The Difficult Birth of a State

States don't emerge from a void, but are always the result of political decision-making processes among not only the people who live in them, but also a complex array of external players. The case of South Sudan, the newest member of the international community of sovereign states, is one more example of such a process taking a violent turn, since the divergent interests are far from being balanced, and institutional methods of dealing with conflicts are weak or not generally accepted. Many of the complex patterns of emergence and models involved here strike **Katrin Seidel** and **Timm Sureau** from the **Max Planck Institute for Social Anthropology** as being extremely familiar.

TEXT **BIRGIT FENZEL**

After almost half a century of civil war, South Sudan seceded from Sudan about three years ago. Together, they once formed Africa's largest country. After a conflict that is estimated to have cost around two million people their lives, it appeared that peace had finally arrived once the constitution of statehood was achieved.

However, a major new conflict flared up toward the end of last year. This time, it wasn't the rebel armies of the South who lined up against the soldiers and allied militia of the Sudanese central government, but the South Sudanese fighting among themselves. It began as a political incident that set in motion a conflict spiral in which the South Sudanese President Salva Kiir Mayardit and Riek Machar, who Salva Kiir Mayardit had removed from his position as Vice President, became the main political opponents. Around five months later, in June 2014, under pressure from international players, President Salva Kiir Mayardit and his former deputy Riek Machar signed a ceasefire agreement that includes the formation of a new "Transitional Government of National Unity."

ALTERNATING PHASES OF WAR AND PEACE

In the opinion of researchers from the Max Planck Institute for Social Anthropology, the prospects that this new attempt at brokering peace will last are far from certain. "With regard to state emergence processes in the Horn of Africa region, we've been observing situations involving alternating phases of violent and non-violent dynamics," explains lawyer and Africa specialist Katrin Seidel. The staff member of the "Law & Anthropology" department headed by Director Marie-Claire Foblets
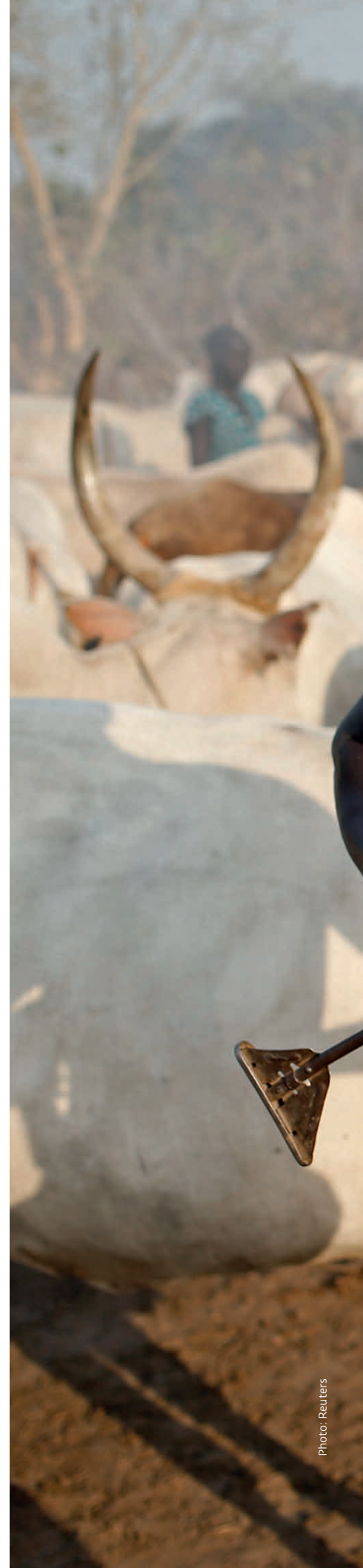
Photo: Reuters

Beef is a staple food in South Sudan. Because of this, the protection of cattle – as practiced here by a member of the Dinka people in 2013 – is an important task. Now the country is threatened with a disastrous famine, as fields couldn't be tilled in some regions due to the fighting in the country.

Jurist and Africa researcher Katrin Seidel, shown here in conversation with judges from the Supreme Court and High Court for the Lakes state, discussing the ongoing negotiations of establishing a South Sudanese plural judiciary.

at the institute, and her colleague Timm Sureau, an anthropologist from Director Günther Schlee's "Conflict and Integration" department at the same Halle-based institute, studied these conflict dynamics on the basis of the series of events that unfolded around the time of a peace conference.

As Sureau recalls, at the opening of a regional peace conference that took place in Torit, the capital city of South Sudan's southeastern state Eastern Equatoria, in April 2012, Robert Ladu Lwoki, the chairman of South Sudan's National Land Commission, was very upbeat. "He stressed how good it was to come together at this conference, as this meant that the Mà'di and the Acholi, two ethnic groups residing in the Panyikwara region, had decided not to adopt an illegal approach to conflict resolution," explains the social anthropologist, referring to the hopeful mood between the conflicting parties at the start of the meeting. The remainder of the conference also proceeded peacefully.

Just a short time later, however, Seidel and Sureau observed a huge upsurge in tension at the national level when the South Sudanese President began to sideline disagreeable political actors. In the researchers' view, from today's perspective, one of the most momentous moves was the removal of Vice President Riek Machar from office. After the latter began to publicly show ambitions to stand for the office of President in 2015, President Salva Kiir Mayardit finally dismissed his deputy, together with the entire cabinet, in July 2013, citing the need to form a leaner and more effective government as his reason for its dissolution.

POWER: ALWAYS A MOTIVE FOR CONFLICT

"Surprisingly, it took several months for the expelled political actors to react publicly," reports Seidel. In a press release issued in December of the same year, members of different political factions associated with the former Vice President and the ministers who had been removed from office along with him reproached the President for abuse of power. In addition, they criticized his autocratic style of leadership and accused him of excessive patronage. As Seidel explains, the President didn't take these accusations lying down: "He presented them as futile attempts by resentful political losers to discredit him." The conflict didn't remain limited to verbal jousting for long. On the contrary, the political situation quickly escalated into a violent conflict that once again claimed countless lives, filled the ad hoc refugee camps far beyond the limits of their current capacity, and was now expected to come to an end with the aforementioned ceasefire agreement.

This to and fro between phases of violence and peace is like a wrecking ball dangling over the emerging state structure. Even though South Sudan formally became the newest member of the international community of sovereign states in July 2011, "the process of state formation is far from complete," says Seidel. Together with Timm Sureau, she has studied the implementation of governmental infrastructure in theory and practice.

South Sudan's polity is far from solid in its standing or condition, or from forming the clearly delineated, stable entity suggested by the Latin term status, from which the English word "state" derives. "You have to imagine it like a cloud that accumulates water molecules and then loses them again,"

says Seidel, suggesting a more appropriate concept. The lowest common denominator in such assemblages, which are subject to spatiotemporal change, isn't the word, idea or concept, but the structure itself. "In this accumulation, boundaries are constantly redrawn between those on the inside and those on the outside," she says.

Based on the observations of the two researchers from Halle, such processes of inclusion and exclusion are pervasive in South Sudan. Although the Transitional Constitution of 2011 stipulates that all South Sudanese have equal rights, the reality is quite different. As the researchers have discovered in many places, far from all of the country's residents have access to citizenship and the associated rights and privileges. In anthropological field studies, which led him to the region around the provincial capital of Torit, Timm Sureau observed how the current system for the regulation of land rights also incorporates new forms of discrimination. As he discovered, "in this case, it affects urban migrants."

In most cases, these are people who fled their original villages in an attempt to evade murder and assassination in the chaos of the war, or left them as combatants in the civil war against the central government, and now sought to establish a new existence in the surroundings of the small but rapidly growing capital city of Eastern Equatoria. Lucy – a Lokoya woman who had sown a field of millet not far from the capital and whose progress Sureau fol-

lowed for nine months as part of his research – presents an exemplary case of current practices in relation to legal rights and the treatment of citizenship.

According to the Transitional Constitution, the land belongs to all people in South Sudan. Locally around Torit, it is usually accepted that anyone who makes a parcel of wilderness agriculturally productive is also entitled to farm it. Accordingly, Lucy merely asserted her right as a citizen when she ploughed an area of fallow land and cultivated millet on it. And she was allowed to do this until the United Nations Mission in South Sudan (UNMISS) needed space for the extension of its local office and was allocated a piece of development land by the representatives of the National Land Commission – the land on which Lucy's field was located. Suddenly she found herself standing in front of a barbed-wire fence.

LAND RIGHTS YES, BUT NOT FOR EVERYONE

In reality, as Timm Sureau discovered in the interviews he conducted with representatives of the ministries responsible for land allocation, the local authorities involved in the process, and the *Monyomiji*, a kind of council who wield the highest authority at the local level, the fair and equitable access to land for all South Sudanese citizens enshrined in the constitution is subject to very loose interpretation and reinterpretation. The researcher encountered remarkable contradictions

in the statements made by those he spoke with about these issues. On the one hand, they accepted the legally established land rights of all South Sudanese. On the other hand, they denied this right in Lucy's case, for example, based on the argument that she didn't come from Torit originally and is therefore not "local," having been born in a village 40 kilometers away.

As a result of the authorities' practice of applying two criteria in the assessment of citizen's rights, according to Sureau, a new generation of "second class citizens" is being produced. The researcher considers this trend to be highly volatile. As the recent past has shown, such distinctions can carry social dynamite with them. "With the resistance to the central government of Khartoum, from which the civil war between the North and South and, ultimately, the division of the country developed, the residents of the South were initially only concerned with fighting against their perceived marginalization," says Sureau's colleague Seidel. What was essentially at stake here was the right to participate in political decisions and in the profits gained from oil deposits so that they could improve their living conditions.

However, even at that stage, the political elites of the South brought the very vague category of "indigenous" into play in legitimizing their claims and mobilizing resistance within the multicultural state. As the example of land rights shows, this is now being reinterpreted in a very different

A country of extremes: These photos were taken barely three years apart. Jubilant people celebrating South Sudan's Declaration of Independence in the capital city Juba (left), and refugees near Bentiu in the state of Unity in April 2014.

Katrin Seidel alternates periods of work at her desk in Halle with her field work in Africa. At the institute, she can carry out literature-based research, for example on the colonial ideas of the Anglo-Egyptian government of the 1920s for southern Sudan. The researcher also inspected historical files from this period as part of the National Archive Project in the capital city of Juba (right).

way and is giving rise to further divisions. "The much vaunted 'unity in diversity' that derives from the Declaration of Independence and that was supposed to provide the pillar on which South Sudan rests as a sovereign state, even to the point of being enshrined in the Transitional Constitution, still appears to be a matter for negotiation," says Seidel.

In any event, it would be difficult to establish a functioning South Sudan polity on the basis of existing normative frameworks, such as the Transitional Constitution, says the expert in legal matters. "The Transitional Constitution is a very hastily produced amalgam that was compiled under enormous international political pressure and time constraints." For Seidel, the constitution presents itself as a pre-fabricated legal framework that has little to do with political will formation of the South Sudanese people. It reflects neither the diversity, needs and demands of the local communities united under the umbrella of the new state nor their respective legal concepts, let alone constituting an expression of sovereignty. "The idea of a territory of Southern Sudan can be traced back, in part, to colonial concepts of the 1920s when the Anglo-Egyptian government

regulated the migratory flows applying a so-called 'district policy'," say Sureau and Seidel.

Today, some of the political actors involved in the first period of governance appear to have been aware that this fiction of a territorial constituency from the colonial period goes beyond the legal and social realities. In this context, a comment made by the former undersecretary of South Sudan's Ministry of Culture and Heritage, Jok Madut Jok, who the researcher met in April 2013, is telling. "He sees South Sudan in its current constitution as little more than a geographical fact, the unity of which emerged solely from the common rejection of Sudan's central government," she says.

THE ETHNIC CONFLICT IS MERELY A PRETEXT

As the two Halle-based researchers have observed, the processes of division continue to operate in South Sudan even after the secession, after the North stopped serving as a unifying enemy. For Max Planck Director Günther Schlee, who has already studied the mechanisms of collective identity formation in numerous African countries once torn by civil war, the question of social identification

also plays a crucial role in the emergence of the conflicts in South Sudan. "It is always about who belongs to whom, and why. Membership in a group or alliance also regulates access to resources, support and other advantages that aren't enjoyed by those outside these constructed social boundaries."

In Schlee's opinion, "ethnicity" and "indigenousness" are the categories with which inclusion and exclusion are practiced in South Sudan. They constitute arguments for political actors and local elites alike – for example when dealing with the question of citizenship and the associated rights that someone either has or – as in the case of the expropriated farmer Lucy – doesn't appear to have."

Such examples, as the social anthropologists see it, illustrate the flexibility of sociopolitical categories. "These political arrangements can be altered as needed without any loss in terms of their plausibility, for example, by shifting the focus to ethnic criteria in one case, or religious or regional criteria in others. All of these arrangements can also be defined more narrowly or broadly," says Schlee. Moreover, the processes in South Sudan clearly show how sovereignty claims of political actors go hand in hand with the actors' attempts to ob-

tain privileged positions and room for political maneuvering for themselves.

Group formation and exclusion thus play a role in this process; in this instance, however, through the very clear deployment of ethnicity merely as an instrument. President Kiir belongs to the Dinka ethnic group; his former Vice President and political opponent Riek Machar is one of the Nuer people. They are both currently exploiting their membership in these ethnic groups to mobilize their followers against their opponents. Interestingly, the two most similar ethnic groups in South Sudan are once again being set against each other. "The Dinka and Nuer are closely related culturally," says Schlee. For this reason, conflicts regarding pasture land and waterholes repeatedly arose between these two pastoral groups in the past. "The potential for conflict increases with similarity," he says, describing the mechanisms well known from conflict research, which completely contradict the popular theory of the clash of civilizations.

Katrin Seidel and her colleague Timm Sureau succeeded in unearthing some reliable information about how the population perceived the spreading political and military confrontations across the entire country, starting from the escalations in the capital city of Juba on December 15, 2013. However, one public opinion survey that was car-

ried out by a non-governmental organization in Juba enabled them to draw some illuminating conclusions about the true nature of this supposedly ethnic conflict. "In the survey, many people wondered why the government failed to resolve its differences in a nonviolent manner," Seidel reports. Obviously, it is clear to even large sections of the civil population that what is involved here are turf wars between representatives of political elites who are now using their ethnicity to gain the support they require. The researchers in Halle also see things in a similar light. "It is the typical wrangling among victors for the resources, offices and powers that, as examples from history show, often accompanies the early decades of the state formation process," explains Katrin Seidel.

State formation processes in themselves are difficult to compare because they don't follow particular patterns. Despite this, states are measured with respect to their risk of disintegration on the basis of certain criteria. According to the current "Fragile States Index 2014," which was published by the Fund for Peace and Foreign Policy, South Sudan leads the list of "failed" states. "Paradoxically, an emerging state is simply dismissed in this way," says Seidel. This categorization doesn't get to the core of the matter because it's based on certain European ideas of statehood. In Günther Schlee's view, this assessment is based on false premises. "It presupposes a collective identity, meaning a fictitious entity comprising the entire 'constitutive people' for whom the state has failed," he states. "But in the case of South Sudan, this constitutive people hasn't yet been formed."

"Processes of state formation frequently go hand in hand with alternating violent and peaceful phases," says Seidel. In Schlee's view as a conflict researcher, one can set orientation marks to let people find the path to peace. There are three of them: "First, ethnicization and religious polarization must not be encouraged, and ethnic stereotypes and differentiation should always be challenged. Second, the idea of equality shouldn't be abandoned in favor of group rights. And third, one should hold on to the idea of 'universal citizenship', that is, the same legal status and the same opportunities in life for all citizens." ◄

TO THE POINT

- Following a protracted war, the Republic of South Sudan gained independence from the Republic of Sudan on July 9, 2011, and the newest member of the international community of sovereign states was born. This, however, did not conclude the process of state formation. On the contrary, processes of inclusion and exclusion must now be negotiated in South Sudan – and this involves a high potential for conflict.

- "Unity in diversity" was proclaimed as a cornerstone of the new state. However, South Sudan is currently nothing more than a geographical entity without social or political cohesion.

- Although all citizens are equal in legal terms, divisions and unequal treatment exist based on categories involving ethnicity and regional origins.