

Statehood - Between Fragility and Consolidation

## Of the Child Who Never Learned to Walk

South Sudan's Statehood: A Story of Failure

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When South Sudan became the 55th African country to march into independence in July 2011 following five painful decades of conflict with (North) Sudan, there was a great sense of euphoria. But less than three years later, South Sudan was the frontrunner in an unfortunate category: the 2014 Fragile States Index ranking identified it as the most fragile state in the world.¹ In the meantime, a brutal civil war broke out after the first government collapsed. It was not until 2018 that the warring parties were able to agree on a shaky peace treaty, the implementation of which continues to be difficult to this day. South Sudan's statehood is a story of failure. A search for explanations.

#### A Country Devastated

Usually overshadowed by other (violent) crises around the world, a look at the current situation in South Sudan reveals a catastrophic picture. People's lives are marked by poverty, hardship, and fear. The economy is in ruins; infrastructure is completely inadequate. Years of civil war have further exacerbated the country's already disadvantaged starting position and left deep scars. An estimated 383,000 people lost their lives during the civil war from 2013 to 2020.2 Poverty and violence have driven over four million South Sudanese to flee their homes. Over 2.3 million people have sought refuge in neighbouring countries, while another two million live as internally displaced persons in their own country. According to the United Nations, 8.9 million people in South Sudan depend on humanitarian aid - over two thirds of the population.3 Droughts and floods as well as the repercussions of the COVID-19 pandemic have further aggravated the situation. The consequences of the war in Ukraine on the supply situation also threaten to worsen the food shortage.

On top of all that, violence and massive human rights violations continue to occur behind the façade of fragile peace. The United Nations reported, among other things, repeated attacks and fighting in South Sudan's Unity state, where

at least 72 civilians lost their lives between February and April 2022.<sup>4</sup> In the state of Western Equatoria in 2021, hundreds of people were killed and some 80,000 people displaced in fighting between opposition and pro-government militias.<sup>5</sup> Aid agencies repeatedly report attacks on their staff. Human rights organisations as well as the UN describe atrocious human rights violations: torture, executions, sexual violence.<sup>6</sup> Speaking of peace in this context seems cynical.

#### Collapse of the State

This catastrophic situation is confronted by a government and public administration that scarcely seem capable of effectively meeting the immense challenges. The state apparatus is only functional to some extent, and suffers from a tremendous degree of corruption. Rule of law proceedings are rarely reliable; arbitrariness and impunity are the order of the day. The closely interwoven political, economic, and military power in the country is hardly subject to any control.

The list of government failures is long and can probably best be summarised as follows: no basic services, no peace, no justice. And accompanying all that: a glaring lack of state legitimacy.<sup>7</sup>

The German government's 2017 guidelines on cooperation with fragile states distinguish between six fundamental fragility profiles. South Sudan evidently falls into the first category of "failing or dysfunctional states with considerable weaknesses in all dimensions, often marked by violent conflicts culminating in civil war"8. In the past, the category of "failed states" was often used here, but has been increasingly replaced in the debate by different levels of fragility. The label "failed" is inappropriate in its absoluteness insofar as, even in the extreme examples of dysfunctional and disintegrating states such as Syria, Yemen or Somalia, the state still fulfils certain minimal functions.9 Incidentally, in the current Fragile States Index (Report 2021), the three examples mentioned are ahead of South Sudan, which is "only" in fourth place among the most fragile states.10

#### The roots of the conflict between the north and the south of Sudan go back to colonial times.

Yet how could South Sudan drift from independence straight into fragility? Why did the hoped-for success story of national self-determination turn into such a tragedy? In the search for explanatory factors, it is worth first looking back at the history of the state's founding.

#### **Bloody History**

The statehood of South Sudan has a bloody history. Decades of civil war between the marginalised south and the dominant north of Sudan had cost millions of lives and meant a de facto developmental standstill for the South.

The roots of the conflict between the Arab-Muslim north and the Christian-dominated south of Sudan go back to the colonial era, during which the British colonial administration entrenched separation and marginalisation of the South within the framework of a divide-and-rule

approach. Already with independence from the Anglo-Egyptian Condominium in 1956, efforts emerged to secede the South and led to the first civil war, which lasted until 1972. A ceasefire agreement that granted the South a certain degree of autonomy lasted eleven years. From 1983, the conflict escalated again. In light of oil discoveries in the South, the North had begun to gradually encroach on regional autonomy. What is more, the government in Khartoum introduced Sharia law for the entire country. This led to the founding of the SPLM (Sudan People's Liberation Movement) and its militarised arm, the SPLA (Sudan People's Liberation Army), under the leadership of Colonel John Garang, who succeeded in taking over extensive control of the South. Nascent hopes for a peace process towards the end of the 1980s were dashed in 1989, when Omar al-Bashir seized power in Khartoum with a coup d'état. It would take another 15 years before a peace agreement was finally reached. The long period of civil war had devastating consequences: famine, displacement, and enslavement, along with a total death toll estimated at over two million.

### Peace Accord and Independence: Phase of Hope

Due to international pressure, especially from the United States, al-Bashir's government agreed to peace talks with the SPLA in 2003, which led to the conclusion of a peace agreement in 2005. Among other things, this agreement provided for the creation of an autonomous region under SPLM administration, the non-validity of Sharia law in the South, the sharing of revenues from the southern oil deposits, and the establishment of a Government of National Unity with an SPLMappointed vice president. After a transitional period of six years, a referendum was then to decide on the independence of the South. John Garang was appointed vice president, but died within weeks in a helicopter crash. To this day, the circumstances have not been fully clarified. In contrast to Garang, his successor Salva Kiir vehemently advocated the secession of South Sudan.

#### The optimism of the international partners at the time of independence was naïve from today's perspective.

When the citizens of South Sudan were finally called to a referendum in January 2011, almost 99 per cent voted for independence. Some reasons for this overwhelming vote are a deep antipathy towards the North, the feeling of deprivation, and the unifying nature of the common struggle for liberation.

The step towards independence triggered great enthusiasm and hope for a better future among the population. Optimism also prevailed among international partners, and with it the goal, naïve from today's perspective, of transforming this newcomer to the community of states from a beacon of hope into a model pupil. But even then, some observers expressed scepticism when considering the extremely difficult starting conditions.

As an example, we refer to the assessment by the Konrad-Adenauer-Stiftung at the time:

"Whether South Sudan can establish itself as a functioning and independent state depends, [...] beyond relations with Northern Sudan, on several factors at the local level. Key areas of tension include the relationship between the centre and the periphery, the development of a pluralistic democracy with strengthened civil society forces, and the establishment of an effective state apparatus. Currently, there is a concentration on defence tasks at the expense of creating a corruption-free civil administration capable of providing infrastructure and services throughout the country. A long-term dependency on the international community is foreseeable."

Looking at the sobering reality eleven years after independence, it can be stated: the necessary progress has not been made in any of the points mentioned.

#### The "Lost Decade" Following Independence

Hopes for peace and stability after the step towards independence were soon bitterly disappointed. Old internal conflicts quickly erupted. At the end of 2013, a long-simmering power struggle between President Salva Kiir and his deputy Riek Machar escalated and led to a bloody civil war. Now it was no longer North and South Sudan that were hostile towards each other, but two political camps within the South.

The ostensible starting point of the conflict was an armed confrontation between the respective bodyguards of Kiir and Machar, unleashing a spiral of violence. The ensuing civil war was fought primarily along ethnic lines. The two political protagonists mobilised support from their respective ethnic groups. President Kiir counted on the Dinka ethnic group, which he himself belongs to and which remained largely loyal to government forces. Machar, meanwhile, mobilised representatives of his ethnic group, the Nuer, most of whom left the SPLA and formed the breakaway SPLA i.O. (in opposition).<sup>12</sup> Numerous attempts to implement peace agreements initially failed. An agreement that was finally reached in August 2015 had already become invalid by July 2016, after the transitional Government of National Unity collapsed. Then UN Secretary General Ban Ki Moon clearly expressed the international community's frustration in view of these developments: Kiir and Machar were interest-driven repudiators of human rights. "They pour scorn on any promise of peace. Rarely has a country squandered so much opportunity so quickly."13

In September 2018, a new attempt finally succeeded in signing the peace agreement that is still in force today. In the meantime, the conflict dynamics had become increasingly complex. The longer the war lasted, the more the two camps frayed into numerous splinter groups and militias. The 2018 agreement was eventually signed by a total of twelve armed and political groups. <sup>14</sup> This complexity and ongoing deep mistrust between Kiir and Machar make effective implementation of the peace



Masters of deception: President Kiir (left) and former Vice President Machar (right) have repeatedly agreed on peace treaties over the years. In practice, however, they and their respective armed supporters continue to obstruct a genuine peace process in South Sudan. Source: © Jok Solomun, Reuters.

agreement tremendously difficult. Deadlines for milestones set out in the agreement towards a sustainable solution have been missed on regular occasions. The formation of a new inclusive transitional government only succeeded in February 2020 under growing international pressure. Since then, the war has been regarded as over, but there has hardly been any real peace. The situation remains tense and volatile, and the suffering of the population continues. People are still on the run. Violence occurs time and again, especially since the conflict has shifted more and more to the communal level, and there are regular localised clashes between different communities and ethnic groups.

Against this background, there was little or nothing to celebrate on the tenth anniversary of independence in July 2021. The South Sudan Council of Churches summarised the prevailing mood in a public statement: the years since independence have been a "wasted decade" 15.

#### On the Way to Democratic Elections?

According to the peace agreement, the stipulated transition period is to end in February 2023 – after democratic elections have been held. However, the implementation of other important elements of the agreement is still a long way off. This concerns, among other things, issues of reconstruction, economic and political reforms, and strengthening of the rule of law. The urgently needed work on developing a new constitution has been neglected to a large extent.

#### The Panel of Experts mandated by the UN Security Council on the situation in South Sudan pronounced a scathing verdict.

Both sides are accused of a lack of will to implement the agreement consistently. Particular criticism is levelled against Kiir's SPLM that it has taken a path that contradicts the basic character of the peace agreement. The SPLM i.O. complains of repeated attacks on its bases by government troops and pro-government militias. Critical observers see a deliberate strategy by Kiir to weaken the SPLM i.O. and marginalise Machar. There are also complaints of ongoing human rights violations, corruption, impunity, and an excessively authoritarian approach towards critical voices in the media and civil society.

The Panel of Experts mandated by the UN Security Council on the situation in South Sudan pronounced a scathing verdict in its latest report of April 2022: in essence, almost the entire peace agreement package has deteriorated into a "hostage to the political calculations of the country's military elites". These used "a combination of violence, misappropriated public resources and patronage to pursue their own narrow interests".<sup>17</sup>

To adhere to the timetable, elections would have to be held by the beginning of 2023 at the latest. Under the current circumstances, this seems extremely unrealistic. There are deficits in all relevant areas. Citizens eligible to vote are not systematically registered, especially since many of them are still on the run. The necessary political reforms to regulate political competition are still pending, and there is a lack of basic infrastructure, personnel, and financial resources needed to prepare and conduct elections. Without swift and intensive preparations and massive external support, free and fair elections can hardly be realised, and chaos would be inevitable. Not only do continuing volatility and recurring violence jeopardise the smooth conduct of

elections – the elections themselves also entail the risk of contributing to a renewed widespread escalation of the conflict, whose fundamental problems remain unresolved. The closer the country gets to the planned elections and the end of the transitional phase, the clearer the failures of the past will become and the louder the voices calling for an adjustment of the timetable. And even that might fall short of the mark. General scepticism is in order. Without a fundamental rethinking of the approaches taken so far, it is difficult to imagine sustainable progress in the spirit of the peace agreement.

#### **Search for Explanations**

The continuously sobering reality in South Sudan raises the question: what went wrong? How can this story of failure be explained? There is no simple answer here. Rather, it is about an interplay of different factors:

- Historical heritage and challenging conditions for development: South Sudan's troubled history has left deep scars. Decades-long conflict and exploitation by the North have stymied any developmental progress. At the end of the civil war against the North, the south of Sudan was considered the least developed region worldwide. The existing foundations for building an independent state were more than meagre. Apart from oil deposits, the region had hardly any resources of its own to speak of. Due to its historical marginalisation, there was a lack of basic infrastructure, social services were catastrophic, education levels were extremely low, and the qualified personnel needed to build a functioning state administration were almost non-existent.
- Lack of civil structures and processes: the lack
  of autonomy and dependence on Khartoum, as well as the logic of resistance and
  armed conflict that dominated for decades,
  meant that barely any civil structures developed in South Sudan. There was a lack of
  experience with civil conflict management,
  participatory processes, and democratic

self-government. The perpetual experience of violence and militarism is difficult to overcome. In the shadow of the structures developed primarily for armed struggle, there was hardly any room for developing pluralistic forms of organisation.

# As is so often the case, oil has proven to be more of a curse than a blessing.

- Ethnicity and national identity: South Sudan is a multi-ethnic state. As part of Sudan, like many states in Africa, it is to some extent an artificial construct of the somewhat arbitrary demarcation of borders by the colonial powers at that time. This was often overlooked during the war against the North. The idea of a unifying national identity was fed almost exclusively by the all-encompassing struggle for autonomy, and to a much lesser extent by religion. The conflict between the Muslim North and the predominantly Christian South largely concealed the lines of conflict that existed within South Sudan. These then became even more apparent following independence, and led, among other things, to an escalation of the elites' power struggle along ethnic lines. A positive national identity has hardly been able to develop in the newly independent state.
- Resource curse and a rentier economy: in theory, South Sudan's oil deposits would be a good basis for making the young state viable after independence and for developing the country. But as is so often the case, in practice, oil has proven to be more of a curse than a blessing. Mismanagement and greed have led to a small corrupt elite rather than the country itself benefiting from the revenues. Moreover, a rentier economy has developed with the combination of oil revenues on the one hand, and the massive development aid funds, on the

- other. And while oil revenues end up in private pockets and fuel the war economy, the necessary spending on basic services and developmental projects is left to the international donors.
- e Corruption: the corruption mentioned above has assumed proportions in South Sudan that almost constantly drive the state apparatus to the brink of collapse. So much money seeps into the neo-patrimonial kleptocracy that it is almost impossible for the state to fulfil its basic tasks. In the past, President Kiir made headlines with his repeated calls for corrupt government officials and civil servants to return misappropriated funds, as the public administration was on the verge of collapse.
- Economy of violence: with an eye on oil and other natural resources and in the context of a weak public order, a lucrative war economy has been established during long years of civil war. The enrichment of elites with the potential for violence from these resources has become not only a goal in its own right, but the dominant logic of war. Unfortunately, the peace processes to date have not offered a solution to break through this logic. Rather, critics see the design of peace talks as part of the problem, since it is primarily those actors who demonstrate their potential for violence through acts of war who are invited to the negotiating table. It is thus also part of the uncomfortable truth that pending and ongoing negotiations may fuel the spiral of violence themselves.
- Lack of demobilisation and integration of the security forces: a key sticking point remains the demobilisation and reintegration of the various troops into a unified national army. This was a condition of the peace agreement, but has scarcely been achieved to date. Tens of thousands of ex-combatants are waiting to be drafted into the army. Most of them wait in various military camps and seek alternative survival strategies for lack of pay and employment.



- These include arms smuggling and cattle theft, which fuels the violent escalation of local conflicts.
- Individuals over institutions: it seems astonishing that, even after eleven years of independence, events continue to be dominated by the two protagonists Salva Kiir and Riek Machar, who have repeatedly demonstrated their lack of will and ability to lead the country for the good of the population towards peace and development. Time and again, external pressure has forced them to make unwelcome compromises, but failed to overcome this personalisation.
- Lack of accountability and impunity: the weakness of democratic institutions also means that it is hardly possible to hold those politically responsible to account. Extensive impunity is not only a massive problem regarding corruption, but also for human rights violations and war crimes. A reappraisal of the atrocities of war would be a central prerequisite for sustainable, peace.

#### **External Influences**

Besides the factors mentioned above, there is also the question of the role of external actors. First, the problematic immediate neighbourhood



Cheering too soon: People in the capital Juba celebrate the independence of South Sudan in July 2011. But the new state quickly went from being a beacon of international hope to becoming a problem child. Source: © Thomas Mukoya, Reuters.

should be highlighted here. The countries surrounding South Sudan, some of which are dealing with conflicts and instability themselves, often did not engage constructively. On the contrary, especially Sudan in the north and Uganda in the south have at times unilaterally supported conflicting parties, thus contributing towards the expansion and prolongation of the civil war.

But it is not only the neighbouring countries that play an important role. Since its independence, South Sudan has been a focus of the international community as the youngest state and "problem child". Upon independence in 2011, the UN Security Council deployed the UNMISS peacekeeping mission with the aim of consolidating peace and security in the country and ensuring stable conditions for the country's development. After the civil war broke out, priorities were redefined in favour of protecting the civilian population, monitoring the human rights situation, supporting the delivery of humanitarian aid, and monitoring the ceasefire. Time and again, the mission was accused of failing to protect the civilian population. Despite an expansion of the mandate and troop strength (currently up to 17,000 blue-helmet troops), the mission still does not meet expectations. Nevertheless, the renewal of the mandate for another year by the UN Security Council in March 2022 can be considered a success.

The international community must also accept criticism regarding its diplomatic engagement. After immense pressure was exerted to get the peace agreement signed, implementation was not promoted with the same vehemence. The focus shifted away from South Sudan, and the mediating role of the regional organisation IGAD (Intergovernmental Authority on Development) was neglected. The fact that the failure to implement the central provisions of the peace agreement has so far had very few consequences is problematic, too. An arms embargo was only imposed in July 2018 after several failed attempts. Options to use sanctions, especially against the elites responsible for corruption and violence, have hardly been exhausted.

The involvement of external actors, foremost the United States and China, must of course also be seen in the context of geostrategic competition. However, attempts to interpret the crisis in South Sudan as a "proxy war" are misguided. China, too, has no interest - not least in view of the oil business - in further inflaming the conflict in South Sudan from the outside. In fact, South Sudan is one of the few examples in which China has somewhat deviated from its publicised principle of non-interference and, among other things, is actively participating in the UN mission with troops. Nevertheless, there is no united front by the international community to speak of. For example, China and Russia abstained in voting on extending the UN mission and the arms embargo.

The fundamental criticism that independent South Sudan is a completely defective construction does not help.

## Conclusion: International Partners Have a Duty to Act

The failure in South Sudan is without doubt primarily due to the actions of the country's political elite, which - it can be clearly said continuously commit treason against their own country. But it is also a failure of the international community. South Sudan's independence was supported with much euphoria and massive financial aid - especially from the United States. However, various problems that became apparent early on were ignored or underestimated. The historical burdens and complex dynamics in South Sudan were misjudged. The international community must accept criticism not only for missed opportunities in building democratic structures, but also for the way it has handled the crisis since 2013. For too long, the dynamics of the conflict were underestimated, and the scope for influencing developments through positive measures, diplomatic pressure, and sanctions was not fully exploited.

At the moment, it remains completely open whether it will be possible to turn the tide in South Sudan and create stable conditions in the foreseeable future. Scepticism is called for following the numerous disappointments in the past. Critics have long raised the question of whether South Sudan was ready for independence at all and whether the elites who took over leadership of the country are even capable and willing to build a functioning state. The fundamental criticism that the independent state of South Sudan is a completely defective construction does not help in the crisis. What does help, however, is the realisation that a peaceful and democratic state is scarcely viable with the current strategy and the prevailing dominant elite.

The occasional radical proposal of an international "trust government" overshoots the mark and would also be unfeasible. But in the end, the international community has no choice but to engage longer and more intensively on the ground so as to prevent more war and chaos, and enable development opportunities. Otherwise, in the worst case, the state could disintegrate without ever having functioned properly.

The priorities for engagement must continue to include humanitarian aid to alleviate the population's ongoing suffering, as well as participation in the peacekeeping mission to ensure the silencing of weapons. Beyond that, however, it is also a matter of political dialogue and diplomatic pressure to hold the domestic political elite more accountable and, if possible, to successively reduce the influence of the previous protagonists. This also means that the almost exclusive focus on the Kiir and Machar camps must be overcome in favour of a more inclusive process. A continued focus on a purely technical solution to power-sharing will not suffice. Economic factors providing incentives for the perpetrators of violence also need to be more strongly addressed.

Key projects to be tackled include, above all: an inclusive national dialogue; a reappraisal of the atrocities of the war; a strengthening of the rule of law and law enforcement; an effective disarmament and demobilisation programme and a fundamental reform of the security forces; and comprehensive political reforms with the development of a new democratic constitution. The holding of democratic elections is currently a particular milestone in this regard. However, without the appropriate logistical and political investments, there is a high risk of renewed conflict escalation. In this respect, the timetable set for the beginning of 2023 now seems unrealistic.

As difficult to impossible as the task may appear: the international partners who have acted so massively as South Sudan's midwife, have a duty to help that child finally learn to walk. The fundamental mistakes made on the road to independence can hardly be corrected in retrospect. But they should be a lesson for the future handling of autonomy and secession efforts in regions of conflict, and for new approaches to building functioning structures in the context of fragility and weak statehood.

- translated from German -

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