rumbek, 19/11/2013; Eli Achol Deng, member of the Local Government Board, Juba, 13/12/2013). Referring to the ambiguous establishment criteria set by the law for counties, *payams* and *bomas*, one senior member of the Local Government Board said: "Those counties that are being created [...] need more *payams* to feed them and those *payams* will need more *bomas* to feed them and the whole population will depend on salaries from the government!"

[44] Betoi *boma* is one of the projects targeted by LGSD under Geng-Geng Payam.

> don't have water there. [...] We are many and nobody represents us in the Assembly. In case of election if we split, we may be represented in the Assembly."
>
> R*: Do the representatives in the assembly come from other areas in greater Abang?*
>
> Court member: "Representation is basically on one side. So we decided to split so to have representation also from our [sub]clan."
>
> R: *Did the other clan benefit from being represented in the parliament?*
>
> Court member: "Yes, those ones are benefiting, because MPs [Members of Parliament] have a lot of money and they give them to their people. They are given big salaries. Surely we expect that in the near future we will be represented so that we also benefit like the other people. People are now benefiting from the government, you can see this tower? [*He points to a three-floor building nearby the place where we are having our discussion*.] We are expecting this [kind of infrastructural improvements] from our kids."[45]

Various machinations trying to secure electoral constituencies for ethnic communities have been accounted for by Martina Santschi, who collected a number of valuable testimonies during the National Census in 2008, highlighting the political sensitivity of counting people. For example, she quotes a senior government officer in Central Equatoria state commenting on the political nature of the census, linking the delivery of basic services such as schools, hospitals and water points to population numbers (Santschi, 2008, p. 637).

Indeed, one could argue that the continuous inability to produce reliable population figures was deliberate: it was much easier and politically more useful to continue counting administrative units and chieftaincies, whose creation could easily change the reality on the ground based on local alliances and political arrangements, rather than holding a new census, whose results would fix the figures once and for all, closing any space of negotiation and informal agreements. Thus, administrative independence would not only lead to increased access to basic services, which are distributed based on the existing units but would also lead to the creation of electoral constituencies, which would complement the access to basic services with a more direct access to patronage networks. This also contributed to continuous bottom-up thrusts to administrative fragmentation. In the absence of election for county level governments, according to the Chairman of the LGB and to several of my informants, appointment of local prominent political figures such as county commissioners also followed a sort of "equitable distribution" among the different officially-recognized communities – those that had a *payam.*[46]

[45] Collective interview with Watchabath Regional Court, Yirol Town, 4/12/2013.

[46] The dynamic of the distribution of positions was always treated as confidential information, perhaps because it was considered less acceptable from the lens of democratic processes advertised as virtuous by representatives of the international community in South Sudan and in the government's public speeches.

Some, however, suggest that these thrusts were not fully bottom up but rather resulted from "politicians beating the drum" of local grievances and divisions for self-interested purposes.[47] A senior administrator of the Ministry of Local Government argued that "politicians" (including the county commissioner) encouraged the grassroots to fragment in order to have more local leaders that they could claim to be able to mobilize, even if in fact they only represented very few people.[48]

In both cases, the double thrust (top down and bottom up) towards administrative fragmentation appears to be boosted by the international contribution to patterns of resource provision presented as administratively effective without acknowledging their deeply political nature.

## 5. Conclusion

The state emerging in post-conflict Southern Sudan was one in which the delivery function was given the complete priority in its relationship with the local population, to the detriment of other aspects of an effective decentralization reform, such as representativeness, transparency and democracy. This was partly a consequence of the extremely high expectations that South Sudanese citizens had after having contributed to the liberation struggle and to independence: the idea of the state as a resource provider, both in the form of public goods and services and in the form of jobs, was widespread and crosscutting in virtually all segments of society. At the same time, however, the focus on the delivery function of the state was also encouraged by a large slice of internationally funded state-building programmes, which framed service delivery as the most vital "peace dividend" that the people needed to receive to avoid renewed conflict against an ineffective, and thus illegitimate, government.

In the attempt to increase state and government legitimacy, local chiefs were incorporated in the local government system of the southern region and later in that of the independent state. Again, this was the result of multiple thrusts: the actual social legitimacy that they enjoyed in the rural areas for having been the only effective institutions for decades; the need of the SPLM to rely on their intermediary role to broadcast central power over the peripheries; and the belief, popular among international development agencies in the early 2000s, that their official recognition in local governance systems would ease the achievement of development and governance objectives through "working with the grain" of local socio-political systems.

These elements – the focus on the state's delivery function and the recognition of traditional authority in the local government systems – became important parts of the state-building project supported by the SPLM and its international partners. This project gave rise to multiple initiatives

[47] Interview with Senior Administrator, Ministry of Local Government and Law Enforcement, Lakes State, Rumbek, 19/11/2013.

[48] David Koak Guok, (2008). Local Government Presentation to the Sixth Governors Forum on Demarcation of State and County Administrative Boundaries in Southern Sudan. Local Government Board Archive.

aimed at strengthening the capacity of the local government to deliver services and making local chiefs' work compatible with that of a modern state, but resulted in a more or less officially recognized overlapping between administrative units and local chiefs' constituencies, based on ethnic affiliation, which fed into historical processes of state formation.

Through the Yirol West case study, this chapter has shown to what extent the process of administrative fragmentation, an extremely sensitive topic in many areas of South Sudan, is linked to local perceptions of how the delivery function of the state works. Local chiefs are the major channel through which the local population attempts to "capture" the state structure and be recognized as part of it in order to access resources that are perceived to be distributed either through direct patronage (from a big man sitting in a powerful position) or through the establishment of officially sanctioned communities that are recognized by government authorities and by external resource providers (NGOs and international agencies). Because the process of administrative fragmentation takes place through the chiefs, who are the expression of ethnically defined communities, administrative fragmentation turns out to worsen ethnic fragmentation and competition over resources. If it is true that this partly depends on a historical legacy of politicization of ethnicity that has characterized state formation in Southern Sudan since colonial times, the case study also shows that there is an incentive structure brought by state-building interventions that encourages fragmentation as an effective way of accessing resources. In the next chapter, this process of administrative fragmentation will be linked with ethnic fragmentation even more strongly through the analysis of the post-conflict system of land governance.

# Chapter 5 – Land governance and state-building

## 1. Introduction

Though not usually considered among specific state-building reforms, land governance finds itself at the crossroads between the processes of state-building and state formation. A rich scholarly literature has shown that "Land issues are often not about land only. Rather, they invoke issues of property more broadly, implicating social and political relationships in the widest sense" (Lund & Boone, 2013, p. 1). Lund (2008; 2011) has illuminated the relation between land, sovereignty, authority and property: sovereignty is produced through the control of the land, which also becomes a source of public authority. When this authority is recognized by the people who are subjected to it, it becomes legitimate and its rulings sanction and attribute property. While not being the only source of public authority (Lund, 2008), land is certainly an important one as claims over land property usually contribute to the structuring of forms of authority that often have an institutional character (Lund & Sikor, 2009). The close relation between property and citizenship rights that emerges around land issues in Africa thus bear elements of state-building, as it contributes to setting the nature and scope of the state structure (Badiey, 2013); at the same time, however, it is also central to processes of state formation, helping define the scope of state authority, identify right-bearing subjects (Boone, 2007; Lund & Boone, 2013) and shape the "structure of politics" (Boone, 2014).

Drawing on the evidence presented in previous chapters about ethnic fragmentation encouraged by the decentralization reform, this chapter emphasizes the overlaps between the creation of an ethnicized local government and the implementation of the land tenure reform, based on the recognition of communal rights to land on a customary basis. Relying on a supposed dichotomy between the modern and the traditional, the South Sudanese land legal framework recognized a bifurcated land tenure system, with individual ownership based on freehold only accessible in the urban areas and communal ownership prevailing in the rural areas, under the administration of local traditional authorities. Effectively bounding the majority of the South Sudanese rural population to access land exclusively through their belonging to an ethnic community, this had three main consequences: first, a growing competition for "administrative independence" as a means of sanctioning the existence of a particular community, to make sure that community land rights were recognized and respected. In practice, this resulted in an increase in (often violent) border disputes between local government and administrative units that transcend the modern state/traditional community dichotomy as they involve state institutions and officials claiming land on a customary basis. Second, these dynamics of state-sanctioned land claims contributed to worsening relations

between communities that had traditionally been competing for access to land. As revealed by various sources mentioned in the chapter, intercommunal tensions progressively grew as the state apparatus was established: as people were counted and local governments were created, border significance increased. Third, as a confirmation of the challenges deriving from relying on the notion of community to attribute rights and property, dynamics of intra-communal differentiation and fragmentation sometimes unfolded. These were encouraged by an inadequately formalized system where claims on land were often more effectively addressed through informal means, and question the idea of homogeneous communities through which access to land can be granted equally.

In exploring these aspects, the chapter sheds light on the fuzziness of the symbolic boundaries separating state from society and modernity from tradition, and the extent to which the reliance on these boundaries has created a political subject that has strengthened the elite's capacity to appropriate land exploiting discourses on customary and communal rights, and at the same time provided resources encouraging the people to exacerbate community identity as a means to protect their rights to land (Hirblinger, 2015). If it is true, as Catherine Boone argues, that land tenure systems reflect the structure of politics, privileging universalistic or particularistic definitions of polities (Boone, 2014), land governance must represent an important piece in the analysis of state formation dynamics, especially in a context where national and international actors have coalesced around a liberal state-building project.

## 2. Land governance and state-building in Southern Sudan

### 2.1 The community as a right-bearing subject

The "communitarian trend", described by Dominique Darbon with reference to the progressive strengthening of communitarian belonging as a means to access rights (Darbon, 1998), characterizes recent land tenure reforms undertaken by a number of countries all over the world. As shown by a study published in 2018, these reforms have increasingly recognized communal collective rights to land on a customary basis (Alden Wily, 2018).

In Africa, these reforms have been variously supported by international development agencies and donors, leading to the official recognition of local rights originating from multiple sources of authority and networks of relations between sometimes competing livelihood needs. Attempts at including these "bundles of rights" (Lavigne Delville, 2010b) in the policy-making agenda have to do with the problematization of the concept of tenure security, long associated with the individualization and formalization of land rights (Berry, 2004), and with the acknowledgment of the multiple facets of land-related conflicts in the continent (Platteau, 1992). Indeed, the privatization of

land rights neither resulted in an increase in agricultural productivity, nor in more equitable opportunities of access to land – rather the opposite (B. J. Berman, 1998; Gentili, 2008; Zamponi, 2011). The emergence of the concept of local rights, and their incorporation into legal frameworks, can thus be seen as a genuine attempt at placing attention on the rural people and their livelihoods. At the same time, however, it compels the identification of "who is local" (Peters, 1996), and of who has the authority to identify and to decide who is local, inevitably influencing what Catherine Boone has called "the structure of politics" (Boone, 2014).

In international organizations' reports and policy papers, this shift towards the locality has predominantly been expressed in customary terms, associating the "local" with institutions and cultural practices pertaining to the domain of customs. In 2003, the World Bank acknowledged that 90% of the land in Africa was de facto administered under "customary systems" (World Bank, 2003). In 2013 the number of African countries having recognized customary land tenure in their legal systems had nearly doubled since 2002.[1] Several studies conducted by international organizations looked at customary systems of land tenure as the best option to effectively and equitably allocate land safeguarding the interests and rights of the rural poor (Odhiambo, 2006; USAID, 2012). Though not solving per se the burning problem of tenure security, which is still considered the precondition to poverty reduction and economic growth, these systems moved the decision-making power over the allocation of land from undemocratic state bureaucracies and markets to more legitimate authorities closer to the communities. This would allow for the protection of communal land from predatory external interferences and for a more equal distribution of benefits deriving from productive investments on the land or from the commodification of eco-system services (Byamugisha, 2013). Recognizing communal ownership would also challenge the flawed assumption of the existence of "free land", evidencing low intensity land uses and contributing to the prevention of environment degradation caused by large scale agricultural investments (De Wit et al., 2009).

In fact, the recognition of communal land rights on a customary basis did not shed light on "who is local": even though it relied on the concept of community as a right-bearing subject, it did not necessarily clarify the nature and scope of these communities, nor of their territories. Typically, the community is described as a homogeneous entity whose members share the same interests, and whose conflicts – if they emerge – can be solved by uncontentious customary systems (Berry, 2004). A number of international experts have engaged with the complexity of these systems, proposing strategies to make them "legible" and compliant with human rights and the rights of vulnerable social groups such as women and youth (De Wit et al., 2009; Marzatico, 2014). However, the artificial

[1] World Bank website. http://www.worldbank.org/en/news/press-release/2013/07/22/how-africa-can-transform-land-tenure-revolutionize-agriculture-end-poverty (accessed on 21/01/2021).

character of customs is often overlooked, as well as the power relations and political consequences of "organizing and formalizing communal groups", as a report commissioned by the World Bank suggests doing (Byamugisha, 2013, p. 7). Acknowledging the difficulties of identifying fixed communities on a customary basis, several international land experts have warned against the potential exclusive character of customary systems (Cotula et al., 2004; Knight, 2010; McAuslan, 2007; Odhiambo, 2006; USAID, 2012), yet policies based on the legalization of customary land rights rely on the definition of clear-cut distinctions between right-bearing groups of "insiders" and "outsiders". These definitions disregard the flexible and negotiated character of customary law applied to land (Leonardi & Santschi, 2016; Pendle, 2019) and are likely to be met with various forms of resistance and appropriation by diverse actors in the pursuit of specific interests. Naseem Badiey (2013), for example, shows how these tensions emerged in the peri-urban areas of Juba, where competing claims based on autochthony versus national citizenship were advanced by different actors negotiating their position in the new state.

Catherine Boone argues that different land tenure regimes have profound implications for the nature and scope of state authority, showing that a system that recognizes communal rights to land privileges "local citizenship" to a national one (Boone, 2007, p. 559). Indeed, the contentious identification of communities as right-bearing subjects is the product of continuous negotiations between different actors (Badiey, 2013; Berry, 2004), but these negotiations are influenced by historical constructions of community identity. In South Sudan, as in much of post-colonial Africa, this historical construction largely draws on colonial definitions of customs and ethnicity (Leonardi & Santschi, 2016; Mamdani, 1996). If ethnic homogeneity is a chimera, impossible to reach in diverse societies characterized by high mobility (Berman et al., 2004), the process of attributing land rights to ethnic communities within a circumscribed territory cannot be anything but controversial. Matched with the centrality of the concept of "local community" in the establishment of the local government, with local government units so ambiguously overlapping with the customarily defined domain of the chieftaincies, it is thus of vital importance to understand the processes of both state-building and state formation in contemporary South Sudan.

### 2.2 "The land belongs to the community"

As shown in Chapter 1, the land in pre-colonial Southern Sudan was administered through a flexible system of seasonal agreements for access to pastures and water points. It was not considered a scarce resource, therefore customary right did not develop to any great degree around land issues (Guttmann, 1956; F. M. Deng, 1972; Makec, 1988). The British colonial government repeatedly tried to centralize control over the land to safeguard its capacity to use it for development projects such as building infrastructure, expanding towns and implementing large-scale agriculture projects. At the same time,

however, it recognized settlement and use rights for rural populations: local chiefs were empowered to apply customary law in the allocation and management of land, bounding ethnic communities to specific territories and contributing to the fixation of ethnic identities as a means to access land (Badiey, 2013).

Post-colonial land laws maintained the same approach, leaving rural land governance largely in the hands of local customary authorities. In the 1970s, however, Nimeiri's project of developing mechanized agriculture and, later, oil discoveries, led to the enactment of the Unregistered Land Act, which strengthened the government's ownership of all unregistered land with no regard for customary land tenure systems. Since no land titles were available to southern ethnic communities for the land where they lived, most of them were dispossessed of their land. Even though, as had been the case during colonialism, the central government had only a limited capacity to ensure a general enforcement of the law, Southern land and natural resources were constantly kept under threat of expropriation and exploitation by central authorities. For this reason, control of Southern land and natural resources became an important claim advanced by the SPLM during the war through the slogan "the land belongs to the community" (D. K. Deng, 2011b). The statement was a key component of the movement's position during the peace talks in Naivasha: customary rights on Southern lands were incorporated in the CPA and in the Interim Constitution of Southern Sudan in direct opposition to northern state-centric policies, linking rights in land held by ethnic communities to the institutional structure of the new state (Badiey, 2013).

As with all aspects of South Sudan state-building, this incorporation was agreed upon with the donors. Discussions around the formulation of a land policy recognizing customary land rights for people in their "areas of origin" started as early as September 2004, when a consultative workshop was held in Nairobi with representatives of the SPLM Secretariats of Agriculture and Animal Resources and of Legal Affairs and Constitutional Development and officials from FAO, USAID and the NGOs PACT and NPA. In 2007, a Land Coordination Forum was established, bringing together representatives of the Southern Sudan Land Commission (SSLC)[2] with those of many international agencies (including some not directly concerned with land tenure issues such as UNHCR, suggesting an acknowledgment of the broader repercussions of land-related decisions). The consultation process started through the Forum led to the enactment of the Land Act in 2009.[3]

During the consultation process facilitated by international partners, "the land belongs to the community" was modified into "the land belongs to the people". Robert Ladu Luki, chair of the South

[2] The SSLC was established by the Wealth-Sharing Agreement of the CPA with the mandate of solving land disputes and formulating recommendations on the land policy.

[3] In 2009 many important pieces of legislation of the government of Southern Sudan were enacted, including the Local Government Act and the Investment Promotion Act.

Sudan Land Commission since 2006, explained this change, pointing at the "divisive" character of the "community" concept and arguing that while communities remain central to the classification of land with reference to its "protection", the "people" need to be identified as the "sovereign authority" over the land (Luki, 2012).[4] If different forms of land tenure give rise to competing visions of citizenship (Badiey, 2013; Boone, 2007, 2014), this semantic change may suggest an emphasis on a national political unit rather than on communal groups and identities; in fact, however, the government officials interviewed, including Robert Ladu Luki himself, never really challenged the continued centrality of the "community" owning and managing the land through the traditional authority.[5]

Indeed, the Land Act explicitly provides for communal land tenure in the rural areas, as promised by the CPA, but it remains vague on key terms used to define it. The "local community" is described as:

> [A] group of families or individuals, living in a circumscribed territorial area at the level of a locality, which aims at safeguarding their common interest through the protection of areas of habitation, agriculture, whether cultivated or fallow, forests, sites of cultural importance, pastures and area of expansion (Government of Southern Sudan, 2009c, Ch 1(4)).

This description is rather based on a geographical definition of what constitutes a community and does not necessarily involve ethnic affiliation or kinship relations. However, communal land rights are regulated by customary tenure systems, which are described as comprising "unwritten land ownership practices in certain communities in which land is owned or controlled by a family, clan or a designated community leader" (Government of Southern Sudan, 2009c, Ch. 1(4)). Being the traditional authority the institution representing "community leaders" (Government of Southern Sudan, 2009b, Sec. 19), this definition overlaps with the roles and functions attributed to the traditional authority by the LGA, tracing the contours of an overlapping between the territorial jurisdiction of chiefs and their role as managers of a communal resource with economic and productive value. At the same time, however, the Land Act repositioned the traditional authority in the sphere of the community rather than in that of government: the traditional authority was "a body of traditional community with administrative jurisdiction within which customary powers are exercised by traditional leaders on behalf of the Community" (Government of Southern Sudan, 2009c, sec. 9). Relying on the idea of tradition and customs, the community was here implicitly defined as much more than a "group of families and individuals" sharing interests and living in one locality, but

[4] Ladu Luki, R. (2012, April 17). Land Issues under the new Land Regime. Acholi and Madi Peace Conference, Torit. Land Commission Archive.

[5] Interview with Robert Ladu Luki, Land Commission Chairperson, Juba, 30/03/2012; interview with Director General at the Ministry of Agriculture and Forestry in Unity State, Bentiu, 05/03/2013

as a group who also shares a common history and identity, and who recognizes the "traditional" authority of one leader. The double positioning of the traditional authority in the local government system – with chieftaincies overlapping with local government units, as we have seen in Chapter 4 – and in the land administration system gave the chiefs authority over the land in their respective chieftaincies.

The political importance of recognizing communal rights to land thus increased: not only was a community, through its chiefs, entitled to self-rule within its customarily defined territory, but it was also entitled to the right to land as a productive asset. These entitlements were bound to the state's recognition of a community's existence. Indeed, the overlaps between the local community entitled to customary land ownership and local administrative units was also envisaged by international experts: in 2004, a report commissioned by FAO suggested using the *payam* as a proxy for identifying community land administered through customary tenure, considering it the "area of origin" of the community (De Wit, 2004).[6] The Draft Land Policy, which was approved by the Council of Ministers in 2013 (USAID, 2013) but never passed by the National Legislative Assembly, confirms the correspondence between communal land and the territory of the local government unit, envisaging a role for county and *payam* statutory land institutions in the negotiation of land deals with investors.[7] State, county and *payam* level land institutions were foreseen by the LGA and the Land Act, with vaguely defined functions (Government of Southern Sudan, 2009b; Government of Southern Sudan, 2009c); in fact, they were established only in a handful of cases and mostly at state level, where there was less competition with customary systems; their focus was largely on surveying and demarcating the land in towns.[8]

The enactment of the Transitional Constitution of the Republic of South Sudan has sometimes been associated with a more conservative approach to land ownership and management, as it stated that "All land in South Sudan is owned by the people of South Sudan and its usage shall be regulated by the government" (Republic of South Sudan, 2011, Section 169(1)); in fact, this does not seem to have changed much in terms of local land governance. Since customary authorities continued to regulate access to land within the territory of the administrative unit, the correspondence between the latter and communal land was so widely taken for granted among South Sudanese politicians and citizens as to lead a senior official of the Ministry of Agriculture in Unity State to argue, in 2013, that: "The land belongs to the community means that the nine counties [making up Unity State until

[6] On development actors emphasizing the importance of local government and administrative units as an expression of the territorial organisation of local communities, see also Leonardi (2020).

[7] South Sudan Land Commission (2013). *Draft Land Policy*.

[8] Interview with the Chair of Unity State Land Commission, Bentiu, 11/03/2013.

2015] belong to nine different clans of Nuer".[9] The importance of the concept of community was thus confirmed in South Sudanese political discourse through its recognition as the subject entitled to self-rule, on one hand, and to property rights in land on the other. Consistent with their historical role as intermediaries between the local people and the government, the chiefs were invested with the power of determining who was a member of a particular sub-chieftaincy and who was not.

# 3. Borders, boundaries and communities

## 3.1 The demarcation dilemma and the politicization of land disputes

Faced with the countless practical problems of state-building in an area where the state's physical presence had always been very weak, in 2005 the Government of Southern Sudan declared that internal borders of sub-national and administrative units would rely on colonial borders as they had been defined in 1956 (Justin & de Vries, 2018). Indeed, colonial borders and maps were often referred to by many of my informants as the only way of overcoming contemporary border disputes, pointing at colonial archives as the only place where the truth over contemporary land claims could be established. The colonial past provided an important reference to the Government of Southern Sudan under various points of view; adopting colonial borders was clearly a quick way to deal with an otherwise extremely thorny problem. At the same time however, it was unclear what maps people were referring to and some even questioned the existence of colonial maps highlighting precise borders within Southern Sudan (Okumu, 2008). Even though in a few places iron poles along roads signalled the limit of one tribal territory with the neighbouring one, the colonial government had overall a limited interest in clearly demarcating internal borders, thus these remained largely undefined and have been described as a constellation of points such as trees, streams and hills (Cormack, 2016).

Earlier, colonial borders had been used as a reference in the Chukudum Convention in 1994, when the SPLM created its administrative system based on counties, *payams* and *bomas* (Justin & de Vries, 2018). In fact, these borders were soon challenged by the proliferation of new counties and *payams*, which were used by the SPLA to absorb potential opponents that could pose a military threat to the rebel movement. New administrative units were created out of ethnic fiefdoms, contributing to the politicization of ethnicities that had been increasingly militarized during the war (Schomerus & Allen, 2010). According to local consultations conducted by the NGO Skills for Southern Sudan in 2004, this happened especially towards the end of the war, when people's expectations of counties

[9] Interview with Director General, Ministry of Agriculture and Forestry in Unity State, Bentiu, 05/03/2013.

being turned into electoral constituencies grew.[10] Nevertheless, records of land disputes for reasons other than access to pastures and water-points, which were rare in colonial and post-colonial Southern Sudan, remained low until the end of the war (Branch & Mampilly, 2005; Leonardi, 2013). The fact that they started increasing after the CPA shows a link between land disputes and the formalization of a local government structure involved in the distribution of resources, as well as the growing availability of these resources.[11]

Official demarcation of internal borders was left pending even after the end of the war, allegedly because all the resources available had to be concentrated on the demarcation of the international border with Sudan.[12] The idea that more research needed to be conducted in British archives to find maps of the internal borders was also widespread,[13] as well as expectations that the government would create an ad hoc commission to identify boundaries between communities.[14] While the local government system was being set up and expected to start working even in the absence of clearly defined territorial jurisdictions, the perception of the sensitivity of internal border demarcation grew to the point that one county commissioner told me that he was "not allowed" to talk about borders unless authorized by the President.[15] One senior local government officer suggested that the continuous postponing of the demarcation of county and *payam* borders was one of the strategies adopted to claim not to be able to conduct elections in 2015 – which indeed were cancelled due to the war – since local administrative and government units would have constituted the basis for drawing electoral constituencies.[16]

The census conducted in 2008 contributed to the escalation of border disputes, providing further evidence of the relation between these conflicts and the creation of the modern state structure based on enumeration and standardized measurements of distances and settlements. According to the Chair of the Local Government Board, new conflicts were caused by the establishment of *payam* administrative structures and enumeration areas for the census, as people "feared being split or merged with other people they did not want to be counted with".[17] A quote by a senior official at the

[10] Skills for Southern Sudan, & Windle Trust Kenya (2004). 2nd Draft of the Local Government and Civil Administration Consultative Workshop and Follow-up Meeting of the Technical Team [Draft report]. Local Government Board Archive.

[11] David Koak Guok (2008). Local Government View on Boarder Disputes and Emergent of Payam Administrative Structures [*sic*] [Letter to the President of the Government of Southern Sudan]. Local Government Board Archive.

[12] Interview with Chamangu Awow Adogjok, Undersecretary of Local Government Board, Juba, 16/01/2013.

[13] Interview with Paramount Chief, Amongpiny *payam*, Rumbek, 20–21/11/2013.

[14] Interview with Chamangu Awow Adogjok, Undersecretary of Local Government Board, Juba, 16/01/2013.

[15] Interview with Wulu County Commissioner, Rumbek, 14/11/2013.

[16] Interview with David Chan Thiang, Director of the National Bureau of Statistics, Juba, 08/11/2013.

[17] David Koak Guok (2008). Local Government Presentation to the Sixth Governors Forum on Demarcation of State and County Administrative Boundaries in Southern Sudan. Local Government Board Archive.

census headquarters in Central Equatoria State, in a paper authored by Martina Santschi on the census process, seems to confirm this:

> This census is a political census. It will determine constituencies, referendum, and resources. It is also an economic census, because services like schools, hospitals and water will be given according to population numbers. If your people are less, you claim the population of your neighbour. Some of these fellows said 'Let us grab the people from the other county', even though they knew that it was not their territory (Santschi, 2008, p. 637).

Even in the absence of clear internal borders, communities were counted and identified as "belonging" to the place they occupied in a way that was functional both to the delimitation of chieftaincies for administrative purposes and to the attribution of communal rights to land enshrined in the Interim Constitution, as it had been during the colonial period. This resulted in claims on land increasingly taking the form of border disputes.[18] In other words, the identification of ethnic communities with local administrative units turned administrative borders into proxies for competition over land and any other resource that the control of land could grant access to.

### 3.2 Claiming the land, pulling the border

Rural areas in South Sudan still host the great majority of the population. The World Bank estimates that about 80% of the population resides in the rural areas, relying on subsistence livelihoods strategies largely based on access to and use of the land. As land ownership is communal in the rural areas, land allocation to individuals takes place in the framework of their belonging to a community owning the land in a certain area, which usually coincides with a local government or administrative unit. But groups living in such units are barely ever homogeneous: often along the lines of sections, subsections or clans, tensions between majority and minority groups within such units are frequent and result in claims for administrative independence or for the relocation of the border to associate the "minority" with another unit. These tensions exploded after the beginning of the South Sudanese civil war in December 2013: the proliferation of states and local government units became one of the most contested aspects of the conflict, with Salva Kiir and Riek Machar supporting different forms of administrative sub-division of the country, allegedly favouring their respective ethnic constituencies (Radio Tamazuj, 2015; Sudan Tribune, 2016). Even before the war, the two big men supported a different approach to local government creation, with Salva Kiir in favour of a more centralized system, with the consequent reduction in the number of administrative and local government units; and Riek Machar promoting the doubling of existing units in what one of my informants termed "wild decentralization".[19]

[18] David Koak Guok (2008). Local Government View on Boarder Disputes and Emergent of Payam Administrative Structures [*sic*] [Letter to the President of the Government of Southern Sudan]. Local Government Board Archive.

[19] Personal communication with local resident, Bentiu, February 2013.

Border disputes become more virulent the higher the stakes involved: this could be in the case of commercial interests, as in the Manga example shown below, or in peri-urban areas, where the fast-growing towns create high expectations of growth in the value of land. In the new post-CPA settings, the spontaneous expansion of towns started being subjected to urban planning attempts. The lack of a viable registration process for community land, which was recognized in the Land Act as the prevalent tenure regime in the rural areas, turned it in the residual category where all the land that was neither private nor public fell, including that in the peri-urban areas. This land became urban – and thus changed its administrative status, becoming public and being sold or leased to private subjects – as soon as the government mapped it and demarcated it,[20] but the process through which this was supposed to happen appeared to be rather arbitrary and context-specific. Expectations of communal access to urban plots complicated land relations in and around the urban areas, leading to competing claims either based on autochthony and belonging or on more universalistic ideas of national citizenship, playing on the labile boundary between the different tenure systems under which land fell in rural and urban areas.

### 3.2.1 The Acholi–Madi land dispute

Narratives of border disputes involving the control over land usually focus on several elements such as autochthony claims, access to resources, and misinterpretation of customary law and practices, but the new civic state structure has also become a frequent reference in the formulation of claims to communal land in the rural areas. I will take here the example of a long-standing dispute between the Acholi and Madi communities in the south-western part of Eastern Equatoria State.[21] Eastern Equatoria State is located in the south-eastern part of the country, and has been characterized by the strong presence of militias opposing the SPLM/A during the civil war.

In the 1930s, when the British government adopted the Southern Policy, two distinct local government centres were attributed to the Madi and the Acholi, based on the pre-existing court centres of, respectively, Loa and Magwi. The government did not interfere with customary ownership of land, but at the same time did not make any effort at trying to trace and negotiate with local understandings of the boundary between the two groups, thus creating a completely new border that started interfering with the flexibility of pre-existing land relations. In this territorial repartition, a disputed area called Opari ended up under the administration of Magwi. After the end of British colonialism, the government of Sudan kept the same administrative divisions in the southern region, but since the

[20] Interview with Director of Land Department at the Ministry of Physical Infrastructure, Unity State, Bentiu, 19/02/2013.

[21] This section relies on documentation available at the South Sudan Land Commission, which I accessed in October 2013.

local administration largely remained incapable of exercising its authority on the territory under its jurisdiction, rural affairs concerning land remained under the authority of customary leaders.

After the CPA, despite the overall continuity with pre-existing local government experiences in terms of territorial division, there was some reorganization mostly linked to the need to reduce excessive administrative costs while not upsetting important allies of the SPLM/A that could turn into potential spoilers of the peace process. Madi and Acholi, both characterized by a history of opposition to the SPLA during the war, were put together under the jurisdiction of Magwi County, whose administration was dominated by the Acholi majority. Even though the Acholi, in a position paper signed by an ambiguous "Acholi Community" in 2012, insisted that the dispute was merely about the administrative border,[22] the Madi community accused the Acholi of taking advantage of their control of the local government to encroach on Madi land.

In an attempt to settle the dispute, in 2006 the Eastern Equatoria State governor created Pageri *payam* for the Madi, which comprised within its borders Opari *boma*, which was claimed by the Acholi on the basis of the colonial precedent of having placed it under Magwi jurisdiction. Notwithstanding the killing of a Madi leader in 2008, the dispute did not escalate into real violence until 2010, when the Eastern Equatoria caretaker governor created Iwire *payam* following pressure from the Acholi community to remove Opari *boma* from the Madi Pageri *payam*.[23] The dispute continued in 2011, with the Madi accusing the Acholi, allegedly backed by Magwi county authorities and the SPLA, of "illegal demarcation"[24] of Madi land and of encouraging the settlement of Acholi "mercenaries" from Uganda "for their planned war of occupation".[25] In a concept note prepared before the realization of a peace conference between the two groups, the Inter Church Committee identified the recognition of "tribal land ownership" among the causes of the conflict.[26] Despite the participation of key government representatives such as the Land Commission Chairperson, "intellectuals" and international organization representatives, the conference, held in April 2012, did not manage to solve the dispute permanently, leaving it as one of the most serious causes of conflict in the area. The breakout of the war in 2013 further complicated the situation with the influx to the

[22] Acholi Community (2012, April 16). "Land Grabbing: A Taboo among the Acholi." Acholi Position Paper. The Acholi–Madi Peace and Reconciliation Conference. Torit: Inter-Church Committee. Land Commission Archive.

[23] Vuga, Angelo (2012). "Position Paper on the Acholi-Ma'di Conflict in South Sudan: A Roadmap for Justice and Peace in Magwi County." The Acholi–Madi Peace and Reconciliation Conference. Pageri Payam: Ma'di Community Council (MCC), April 4. Land Commission Archive.

[24] Ibid.

[25] Wani, Abdalla Keri (2012). Presentation to Consultative Meeting on Acholi–Madi Land Dispute. Consultative Meeting Organized by Inter-Church Committee, Eastern Equatoria. Torit, March 17. Land Commission Archive.

[26] Inter Church Committee, and State Peace Coordination Office (2012). Acholi–Madi Peace and Reconciliation Conference [Concept Note]. Land Commission Archive.

area of Dinka IDPs from Jonglei State who occupied vast tracts of land, including in the disputed areas, with their herds of goats and cattle (Broers & Juma, 2015).

In the dispute between the Acholi and Madi communities, their representatives, usually members of the town-based elite, rather than the less visible local traditional authorities, made constant reference to the past. The past referred to was the colonial one, but it was interpreted in opposite ways: Acholi representatives claimed that the borders set by the British in 1956 were arbitrary, and were therefore not appropriate for modern South Sudan as they did not account for ethnic balance;[27] the Madi supported the 1956 borders as the only certain point of reference to make sure that their community was not neglected by Acholi "historical expansionism". [28] To support their respective narratives, the position papers produced by both sides for the Acholi–Madi peace conference held in 2012 in Torit continuously mentioned the colonial past, supporting their positions through specific references or even quotations from colonial reports and accounts to sustain their interpretations. At the same time, however, they also gave an important place to cultural and ancestral arguments based on names,[29] on "cultural attitudes"[30] or on elements of tradition such as songs.[31] The idea of communal land ownership emerged very clearly, and it was supported through the "use" of state structures to demonstrate their respective ownership of the land. Attesting one community's ownership of the land does not necessarily mean that others have to leave, but just that ultimate decision-making over land allocation and use shall be attributed to the host community and not to the guest community.[32] As the Acholi community position paper puts it:

> We the Acholi hold onto what is ours very passionately. When we say an area belongs to Acholi we are not saying that it is a no go zone for the Madi or indeed any South Sudanese who is comfortable to live among us without causing us irritation.[33]

### 3.2.2 Manga between first-comers and late-comers

Another example of a land dispute involving internal borders is that of Manga, in Unity State. Unity State, an oil-rich area situated in the northern part of South Sudan between Upper Nile and Bahr el

[27] Acholi Community (2012, April 16). "Land Grabbing: A Taboo among the Acholi." Acholi Position Paper. The Acholi–Madi Peace and Reconciliation Conference. Torit: Inter-Church Committee. Land Commission Archive.

[28] Vuga, Angelo (2012). "Position Paper on the Acholi-Ma'di Conflict in South Sudan: A Roadmap for Justice and Peace in Magwi County." The Acholi–Madi Peace and Reconciliation Conference. Pageri Payam: Ma'di Community Council (MCC), April 4. Land Commission Archive.

[29] Ibid.

[30] Acholi Community (2012, April 16). "Land Grabbing: A Taboo among the Acholi." Acholi Position Paper. The Acholi–Madi Peace and Reconciliation Conference. Torit: Inter-Church Committee. Land Commission Archive.

[31] Vuga, Angelo (2012). "Position Paper on the Acholi-Ma'di Conflict in South Sudan: A Roadmap for Justice and Peace in Magwi County." The Acholi–Madi Peace and Reconciliation Conference. Pageri Payam: Ma'di Community Council (MCC), April 4. Land Commission Archive.

[32] Interview with acting *payam* administrator, Nyeel *payam*, Nyeel, 25/02/2013.

[33] Acholi Community (2012, April 16). "Land Grabbing: A Taboo among the Acholi." Acholi Position Paper. The Acholi–Madi Peace and Reconciliation Conference. Torit: Inter-Church Committee. Land Commission Archive, p. 13.

Ghazal, is one of the areas where ethnic fault lines have been particularly hot. Inhabited by a Nuer majority and dominated by SPLA splinter factions during the war, it was divided into nine counties after the CPA, roughly following Nuer section divisions and isolating the two Dinka-inhabited areas in the north-eastern and north-western part of the state, respectively in Pariang and Abiemnhom counties. In 2005, Taban Deng Gai, a Jikany Nuer zonal commander under Riek Machar was appointed Governor of Unity State and confirmed in power in the highly contested 2010 election.[34]

The area of Manga is located on the northern side of the Bahr el Ghazal river, about 40 kilometres from the state capital Bentiu, on the border between Guit and Pariang Counties, respectively inhabited by Jikany Nuer and Ruweng Dinka. During the war, it was turned into a *boma* and placed under the jurisdiction of Nyeel *payam*, in Pariang County, which remained firmly under SPLA control throughout the conflict. In the framework of increasingly militarized ethnic tensions, it was the theatre of numerous clashes between Dinka and Nuer youth, who used it as a grazing and fishing field. Later on, in the early 2000s, local peace agreements were negotiated between Jikany Nuer and Ruweng Dinka and, since land was available, displaced Jikany Nuer were allowed to settle in the area through an agreement with the local Dinka chief. They were however expected to leave after the end of the war.[35] Instead, in 2005 Guit County was created, allegedly to satisfy Taban Deng Gai's request to secure a "home county" for Jikany Nuer.[36] The Jikany that had settled in Manga stayed, and their number started increasing to the great disappointment of the Ruweng Dinka community. Dinka informants claimed that the area, traditionally called Minyang, even changed its official name due to Jinaky Nuer "encroachment" on the land, as they were allied with the government of Sudan and therefore used the Arab name of Manga.[37] In the words of a Nyeel *payam* administrator:

> During the census [in 2008] the Nuer living [in Manga] were counted in that area, so they belong to us. They should be considered a Nuer minority in a Dinka area, but they don't want this. During the war, Dinka from Pariang were very few, so there were no clashes with the Nuer. Nuer lived in the area of Manga, and after the war refused to leave.[38]

The governor of Unity State, himself a Jikany Nuer, was alleged to have been encouraging the settlement of Jikany Nuer in the area since 2006. By 2007, he had acquired property in the area, built

[34] While the outcome of national elections held in 2010 was widely recognized as legitimate at national level – as it was the precondition for holding the referendum one year later – several international observers criticized the electoral process and elections at state level were strongly contested in at least two cases. Unity State was one of these and, as a result, several groups took up arms against the government (Human Rights Watch, 2010; The Carter Center, 2010).

[35] Nuer and Dinka had a very long pre-war history of coexistence in the same territories and, since Nuer identity was particularly flexible, they usually "expanded" through the incorporation of Dinka peoples they found on their way. This pattern of expansion through incorporation came to an end with the militarisation of Nuer and Dinka ethnic identities during the war. See Hutchinson (2000).

[36] Personal communication with civil society activists, Bentiu, March 2013.

[37] Interview with Member of Parliament from Pariang County, Unity State Legislative Assembly, Bentiu, 08/02/2013.

[38] Interview with acting *payam* administrator, Nyeel *payam*, Nyeel, 25/02/2013.

a house for his family and started a farm. In 2009, he also negotiated a lease agreement with an Egyptian company that was supposed to pay US$125,000 per year to the state government, even though there was no trace of the money actually reaching state coffers (D. K. Deng, 2011a) – as with all other revenues in Unity State. Both the lease and the acquisition of land completely excluded the Dinka community. More importantly, the area also hosted an oilfield operated since 2003 by the Greater Pioneer Operating Company (GPOC), a consortium of oil firms dominated by the China National Petroleum Corporation and Petronas, which could potentially represent a source of revenue for the county. These developments caused the substantive loss of grazing fields to Dinka and Nuer cattle herders, leading to growing competition between the two communities and frequent cattle-raiding episodes.[39] By the end of 2009, Manga had been *de facto* annexed by Guit County. In the absence of visible state presence and of official border demarcation, Guit County simply started sending its tax collectors to demonstrate that the area was under its control. This means of colonial-fashioned administrative control was also used in other areas to enforce control of a certain territory, but, aside from several petitions signed by town-based members of the Ruweng Dinka community,[40] it caused little local reaction for fear of state government repression.[41]

Even though the backing of the governor – who, according to one informant, "brought Guit people to Manga"[42] – made it less urgent for the Jikany community to elaborate on their land claims, members of the Jikany community still mobilized the past as a vital resource providing justifying narratives. One member of the Unity State Legislative Assembly elected by the Guit constituency in the 2010 elections, for example, claimed that his grandfather was born in Manga to show that Jikany Nuer also had long term rights of residence in the area.[43] Others mentioned the planting of trees as proof that the transfer of land to their families was permanent, together with the lack of visible reaction on the part of the Dinka.[44]

[39] Personal communication with residents in Pariang, 2013; personal communication with civil society activist from Pariang County, 2013.

[40] "Open Letter to President Kiir on Governance of Unity State", 02/02/2012, available at http://www.gurtong.net/ECM/Editorial/tabid/124/ctl/ArticleView/mid/519/articleId/6417/Open-Letter-To-President-Kiir-on-Governace-of-Unity-State.aspx (accessed on 03/01/2021); "Ruweng County Citizens Petition President Kiir against Internal Occupation of Ruweng Territory," signed by Ruweng County citizens, published by South Sudan News Agency (22/03/2011), http://www.southsudannewsagency.com/news/press-releases/ruweng-county-citizens-petition-president-kiir-against-internal-occupation-of-ruweng-territory (accessed on 04/01/2016).

[41] Interviews with: Member of Parliament from Guit County, Unity State Legislative Assembly, Bentiu, 08/02/2013; Member of Parliament from Pariang County, Unity State Legislative Assembly, Bentiu, 08/02/2013; Chairperson of Unity State Land Alliance/Director General for Education, Panyinjiar County, Bentiu, 17/02/2013; acting *payam* administrator, Nyeel *payam*, Nyeel, 25/02/2013; personal communications with representative of civil society groups in Bentiu and citizens from Pariang County, February–March 2013.

[42] Personal communication, Bentiu town, 20/02/2013.

[43] Interview with Member of Parliament from Guit County, Unity State Legislative Assembly, Bentiu, 08/02/2013.

[44] Personal communications, Bentiu town, 23/02/2013.

The power relation backing the land dispute over Manga changed when the national political situation deteriorated in mid-2013: Taban Deng was removed from Unity State governorship and replaced by Joseph Nguen Monytuil, an ally of the SPLM ruling elite in Juba. In 2015, the presidential decree increasing the number of states created Ruweng state, a move that was widely understood as part of a strategy of strengthening Dinka control over oil producing territories (Craze et al., 2016). Evidence that can be drawn from online petitions and social media suggests that relations between the two communities remained tense, although the roles seemed to have switched: it was now the Jikany community complaining about Ruweng Dinka encroachment on their land and of being neglected by development investments in the area such as the distribution of scholarships by the GPOC oil consortium (Gadet, 2020; Gak, 2020).

### 3.2.3 Claiming peri-urban land in Bentiu Town

Bentiu, Unity State capital, has also been the object of an unresolved border dispute between the Jikany and Leek Nuer communities. As a would-be town council – even though by the time of fieldwork, in early 2013, no official warrant of establishment had been issued nor were municipal institutions in place – the land in Bentiu was surveyed and demarcated by the State Ministry of Physical Infrastructure with the involvement of local traditional authorities. Local communities whose land had been expropriated received a compensation determined on a case-by-case basis, through negotiations between state authorities and local leaders.[45] Part of this negotiation involved defining the number of urban plots the community would be entitled to for free. These plots would be distributed by the chief to the members of his community. People usually had great expectations of gaining residence in town: not only would it mean better access to services, it would also turn people – who, in most cases, would not have the purchasing power to acquire land in town on the market – into landowners of plots with a growing commercial value. Demonstrating a community's ownership of peri-urban land thus represented a very high stake.

The process of survey and demarcation of housing plots and areas for social services in Bentiu started in 2004. In 2013, a large portion of the urbanized area had been surveyed, but the process was still proceeding towards the east and the south, respectively in the direction of Guit and Rubkhona counties. Both communities customarily owning the land in the two counties, the Jikany Nuer and Leek Nuer communities, claimed the ownership of the land where the town was expected to expand, as well as part of the land that had already become urbanized. Both justified their claims based on narratives of autochthony and customs: at the same time, however, traditional authorities were not

[45] Interview with County Commissioner, Rubkhona County, Rubkhona, 06/02/2013; personal communication with civil society activist on urban land issues, Bentiu, November 2013.

the only local actors involved in advancing these claims, but state civil servants at county level also played an important role, blurring the line of the "modern" and the "traditional".

Around the time of the 2010 elections, Guit County started claiming Bim Ruo, a neighbourhood in the eastern part of the town comprising a vast residential area, a market and a tract of the only paved road in the whole of Unity State leading to Rubkhona County headquarters, where UNMISS and many international NGOs' compounds were located. The area had been surveyed and demarcated in 2005, with plots allocated to a variety of people coming from different areas of Southern Sudan, from Darfur and the Horn of Africa.[46] When the survey had been carried out, the Leek Nuer community leaders had negotiated with Unity State government: as they were recognized as the legitimate owners of the land, they had obtained a percentage of urban plots for free.[47] Nevertheless, right after independence, in early 2012, the Ministry of Physical Infrastructures decided to re-demarcate the area, claiming that the houses had not been built according to "appropriate standards". Local residents resisted for fear of being evicted and clashes broke out, yet the area was re-demarcated. Since the operation was carried out after Guit County had started to claim the land in Bim Ruo, local dwellers shared the belief that more plots would be unlawfully assigned to the Jikany community as a way of justifying Guit County's claims of controlling part of the town.[48]

At the time of fieldwork, the allocation of the newly (re)demarcated plot was ongoing, but it seemed to be dominated by corruption and bribery. Several families had been evicted: they were told that their land title was no longer valid even if they had paid for it, and that they would have to purchase another one at the Land Registration Office.[49] But, as remarked by the deputy chairman of the Land Registration Office: "Civilians don't have money to get the title":[50] therefore, many families started building "temporary houses" along the main roads without the land title, and sometimes without even knowing the extension and boundaries of the plots demarcated by the Ministry of Physical Infrastructures. Even when people could afford to pay their land title back, they were often victims of frauds orchestrated by ministry officers: plots were sold to several people at the same time,

[46] In 2005, South Sudan's landscape was still characterized by high numbers of IDPs who had not yet planned their return home after the end of the war. At the same time, investors from neighboring countries (particularly the Horn of Africa) were flocking to the country, which was seen as a virgin land about to experience an economic boom. Even though the SPLA had sacrificed its Darfuri branch in exchange for the CPA, many Darfuri IDPs and ex-soldiers were still living in the north and north-western parts of Southern Sudan. Rumours also suggested that the SPLM had not ceased to support the SPLM-N in Darfur, and that therefore it was willing to host high ranking Darfuri military cadres (personal communication with international NGO senior staff, Bentiu, November 2010).

[47] Personal communication with Bim Ruo inhabitants and civil society activists, Bentiu, 2013.

[48] Ibid.

[49] Personal communication with Bim Ruo inhabitants, Bentiu, 2013.

[50] Interview with Deputy Chairperson at the Land Registration Office, Unity State, Bentiu, 20/02/2013.

but, if the case were brought to the High Court, only one of the litigants usually had what it took to win – usually, a blood or patron–client relation with army generals or with the Jikany community.[51]

**[PLACE MAP 2 HERE - L]**

Bim Ruo was not the only area contested between the Jikany and Leek communities: Yoanyang, on the outskirts of the town, north of Bim Ruo and near the river Naam, had once been inhabited by two sub-clans of the two communities. The civil war had forced them to flee from the area, which was the theatre of intense fighting between the two factions of the SPLA. When Riek Machar's splinter group was re-absorbed into the SPLA in 2002, the riverine area became a marketplace for goods arriving by boat from Southern Kordofan and Ethiopia.[52] Nevertheless, trading activities were often interrupted by clashes between armed militias, which remained active in the area after the signing of the peace agreement at national level, until 2007. They were then absorbed into the SPLA, and this started a period of relative peace for Yoanyang, during which a trading port developed, and a more permanent market was re-established. Around the same time, Rubkhona County started collecting taxes, asserting its control over the area. This disappointed the Jikany community, whose members considered themselves first comers.[53] One particularly popular story was about a Leek man granted some land from a Jikany chief on the southern bank of the river who contravened the customary rule of not planting trees on other people's land by growing some mango trees. Mango trees became the major evidence to claim land ownership for his family, showing the Leek man's great disrespect for traditional arrangements.[54]

In 2008, the Guit County Commissioner also decided to send tax collectors to the area in order to assert its legitimate jurisdiction on Yoanyang as Jikany land. A dispute between tax collectors from the two counties quickly escalated into open inter-communal violence. Six people died and several were wounded or displaced. The market was destroyed. To stop the fighting, the government sent in the army, who built up army barracks and settled in the area. Violence erupted again in 2009 and 2011, allegedly with the involvement of the army on the Jikany side. According to a Member of the Unity State Legislative Assembly from Guit County: "Now [early 2013] there is no fighting, but not

[51] Personal communication with civil society activists, Bentiu, February–March 2013; personal communication with residents in Bim Ruo, February March 2013.

[52] Interviews with Member of Parliament from Guit County, Unity State Legislative Assembly, Bentiu, 08/02/2013; Member of Parliament from Rubkhona County, Unity State Legislative Assembly, Bentiu, 09/02/2013; Rubkhona County Commissioner, Bentiu, 06/02/2013; collective interview with traders in Yoanyang market, Bentiu, March 2013.

[53] Interviews: Member of Parliament from Rubkhona County, Unity State Legislative Assembly, Bentiu, 09/02/2013; Member of Parliament from Guit County, Unity State Legislative Assembly, Bentiu, 08/02/2013; Rubkhona County Commissioner. Rubkhona, 06/02/2013; collective interview with traders in Yoanyang market, 03/2013; personal communication with member of civil society organisation, Bentiu, 2013; see also *Sudan Tribune*, 2013.

[54] Personal communication with Yoanyang residents, Bentiu, March 2013.

even agreement. The two sub-clans don't want to belong to the same county".[55] Later in 2013, after the removal of Taban Deng Gai from the governor's position in the framework of increasing political tensions at the national level, further fighting broke out, allegedly caused by the Leek community, who felt better represented by the new governor Joseph Nguen Monytuil and thought they could take the area back.[56]

### 3.3 Asserting community ownership of the towns

Another type of land dispute involves the symbolic boundary between members and non-members of an ethnic community. In asserting the right to land and the status of landowners for the members of a particular community excluding all the others, it calls into question competing visions of citizenship: on the one hand, a vision emphasizing autochthony and customs, privileging local identities and access to rights mediated by ethnic belonging; on the other hand, one based on national citizenship and universal rights, typically relying on historical events or on civic values (Badiey, 2014; Boone, 2014). Both these visions can be used instrumentally by groups with competing interests and agendas: however, they ultimately speak of the variety of repertoires available to claim land rights. Their employment questions a simplistic understanding of a dichotomy between modern state/traditional community and rather shows the extent to which these boundaries can become blurred.

This is particularly evident in urban areas. The years immediately preceding the signing of the CPA were characterized by sudden processes of chaotic urbanization caused by return influxes of people who had fled Southern Sudan during the war. According to a paper prepared for the International Organization of Migrations (IOM), the population in Juba doubled between 2005 and 2013, and many other urban centres were believed to have double-digit population growth rates following the two waves of returns after the CPA and after independence (Ensor, 2013). IOM estimates that about two million people returned to South Sudan after the end of the war; many of those people decided not to move back to their areas of origin – or only went back for a short time – in spite of being expected to stay where access to land would have been easier thanks to customary land tenure recognition (De Wit, 2004). In fact, having lived in towns in Northern Sudan or in East Africa for many years, many returnees were not prepared to adapt to agro-pastoralist lifestyles in the rural areas and chose to stay in town (Ensor, 2013). This compelled government institutions to start developing basic urban planning mechanisms, negotiating the expansion of towns in communally owned surrounding areas.

[55] Interview with Member of Parliament from Guit County, Unity State Legislative Assembly, Bentiu, 08/02/2013.

[56] Personal communication by telephone with INGO local staff based in Bentiu. See also *Sudan Tribune* (2013).

Processes of negotiation varied greatly, with various degrees of resistance and diverse alliances supporting context-specific applications of the law. As Naseem Badiey shows in the case of Juba, different actors played out an extremely diverse set of repertoires, drawing upon discourses of autochthony versus universal rights to land, emphasizing local or national citizenship. In the well-studied case of Juba town, the Bari community's claims of communal ownership of land in the peri-urban areas reflected an attempt at resisting what was perceived as an urban integration policy at best, and as a land grabbing operation at worst, orchestrated by the predominantly Dinka and Nuer SPLM/A elite (Badiey, 2011, 2013; Pantuliano, 2009; Rolandsen, 2009). The latter, instead, emphasized the right of all the citizens of Southern Sudan to reside in the capital city and to lawfully acquire land through the government. While, according to the law, the appropriate level of government for allocating land to urban dwellers should have been the lowest level of government (Government of Southern Sudan, 2009b, Section 92(2)), the government of South Sudan had a centralizing tendency in Central Equatoria State, often trespassing on the competence of other levels of government, causing frequent intergovernmental conflicts (Badiey, 2013). This complicates a simplistic understanding of communal land rights as supported by the "local people" against a state-supported individual and statutory right to land in the urban areas. In the dispute over Juba land, the government of Central Equatoria State indeed sided with the traditional authorities, constructing its role as a defender of the "local community" in opposition to the central government (Badiey, 2013).[57]

### 3.3.1 Universal rights of citizens: a contentious issue

In the less studied case of Nimule town, similar tensions between the "local community" and the Eastern Equatoria State government arose around the establishment of the town council, as required by the Local Government Act 2009. Nimule is an important market centre situated on the border with Uganda. After the end of the war, its economy bloomed thanks to the construction of a tarmac highway connecting Juba to Gulu (Uganda) through Nimule. Nimule *payam*, which remained the only local government structure in place despite its population figures,[58] was inhabited by a predominantly Madi population, who also claimed the customary ownership of the land. However, during the war, huge numbers of Dinka IDPs also settled in the area. When, after the peace agreement was signed, this community did not leave, the Madi community started expressing discontent and fears of land grabbing (*Sudan Tribune*, 2011).

In a presentation to the Governors' Forum in 2008 about the demarcation of local government borders, the then chairperson of the Local Government Board attributed the emergence of conflicts

[57] This tension emerged very clearly while conducting fieldwork on private land investments in Central Equatoria State in early 2012 from both GoSS officials and Central Equatoria State government officials.

[58] Nimule's population was estimated at 45,000 people in 2006, but it was believed to have doubled already by the following year. See *The New Humanitarian* (2007).

over control of urban land to the delays in the establishment of town councils: the latter would place the control of urban land in the hands of the state, ensuring equal access to all citizens and avoiding the influence of the parochial logics based on ethnic belonging typical of the countryside.[59] But, in Nimule's case, it was precisely the establishment of the town council in 2013 that fostered conflict between the Madi and Dinka communities. The former perceived the state government's decision as an attempt by the Dinka-dominated SPLM national government to exclude the Madi community from decision-making over their land and to distribute it to the Dinka community. Keeping the administration of the town under the authority of Nimule *payam*, on the other hand, would have kept the land governance regime unchanged, allowing the local Madi community to have a greater say in the allocation of urban land.

In 2013, Madi leaders refused to sign the demarcation document prepared without preliminary consultations with the community. The army was sent to counter Madi's protests: a head chief was killed, several people were detained and harassed by the SPLA in Nimule military barracks, and the community was finally forced to sign the document for the creation of the town council (Amuru, 2013; Ayahu, 2013; Swaka, 2013).

### 3.3.2 Customary rights of the community

In both the Juba and Nimule cases, the "local community", identified in ethnic terms, was claiming rights to land on customary basis, emphasizing a local form of citizenship, and at least one level of the government was attempting to enforce a different system of land governance benefiting the ruling elite or its constituencies. In places further away from the central government, however, things were different. Blurring the boundary between modern state and traditional community, it is the ruling elite that exploits autochthony discourses to strengthen its control of the territory, showing complacency towards more local conceptions of citizenship based on "tradition", "first-coming" or "indigeneity" arguments.

Bentiu town is a case in point. Despite the survey and demarcation process ongoing in town since 2004 (see above) and the general trend at national level, after independence, to establish town councils, Unity State's government agreed to comply with a powerful local clan's demands to control the urban land, recognizing its claims as legitimate. Garkuothkam, a sub-clan from the Leek Nuer section, successfully asserted its ownership of the land in a rapidly growing neighbourhood in Bentiu Town, Bilnyang. The area was identified for survey in 2010, but Garkuothkam clan leaders understood the process as an attempt by the State Governor, the Jikani Nuer Taban Deng Gai, to formalize the settlement of people not belonging to the sub-clan. In 2011, several violent episodes

[59] David Koak Guok (2008). Local Government Presentation to the Sixth Governors Forum on Demarcation of State and County Administrative Boundaries in Southern Sudan. Local Government Board Archive.

left four people dead, allegedly because Garkuothkam sub-clan members "want(ed) the people living in Bilnyang to move away",[60] and this prevented the surveyors' team from carrying out their work. According to one of Bilnyang's block leaders:

> Garkuothkam became chief when I was a child, 40 years ago [...]. He was very important, he stayed in office for a long time during the Arab period, and this is why his sons are all officials. They became officials before the peace agreement, and this was useful to protect their people. Up to now their clan is very influent and respected by the community.[61]

According to my interviewees, many members of the Garkuothkam clan occupied high ranking positions in the oil sector, in INGOs and in the state government;[62] matched with its youth capacity of creating insecurity for all non-clan members in the area, the clan leaders' influence on the government allegedly went as far as securing the replacement of the Ministry of Physical Infrastructure and Urban Planning with a more complacent one. The clan ultimately managed to take 40% of the urban plots after the land was demarcated.[63]

## 4. Who is the community?

Just as the cases illustrated in the previous section blur the boundary between modern state and traditional community in the support of competing interests and land claims, this section will focus on the internal dynamics through which local communities try to make their voices heard on land issues exploiting various loopholes and gaps in the legal framework and in popular understandings of how land governance works. The observation of these dynamics requires a closer look at what are often portrayed as homogeneous groups, and the acknowledgment of internal cleavages and processes of social differentiation often influenced by the proximity to power of some community members. Again, the boundary between the modern and the traditional is put under strain, with "community representatives" being placed in powerful state offices and officially neutral civil servants being called to represent communities as "sons of the soil". These dynamics become more visible in situations where participation cannot be taken for granted, as in the case of private investments on

[60] Interview with Block Leader in Bilnyang, Bentiu, 11/03/2013; personal communication with residents in Bilnyang, representatives of CSOs, members of the land coalition supported by the National Democratic Institute, Bentiu, February–March 2013.

[61] Block leaders are elected figures who look after good neighbourly relations in the block concerning all residents. They report to the government about whatever problem occurs, and to the town court when legal problems emerge. Interview with Block Leader in Bilnyang, Bentiu, 11/03/2013.

[62] Interview with Block Leader in Bilnyang, Bentiu, 11/03/2013; personal communication with residents in Bilnyang, representatives of CSOs members of the land coalition supported by the National Democratic Institute, Bentiu, February–March 2013.

[63] Personal communication with members from the land coalition supported by the National Democratic Institute, Bentiu, February-March 2013. A similar situation was also reported in Rumbek town, where even people belonging to Dinka sub-clans from other counties within the same Lakes State had a hard time to acquire land in town, and were charged much higher prices for the same plots of land. Personal communication with NGO worker, Rumbek, November 2013.

community land. In such cases, investors and companies are not necessarily interested in applying the legal provisions relating to community involvement: their search for alternative avenues of operation might lead to a further informalization of community involvement, with unconventional intermediaries between external actors and the "grassroots". This section will thus shed light not only on the process of state formation, showing the extent to which it is intermingled with ethnicity and locally-based conceptions of citizenship, but also on that of community formation, highlighting possible trends of intra-communal fragmentation.

### 4.1 (Flawed) assumptions about community homogeneity

Since the 1990s, when participatory approaches to development gained momentum, the "local community" emerged as the major subject to be involved through various – often rather shallow – means of participation (Cornwall, 2008). Despite their questionable effectiveness in promoting real local involvement (White, 1996), consultation and participatory processes became a vital part of donor-funded development projects to make sure that the local subjects were protected from outside interference and included the implementation of actions ultimately concerning their livelihoods. These processes became so popular and widely accepted that they were progressively included in donor-supported law-making concerning the management of productive resources too. Indeed, the legal recognition of communal rights to land had the purpose of encouraging the involvement of local communities in decision-making processes on the productive use of their land.

In South Sudan, as we have seen, the legal recognition of communal rights to land on a customary basis received multiple thrusts. The SPLM saw it as a strategic populist concession, to satisfy the expectations of the Southern population to have a say in the management of its own natural resources. Civil society activists considered it a tool to counter what has been defined as the "new global land grab" (GRAIN, 2008). From the perspective of development agencies, it would strengthen the rights of local communities to keep the land as a source of livelihood, contributing to poverty alleviation and food security. The legal framework disciplining the management of land provided for several clauses to protect the "indigenous communities" (Government of Southern Sudan, 2009a) from predatory actions from the government or private investors, regulating the duration of land leases and introducing social and environmental obligations that included environmental impact assessments and broad consultation processes with local communities (Government of Southern Sudan, 2009c).

Despite these provisions, a report published in 2011 by Norwegian People's Aid described the majority of transactions involving land in South Sudan as land grabs (D. K. Deng, 2011a). These cases usually involved foreign private companies/investors, and were framed as conflicts between a company misbehaving – acquiring land through illegal deals either with the wrong level of

government or with big men in the political or military elite with virtually no involvement of the local community – and a local "affected" community losing livelihood assets and opportunities.[64] The framing of land investments as land grabs functions to denounce the lack of transparency and predictability with which land transactions are conducted, particularly when involving foreign actors. At the same time, however, this narrative has a victimizing and homogenizing effect on local communities, which has been accurately outlined by Gilfoy (2015) in a paper about Liberia. He argues that advocacy campaigns against land grabs in Liberia had the effect of concealing the heterogeneity of local communities and their internal conflicts. In South Sudan as well, this homogenizing effect can be considered as a means of framing local subjects as distinct from the state, and it is therefore accentuated by projects aimed at strengthening their position vis-à-vis other actors. As part of this narrative, local communities suffer from a structural gap in knowledge about productive investments on their land, which is worsened by abuses committed by government officials (Marzatico, 2014). This gap in knowledge can either result in the lack of resistance against abuses[65] or the opposite, in local community resistance to "development".[66]

In order to equip local communities with the appropriate knowledge for resisting abuses and welcoming development, NGOs such as NPA and the South Sudan Law Society started programmes to disseminate the Land Act and create awareness on local communities' rights.[67] Part of these programmes also included creating local civil society umbrella organizations, the Civil Society Land Alliances (CSLA), in each of the ten states of Southern Sudan plus a national coordination body that could take over advocacy and sensitization activities in the long run. Several CSLA representatives put great emphasis on the idea that "local communities" had to be assisted and protected from land grabs.[68] In the words of the chairperson of the CSLA in Central Equatoria State: "We will start the dissemination of the Land Act so communities can know when there is land grabbing and also what to do in case they are victims". People would be trained to "know the right procedures".[69] One "success story" mentioned was that in 2011 the local community living in Lainya county (Central Equatoria State) managed to obtain the cancellation of a lease agreement on communal land signed by the government with a foreign company with no community consultation (*Radio Miraya*, 2011;

[64] Interview with lecturer at Juba University, Juba, 25/03/2013; 10/12/2013.

[65] Interview with member of Unity State Civil Society Land Alliance, Panyinjiar County, Bentiu, 17/02/2013.

[66] The persistent "resistance to development" has been used to justify new centralizing tendencies of the government elite as expressed by the Transitional Constitution. Interviews with Robert Ladu Luki, Land Commission Chairperson, Juba, 30/03/2012; 05/11/2013; Member of Parliament from Rubkhona County, Unity State Legislative Assembly, Bentiu, 09/02/2013; Member of Parliament from Guit County, Unity State Legislative Assembly, Bentiu, 08/02/2013.

[67] Interview with NPA staff, Juba, 23/04/2012; Director of local NGO, Juba, 16/03/2021.

[68] Interview with member of Central Equatoria Civil Society Land Alliance, Juba, 27/03/2012; member of Unity State Civil Society Land Alliance, Panyinjiar County, Bentiu, 17/02/2013.

[69] Interview with member of Central Equatoria Civil Society Land Alliance, Juba, 27/03/2012.

NPA, 2012). NPA's support and the visibility obtained in the national and international media played an outstanding role in this success, yet the latter would not have been possible were the law not to recognize communal ownership of land. The point is, again, what is the "local community"? Can success stories really exist, if taken out of the reassuring framework of a Manichaean interpretation? In a context where the rule of law is far from established, the ambiguity of the notion of "local community" opens new arenas of extra-legal negotiation for all the actors involved to access the process of decision-making, which may be more effective in (the wide majority of) cases where international NGOs are not involved.

### 4.2 Representation or patronage?

Just as in the domain of development projects, several standardized mechanisms and structures have started to be included in side-protocols signed by "community leaders" (usually, the traditional authority) to guarantee at least an appearance of community participation in private investments concerning communal land. These mechanisms and structures usually include: consultation workshops, during which a village is mobilized through local authorities to gather and meet representatives from the state or the national government together with representatives of the private company; steering committees formed of "members of the community", in charge of supervising whatever social development has been promised by the company, or to administer social funds where applicable; hand-over ceremonies, during which local chiefs receive a lump sum for the organization of the event, usually including the slaughtering of a bull or other similar acts of sacrifice and friendship between the host community and the investor; follow-up meetings, in which the local community can voice its grievances and monitor the fulfilment of promises; and so on. In fact, most of the time, consultations end up being a "formality to be undertaken only after the government and the investor have already come to an understanding on the important elements of the investment" (D. K. Deng, 2011b, p. 14). Without the presumption of evaluating the effectiveness of these consultation mechanisms, it is however worth acknowledging that they have become routinized enough as to be claimed by local actors every time they feel side-lined, and it is precisely in this arena that the boundaries between state and community become blurred.

The two case studies that will be presented in this section are both located in Central Equatoria State and provide examples of different patterns of negotiation on the allocation and use of communal land involving third parties. In both cases, discourses of "community engagement" and participation were used to conceal divisions within the very community and the actual impossibility of separating the "grassroots" from its urban patrons.

### 4.2.1 Community participation dynamics in Tindilo *payam*

At the time of fieldwork in 2012, Tindilo *payam* was a very remote rural area of approximately 212,000 ha, situated in Terekeka County, in the northern part of Central Equatoria State. It comprised five *bomas*, mostly inhabited by Mundari pastoralist communities. In 2007, a Norwegian company working in the forestry sector for logging and carbon credit schemes came to the area and started negotiating a lease agreement of 179,000 ha of communal land with the government of Central Equatoria State.[70] When the company decided to invest in the country, its representatives went to the Ministry of Agriculture and Forestry (MAF) of Central Equatoria State. The state minister repeatedly highlighted this as an example of a private company following the "right procedures" for the negotiation of lease agreements:

> They are the only corporation that followed the right procedures: they came to us, we went to the community to have consultation, they engaged the community with Corporate Social Responsibility, they are doing really good.[71]

Pleased about what he interpreted as the recognition of his authority, rather than that of the national government, in negotiating such a deal, the state minister decided to appoint a ministerial focal point for dealing with the company from his staff. The appointed officer was a native of Tindilo *payam*. He encouraged the company to consult the Central Equatoria State Investment Authority, chaired by another native from Tindilo. After an assessment, unsurprisingly, the company ended up investing in Tindilo and employed the focal point from the Ministry of Agriculture as a Plantation Manager.[72] In the attempt to build closer ties with the government and the community, the company created a subsidiary branch registered in South Sudan with a board of directors initially made up of one member from the Ministry of Agriculture of Central Equatoria State, one member from the Norwegian company, two members from the local subsidiary, one lawyer, one "member of the community" and, finally, also one representative of the national Ministry of Agriculture and Forestry. Despite this attempt at involving the national government in the process of negotiation of the lease agreement, a senior official from the national Ministry of Agriculture and Forestry complained that the national government had been "overcome":

[70] At that time, the Land Act had not yet been enacted, but the recognition of customary ownership of land on a communal basis had been stated in the Interim Constitution of Southern Sudan (2005).

[71] Interview with the Minister of Agriculture and Forestry, Central Equatoria State, Juba, 26/03/2012.

[72] Interview with J. K., Plantation Manager, Juba, February 2012; interview with J. K. J., Chairperson of the Central Equatoria Investment Authority, Juba, 12/04/2012. In fact, the chair of the Investment Authority denied having influenced the choice and suggested that the company would have been brought to Tindilo by NPA, which had previously run a development project in the area. However, a representative of the NGO denied any link with the company and rather stated that they had pulled out of the area after the arrival of the company to avoid "being confused" with a private profit-seeking firm. Interview with NPA staff, Juba, 23/04/2012.

> I was part of their board of directors, but I opposed the ninety-nine-year lease, so they kicked me out of it. [...] They were able to negotiate this agreement in this way thanks to their mingling with the local administration.[73]

According to the Plantation Manager, the board of directors formed in 2008 was dissolved in 2009 following criticism from international media: "It was not good to have government representatives in the board because of corruption, so [the company] decided to dissolve the board".[74] Government representatives were replaced by representatives of the company. The member of the community was confirmed in its position. When I asked who he was and why he had been appointed, the Plantation Manager answered: "The community member is someone who can understand this kind of issues. He was chosen by the community [...]. He represents the community".[75] He put great emphasis on the fact that the person chosen had to be well-connected and close to circles of power. This person happened to be the chairman of the Central Equatoria State Investment Authority, who was also appointed as the chair of a local Steering Committee formed in Tindilo following the first round of consultations with the local community.

The Steering Committee was the body in charge of negotiating on behalf of the local community in order to get local demands for development included in the agreement that was being negotiated at the ministry level. It was formed of five members: besides its chair, there was a Member of Parliament who came from the area, an employee of the Investment Authority, a Juba-based chief looking after Tindilo people living in the capital city, and the local Paramount Chief, who was in fact the only member based in Tindilo. These consultations led to the stipulation of a Memorandum of Understanding that provided for several material benefits for the local residents such as the construction of a school, a health centre, a football field and so on.[76] The MoU was incorporated in the agreement as a Community Support Programme signed by the "Chairperson of Tindilo Payam Community".[77]

Despite these negotiations, after having started a trial plantation and hired about a hundred workers, the company had "scaled down" its investment since 2010. The reasons for this interruption were unclear, and several informants provided different, hardly plausible, explanations;[78] the Paramount Chief mentioned "interferences" by the national government, and the Plantation Manager

[73] Interview with Director General of Forestry Sector in the Ministry of Agriculture and Forestry, Government of South Sudan, Juba, 19/03/2012.

[74] Interview with Plantation Manager, Juba, 29/03/2012.

[75] Ibid.

[76] Ibid.

[77] "Community Support Program between Tindilo Payam and TreeFarms Sudan Ltd" (07/05/2011). Appendix to the Land Lease Agreement.

[78] Several people, including the Investment Authority chairperson, suggested that the company had "run out of funds" due to problems with "their donors". This reveals the great confusion between business and aid work, which emerged time and again in virtually all my interviews on this topic, mostly expressed through the borrowing of development aid terminology to talk about private companies and investments.

confirmed that the national Ministry of Justice, where the lease had to be validated and registered to be turned into a title deed, was not responding to the company's requests to obtain the document. The latter thus decided to wait until the administrative issue was sorted out, although its management was aware that the delay might have been a form of retaliation for the way in which the whole leasing process had been conducted. Perhaps for this reason, in 2012, there were rumours that the company wanted to go back to the initial composition of the board of directors to include representatives from the national government as well.[79]

Discussing Tindilo forest investment during an interview, a senior official of the Ministry of Agriculture and Forestry of Central Equatoria State declared: "CSOs [Civil Society Organizations] are very concerned about land grabbing, but this is not the case. The company engaged the community, and they also made an MOU with us".[80] Indeed, the company was often cited as one of the best examples of community involvement.

Was the "community" involved, then? At first glance, yes. Formal agreed-upon mechanisms and bodies had been put in place, community needs were taken into account, even local residents were generally happy about the conduct of the company, and the major causes of complaint had to do more with the apparent withdrawal of the company and its unfulfilled promises, rather than with its presence.[81] The Paramount Chief, an illiterate old man who, at the time of my visit, was very ill, also expressed a positive opinion about how the negotiation of the agreement had been conducted, emphasizing that he was even taken to Juba to sign the agreement as a member of the Steering Committee.[82] In spite of the Steering Committee being formed of Juba-based people who only held one meeting with the local residents to explain what the project was about; in spite of the community being represented by someone who was in fact also a state agent at the negotiation table with the company and the government; in spite of the negotiation being conducted entirely in Juba and of the poor information flows between the capital city and the village,[83] the chiefs and the local residents I met during my visit to Tindilo were satisfied overall with how the "sons of the soil" had taken care of development in Tindilo – even if the promised development had not actually materialized due to "external constraints". As a confirmation of their satisfaction, when, in 2009, a *Payam* Development Committee was formed, the Investment Authority chairman was again appointed as its director.[84]

[79] Interview with the Chairperson of the Central Equatoria Investment Authority, Juba, 12/04/2012.
[80] Interview with the Director General of Forestry, Ministry of Agriculture and Forestry, CES, 28/03/2012.
[81] Collective interview with residents, Tindilo *payam* headquarters, 03/04/2012.
[82] Interview with the Paramount Chief of Tindilo *payam*, Tindilo, 03/03/2012.
[83] Interview with the Chairperson of the Central Equatoria Investment Authority, Juba, 12/04/2012. Tindilo is about a five-hour drive from Juba and at the time of fieldwork had no phone network coverage, therefore communication was difficult.
[84] Interview with the Chairperson of the Central Equatoria Investment Authority, Juba, 12/04/2012; collective interview with residents, Tindilo *payam*, 03/04/2012. The Development Committee was formed of eleven people, most

### 4.2.2. Concealing exclusion in Lainya County

In 2013, Lainya County covered an area of about 25,000 km$^2$, squeezed between Juba and Yei Counties in Central Equatoria State, at the border with Western Equatoria. According to the 2008 census data, the area was inhabited by about 89,000 people,[85] predominantly belonging to the Bari-speaking agriculturalist group of Pojulu. Both Lainya and Yei have big teak plantations initiated during colonialism and kept as forest reserves under the control of the government. These reserves were extensively exploited during the war by the SPLA as a source of revenue, and by individuals both from the rebel army and the Sudan Armed Forces who smuggled logs through the Ugandan border (Ashamu, 2010). Narratives around teak plantations are quite bitter, as the land was brutally torn from local communities: "In the 1920s [...] people were evicted and displaced at the borders [of the plantation]. Some people participated in planting the forest but saw no benefits and they also lost their land".[86] For this reason, while local residents acknowledged that the forest reserve belonged to the government of South Sudan, they were also very jealous of the customary ownership of all the land that fell outside the "gazetted" areas.

In 2007, a private company negotiated a lease agreement with the government to exploit the already existing teak plantations and to expand them into a vast area of natural forest customarily owned by the local community. Since the forest reserve fell under the national government's jurisdiction, the company started the negotiation with the national Ministry of Agriculture and Forestry (MAF), neither involving the local community nor state and local government institutions. In fact, the lease agreement signed in 2007 between the national MAF and the company only attributed to the latter 1,845 ha of the government forest reserve located between Lainya and Yei Counties, while leasing out 50,000 ha of the communally owned natural forest in Lainya County, where several families were residing. The signing of this lease agreement created great discontent at state, county and *payam* levels. The Minister of Agriculture and Forestry of Central Equatoria State kept comparing the company with the one operating in Tindilo, remarking that the former was "not as good" because "they did not involve the [state] government level", while they "were not supposed to go to the counties without my knowledge and that of the [Central Equatoria State] Governor".[87] This created great discontent among local residents of the three *payams* in Lainya and Yei Counties under whose jurisdiction the natural forest was located. Backed by the Lainya County Commissioner and the

of whom were based in Tindilo, and included women and youth representation. While its role should have been to "supervise all development in Tindilo", in 2012 it was still unclear if it had ever started working.

[85] See: 5th Sudan Census 2008 – Total Population Figures by County, UNOCHA. Available at: https://data2.unhcr.org/en/documents/download/28443 (accessed on 10/01/2021).

[86] Interview with Lanya County Commissioner, Juba, 15/04/2012.

[87] Interview with Michael Roberto Kenyi Legge, Minister of Agriculture and Forestry, Government of South Sudan, Juba, 26/03/2012.

*payam* administrator, local residents from Kenyi *payam* decided to occupy the forest to prevent the company from starting its operations. The company was thus obliged to organize stakeholders' workshops to explain the project and to make promises concerning the construction of a school, a health centre, a community centre, an all-season road, etc.[88] These workshops were held in the three concerned *payam* headquarters in both Lainya and Yei Counties with the participation of company members, national government officials and county and *payam* representatives, and their organization was agreed with local traditional authorities. Each *payam* received US$2,000 for the organization of a hand-over ceremony for the forest plantation in their respective areas – although the forest reserve was not considered to belong to them, the communities lived adjacent to it and used it for timber and non-timber products in their livelihood strategies. Three local Steering Committees – plus one with representatives from the three *payams* – were created to supervise the spending of the US$200,000 Social Fund, which the company had pledged for "community development projects", plus US$5 per cubic metre of "sawn board exported".[89]

Though at the time of fieldwork, in early 2012, the company was not harvesting the forest, some meetings with local residents had been held and the Steering Committees had been formed both in Yei and Lainya Counties. Their members had been chosen from among the most authoritative and respected personalities in the communities, with the participation of the local chiefs, women and youth representatives.[90] In Kenyi *payam*, the Steering Committee was chaired by a man who introduced himself as a "son of Loka community", the *boma* where both the teak plantation and the natural forest included in the concession to the company were located. He was also working in Lainya County Education Department, and considered himself also as a "local public authority".[91] The chairman of the Steering Committee was satisfied with the happy ending of community consultations by the company and of the promises they had obtained, though upset because of the apparent halt in the company's operations between 2010 and 2012.[92] He was very keen on talking about the (minor) part of the agreement involving the forest reserve, and less so about the 50,000 ha of community land owned by the community residing in Loka *boma*. These people, he argued, had been residing in the

[88] Interview with Pakula *boma* Chief (Yei County), Pakula, 16/04/2012.

[89] Interviews with the Assistant Commissioner for Land, Yei River County, Yei, 16/04/2012; with Director General at the Ministry of Agriculture and Forestry, Government of South Sudan, Juba, 19/03/2012; and with Yei *payam* administrator, Yei, 16/04/2012.

[90] Interview with the Chairman of Kenyi *payam* Steering Committee (Lainya County), Loka, 18/04/2012; Government of Southern Sudan (Ministry of Agriculture and Forestry), and Central Equatoria Teak Company Limited (23/11/2007). Management and Development of Teak Plantation Agreement, 2007.

[91] Interview with the Chairman of Kenyi *payam* Steering Committee (Lainya County), Loka, 18/04/2012.

[92] Several sources alleged that a new investment fund had replaced the two development funds that were previously financing the company, and that this had caused delays in the initiation of activities. The new investor was allegedly trying to negotiate a time extension of the agreement with the national Ministry of Agriculture in March 2012.

forest only temporarily and were ready to move away to allow the investors to bring development and job opportunities.[93]

A short visit to one of the household conglomerates characterizing the forest landscape in Loka *boma*, however, gave a rather different picture. One local headman claimed:

> We settled here in 1972. [...] During the war, we were forced to move to the hill, but we came back in 2001 and we have no intention of leaving this place. [...] We know this area has been given to [the company], but we already told them that it is not acceptable for them to come and operate where people live. If they really want to expand into this area, they will have to come and sit with the community, so we can identify together an area for the plantation.[94]

Technically, however, the company did already sit with the community. The problem was that, very clearly, a part of the community had been – willingly or not – excluded from the negotiation process. Besides the somewhat obvious remark that "whatever the collective rhetoric [...] it is rare for the whole community to take part equally" (White, 1996, p. 13) in "participatory" or consultative processes, this situation unveils once again the tricky nature of the idea of "local community" as a right-bearing subject.

## 5. Conclusion

What does this tell us about state-building and state formation processes in South Sudan? In all the cases presented, reference to communal land ownership and control emerge very strongly. Its formalization, supported by a variety of actors for different reasons, leaves open the question of "who is local?" asked by Paulina Peters in her short essay about development projects (Peters, 1996). The identification of the community, of its physical and symbolic boundaries, becomes the object of a struggle compelled by the formalization of collective rights to land. While the liberal state-building project relies on the creation of borders and boundaries, both physical and symbolic, as those separating state from society and modernity from tradition, the actors taking part in it employ various strategies and adopt repertoires that end up blurring these boundaries. The repertoires used to claim land rights are only apparently opposed, related to the modern state (universal rights of citizens) and traditional modes of governance (customary rights for ethnic communities): in fact, they tend to blur, and to be employed by actors that cross the modernity–tradition boundary whenever this seems to be an effective strategy. This is the case, for example, with tax collectors from Rubkhona and Guit Counties in the disputes concerning areas of Bentiu Town, or of the Acholi community's leaders arguing that their control of Madi land does not affect Madi land rights. In all the cases presented, claims over communal land are not advanced by traditional authorities, but rather by actors that in

[93] Interview with the Chairman of Kenyi *payam* Steering Committee (Lainya County), Loka, 18/04/2012.
[94] Interview with Headman of Loka Community, Loka, 18/04/2012.

principle would belong to the civic structure of the state: members of parliament, local government officers, administrators or town-based "intellectuals". These people are more capable of making the voice of the community heard, with visibility often passing through the translation of local grievances into English to draw the attention of international NGOs or the press (as in the Acholi–Madi dispute and in the Lainya land grabbing case). By endorsing and advancing communal land claims even in situations where the statutory system should prevail (as in urban areas), state officers legitimize the use of customary discourses and strengthen the colonial legacy of intertwining the modern state and traditional community: the latter only exists, and its claims are only legitimate, if backed by the former. Ethnicity in South Sudan is thus reproduced by statutory officials even more than by traditional authorities, favouring the emergence of a state that is constantly renegotiated among actors with various interests, but where citizenship is increasingly turned into an "attribute of autochthony" with the complacency of international actors involved in the state-building project (Le Meur, 2006, p. 891).

## Conclusion

On 2 October 2015, the President of the Republic of South Sudan Salva Kiir Mayardit announced on South Sudanese TV an increase in the number of states from 10 to 28. Shortly after, in early 2017, the number of states was increased to 32. The initial move came after the government had refused to increase the number of states from 10 to 21 as proposed by the rebel movement led by Riek Machar, the SPLM-In Opposition (SPLM-IO), and it was seen as a direct challenge to the Agreement on the Resolution of Conflict in South Sudan (ARCSS) signed in August 2015. The agreement indeed collapsed in July 2016, when Machar was forced to flee the capital city having joined the new coalition government just three months earlier. Interestingly, the government's decision and the rebels' proposal were backed respectively by two ethnic-based think tanks emerged in 2013: the Jieng Council of Elders (JCE) (Dinka) and the Nuer Council of Elders (NCE), formed of prominent political figures belonging to the two groups (Mayai et al., 2015). Criticism of the unilateral increase in the number of states was not only related to its unconstitutional nature and to the challenge it posed to ARCSS, but also, more importantly, to accusations of land grabbing by the Dinka. Several observers noted that the creation of the new states would increase the Dinka community-controlled areas of the country from 25% to 42% (*Radio Tamazuj*, 2015) as well as its control of a substantial portion of the oilfields (Deng, 2020). A similar position was expressed in an analysis of the South Sudanese think tank Sudd Institute (Mayai et al., 2015), and reiterated by complaints advanced by other groups against the Dinka trying to take control of their land (Sperber, 2016). The sensitivity of the issue was confirmed by the fact that the number of states – and of related local government units – remained the thorniest obstacle to the peace process, which could only proceed when Salva Kiir accepted, in February 2020, going back to the initial number of states (Dumo, 2020).

The stalemate provoked by the increase in the number of states, and the worsening of identity politics it brought with it (Thiong, 2020), speak to two aspects of the state formation process in South Sudan addressed by this book. First, the overlapping of administrative territory and ethnic community is confirmed. This overlap is informal: no official mention of ethnic balance was ever made either in the Presidential Order establishing the new states,[1] or in the press statement released by the JCE, in which reference was rather made to the principle guiding the decentralization reform in the country, "taking towns to the people" (Jieng Council of Elders, 2015). But its informality does not make it any less real: various popular consultations, including those conducted in the framework of the National

[1] President of the Republic of South Sudan (02/10/2015). Establishment Order Number 36/2015 for the Creation of 28 States in the Decentralized Governance System in the Republic of South Sudan.

Dialogue,[2] detected a large popular support for the increase in the number of administrative units, mostly based on feelings of having been marginalized on an ethnic basis in the state structure established in 2005. In particular, communities that had longstanding grievances related to their status as ethnic minorities within the post-conflict administrative framework and that had suffered from intense fighting such as in Pibor and Ruweng were very vocal in asking to be granted autonomous statuses respectively from Jonglei State and Unity State, and indeed were kept as separate administrative units together with Abyei even after the return to the ten states (Mayai & Tiitmamer, 2020). Thus, as argued in Chapters 4 and 5, there was a strong bottom-up request for administrative fragmentation, based both on memories of ethnic violence and on the way the state was perceived to work in its distributive function. This does not however mean that the increase in the number of states operated by Kiir's presidential decrees was welcomed by the large majority of the population. In many instances, it provoked resistance and accusations of land grabs, confirming the second point made in this book: that the control of government and administrative units is directly linked to the control of the land. To give just one example, the Shilluk community reacted violently against the government's decision, accusing it of grabbing Shilluk land in favour of the Dinka community (*Radio Tamazuj*, 2016), and even dismissed its own king upon accusations of having supported the government's decision (*Sudan Tribune*, 2016).

As the peace process moves ahead and political arrangements are negotiated at the national level to establish a working government and restore a functioning state structure, the challenges arising from South Sudan's deep societal fragmentation remain extremely difficult to deal with, and dangerous for the sustainability of peace and state-building. This book has tried to explain the evolution of South Sudan's state into its collapse in 2013, looking for a delicate balance between a perspective that would attribute the outcomes of South Sudan's state-building failure to structural constraints, either imposed by the international system or entirely depending on historical legacies of state formation; and another perspective blaming it on a local corrupt elite or on hopelessly "tribal" masses. It has argued that elements emphasized by both perspectives are at play: on the one hand, blueprint international state-building projects oblivious of the local context and political reality; on the other, a local elite mostly concerned with keeping its grip on power. On top of these two aspects, there are millions of South Sudanese citizens who act in their everyday lives following their understanding of social, political and economic changes in the country. They act in the light of their

[2] The National Dialogue was an initiative launched in December 2016 by the President Salva Kiir to popularize the peace process and promote inclusive grassroots consultations among local South Sudanese communities. It was led by eminent personalities and civil society representatives and started conducting grassroots meetings from late 2017, collecting sometimes extremely critical views on the country's leadership (Mayai, 2020).

past experiences and the new opportunities provided by rapidly changing scenarios, of which the state-building enterprise constitutes an outstanding part.

After decades of relative marginalization, with the state only being a distant and predatory actor, Southern Sudan saw the beginning of the contemporary state-building enterprise. It started some years before the CPA from the convergence between the SPLM's will to create a functioning "apparatus of control" in its liberated areas and the international community's aspirations of supporting the establishment of liberal peace in war-torn societies for the sake of international security, through the creation of a functioning modern state. Both the SPLM and international actors were aware that no state could survive on coercion as a simple apparatus of control, and instead needed some degree of legitimacy: hence, the emphasis on democracy, on local governance and on the delivery function, which was expected to bring the much-needed peace dividends to the local population. But, as has been argued by a vast academic literature, international state-building interventions, broad as they are in their scope, rely on a technical approach that pretends that building state structures, producing legal and policy frameworks and training officers does not imply engaging with local politics and processes of accumulation of power. Yet, this depoliticized approach to state-building produces tangible outcomes, not only through the creation of institutions and state structures, but also through setting the "rules of the game" (Hyden et al., 2000) through which power and resources can be accessed, and providing repertoires that can be used to legitimize these claims.

The depoliticized state-building enterprise supported by international donors and development agencies could easily get along with the local political elite's state-building project, which was based on a much deeper understanding of the political balances at stake in the process. Chapters 2 and 3 have shown to what extent international state-building has provided extraverted resources to feed the home-grown state-building project, with the consequence of conferring international blessings on the transformation of SPLM structures into that of the South Sudanese state. The technocratic nature of the decentralization reform made possible a shallow implementation that enabled the Southern Sudanese political elite to create an image of the state that could strengthen its external legitimacy and its negotiation capacity with external resource-providers, securing continued access to financial support, despite the poor performances achieved – something that has been referred to as isomorphic mimicry (see Chapter 3). While the state-building enterprise effectively brought about the creation of a decentralized state shell, the SPLM could fill it with its own political strategies aimed at accommodating political opponents that could potentially threaten the peace process and the movement's leaders' grip on power. In doing so, the state-building enterprise as a whole – merging international and home-grown strategies and objectives – goes beyond shaping the structural

conditions within which actors move: it opens spaces for the "vulgarization of power" (Berman & Lonsdale, 1992, p.5) from below, which new actors can access, provided they master the right lexicon.

In analysing bottom-up claims to be recognized as part of the state, Chapters 4 and 5 move the focus to the process of state formation, defined by Berman and Lonsdale (1992, p. 5) as "an historical process whose outcome is a largely unconscious and contradictory process of conflicts, negotiations and compromises between diverse groups". This process has much deeper historical roots in past experiences of statehood, as suggested by the long-lasting colonial legacy of identifying communities on an ethnic basis or "traditional authorities" as the legitimate gatekeepers of their constituencies. It also involves a much broader set of actors who do not necessarily have the ambition to contribute to the state-building enterprise (Lund, 2008). They may not be interested in creating a central apparatus of control, nor in the establishment of the monopoly of violence, or in influencing law and policy-making processes on a vast scale, but simply aim to participate in the sharing of the "national cake", to claim self-rule or to access resources that are perceived as being delivered by the state and its international partners.

The state is thus formed through this "anonymous action of many" (Berman and Lonsdale, 1992, p. 15). They strengthen it, as the idea of the state as a resource-provider is pervasive (even when in fact these resources come from the aid industry);[3] but they also tear it apart when they claim to be part of it. This is what "local communities" do when they claim administrative independence to access services or to assert control over their land, or when they use ethnic identity to be included in the distributive practices of the state. These strategies, which indeed contribute to state-making practices in that they shape the relation between state and society as well as the very nature of polities (Boone, 2014), are not simply the product of some sort of path dependency deriving from the historical pattern of state formation in Southern Sudan since colonialism. While the latter was undoubtedly characterized by a deep politicization of ethnic identity as well as by a centralizing authoritarian political culture that was uncritically reproduced by post-colonial states, contemporary strategies aimed at appropriating the state and contributing to its fragmentation are also influenced by the opportunities and incentives produced by the state-building enterprise.

The emergence of what has been variously described as communitarianism (Darbon, 1998), a neo-customary trend (Boone, 2014) and traditional resurgence (Geschiere, 2009) in international interventions can be looked at from this perspective: the "local community", framed as a local uncontentious customary unit, was considered a good means to which local matters could be delegated. The "community" was thus empowered both as a means of lifting the central state from its

[3] On the pervasiveness of the state idea, see also Lombard (2016); Migdal & Schlichte (2005).

responsibility to provide directly for its peripheries, and as a tool to make complex and diverse societies "legible". But as Jocelyn Alexander argues with regard to Zimbabwe, "'Legibility' worked in both ways: as a means for the state to 'see' its charges, and as a way for Africans to be 'seen', and so gain recognition for their claims to land" (Alexander, 2006, p. 31). Thus, the belonging to "local communities", defined as they are on an ethnic basis, became a valid means to be "seen" by the state and other resource-providers for disenfranchised people and groups claiming rights and services, and in post-conflict South Sudan it worked to the extent of turning citizenship into an "attribute of autochthony" (Bierschenk, 2003). Drawing on a history characterized by recurrent cycles of violence-bureaucratization-legitimation, the process of state formation was thus deeply affected by the system of "incentives" brought by the contemporary wave of state-building, in that – willingly or not – it encouraged the structuring of state-society relations along ethnicized patron–client relations. The delivery function of the state, expected to increase state legitimacy, instead contributed to this pattern of fragmentation and legitimized exclusive discourses about who was entitled to resources and rights in the new state, and who was not.

At the time of writing, in early 2021, South Sudan is living through a relatively peaceful time. As the peace process goes ahead, a new government of national unity is being set up, Protection of Civilians sites in UNMISS compounds where hundreds of thousands of people have been forced to live in the past five years are being handed over to the government, and the international community is willing to guard the implementation of the peace agreement. However, underlying issues that drove the country back to conflict risk going largely unaddressed by an international community mostly concerned with the sustainability of political settlements at national level and the failure to acknowledge the existence of material incentives to bottom-up fragmentation in the attempt to appropriate the state. This is not to say that inter-ethnic rivalries and centrifugal forces did not exist independently from contemporary state-building attempts in Southern Sudan: they existed even before colonialism, and the latter only contributed to their crystallization and to the hardening of ethnic boundaries. At the same time, however, Doornbos (2010) emphasizes the lack of politico-material conditions for the development of a national (unique) identity transcending ethnic allegiances in the African continent. Indeed, post-conflict reforms that have encouraged and officially sanctioned the overlapping of administrative and customary communal boundaries to which access to power and resources is linked do not provide material incentives to discourage particularistic allegiances formed on an ethnic basis; rather the opposite. More attention to these material incentives should be given in the new state-building enterprise to make sure that South Sudan's historical pattern of fragmented and ethnicized state formation is reversed.

# Acknowledgments

This book owes much to all those who supported my work during my PhD and provided invaluable feedback on my ideas and writings. In the first place, I would like to thank my two PhD supervisors at the University of Naples "L'Orientale" and the University of Paris I Panthéon-Sorbonne, Maria Cristina Ercolessi and Johanna Siméant, who have, in various ways, supported and encouraged my work over the years. However, many other people contributed with feedback on specific parts of my PhD thesis, and their comments have informed the work of turning it into this book. In particular, I would like to thank Sharon E. Hutchinson, whose work on the Nuer was of vital importance during my first visit to Bentiu in 2010, and who contributed to Chapter 2 with eight pages of comments that significantly improved and added nuance to my arguments; Goran Hyden, who commented extensively on a paper I presented at the Nordic Africa Days in Uppsala in 2014 and which later became part of Chapter 5; and Ivor Chipkin, who contributed to Chapter 4 with challenging questions about the nature of the state and of service delivery in Southern Sudan.

The help and the material support of several organizations and friends also made an invaluable contribution to this book. First, the Italian NGO Mani Tese provided me with logistical support during most of my fieldwork. Bruna Sironi, the then country representative for South Sudan, was the very first person to introduce me to the country and sent me to Bentiu in 2010 as an intern. Two other Italian NGOs also contributed to my stay in South Sudan: InterSOS (particularly Luisa and Osman), whose compound became my home in Bentiu in early 2013; and CUAMM, whose staff hosted me in Yirol in December 2013. The Comboni missionaries in Rumbek and Mapuordit helped me with accommodation and transport issues during my stay in Lakes State in late 2013. And speaking about accommodation, I cannot neglect to mention Marina, Laetitia and Irene who, at various times, hosted me in Juba – an invaluable help to a PhD student, as anyone who knows Juba accommodation prices would tell.

I would like to thank the many South Sudanese friends with whom, over the years, I have shared my thoughts and doubts, and who helped me look at their country a little through their own eyes: Mafer, James, Machien, Isaac, Abednego, Galuak, John, Simon, Juma, Michael and many more. A special thank you also goes to the Department of Social Sciences of the University of Juba and to Professors Samson Wassara and Nelson Leben Moro, both for our stimulating discussions and for facilitating my last fieldtrip to South Sudan.

Finally, I would like to thank my family for their patience with all my many weird manifestations of stress and tiredness, particularly in the final weeks of writing.

# Bibliography


Aalen, L. (2019). African Decentralisation as a Power Calculation, and its Relevance for South Sudan. In L. Biong Deng Kuol and S. Logan (eds.) *The Struggle for South Sudan*. I.B. Tauris, 195–210.

African Development Bank (2003). *Sudan. Country Dialogue Paper 2003–2004*. Country Operations Department. https://www.afdb.org/en/documents/document/2003-2004-sudan-country-dialogue-paper-13314 (accessed on 20/01/2021).

African Rights (1997). *Food and Power in Sudan: A critique of Humanitarianism*. http://beta.justiceafrica.com/publications/online-books/food-and-power-in-sudan-a-critique-of-humanitarianism/ (accessed on 20/01/2021).

Akol, L. (2005). Operation Lifeline Sudan. In *Choosing to engage: Armed groups and peace processes*. Conciliation Resources. http://www.c-r.org/accord-article/operation-lifeline-sudan (accessed on 20/01/2021)

Alden Wily, L. (2018). Collective Land Ownership in the 21st Century: Overview of Global Trends. *Land*, *7*(2), 68. https://doi.org/10.3390/land7020068

Alexander, J. (2006). *The unsettled land: State-making & the politics of land in Zimbabwe, 1893–2003*. Ohio University Press.

Amuru, M. O. (2013, September 26). Response to the Crisis in Madiland: Central government is responsible. *South Sudan Nation*. http://www.southsudannation.com/response-to-the-crisis-in-madiland-central-government-is-responsible/ (accessed on 20/01/2021).

Andrews, M., L. Pritchett, & M. Woolcock (2017). *Building State Capability: Evidence, Analysis, Action*. Oxford University Press. https://doi.org/10.1093/acprof:oso/9780198747482.001.0001

Andrews, M. (2009). Isomorphism and the Limits to African Public Financial Management Reform. HKS Faculty Research Working Paper Series RWP09/012, John F. Kennedy School of Government, Harvard University.

Anzai, N. (2012). *Notes on the Backgrounds of Local Governance Systems in South Sudan*. Unpublished.

Ashamu, E. (2010). *Post-Conflict Forest Governance in Southern Sudan*. Unpublished.

Autesserre, S. (2002). The Unites States «humanitarian diplomacy» in South Sudan. *The Journal of Humanitarian Assistance*, January.

Ayahu, T. O. (2013, August 29). Lities, City councils and towns in South Sudan. *Sudan Tribune*. http://sudantribune.com/spip.php?article47851 (accessed on 19/01/2021).

Ayub, M. (2006). Land and Conflict in Sudan. In M. Simmons and P. Dixon (eds.) *Peace by Piece: Addressing Sudan's Conflicts*. Conciliation Resources. https://rc-services-assets.s3.eu-west-1.amazonaws.com/s3fs-public/Peace_by_piece_Addressing_Sudans_conflicts_Accord_Issue_18.pdf (accessed on 19/01/2021).

Badie, B. (1992). *L'État importé: Essai sur l'occidentalisation de l'ordre politique*. Fayard.

Badiey, N. (2011). Les dynamiques locales de la construction étatique à Juba, Sud-Soudan (2005–2008). *Politique africaine*, *122*(2), 21–39. https://doi.org/10.3917/polaf.122.0021

Badiey, N. (2013). The Strategic Instrumentalization of Land Tenure in «State-Building»: The Case of Juba, South Sudan. *Africa: The Journal of the International African Institute*, *83*(1), 57–77.

Badiey, N. (2014). *The State of Post-conflict Reconstruction: Land, Urban Development and State-building in Juba, Southern Sudan*. Boydell & Brewer Ltd.

Baird, M. (2010). *Service delivery in Fragile and Conflict Affected States*. World Development Report Background Paper, The World Bank. http://web.worldbank.org/archive/website01306/web/pdf/wdr_service_delivery_baird.pdf (accessed on 20/01/2021)

Bates, R. H. (2014). *Markets and states in tropical Africa: The political basis of agricultural policies*. University of California Press. (Original work published in 1981)

Batley, R., & C. Mcloughlin. (2010). Engagement with Non-State Service Providers in Fragile States: Reconciling State-Building and Service Delivery. *Development Policy Review*, *28*(2), 131–154. https://doi.org/10.1111/j.1467-7679.2010.00478.x

Bayart, J.-F. (1996). L'historicité de l'Etat importé. *Les Cahiers du CERI*, *15*. http://www.sciencespo.fr/ceri/sites/sciencespo.fr.ceri/files/cahier15.pdf (accessed on 20/01/2021)

Bayart, J.-F. (1999). L'Afrique dans le monde: Une histoire d'extraversion. *Critique internationale*, *5*(1), 97–120. https://doi.org/10.3406/criti.1999.1505

Bayart, J.-F. (2006). *L'État en Afrique: La politique du ventre*. Fayard.

Bayart, J.-F., Mbembe, J.-A., & Toulabor, C. M. (1992). *Le politique par le bas en Afrique noire*. Karthala.

Bellagamba, A., & Klute, G. (2008). *Beside the State. Emergent Powers in Contemporary Africa*. Rüdiger Köppe Verlag.

Belloni, R. (2012). Hybrid Peace Governance: Its Emergence and Significance. *Global Governance: A Review of Multilateralism and International Organizations*, *18*(1), 21–38. https://doi.org/10.5555/1075-2846-18.1.21

Belloni, R. (2014). Statebuilding Failure in South Sudan. *E-International Relations*. http://www.e-ir.info/2014/04/17/statebuilding-failure-in-south-sudan/ (accessed on 21/01/2021)

Belloni, R., & Moro, F. N. (2019). Stability and Stability Operations: Definitions, Drivers, Approaches. *Ethnopolitics*, *18*(5), 445–461. https://doi.org/10.1080/17449057.2019.1640503

Bennett, J., Pantuliano, S., Fenton, W., Barnett, C., & Brusset, E. (2010). *Aiding the Peace: A Multi-donor Evaluation of Support to Conflict Prevention and Peacebuilding Activities in Southern Sudan 2005–2010*. Netherlands Ministry of Foreign Affairs.

Bergamaschi, I. (2014). Building State Capacities? The case of the Poverty Reduction Unit in Mali. In J.-P. Olivier de Sardan & T. Bierschenk (eds.), *States at Work. Dynamics of African Bureaucracies*. Brill, 271–299.

Berman, B. (1992). The Concept of «Articulation» and the Political Economy of Colonialism. In B. Berman and J. Lonsdale (eds.) *Unhappy Valley. Conflict in Kenya and Africa I,* Ohio University Press, 127–139. http://hdl.handle.net/2027/heb.02560

Berman, B. J. (1998). Ethnicity, Patronage and the African State: The Politics of Uncivil Nationalism. *African Affairs*, *97*(388), 305–341.

Berman, B., & Lonsdale, J. (1992). *Unhappy valley conflict in Kenya & Africa. Book One: State & Class*. Ohio University Press. http://hdl.handle.net/2027/heb.02560

Berman, B., Kymlicka, W., & Eyoh, D. (2004). *Ethnicity and Democracy in Africa*. Boydell & Brewer.

Berry, S. (2004). Reinventing the Local? Privatization, Decentralization and the Politics of Resource Management: Examples from Africa. *African Study Monographs*, *25*(2), 79–101.

Beswick, D., & Hammerstad, A. (2013). African agency in a changing security environment: Sources, opportunities and challenges. *Conflict, Security & Development*, *13*(5), 471–486. https://doi.org/10.1080/14678802.2013.849470

Bierschenk, T., & J.-P. Olivier de Sardan (2014). *States at work: Dynamics of African bureaucracies*. Brill.

Biong Deng, L. (2006). Education in Southern Sudan: War, status and challenges of achieving Education for All goals. *Respect, Sudanese Journal for Human Rights' Culture and Issue of Cultural Diversity*, *4*.

Bliesemann de Guevara, B. (2008). The State in Times of Statebuilding. *Civil Wars*, *10*(4), 348–368. https://doi.org/10.1080/13698240802354466

Bliesemann de Guevara, B. (2010). Introduction: The Limits of Statebuilding and the Analysis of State-Formation. *Journal of Intervention and Statebuilding*, *4*(2), 111–128. https://doi.org/10.1080/17502970903533652

Blundo, G., & J.-P. Olivier de Sardan (2007). *État et corruption en Afrique: Une anthropologie comparative des relations entre fonctionnaires et usagers*. Karthala.

Blundo, G., & P.-Y. Le Meur (2009). *The governance of daily life in Africa: Ethnographic explorations of public and collective services*. Brill.

Boone, C. (2003). Decentralization As Political Strategy In West Africa: *Comparative Political Studies*, *36*(4), 355–380. https://doi.org/10.1177/0010414003251173

Boone, C. (2007). Property and constitutional order: Land tenure reform and the future of the African state. *African Affairs*, *106*(425), 557–586. https://doi.org/10.1093/afraf/adm059

Boone, C. (2014). *Property and Political Order in Africa: Land Rights and the Structure of Politics*. Cambridge University Press.

Boutros-Ghali, B. (1992). An Agenda for Peace. Preventive diplomacy, peace making and peace-keeping. http://www.unrol.org/files/A_47_277.pdf (accessed on 21/01/2021)

Brabant, J. (2013). Peut-on faire de la recherche au sein d'une ONG ? *Genèses*, *90*, 42–61.

Bradbury, M., N. Laeder, & K. Mackintosh (2000). *The «Agreement on Ground Rules in South Sudan».: Vol. Report 4*. Humanitarian Policy Group, Overseas Development Institute. http://www.odi.org/sites/odi.org.uk/files/odi-assets/publications-opinion-files/307.pdf (accessed on 20/01/2021)

Bradbury, M. N., J. Ryle, M. Medley, K. Sansculotte-Greenidge (2006). Local Peace Processes in Sudan: a Baseline Study. Rift Valley Institute.

Branch, A., & Mampilly, Z. C. (2005). Winning the war, but losing the peace? The dilemma of SPLM/A civil administration and the tasks ahead. *The Journal of Modern African Studies*, *43*(01), 1–20. https://doi.org/10.1017/S0022278X04000588

Broers, A., & Juma, A. (2015). *Magwi County Conflict and Leadership Mapping*. Search for Common Goods; UNDP. https://reliefweb.int/sites/reliefweb.int/files/resources/Preliminary%20Report%20of%20Magwi%20Conflict_Leadership%20Mapping.pdf (accessed on 20/01/2021)

Brosché, J., & Höglund, K. (2016). Crisis of governance in South Sudan: Electoral politics and violence in the world's newest nation. *The Journal of Modern African Studies*, *54*(1), 67–90. https://doi.org/10.1017/S0022278X15000828

Brown, W. (2012). A Question of Agency: Africa in international politics. *Third World Quarterly*, *33*(10), 1889–1908. https://doi.org/10.1080/01436597.2012.728322

Byamugisha, F. (2013). *Securing Africa's land for shared prosperity: A program to scale up reforms and investments*. The World Bank.

Chambers, R. (1983). *Rural Development: Putting the last first*. Routledge.

Chandler, D. (2006). *Empire in denial: The politics of state-building*. Pluto.

Chapin Metz, H. (1991). *Sudan: A Country Study*. GPO for the Library of Congress. http://countrystudies.us/sudan/15.htm (accessed on 25/06/2019)

Chimiak, G. (2014). The Rise and Stall of Non-Governmental Organizations in Development. *Polish Sociological Review*, *185*, 25–44.

Clapham, C. (2000). Guerre et construction de l'État dans la Corne de l'Afrique. *Critique internationale*, *9*(1), 93–111. https://doi.org/10.3406/criti.2000.1626

Collins, R. O. (2008). *A History of Modern Sudan*. Cambridge University Press.

Copans, J. (2001). Afrique Noire: Un État sans fonctionnaires? *Autrepart*, *20*(4), 11–26.

Cormack, Z. (2016). Borders are Galaxies: Interpreting Contestations over Local Administrative Boundaries in South Sudan. *Africa*, *86*(3), 504–527. https://doi.org/10.1017/S0001972016000358

Cornwall, A. (2008). Unpacking 'Participation': Models, meanings and practices. *Community Development Journal*, *43*(3), 269–283. https://doi.org/10.1093/cdj/bsn010

Cotula, L., Toulmin, C., & Hesse, C. (2004). *Land Tenure and Administration in Africa: Lessons of Experience and Emerging Issues*. International Institute for Environment and Development/FAO.

Cramer, C. (2006). *Civil War Is Not a Stupid Thing: Accounting for Violence in Developing Countries*. C Hurst & Co Publishers Ltd.

Crawford, G., & Hartmann, C. (2008). *Decentralisation in Africa: A Pathway Out of Poverty and Conflict?* Amsterdam University Press.

Craze, J., Tubiana, J., & Gramizzi, C. (2016). *A State of Disunity: Conflict Dynamics in Unity State, South Sudan, 2013–15*. Small Arms Survey.

Crook, R. C., Asante, K. P., & Brobbey, V. K. (2011). Popular Concepts of Justice and Hybrid Judicial Institutions in Ghana. *IDS Bulletin*, *42*(2), 64–75. https://doi.org/10.1111/j.1759-5436.2011.00212.x

Crossley, K. (2004). Why Not to State-Build New Sudan. In P. Kingston and I. S. Spears (eds.) *States-Within-States. Incipient Political Entities in the Post-Cold War Era.* Palgrave, 135–151.

Darbon, D. (1998). Crise du territoire étatique et communautarisme: Les nouveaux enjeux idéologiques de l'intégration en Afrique noire. In D. C. Bach (ed.) *Regionalisation, mondialisation et fragmentation en Afrique subsaharienne*. Karthala, 61–75.

Darbon, D. (2002). Peut-on relire le politique en Afriques via les politiques publiques? In A. Triulzi and M. C. Ercolessi (eds). *State, Power, and New Political Actors in Postcolonial Africa*, Feltrinelli, 175–199.

Darbon, D. (2003). Réformer ou reformer les administrations projetées des Afriques ? *Revue française d'administration publique*, *n°105–106*(1), 135–152.

de Simone, S. (2013). Post-conflict Decentralization: Dynamics of Land and Power in Unity State – South Sudan. *UNISCI Discussion Papers, 33*, 35–55.

de Simone, S. (2018). Playing the 'fragile state' card: the SPLM and state extraversion in South Sudan. *Journal of Modern African Studies, 56*(3), 395–420. https://doi.org/10.1017/S0022278X18000290.

de Simone, S., & A. T. Hirblinger (2016). *Participation in Service Delivery: Assessment for Yei, Torit, Yambio, Wau, Aweil and Kuajok.* Gesellschaft für Internationale Zusammenarbeit (GIZ). Unpublished.

de Waal, A. (2014). When kleptocracy becomes insolvent: Brute causes of the civil war in South Sudan. *African Affairs*, *113*(452), 347–369. https://doi.org/10.1093/afraf/adu028

de Waal, A., & Mohammed, A. (2014, January 1). Breakdown in South Sudan. What went wrong and how to fix it. *Foreign Affairs*. http://www.foreignaffairs.com/articles/140617/alex-de-waal-and-abdul-mohammed/breakdown-in-south-sudan (accessed on 19/01/2021)

de Waal, A., & Pendle, N. (2019). Decentralisation and the Logic of the Political marketplace in South Sudan. In L. Biong Deng and S. Logan (eds.) *The Stuggle for South Sudan*. I.B. Tauris, 172–194.

De Wit, P. (2001). *Legality and legitimacy: A study of the access to land, pasture and water. Sudan*. FAO. http://www.cmi.no/sudan/doc/?id=908 (accessed on 15/03/2019)

De Wit, P. (2004). *Land and Property Study in Sudan* (Project OSRO/SUD/409/HCR), Interim report, Norwegian Refugee Council, UNHCR, FAO.

De Wit, P., Tanner, C., & Norfolk, S. (2009). *Land Policy Development in an African Context. Lessons Learned from Selected Experiences*. Land Tenure Working Paper, 14, FAO.

Debos, M. (2013). *Le métier des armes au Tchad: Le gouvernement de l'entre-guerres*. Karthala.

Dembowski, D. E. (2002). *Evaluation of the Sudan Transitional Assistance for Rehabilitation (STAR) Program*. Final Report, USAID.

Deng, D. K. (2011a). *The New Frontier. A baseline survey of large-scale land-based investment in Southern Sudan*. Norwegian People's Aid.

Deng, D. K. (2011b). *"Land belongs to the community". Demistifying the «global land grab» in Southern Sudan*. Land Deal Politics Initiative.

https://assets.publishing.service.gov.uk/media/57a08ad140f0b649740007c0/LDPI-WP-04.pdf (accessed on 20/01/2021)

Deng, F. M. (1972). *The Dinka of the Sudan*. Holt, Rinehart and Winston.

Deng, M. A. (2020, January 9). Opinion: 32 States were created extra-constitutionally. *Radio Tamazuj*. https://radiotamazuj.org/en/news/article/opinion-32-states-were-created-extra-constitutionally (accessed on 22/01/2021).

Denney, L., Mallet, R., & Mazurana, D. (2015). *Peacebuilding and Service Delivery*. Center for Policy Research, United Nations University. http://i.unu.edu/media/cpr.unu.edu/attachment/1000/Peacebuilding-and-Service-Delivery.pdf (accessed on 20/01/2021).

DiMaggio, P. J., & W.W. Powell. 1983. The Iron Cage Revisited: Institutional Isomorphism and Collective Rationality in Organizational Fields. *American Sociological Review*, 48:147–160. https://doi.org/10.2307/2095101

Doornbos, M. (2010). Researching African Statehood Dynamics: Negotiability and its Limits. *Development & Change*, *41*(4), 747–769. https://doi.org/10.1111/j.1467-7660.2010.01650.x

Dowden, R. (2014, January 22). South Sudan's leaders have learnt nothing from 50 years of independence in Africa. *African Arguments*. http://africanarguments.org/2014/01/22/south-sudans-leaders-have-learnt-nothing-from-50-years-of-independence-in-africa-by-richard-dowden/ (accessed on 19/01/2021).

Duffield, M. (2001). *Global governance and the new wars: The merging of development and security*. Zed Books.

Duffield, M. (2002). Aid and Complicity: The Case of War-Displaced Southerners in the Northern Sudan. *The Journal of Modern African Studies*, *40*(1), 83–104.

Duffield, M. (2004). *Guerre postmoderne. L'aiuto umanitario come tecnica politica di controllo*. Il Ponte.

Dumo, D. (2020, February 15). South Sudan cuts number of states from 32 to 10, unlocking peace process. *Reuters*. https://www.reuters.com/article/us-southsudan-politics/south-sudan-cuts-number-of-states-from-32-to-10-unlocking-peace-process-idUSKBN2090AM (accessed on 22/01/2021)

Englebert, P. (2002). Patterns and Theories of Traditional Resurgence in Tropical Africa. *Mondes en développement*, *118*(2), 51–64.

Ensor, M. O. (2013). *Displaced Youth's Role in Sustainable Return: Lessons from South Sudan*. IOM. http://publications.iom.int/bookstore/free/MRS_47_6Nov.pdf (accessed on 21/01/2021).

Esser, D. E. (2012). 'When we launched the government's agenda…': Aid agencies and local politics in urban Africa. *The Journal of Modern African Studies*, *50*(03), 397–420. https://doi.org/10.1017/S0022278X12000171

Evans-Pritchard, E. E. (1940). *The Nuer: A description of the modes of livelihood and political institutions of a Nilotic people*. Clarendon Press.

Ferguson, J. (1994). *The anti-politics machine: «development,» depoliticization, and bureaucratic power in Lesotho*. University of Minnesota Press.

Fox, W. F. (2007). *Fiscal Decentralization in Post-Conflict Countries*. USAID.

Frahm, O. (2014). *«How a state is made»—Statebuilding and nationbuilding in South Sudan in the light of its African peers*. Humboldt University. https://edoc.hu-berlin.de/bitstream/handle/18452/18300/frahm.pdf?sequence=1 (accessed on 21/05/2020)

Gadet, T. P. (2020, April 8). Has GPOC also joined the politics of illegal annexation? *Sudans Post*. https://www.sudanspost.com/has-gpoc-also-joined-the-politics-of-illegal-annexation/ (accessed on 23/09/2020).

Gak, B. R. (2020, October 19). Lands of Jikany-Nuer encroached by Ruweng-Dinka through 32 States policy. *Nyamile*. https://www.nyamile.com/2020/10/19/43-lands-of-jikany-nuer-encroached-by-ruweng-dinka-through-32-states-policy/ (accessed on 23/09/2020).

Garang de Mabior, J. (2004). *Speech by Dr. Jong Garang de Mabior: Nairobi Declaration* [Speech]. Signing of the Nairobi Declaration on Launching the Final Phase of Peace in the Sudan. http://paanluelwel.com/2011/07/21/speech-by-dr-john-garang-de-mabior-nairobi-declaration-2004/ (accessed on 10/01/2021).

Gentili, A. M. (2004). Le problematiche dell'institution building. In V. Ianni (ed.). *Verso una nuova visione dell'aiuto.* Società Tipografica Romana, 120–150.

Gentili, A. M. (2008). Comunità rurali, sistemi di autorità e risorse naturali. Dalle riforme coloniali ai processi di decentralizzazione nell'Africa australe contemporanea. *Afriche e Orienti*, *Special Issue I*, 7–23.

Geschiere, P. (2009). *The perils of belonging: Autochthony, citizenship, and exclusion in Africa and Europe*. University of Chicago Press.

Gilfoy, K. (2015). Land grabbing and NGO advocacy in Liberia: A deconstruction of the «homogeneous community». *African Affairs*, *114*(455), 185–205. https://doi.org/10.1093/afraf/adu078

Government of South Sudan (2013). *Environmental Social Management Framework. Local Governance and Service Delivery Project, Republic of South Sudan*.

http://documents1.worldbank.org/curated/en/985041468299380766/pdf/E410900ESMF00L000PUBLIC00Box379818B.pdf (accessed on 21/01/2021).

Government of Southern Sudan (2005). *Interim Constitution of Southern Sudan*.

Government of Southern Sudan (2006). *Local Government Framework*.

Government of Southern Sudan (2009a). *Investment Promotion Act*.

Government of Southern Sudan (2009b). *Local Government Act*.

Government of Southern Sudan (2009c). *The Land Act*.

Government of the Republic of South Sudan (2012). *The National Council of Traditional Authority Leaders Bill*.

GRAIN (2008). *Seized: The 2008 land grab for food and financial security*. https://www.grain.org/article/entries/93-seized-the-2008-landgrab-for-food-and-financial-security (accessed on 20/01/2021)

Gray, R. (1961). *A History of the Southern Sudan 1839–1889*. Oxford University Press.

Green, E. (2010). Patronage, District Creation, and Reform in Uganda. *Studies in Comparative International Development*, *45*(1), 83–103. https://doi.org/10.1007/s12116-009-9058-8

Gurtong Project (2013, July 8). *Citizens welcome decision to directly budget for counties*. http://www.gurtong.net/ECM/Editorial/tabid/124/ctl/ArticleView/mid/519/articleId/11940/Citizens-Welcome-Decision-To-Directly-Budget-For-Counties.aspx (accessed on 10/06/2020)

Guttmann, E. (1956). Land Tenure among the Azande People. *Sudan Notes and Records*, *XXXVII*, 48–55.

Guyer, J. I., & Belinga, S. M. E. (1995). Wealth in People as Wealth in Knowledge: Accumulation and Composition in Equatorial Africa. *The Journal of African History*, *36*(1), 91–120.

Hagmann, T., & Péclard, D. (2010). Negotiating Statehood: Dynamics of Power and Domination in Africa. *Development and Change*, *41*(4), 539–562. https://doi.org/10.1111/j.1467-7660.2010.01656.x

Ḥarīr, S. ʻAbd A., Tvedt, T., & Badal, R. K. (1994). *Short-cut to decay: The case of the Sudan*. Nordiska Afrikainstitutet.

Harrison, G. (2001). Post-Conditionality Politics and Administrative Reform: Reflections on the Cases of Uganda and Tanzania. *Development and Change*, *32*(4), 657–679. https://doi.org/10.1111/%28ISSN%291467-7660/issues

Harrison, G. (2010). *Neoliberal Africa: The impact of global social engineering*. Zed Books.

Heathershaw, J., & Lambach, D. (2008). Introduction: Post-Conflict Spaces and Approaches to Statebuilding. *Journal of Intervention & Statebuilding*, *2*(3), 269–289. https://doi.org/10.1080/17502970802436296

Herbst, J. I. (2000). *States and power in Africa: Comparative lessons in authority and control*. Princeton University Press.

Hibou, B. (2004). *Privatizing the State*. Columbia University Press.

Hirblinger, A. T. (2015). Land, political subjectivity and conflict in post-CPA Southern Sudan. *Journal of Eastern African Studies*, *9*(4), 704–722. https://doi.org/10.1080/17531055.2015.1105443

Hoehne, M. V. (2008). *Traditional Authorities and Local Government in Southern Sudan*. The Word Bank. http://www.eth.mpg.de/cms/en/people/d/mhoehne/pdf/consultancyReport.pdf (accessed on 20/01/2021).

Howden, D. (2013, December 28). How Hollywood cloaked South Sudan in celebrity and fell for the «big lie». *The Guardian*. https://www.theguardian.com/world/2013/dec/28/reality-of-south-sudan-and-hollywood-stars (accessed on 19/01/2021).

Howell, P. P. (1954). *A manual of Nuer law: Being an account of customary law, its evolution and development in the courts established by the Sudan Government*. Oxford University Press.

Human Rights Watch (2003). *Sudan, oil, and human rights*. Human Rights Watch.

Human Rights Watch (2010). *Democracy on Hold. Rights Violations in the April 2010 Sudan Elections.* https://www.hrw.org/report/2010/06/30/democracy-hold/rights-violations-april-2010-sudan-elections (accessed on 20/01/2021).

Human Rights Watch (2013, December 19). South Sudan: Soldiers Target Ethnic Group in Juba Fighting. https://www.hrw.org/news/2013/12/19/south-sudan-soldiers-target-ethnic-group-juba-fighting (accessed on 10/01/2021).

Hutchinson, S. E. (1996). *Nuer Dilemmas: Coping with Money, War, and the State*. University of California Press.

Hutchinson, S. E. (2000). Nuer Ethnicity Militarized. *Anthropology Today*, *16*(3), 6–13. https://doi.org/10.2307/2678167

Hutchinson, S. E. (2001). A Curse from God? Religious and Political Dimensions of the Post-1991 Rise of Ethnic Violence in South Sudan. *The Journal of Modern African Studies*, *39*(2), 307–331.

Hutchinson, S. E., & Pendle, N. R. (2015). Violence, legitimacy, and prophecy: Nuer struggles with uncertainty in South Sudan. *American Ethnologist*, *42*(3), 415–430. https://doi.org/10.1111/amet.12138

Hyden, G. (1983). *No Shortcuts to Progress: African Development Management in Perspective*. University of California Press.

Hyden, G., Olowu, D., & Okoth-Ogendo, H. W. O. (2000). *African perspectives on governance*. Africa World Press.

International Crisis Group (2007). *A Strategy for Comprehensive Peace in Sudan*. Report, 130. https://www.crisisgroup.org/africa/horn-africa/sudan/strategy-comprehensive-peace-sudan (accessed on 19/01/2021).

International Crisis Group (2009). *Jonglei's Tribal Conflicts: Countering Insecurity in South Sudan*. Report, 154. https://www.crisisgroup.org/africa/horn-africa/south-sudan/jonglei-s-tribal-conflicts-countering-insecurity-south-sudan (accessed on 20/01/2021).

International Crisis Group (2019). *Déjà Vu: Preventing another collapse in South Sudan*. Briefing, 147. https://www.crisisgroup.org/africa/horn-africa/south-sudan/b147-deja-vu-preventing-another-collapse-south-sudan (accessed on 19/01/2021).

Jackson, P., & Scott, Z. (2008). *Local Government in Post-Conflict Environments*. UNDP.

Jieng Council of Elders (2015). *Press Statement of Jieng Council of Elders on the Creation of 28 States*. http://www.gurtong.net/ECM/Editorial/tabid/124/ctl/ArticleView/mid/519/articleId/17559/Jieng-Council-of-Elders-on-the-Creation-of-28-States.aspx (accessed on 24/01/2021).

Johnson, D. H. (1981). The Future of the Southern Sudan's Past. *Africa Today*, *28*(2), 33–41.

Johnson, D. H. (1986). Judicial Regulation and Administrative Control: Customary Law and the Nuer, 1898–1954. *Journal of African History*, *27*, 59–78.

Johnson, D. H. (1989). The Structure of a Legacy: Military Slavery in Northeast Africa. *Ethnohistory*, *36*(1), 72–88. https://doi.org/10.2307/482742

Johnson, D. H. (1994). *Nuer prophets: A history of prophecy from the Upper Nile in the nineteenth and twentieth centuries*. Clarendon Press; Oxford University Press.

Johnson, D. H. (1998). The Sudan People's Liberation Army and the Problem of factionalism. In C. Clapham (ed.) *African Guerrillas*, James Currey, 53–72.

Johnson, D. H. (2003). *The root causes of Sudan's civil wars*. Indiana University Press; Fountain Publishers.

Johnson, D. H. (2014a). Briefing: The crisis in South Sudan. *African Affairs*, *113*(451), 300–309. https://doi.org/10.1093/afraf/adu020

Johnson, D. H. (2014b). *Federalism in the history of South Sudanese political thought*. Rift Valley Institute. http://riftvalley.net/publication/federalism-history-south-sudanese-political-thought (accessed on 10/06/2019)

Johnson, D. H. (2016). *South Sudan: A new history for a new nation*. Ohio University Press.

Johnson, H. F. (2016). *South Sudan: The untold story: from independence to civil war*. I.B. Tauris.

Jok, J. M., & S. E. Hutchinson (1999). Sudan's Prolonged Second Civil War and the Militarization of Nuer and Dinka Ethnic Identities. *African Studies Review*, *42*(2), 125–145. https://doi.org/10.2307/525368

Justin, P. H., & L. de Vries (2018). Governing unclear lines: Local boundaries as a (re)source of conflict in South Sudan. In L. Biong Deng and S. Logan (eds.) *The Struggle for Southern Sudan,* I.B. Tauris, 27–45.

Kaldor, M. (1999). *New and Old Wars: Organized Violence in a Global Era*. Stanford University Press.

Kelsall, T. (2008). Going with the Grain in African Development? *Development Policy Review*, *26*(6), 627–655. https://doi.org/10.1111/j.1467-7679.2008.00427.x

Knight, R. S. (2010). *Statutory recognition of customary land rights in Africa: An investigation into best practices for lawmaking and implementation*. FAO.

Kyed, H. M. (2008). «Traditional» Leaders Formalization in Post-War Mozambique. Exploring the Ambiguous Space between State and Non-state Domains. In A. Bellagamba and Georg K. (eds). *Besides the State. Emergent powers in contemporary Africa.* Rudiger Koppe Verlag, 163–182.

Larson, G., P. B. Ajak, & L. Pritchett (2013). *South Sudan's Capability Trap: Building a State with Disruptive Innovation*. Center for International Development at Harvard University. https://www.wider.unu.edu/sites/default/files/WP2013-120.pdf (accessed on 25/09/2020).

Lavigne Delville, P. L. (2010a). Sécurisation foncière, formalisation des droits, institutions de régulation foncière et investissements. Pour un cadre conceptuel élargi. *Revue des Questions Foncières*, *1*, 5–34.

Lavigne Delville, P. L. (2010b). La Réforme Foncière Rurale Au Bénin. Emergence et mise en question d'une politique instituante dans un pays sous régime d'aide. *Revue Française de Science Politique*, *60*(3), 467–491.

Le Meur, P.-Y. (2006). State Making and the Politics of the Frontier in Central Benin. *Development and Change*, *37*(4), 871–900. https://doi.org/10.1111/j.1467-7660.2006.00505.x

Lentz, C. (2006a). Decentralization, the Sate and Conflicts over Local Boundaries in Northern Ghana. *Development and change*, *37*(4), 901–919.

Lentz, C. (2006b). *Ethnicity and the making of history in northern Ghana*. Edinburgh University Press for the International African Institute. http://site.ebrary.com/id/10188984

Leonardi, C. (2007). 'Liberation' or capture: Youth in between 'hakuma', and 'home' during civil war and its aftermath in Southern Sudan. *African Affairs*, *106*(424), 391–412. https://doi.org/10.1093/afraf/adm037

Leonardi, C. (2013). *Dealing with government in South Sudan: Histories of chiefship, community & state*. James Currey.

Leonardi, C. (2015). Points of order? Local government meetings as negotiation tables in South Sudanese history. *Journal of Eastern African Studies*, 9(4), 650–668. https://doi.org/10.1080/17531055.2015.1105440

Leonardi, C. (2020). Patchwork States: The Localization of State Territoriality on the South Sudan–Uganda Border, 1914–2014. *Past&Present*, 248(1), 209–258. https://doi.org/10.1093/pastj/gtz052

Leonardi, C., & M. Santschi (2016). *Dividing communities in South Sudan and Northern Uganda: Boundary disputes and land governance*. Rift Valley Institute.

LeRiche, M., & M. Arnold (2013). *South Sudan: From revolution to independence*. Hurst & Company.

Lombard, L. (2016). *State of Rebellion: Violence and Intervention in the Central African Republic*. Zed Books.

Lund, C. (2008). *Local Politics and the Dynamics of Property in Africa*. Cambridge University Press.

Lund, C., & C. Boone (2013). Introduction: Land Politics in Africa – Constituting Authority over Territory, Property and Persons. *Africa*, *83*(Special Issue 01), 1–13. https://doi.org/10.1017/S000197201200068X

Lund, C., & T. Sikor (2009). Access and property. *Development and change*, *40*(1), 1–22.

Lupai, J. K. (2013). A Federal System and Kokora are Two Different Things. *Gurtong Project*. 17 March. http://www.gurtong.net/ECM/Editorial/tabid/124/ctl/ArticleView/mid/519/articleId/10153/A-Federal-System-and-Kokora-are-Two-Different-Things.aspx (accessed on 15/11/2019).

Lutz, G., & W. Linder (2004). *Traditional Structures in Local Governance for Local Development*. University of Berne, World Bank. http://www.georglutz.ch/docs/trad_struct_engl.pdf (accessed on 19/01/2021).

Madut-Arop, A. (2012). *The genesis of political consciousness in South Sudan*. CreateSpace.

Makec, J. W. (1988). *The customary law of the Dinka people of Sudan: In comparison with aspects of Western and Islamic laws*. Afroworld Publishing Co.

Mamdani, M. (1996). *Citizen and subject: Contemporary Africa and the legacy of late colonialism*. Princeton University Press.

Mampilly, Z. C. (2011). *Rebel rulers: Insurgent governance and civilian life during war*. Cornell University Press.

Marchal, R. (2002). Les frontières de la paix et de la guerre. *Politix, 15*(58), 39–59. https://doi.org/10.3406/polix.2002.997

Marzatico, F. (2014). *Challenges of land governance in the making of a new nation: Experiences from South Sudan.* World Bank Conference on Land and Poverty, Washington D.C., March 24.

Maxwell, D., & M. Santschi (2014). *From post-conflict recovery and state building to a renewed humanitarian emergency: A brief reflection on South Sudan*. Discussion Paper, 1. Secure Livelihoods Research Consortium, Feinstain International Center.

Maxwell, D., M. Santschi, & R. Gordon (2014). *Look back to look ahead? Reviewing key lessons from Operation Lifeline Sudan and past humanitarian operations in South Sudan*. Working Paper, 24. Secure Livelihoods Research Consortium, Feinstain International Center.

Mayai A. T. (2012). *Mapping Social Accountability: An Appraisal of Policy Influence on Service Delivery in South Sudan, 2006–2011*. The Sudd Institute. http://www.suddinstitute.org/assets/Publications/Service-Delivery112012AMayaiFormat.pdf (accessed on 20/01/2021).

Mayai, A. T. (2020). *The South Sudan National Dialogue: What Next?* [Weekly Review]. The Sudd Institute. https://reliefweb.int/sites/reliefweb.int/files/resources/5fc607f47c50b_TheSouthSudanNationalDialogueWhatNext_Full.pdf (accessed on 22/01/2021)

Mayai, A T., & N. Tiitmamer (2020). *The Return to Ten States in South Sudan: Does it Restore Peace?* [Weekly Review]. The Sudd Institute. https://reliefweb.int/sites/reliefweb.int/files/resources/5e4fc6fae031b_TheReturnToTenStatesInSouthSudan_Full.pdf (accessed on 22/01/2021).

Mayai, A. T., N. Tiitmamer, & M. J. Jok (2015). *The creation of 28 South Sudanese States: Is it economically and legally viable?* [Weekly Review]. The Sudd Institute. https://reliefweb.int/report/south-sudan/creation-28-south-sudanese-states-it-economically-and-legally-viable (accessed on 21/01/2021).

Mbembe, A. (1992). Provisional Notes on the Postcolony. *Africa, 62*(1), 3–37.

McAuslan, P. (2007). *Improving Tenure Security for the Rural Poor in Africa. Synthesis Paper: Deliberations of the Legal Empowerment Workshop—Sub-Saharan Africa*. FAO.

McCall, S. (1969). *The Rise of a Provisional Government in Southern Sudan*. University Social Sciences Council Conference, University College, Nairobi.

https://sudanarchive.net/?a=d&d=PDRG19691208-01&e=-------en-20--1--txt-txIN----------
(accessed on 21/01/2021).

Mcloughlin, C. (2014). When Does Service Delivery Improve the Legitimacy of a Fragile or Conflict-Affected State? *Governance*. https://doi.org/10.1111/gove.12091

Médard, J.-F. (1991). Postface. L'Afrique et la science politique. In C. Coulon and D.-C. Martin (eds.), *Les Afriques Politiques.* La Découverte, 276–285.

Memorandum on Southern Policy, 1930 (1968). In M. O. Bashir, *The Southern Sudan: Background to Conflict*. Praeger.

Migdal, J. S., & K. Schlichte (2005). Rethinking the State. In K. Schlichte (ed.), *The Dynamics of States: The Formation and Crises of State Domination*. Ashgate Publishing, 1–40.

Ministry of Finance and Economic Planning (2015). *The Local Services Support Initiative: An Overview*. Government of the Republic of South Sudan. http://www.grss-mof.org/key-topics/local-services/ (accessed on 24/02/2016).

Ministry of General Education and Instruction, Republic of South Sudan (2012). *General Education Strategic Plan 2012–2017*.

Morris, N. A. (2013). When Fragility meets State-building: State-building in Post-Conflict South Sudan. In D. Nyong'o *State Building in South Sudan: Priorities for Development Policy Research*. African Research and Resource Forum, 5–38.

Newman, E., R. Paris, & O. P. Richmond (2009). *New perspectives on liberal peacebuilding*. United Nations University Press.

Niblock, T. (1987). *Class and power in Sudan: The dynamics of Sudanese politics, 1898–1985*. Macmillan Press.

NORAD (2009). *Mid-Term Evaluation of the Joint Donor Team in Juba, Sudan*. Evaluation Report, 2. http://www.oecd.org/countries/sudan/42682206.pdf (accessed on 21/01/2021).

NORAD (2016). *Country Evaluation Brief South Sudan*, 6. https://norad.no/contentassets/8bbce9a79c8d44959a07de10caa2d1dc/6.16-ceb_south_sudan.pdf (accessed on 21/01/2021).

Norwegian People's Aid (2012, June 6). "Striving to secure rights for 89.000 land users". http://www.npaid.org/en/news/?module=Articles&action=Article.publicShow&ID=19266 (accessed on 01/01/2015)

O'Brien, A. (2009). *Shots in the dark: The 2008 South Sudan civilian disarmament campaign*. Small Arms Survey. https://www.cimicweb.org/cmo/neAfrica/Crisis%20Documents/SUDAN%202/Southern%2

0Sudan/Disarmament,%20Demobilisation%20and%20Reintegration%20(DDR)/Civilian%20Disarmament/briefHSBACivilian-Disarmament-Campaign[1].pdf (accessed on 21/01/2021)

Odhiambo, M. O. (2006). *Improving tenure security for the rural poor. Kenya, Tanzania and Uganda—Case Study*. FAO.

OECD (2008). *Concepts and Dilemmas of State Building in Fragile Situations. From Fragility to Resilience*. OECD Discussion Papers.

Olivier de Sardan, J.-P. (2005). *Anthropology and Development: Understanding Contemporary Social Change*. Zed Books.

Olivier de Sardan, J.-P. (2008). *Researching the Practical Norms of Real Governance in Africa*. Overseas development institute (ODI).

Olowu, D., & J. S. Wunsch (2004). *Local Governance in Africa: The Challenges of Democratic Decentralization*. Lynne Rienner.

Okumu, W. (2008). Looking for the 1956 Map of Sudan. *International Institute of Security Studies*. https://issafrica.org/iss-today/looking-for-the-1956-map-of-sudan (accessed on 27/01/2021).

Otayek, R. (2007). La décentralisation comme mode de redéfinition de la domination autoritaire? Quelques réflexions à partir de situations africaines. *Revista Critica de Ciencias Sociais, 77*, 131–150.

Pantuliano, S. (2007). *The Land Question: Sudan's Peace Nemesis*. Working Paper. Humanitarian Policy Group – Overseas Development Institute.

Pantuliano, S. (2009). Going home: Land, return and reintegration in Southern Sudan and the Three Areas. In Sara Pantuliano (ed.) *Uncharted Territory. Land, conflict and humanitarian action*. Practical Action Publishing,153–170.

Pantuliano, S. (2014, January 9). Donor-Driven Technical Fixes Failed South Sudan: It's Time to Get Political. *Think Africa Press*. http://thinkafricapress.com/south-sudan/donor-driven-technical-fixes-failed-time-put-politics-heart-nation-building-project-kiir-machar-garang (accessed on 19/01/2021).

Paris, R. (2002). International peacebuilding and the «mission civilisatrice». *Review of International Studies, 28*, 637–656.

Paris, R. (2004). *At War's End: Building Peace after Civil Conflict*. Cambridge University Press.

Péclard, D. (2012). *State-building, legitimacy, and development in fragile context*, 8. National Centre of Competence in Research (NCCR) North–South, University of Bern.

Péclard, D., & D. Mechoulan (2015). *Rebel Governance and the Politics of Civil War*. Working Paper, 1. Swiss Peace.

Pegg, S. (2004). From De Facto States to States-Within-States: Progress, Problems, and Prospects. In P. Kingston and I. S. Spears (eds.), *States-Within-States. Incepient Political Entities in the Post-Cold War Era.* Palgrave 35–46.

Peiffer, C., & P. Englebert (2012). Extraversion, vulnerability to donors, and political liberalization in Africa. *African Affairs*, *111*(444), 355–378. https://doi.org/10.1093/afraf/ads029

Pendle, N. (2019). Learning from Customary Law. Forging Ethnic and National Identities in South Sudan. In L. Biong Deng Kuol and S. Logan (eds.), *The Struggle for South Sudan.* I.B. Tauris, 7–26.

Peters, P. (1996). «Who's Local Here?» The Politics of Participation in Development. *Cultural Survival Quarterly Magazine*, *20*(3), 22–25.

Platteau, J. P. (1992). *Land reform and structural adjustment in sub-Saharan Africa: Controversies and guidelines*. FAO.

Prah, K. K. (2013). *Unity in diversity: South Sudan COTALs study and familiarization tour report (South Africa, Botswana and Ghana), January 2013*. Centre for Advanced Studies of African Society (CASAS).

Pritchett, L., M. Woolcock, & M. Andrews (2013). Looking Like a State: Techniques of Persistent Failure in State Capability for Implementation. *The Journal of Development Studies*, *49*(1), 1–18. https://doi.org/10.1080/00220388.2012.709614

Prunier, G. (1989). Le Sud-Soudan depuis l'indépendance. In M. Lavergne (ed.), *Le Soudan contemporain: De l'invasion turco-égyptienne à la rébellion africaine (1821–1989).* Karthala, 381–433.

*Radio Miraya* (2011, August 12). Lanya County committee push for cancellation of land lease contract. http://www.mirayafm.org/index.php/southsudan/6606-mukaya-payam-lanya-county-committee-push-for-annulment-of-land-lease-contract (accessed on 01/01/2015).

*Radio Tamazuj* (2015, November 22). Map analysis: Ethnic balance to change if 28 states approved. https://radiotamazuj.org/en/news/article/map-analysis-ethnic-balance-to-change-if-28-states-approved (accessed on 19/01/2021).

*Radio Tamazuj* (2016, July 4). Shilluk leaders war government over 28 states. https://radiotamazuj.org/en/news/article/shilluk-leaders-warn-government-over-28-states (accessed on 22/01/2021).

Reno, W. (2010). Complex Operations in Weak and Failing States. The Sudan Rebel Perspective. *PRISM – Institute for National Strategic Studies, Washington DC*, *1*(2), 111–122.

Republic of South Sudan (2011). *Transitional Constitution of the Republic of South Sudan*.

Ribot, J. C. (1999). Decentralisation, Participation and Accountability in Sahelian Forestry: Legal Instruments of Political-Administrative Control. *Africa*, *69*(1), 23–65.

Richmond, O. P. (2011). *A Post-Liberal Peace*. Routledge.

Riehl, V. (2001). *Who is Ruling in South Sudan?: The Role of NGOs in Rebuilding the Socio-political Order*. Nordic Africa Institute.

Rolandsen, Ø. H. (2005). *Guerrilla Government: Political Changes in the Southern Sudan During the 1990s*. Nordic Africa Institute.

Rolandsen, Ø. H. (2009). *Land, Security and Peace Building in Southern Sudan* (PRIO Paper). PRIO.

Rolandsen, Ø. H. (2011). *To Mend the Broken Contract: Legitimacy and local government in South Sudan during the CPA-period*. ECAS4 Conference, Uppsala, June 17.

Rolandsen, Ø. H. (2015). Another civil war in South Sudan: The failure of Guerrilla Government? *Journal of Eastern African Studies*, *9*(1), 163–174. https://doi.org/10.1080/17531055.2014.993210

Romeo, L. (2002). *Local Governance Approach to Social Reintegration and Economic Recovery in Post-Conflict Countries. Towards a Definition and a Rationale*. Discussion Paper. A Local Governance Approach to Post-Conflict Recovery Conference, New York, October 8.

Rondinelli, D. A. (1981). Administrative Decentralisation and Economic Development: The Sudan's Experiment with Devolution. *The Journal of Modern African Studies*, *19*(4), 595–624.

Rondinelli, D. A., J. R. Nellis, & G. S. Cheema (1983). *Decentralization in Developing Countries. A review of recent experience*. World Bank Staff Working Papers, 581. The World Bank. http://213.154.74.164/invenio/record/16024/files/rondinelli.pdf (accessed on 21/01/2021)

Rone, J. (1999). *Famine in Sudan, 1998: The human rights causes*. Human Rights Watch.

Rotberg, R. I. (2003). Failed States, collapsed states, weak states. Causes and Indicators. In R. Rotberg (ed.) *State failure and state weakness in a time of terror*. Brookings Institution Press, 1–25.

Royal Ministry of Foreign Affairs (1997). *Evaluation of Norwegian Humanitarian Assistance to the Sudan*. Norwegian Agency for Development Cooperation.

Salinas, A. O., & B. C. D'Silva (1999). *Evolution of a Transition Strategy and Lessons Learned: USAID Funded Activities in the West Bank of Southern Sudan, 1993–1999*. USAID.

Sambanis, N. (2002). *Preventing Violent Civil Conflict: The Scope and Limits of Government Action*. World Development Report 2003 Background Paper. The World Bank. http://documents1.worldbank.org/curated/pt/850101468780337691/310436360_20050276091838/additional/wdr27843.pdf (accessed on 21/01/2021).

Sanderson, L. P. (1980). Education in the Southern Sudan: The Impact of Government-Missionary-Southern Sudanese Relationships upon the Development of Education during the Condominium Period, 1898–1956. *African Affairs*, *79*(315), 157–169.

Sanderson, L. P. (1981). *Education, religion & politics in Southern Sudan, 1899–1964*. Ithaca Press; Khartoum University Press.

Santschi, M. (2008). Briefing: Counting 'New Sudan'. *African Affairs*, *107*(429), 631–640. https://doi.org/10.1093/afraf/adn058

Schelnberger, A. K. (2008). Decentralization and Conflict in Kibale, Uganda. In C. Crawford and G. Hartman (eds.) *Decentralization in Africa: A Pathway out of Poverty and Conflict?* Amsterdam University Press, 191–212.

Schomerus, M., & L. Aalen (2016). *Considering the state. Perspectives on South Sudan's subdivision and federalism debate*. Overseas Development Institute; CMI. https://www.odi.org/sites/odi.org.uk/files/resource-documents/10837.pdf (accessed on 21/01/2021).

Schomerus, M., & T. Allen (2010). *Southern Sudan at odds with itself: Dynamics of Conflict and Predicaments of Peace*. London School of Economics.

Scott, P. (1985). The Sudan Peoples' Liberation Movement (SPLM) and Liberation Army (SPLA). *Review of African Political Economy*, *33*, 69–82. https://doi.org/10.2307/4005670

Shanmugaratnam, N. (2008). *Post-War Development and the Land Question in South Sudan*. International Symposium on Resources Under Stress, Ryukoku University, Kyoto, Japan.

Shanmugaratnam, N. (2009). *Between War & Peace in Sudan & Sri Lanka*. Tsehai Publishers.

Siegle, J., & P. O'Mahony (2019). Assessing the Merits of Decentralisation as a Conflict Mitigation Strategy. In L. Biong Deng Kuol and S. Logan (eds.) *The Struggle for South Sudan.* I.B. Tauris, 144–171.

Slater, R. (2015). *What Does it Mean to be Post-Crisis? Reflections from Research in Eight Conflict-affected Countries* ECAS6 Conference. Paris, July 8.

Soux, S. (2010). *Southern Sudan: Local government in complex environments. Project Assessment*. UNDP.

Spears, I. S. (2004). States-Within-States: An Introduction to Their Empirical Attributes. In P. Kingston and I. S. Spears (eds.), *States-Within-States. Incipient Political Entities in the Post-Cold War Era.* Palgrave, 15–34.

Sperber, A. (2016, January 22). South Sudan's Next Civil War Is Starting. *Foreign Policy*. http://foreignpolicy.com/2016/01/22/south-sudan-next-civil-war-is-starting-shilluk-army/ (accessed on 22/01/2021).

SPLM (2000). *Peace through development in the Sudan*. http://www.sudansupport.no/filestore/PeacethroughdevelopmentbySPLA1999.pdf (accessed on 20/06/2015).

*Sudan Tribune* (2011, April 30). South Sudan officially recognises 191 years of struggle for freedom. http://www.sudantribune.com/spip.php?article38743 (accessed on 20/01/2021).

*Sudan Tribune* (2011, August 18). E. Equatoria's Madi community tells Dinka IDPs to go home. https://sudantribune.com/spip.php?article39867 (accessed on 20/01/2021).

*Sudan Tribune* (2013, November 20). Nuer clans clash in Unity state, 7 dead, 9 wounded. http://www.sudantribune.com/spip.php?article48872 (accessed on 20/01/2021).

*Sudan Tribune* (2016, December 1). South Sudan rival peace partners to negotiate solution to 28 states. https://sudantribune.com/spip.php?article57675 (accessed on 20/01/2021).

*Sudan Tribune* (2016, January 17). South Sudan's ethnic Shilluk overthrew king over 28 states. https://sudantribune.com/spip.php?article57710 (accessed on 20/01/2021).

Swaka, D. T. (2013, September 24). Crisis in Madi, Nimule, is a Government conspiracy to grab land. *South Sudan Nation*. http://www.southsudannation.com/crisis-in-madi-nimule-is-a-government-conspiracy-to-grab-land/ (accessed on 15/06/2015).

The Carter Center (2010). *Observing Sudan's 2010 National Elections April 11–18, 2010. Final Report*. https://www.cartercenter.org/resources/pdfs/news/peace_publications/election_reports/FinalReportSudan-Apr2010.pdf (accessed on 20/01/2021).

The European-Sudanese Public Affairs Council (1999). *Perpetuating conflict and sustaining repression: Norwegian People's aid and the militarisation of aid in Sudan*. http://www.espac.org/pdf/Perpetuating%20Conflict%20and%20Sustaining.pdf (accessed on 20/01/2021).

The New Humanitarian (2007, November 6). *Boomtown Nimule under strain*. https://www.thenewhumanitarian.org/report/72653/sudan-boomtown-nimule-under-strain (accessed on 20/01/2021).

Thiong, D. A. (2020, February 18). 10, 21, 28, 31,?: Why South Sudan's peace might rest on a number. *African Arguments*. https://africanarguments.org/2020/02/10-21-28-32-south-sudan-peace-number-states/ (accessed on 22/01/2021).

Thomas, E. (2015). *South Sudan: A slow liberation*. Zed Books.

Tilly, C. (1985). War Making and State Making as Organized Crime. In P. Evans, D. Rueschemeyer and T. Skocpol. *Bringing the State Back In*, Cambridge University Press, 169–191.

Tilly, C., & G. Ardant (1975). *The Formation of national States in Western Europe*. Princeton University Press.

Titeca, K., & T. de Herdt (2011). Real governance beyond the 'failed state': Negotiating education in the Democratic Republic of the Congo. *African Affairs*, *110*(439), 213–231. https://doi.org/10.1093/afraf/adr005

Tounsel, C. (2021). *Chosen Peoples: Christianity and Political Imagination in South Sudan*. Duke University Press.

Tvedt, T. (1994). The Collapse of the State in Southern Sudan after the Addis Abeba Agreement. In S. 'A. A. Ḥarīr, T. Tvedt, & R. K. Badal. *Short-cut to decay. The case of the Sudan,* Nordic Africa Institute, 69–104.

UCOET, & Mani Tese (2013). *CSO mapping report—Unity State*.

UN (2004). *A more secure world: Our shared responsibility*. United Nations http://www.un.org/en/peacebuilding/pdf/historical/hlp_more_secure_world.pdf (accessed on 19/01/2021).

UND (2004). *Decentralised Governance for Development: A combined Practice Note on Decentralisation, Local Governance and Urban/Rural Development*. UNDP Practice Note. https://www.undp.org/content/dam/aplaws/publication/en/publications/democratic-governance/dg-publications-for-website/decentralised-governance-for-development-a-combined-practice-note-on-decentralisation-local-governance-and-urban-rural-development/DLGUD_PN_English.pdf (accessed on 21/01/2021).

UNDP (2010). *Local Governance, peace building and state building in post-conflict settings*. Discussion Paper. https://www.undp.org/content/dam/undp/library/Democratic%20Governance/Local%20Governance/Guide_Local_Governance_in_Fragile_and_Conflict_Settings.pdf (accessed on 21/01/2021).

University of Birmingham (1974). *Development Administration and Training in the Sudan. Report of a Mission to the Sudan, March to June 1974*. Ministry of Overseas Development, UK.

USAID (2000). *U.S. Government Integrated Strategic Plan—Assistance to Sudan 2000–2002*. https://www.sudanarchive.net/?a=d&d=SLPD-20 (accessed on 21/01/2021).

USAID (2012). *The future of customary tenure. Options for policymakers* (Property rights and resource governance briefing paper #8; USAID issue brief). http://usaidlandtenure.net/sites/default/files/USAID_Land_Tenure_2012_Liberia_Course_Module_1_Future_of_Customary_Tenure.pdf (accessed on 21/01/2021).

USAID (2013, February 25). Council of Ministers Passes South Sudan Land Policy. https://www.land-links.org/2013/02/council-of-ministers-passes-south-sudan-land-policy/ (accessed on 25/01/2021).

Vaughan, C., M. Schomerus, & L. de Vries (2013). *The Borderlands of South Sudan: Authority and Identity in Contemporary and Historical Perspectives*. Palgrave.

Wang, V., A. Suhrke, & E. N. Tjønneland (2005). *Governance interventions in post-war situations: Lessons learned*. Chr. Michelsen Institute, Development Studies and Human Rights. http://www.cmi.no/publications/file/1955-governance-interventions-in-post-war-situations.pdf (accessed on 21/01/2021).

Washburne, S. L. (2010). *Legitimacy, Identity and Conflict: The Struggle for Political Authority in Southern Sudan, 2005–2010* [Doctoral dissertation, University of Exeter]. https://ore.exeter.ac.uk/repository/handle/10036/106777 (accessed on 21/01/2021).

White, S. C. (1996). Depoliticising development: The uses and abuses of participation. *Development in Practice*, *6*(1), 6–15. https://doi.org/10.1080/0961452961000157564

Willis, C. A. (1928). The Cult of Deng. *Sudan Notes and Records*, *XI*, 195–208.

World Bank (2003). *Land policies for Growth and Poverty Reduction.* World Bank Policy Research Report. The World Bank, Oxford University Press.

World Bank (2010). *Sudan. Strengthening good governance for development outcomes in Southern Sudan. Issues and Options*: Vol. Report No. 48997-SD. https://openknowledge.worldbank.org/handle/10986/2854?show=full&locale-attribute=es (accessed on 21/01/2021).

Young, J. (2003). Sudan: Liberation Movements, Regional Armies, Ethnic Militias & Peace. *Review of African Political Economy*, *30*(97), 423–434.

Young, J. (2006). *The South Sudan Defence Forces in the wake of the Juba Declaration*. Small Arms Survey.

Young, J. (2015, June 11). Cat fight among the S. Sudan experts and the failure of peace-making. *Sudan Tribune*. http://www.sudantribune.com/spip.php?article55298 (accessed on 15/09/2020).

Young, J. (2019). *South Sudan's civil war: Violence, insurgency and failed peacemaking*. Zed Books.

Zamponi, M. (2011). Fra tradizione e modernità. Autorità tradizionali e potere nei processi di sviluppo rurale e di decentralizzazione in Africa australe. *L'Uomo*, *1–2*, 157–174.

# List of documents from the Local Government Board Archive


"Commissioners Hold Conference" (1977) *Southern Sudan: A Monthly Review of Events in the Southern Region*. Local Government Board Archive.

"Position Paper from Director Generals, Directors, Executive Directors and State Local Government Officials of the Government of South Sudan after the End of Capacity Building Training in South Africa on March 2008 Presented to the President of the Government of South Sudan" (2008 March 18). Local Government Board Archive.

"Unity State 2009 Integrated County Plans and Budget (with Counties and Payams)" 2009. Local Government Board Archive.

Anai, A. M. (2005). Concept paper on capacity building. New Sudan Secretariat of Local Government; Local Government Board Archive.

Biong Mijak, D. (2004). Present Role of Traditional Authority in South Sudan: The Judicial Functions. (Presentation at the workshop «Role of Traditional Authority in Local Government»). Local Government Board Archive.

Deng, Eli Achol. (2004). Traditional Authority in the Sudan. An Insider's Perspective. Rumbek: Local Government Secretariat. Local Government Board.

Focal Point on Local Government and Civil Administration (2004). *The Framework for the Development of the Local Government and Civil Administration in New Sudan* (To be presented to a stakeholders consultative meeting on local government and public administration in Rumbek) [Draft]. Local Government Board Archive.

Focal Point on Local Government and Public Administration (2003). The Framework for the Development of the Capacity of the Secretariat of Local Government and Public Administration in South Sudan (To be presented to a stakeholders consultative meeting on local government and public administration in Rumbek) [Draft]. Local Government Board Archive.

Garang de Mabior, J. (2005). SPLM Chairman Decree No.1, 2005: Dissolution of SPLM/LC, SPLM NLC, SPLM NEC and SPLM Regional and County Administrations. Local Government Board Archive.

GTZ (n.d.). *Orientation Course Curriculum for Local Government Administrative Officers, Part One of the Diploma in Local Governance*. Local Government Board Archive.

Guok, David Koak (2008). Local Government Presentation to the Sixth Governors Forum on Demarcation of State and County Administrative Boundaries in Southern Sudan. Local Government Board Archive.

Guok, David Koak (2008) Letter to the President of the Government of Southern Sudan. Local Government View on Boarder Disputes and Emergent of Payam Administrative Structures (sic). Letter to the President of the Government of Southern Sudan. Local Government Board Archive.

Ibscher, Elisabeth (2011, June 20). Letter to the Undersecretary of Local Government Board: DSA for Election/selection Preparation Mission Concerning COTAL Upper Nile. Local Government Board Archive.

Kot Riak, Abraham (2004). Municipal Governance in Government of Sudan Controlled Towns (Renk, Juba, Wau). Khartoum: UNDP/Institute of Public Administration and Federal Studies, University of Khartoum. Local Government Board Archive.

Kun, James Ruac (2011, June 10). Formation of Counties Elections/Selections Committees for COTAL Members. Ministry of Local Government and Law Enforcement, Upper Nile State. Local Government Board Archive.

Leek, Philip Thon (1999) Community Participation and the Role of Traditional Coping Mechanisms in Combating Catastrophes, among the Dinka with Special Reference to 1998 Crisis in Bahr El Ghazal. UNICEF/OLS – SRRA/SPLM Conference on Beneficiary Rights and Re-establishing Resilience and Sustainable Livelihoods in Bahr el Ghazal. Mapel, Wau County, June 29. Local Government Board Archive.

Local Government Board, and Federal Department of Foreign Affairs of Switzerland (FDFA) (2009) Council of Traditional Authority Leaders (COTAL) Workshop. Draft Report, Juba. Local Government Board Archive.

Local Government Board (2008, April 7). Communication to State Governments/Ministries of Local Government on County Planning and Budgeting Process for 2008/9. Local Government Recovery Project. Local Government Board Archive.

Local Government Board (2006, August 26). Letter to the Presidency, Government of Southern Sudan. Local Government Board Archive.

Lyons, Christine E. (1998, September 14). Lyons, C. E. (1998, September 24). Award No. 623-G-00-98-00070-00 [Letter from USAID Grant Officer to Carl Tinstman, OLS Coordinator,

United Nations Children's Fund.]. Local Government Board Archive.

Man, Nikodemo Arou, Frank Duoth Diu, Hassan Abbas Aburas, and Angelo Makoi Riak (2004). Service Delivery Output. Rumbek, South Sudan: Ministry for Local Government. Local Government Board Archive.

Muor, Mario Muor (1999). Background to vulnerability in Bahr el Ghazal (BEG) Region. Learning from the past mistakes to find remedies. Conference on beneficiary rights and re-establishing resilience and sustainable livelihoods in Bahr el Ghazal (BEG) Region. UNICEF/OLS – SRRA/SPLM; Local Government Board Archive.

Pur, Peter Mayom (2011). COTAL Election/Selection Upper Nile State. Ministry of Local Government and Law Enforcement, Upper Nile State; Local Government Board Archive.

Sarzin, Zara, and Tesfaye Bekalu (2011). Scoping Mission for Proposed Local Governance and Service Delivery Program. Draft Aide Memoire. The World Bank. Local Government Board Archive.

Sigin, James (2008). "A Short Brief on the Programme Performance in Unity State from 2nd July 2006 to 2nd April 2008." Bentiu: Local Government Recovery Programme. Local Government Board Archive.

Skills for Southern Sudan, & Windle Trust Kenya (2004). 2nd Draft of the Local Government and Civil Administration Consultative Workshop and Follow-up Meeting of the Technical Team [Draft report]. Local Government Board Archive.

See also Skills for Southern Sudan (2004, October 13). Administrators' training workshop. Workshop Proceeding, Rumbek. Local Government Board Archive.

Songole, Jayne, and Alice Mudiri (1999). *A Manual of Training Modules of County Administrators in Southern Sudan*. Nairobi. Local Government Board Archive

Soro, Gordon (2011, January 28). Letter to the Undersecretary of Planning of the Ministry of Finance and Economic Planning (GOSS): Requesting Development Partners' Support and Cooperation for County Planning and Budgeting. Local Government Board Archive.

SPLM Governance Cluster (2005). Report of the SPLM Governance Cluster [Presented at the Workshop on Governance Clusters held in Rumbek]. Local Government Board Archive.

SPLM Local Government Secretariat, UNDP, PACT, & CRS (2005). SPLM Local Government Planning Workshop. Yei; Local Government Board Archive.

SPLM Local Government Secretariat, UNDP, PACT, CRS, & British Council (2004). Report on

Design workshop of Local Government Recovery and Development Programme. Local Government Board Archive.

Suleiman, Caesar Arkangelo (2006). Speech of the Chairman of the Local Government Board on Commissioners Consultation on Local Government Framework in Yei. Local Government Board Archive.

UNDP, & Local Government Board (2009). *Programme for the Briefing on the Local Government Bill 2009.* Local Government Board Archive.

UNDP, & Local Government Board (2007). *Module Two: The Legal Framework of Southern Sudan Local Government*. Muzumbe University Capacity Building Program. Local Government Board Archive.

UNDP & Local Government Board/Government of Southern Sudan (2009). Local Government Recovery Programme Phase II. Local Government Board Archive;

UNDP (2006). LGRP components and budget. Local Government Board Archive.

UNICEF/OLS (1999). Local Civil Authority Administration Course. Workshop Proceeding second draft. Local Government Board Archive.

UNICEF (1999). *UNICEF/OLS – Sudan Transition and Rehabilitation Project. First Annual Report: October 1998–September 1999 (Operation Lifeline Sudan – Southern Sector)* [Annual Report]. Local Government Board Archive

UNISIS Nile Options, and Skills for Southern Sudan (2004). *New Sudan Local Government Secretariat Proposed Course for Training (Financial Framework).* Local Government Board Archive.

## List of documents from other archives

"Community Support Program between Tindilo Payam and TreeFarms Sudan Ltd" (2011, May 7). Appendix to the Land Lease Agreement.

Acholi Community (2012, April 16). "Land Grabbing: A Taboo among the Acholi." Acholi Position Paper. The Acholi–Madi Peace and Reconciliation Conference. Torit: Inter-Church Committee. Land Commission Archive.

Vuga, Angelo (2012). "Position Paper on the Acholi-Ma'di Conflict in South Sudan: A Roadmap for Justice and Peace in Magwi County." The Acholi–Madi Peace and Reconciliation Conference. Pageri Payam: Ma'di Community Council (MCC), April 4. Land Commission Archive.

Fabian Colonial Bureau (1947). Problems of the transfer of power from Britain to the colonies. Preliminary Questions. Private Conference. Unclassified document, Juba Archive.

Government of Southern Sudan (Ministry of Agriculture and Forestry), and Central Equatoria Teak Company Limited (2007, November 23). Management and Development of Teak Plantation Agreement, 2007.

Inter Church Committee, and State Peace Coordination Office (2012). Acholi–Madi Peace and Reconciliation Conference [Concept Note]. Land Commission Archive.

Ladu Luki, R. (2012, April 17). Land Issues under the new Land Regime. Acholi and Madi Peace Conference, Torit. Land Commission Archive.

Wani, Abdalla Keri (2012). Presentation to Consultative Meeting on Acholi–Madi Land Dispute. Consultative Meeting Organized by Inter-Church Committee, Eastern Equatoria. Torit, March 17. Land Commission Archive.

President of the Republic of South Sudan (2015, October 2). Establishment Order Number 36/2015 for the Creation of 28 States in the Decentralized Governance System in the Republic of South Sudan.

# List of interviews

## Individual interviews

1. Field officer, International NGO. Yirol Town, 03/12/2013 (interview conducted in English)
2. Director, Local NGO, Rumbek, 12/11/2013 (interview conducted in English)
3. Senior Administrator, Ministry of Local Government and Law Enforcement, Lakes State. Rumbek, 19/11/2013 (interview conducted in English)
4. Director of Survey Department, Ministry of Physical Infrastructure, Unity State. Bentiu, 14/02/2013 (interview conducted in English)
5. Staff of international company, Loka, 18/04/2012 (interview conducted in Juba Arabic)*
6. Member of Parliament, Lakes State Legislative Assembly. Rumbek, 15/11/2013 (interview conducted in English)
7. Senior advisor, International organization. Rumbek, 11/11/2013 (interview conducted in English)
8. County Commissioner, Pariang County. Pariang Town, 22/01/2013 (interview conducted in English)
9. Journalist, South Sudan TV. Rumbek, 21/11/2013 (interview conducted in English)
10. *Payam* Administrator, Yei *payam*. Yei Town, 16/04/2012 (interview conducted in English)
11. Minister of Local Government, Central Equatoria State, 01/11/2013 (interview conducted in English)
12. Lecturer, Juba University. Juba, 25/03/2013 (interview conducted in English)
13. Staff of International organization. Juba, 21/03/2012 (interview conducted in English)
14. SPLM secretary, Lakes State. Rumbek, 22/11/2013 (interview conducted in English)
15. Coordinator, International organization. Bentiu, 19/02/2013 (interview conducted in English)
16. County Commissioner, Terekeka County. Terekeka, 02/04/2012 (interview conducted in English)
17. Director of Planning and Budgeting in Unity State Ministry of Local Government and Law Enforcement. Bentiu, 01/02/2013 (interview conducted in English)
18. Senior programme officer, International NGO. Bentiu, 13/02/2013 (interview conducted in English)
19. Programme manager, International organization. Juba, 01/11/2013 (interview conducted in English)
20. Former humanitarian advisor, WFP. Skype interview, 21/05/2015 (interview conducted in Italian)
21. Chamangu Awow Adogjok, Undersecretary of Local Government Board. Juba, 16/01/2013 (interview conducted in English)

22. Resident of the forest settlement, Loka. 18/04/2012 (interview conducted in Juba Arabic)*
23. *Payam* Administrator, Geng-Geng *payam*. Yirol Town. 05/12/2013 (interview conducted in English)
24. Director of Land Department at the Ministry of Physical Infrastructure, Unity State. Bentiu, 19/02/2013 (interview conducted in English)
25. Daniel Awet Akot, Member of the National Legislative Assembly, former Chairperson of SPLM Local Government Secretariat. Juba, 12/12/2013 (interview conducted in English)
26. David Chan Thiang, Director of the National Bureau of Statistics. Juba, 08/11/2013 (interview conducted in English)
27. Director of local NGO. Juba, 16/03/2012 (interview conducted in English)
28. Staff of the SPLM secretariat for peace and reconciliation. Rumbek, 07/12/2013 (interview conducted in English)
29. Acting *payam* Administrator, Nyeel *payam*. Nyeel, 25/02/2013 (interview conducted in Dinka)*
30. Executive Director, local NGO. Juba, 29/03/2012; 01/11/2013 (interview conducted in English)
31. Eli Achol Deng, member of the Local Government Board. Juba, 13/12/2013 (interview conducted in English)
32. Senior international consultant on Land Governance at the national Ministry of Land, Housing and Physical Infrastructure. Juba, 06/11/2013 (interview conducted in Italian)
33. Chief, Pakula *boma* (Yei County, Central Equatoria State). Pakula, 16/04/2012 (interview conducted in Juba Arabic)*
34. Officer, National Bureau of Statistics. Juba 08/11/2013 (interview conducted in English)
35. Staff of International organization. Juba, 11/12/2013 (interview conducted in English)
36. County Commissioner, Rubkhona County. Rubkhona, 06/02/2013 (interview conducted in English)
37. Staff, International NGO. Bentiu, 19/11/2010 (interview conducted in English)
38. Director General at the Ministry of Agriculture and Forestry in Unity State. Bentiu, 05/03/2013 (interview conducted in English)
39. County Commissioner, Cueibet County. Rumbek, 13/11/2013 (interview conducted in English)
40. Regional programme manager, International organization, Lakes State – Wunlit region (interview conducted in English)
41. Senior staff, International NGO. Juba, 23/04/2012.
42. *Payam* Administrator, Abang *payam* Yirol Town, 04/12/2013 (interview conducted in English and Dinka)*
43. SPLM Secretary, Yirol West County. Yirol Town, 05/12/2013 (interview conducted in English)
44. Clerk, Town Traditional Court. Rumbek, 10/11/2013 (interview conducted in English)

45. Chairman, Central Equatoria Investment Authority. Juba, 12/04/2012 (interview conducted in English)
46. Chairman, Land Committee, Unity State Legislative Assembly. Bentiu, 07/03/2013 (interview conducted in English)
47. Member of Parliament from Guit County, Unity State Legislative Assembly. Bentiu, 08/02/2013 (interview conducted in English)
48. Plantation Manager. Juba, 29/03/2012; 05/03/2012; 12/04/2012 (interview conducted in English)
49. Senior international consultant for the Local Governance and Service Delivery project. Juba, 25/10/2013 (interview conducted in English)
50. Director of Afforestation and Natural Forest Conservation, National Ministry of Agriculture and Forestry. Juba, 23/04/2012 (interview conducted in English)
51. Executive Director, Yei County. Yei Town, 16/04/2012 (interview conducted in English)
52. County Commissioner, Wulu County, Lakes State. Rumbek, 14/11/2013 (interview conducted in English)
53. Chairman of Unity State Land Commission. Bentiu, 11/03/2013 (interview conducted in English)
54. Chief of Mundari Bura *boma*, Terekeka County, Central Equatoria State. Mundari Bura, 03/04/2012 (interview conducted in Arabic)*
55. Project manager, International organization. Juba, 13/12/2013 (interview conducted in English)
56. Assistant Commissioner for Forestry Sector, Terekeka County. Terekeka, 02/04/2012 (interview conducted in English)
57. Assistant commissioner for Land, Yei River County. Yei Town, 16/04/2012 (interview conducted in English)
58. Block Leader in Bilnyang, Bentiu. 11/03/2013 (interview conducted in Nuer)*
59. Project coordinator, International organization. Rumbek, 12/11/2013 (interview conducted in English)
60. Member of Central Equatoria Civil Society Land Alliance. Juba, 27/03/2012 (interview conducted in English)
61. Senior Inspector for Survey, Ministry of Physical Infrastructure, Lakes State. Rumbek, 19/11/2013 (interview conducted in English)
62. Member of Parliament, Lakes State Legislative Assembly, Chairperson of Committee on Local Government. Rumbek, 06/12/2013 (interview conducted in English)
63. Programme manager, International NGO. Juba, 29/10/2013 (interview conducted in English)
64. Officer, National Bureau of Statistics. Rumbek, 12/11/2013 (interview conducted in English)
65. Senior staff, International organization. Juba, 01/11/2013 (interview conducted in English)

66. Paramount Chief, Amongpiny *payam*. Rumbek, 20–21/11/2013 (interview conducted in Dinka)*
67. Senior international consultant on Democratization. Juba, 07/11/2013 (interview conducted in English)
68. Project manager, International organization. Bentiu, 29/01/2013 (interview conducted in English)
69. Chairperson of Unity State Land Alliance. Bentiu, 17/02/2013 (interview conducted in English)
70. County Commissioner, Yirol East County. Rumbek, 15/11/2013 (interview conducted in English)
71. Secretary, Town Traditional Court. Bentiu, 09/02/2013 (interview conducted in English)
72. Deputy Paramount Chief, Panakar *payam*. Yirol Town, 04/12/2013 (interview conducted in Dinka)*
73. Member of Parliament from Rubkhona County, Unity State Legislative Assembly. Bentiu, 09/02/2013 (interview conducted in English)
74. County Commissioner, Yirol West County. Yirol Town, 03/12/2013 (interview conducted in English)
75. Deputy Chairman at the Land Registration Office, Unity State. Bentiu, 20/02/2013 (interview conducted in English)
76. Programme manager, International organization. Juba, 23/04/2012 (interview conducted in Italian)
77. Michael Roberto Kenyi Legge, Minister of Agriculture and Forestry, Central Equatoria State. Juba, 26/03/2012 (interview conducted in English)
78. Minister of Local Government of Lakes State. Rumbek, 12/11/2013 (interview conducted in English)
79. Lecturer at Juba University. Juba, 17/01/2013 (interview conducted in English)
80. Field officer, International NGO. Rumbek, 20/11/2013 (interview conducted in English)
81. Secretary, Land Committee of Lakes State Legislative Assembly, Rumbek, 19/11/2013 (interview conducted in English)
82. Naoko Anzai, Programme Manager of Local Governance and Service Delivery project (World Bank)/former Project Manager for Local Government Recovery Project (UNDP). Juba, 02/11/2013 (interview conducted in English)
83. Nikodemo Arou Man, Local Government Board Member, Juba. 23/10/2013 (interview conducted in English)
84. *Payam* administrator, Nyal *payam*. Panyinjar County, Unity State, 25/11/2013.
85. Officer, Local Government Board. Juba, 16/01/2013 (interview conducted in English)
86. Member of Parliament from Mayom County, Unity State Legislative Assembly. Bentiu, 08/02/2013 (interview conducted in English)
87. Programme manager, International organization. Juba, 27/10/2013 (interview conducted in Italian)
88. Project officer, International NGO. Bentiu, 13/03/2013 (interview conducted in English)

89. Project manager, International NGO. Rumbek, 19/11/2013 (interview conducted in English)
90. Member of Parliament from Pariang County, Unity State Legislative Assembly. Bentiu, 08/02/2013 (interview conducted in English)
91. Staff of International organization. Rumbek, 15/11/2013 (interview conducted in English)
92. Paramount Chief, Tindilo *payam*. Tindilo, 03/03/2012 (interview conducted in Arabic)*
93. Comboni missionary. Mapuordit, 17/11/2013 (interview conducted in Italian)
94. Robert Ladu Luki, Land Commission Chairperson. Juba, 30/03/2012; 05/11/2013 (interview conducted in English)
95. Watchman, Local Government Archive, Juba, 20/10/2013
96. Lecturer at Juba University. Juba, 23/05/2013 (interview conducted in English)
97. Headman of Loka Community. Loka, 18/04/2012 (interview conducted in Juba Arabic)*
98. SPLM Acting Chairperson for Unity State – Unity State Minister of Agriculture and Forestry. Bentiu, 01/02/2013 (interview conducted in English)
99. County Commissioner, Lanya County. Juba, 15/04/2012 (interview conducted in English)
100. Lecturer at Juba University. Juba, 25/03/2013; 10/12/2013 (interview conducted in English)
101. Chairman of Kenyi *payam* Steering Committee (Lainya County). Loka, 18/04/2012 (interview conducted in English)
102. Chief, Kenyi *payam*. Kenyi, 18/04/2012 (interview conducted in Juba Arabic)*
103. Director General at the Ministry of Agriculture and Forestry, Government of South Sudan. Juba, 19/03/2012 (interview conducted in English)
104. Paramount Chief, Chair of the Town Traditional Court. Bentiu, 30/10/2010 (interview conducted in Nuer)*
105. Youth Union Leader. Rumbek, 09/12/2013 (interview conducted in English)

## Collective interviews/discussions

1. Residents of Kueryiek *payam*, Mayom County, (Unity State), 22/11/2010** (in Nuer)*
2. Residents of Mankien *payam*, Mayom County, (Unity State), 23/11/2010** (in Nuer)*
3. Anyel Abiel *boma*, Aweng *payam*, Twich County (Warrap State), 24/11/2010** (in Dinka)*
4. Residents of Tindilo *payam*. Tindilo, 03/04/2012 (in Arabic)*
5. Residents of Pakula *boma*. Pakula, 17/04/2012 (in Arabic)*
6. Residents of Bim Ruo, 02–03/2013 (in English, Arabic, Nuer)*
7. Traders in Yoanyang market, 03/2013 (in Arabic and Nuer)*
8. Jiir *payam* Town Court, Rumbek, 20/11/2013 (in Dinka)*
9. Youth from Wulu attending a workshop on peacebuilding, Rumbek, 02/12/3013 (in English)
10. Bany Loum *boma* Court. Abang *payam*, 04/12/2013 (in Dinka)*
11. Watchabat Regional Court. Yirol Town, 04/12/2013 (in Dinka)*

12. Geng-Geng *payam* Regional Court. Yirol Town, 05/12/2013 (in Dinka)*
13. Panlieth and Kunyr Regional court, 05/12/2013 (in Dinka)*

*Interviews conducted with translators.