

# BETWEEN COMMUNITY AND GOVERNMENT

## TRADITIONAL AUTHORITIES IN POST-CONFLICT SOUTHERN SUDAN

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After more than two decades of violent conflict in Southern Sudan between the Northern-based government of Sudan<sup>1</sup> and the Southern-based Sudan People's Liberation Army/Movement (SPLA/M)<sup>2</sup>, the two parties in conflict signed a Comprehensive Peace Agreement (CPA) in 2005. The Southern Sudanese will decide on independence in a 2011 referendum. During the current transition period, Sudan follows a one-country, two-systems policy which grants Southern Sudan wide-reaching autonomy, this area being governed by the Government of Southern Sudan (GoSS, dominated by the SPLM). During the war between the North and the South, some parts of Southern Sudan were under the control of the Sudanese government army, while other areas were controlled by Southern Sudanese rebel movements. The former rebel organisation SPLA is now the army of Southern Sudan and its political wing, the SPLM, is the most influential political party in the South. In a fragile political context, new executive, legislative and judiciary institutions are in the process of being set up in Southern Sudan.

In post-conflict settings, administrative structures are not installed in empty spaces. Rather, a variety of actors and strategic groups negotiate public authority, statehood and access to resources (Hagmann and Péclard 2010). This is the case in Southern Sudan: Different layers of former government institutions, traditional authorities, youth, women's groups, political parties, NGOs, returnees and kinship networks are all engaged in current political dynamics. My research in Southern Sudan aims at studying the ways various actors are involved in the post-conflict transformation process in «local political arenas», which Bierschenk and Olivier de Sardan (1997: 441) define as «complex political configurations» where a variety of actors negotiate authority and statehood. In my dissertation project I look at the resources and repertoires (Hagmann and Péclard 2010) these actors apply in Aweil East county, Northern Bahr el-Ghazal state, a region mainly inhabited by Dinka, the major ethnic group in Southern Sudan<sup>3</sup>.

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<sup>1</sup> The Sudanese Government is based in the capital Khartoum in Northern Sudan. The large majority of the Northerners are Muslims referring to an Arab identity whereas most Southerners are Christians or followers of local religions describing themselves as Africans.

<sup>2</sup> The Addis Ababa Peace Agreement (1972) granted Southern Sudan the status of an autonomous region with its own executive and legislative bodies. However, the central government's interference in Southern Sudanese politics and the limited development of Southern Sudan as well as Islamization efforts led to a deterioration of the relations between Northern and Southern Sudan. In 1983 the SPLA (under John Garang) took up arms against the Sudanese Government.

<sup>3</sup> The first field research was conducted between November 2007 and May 2008 in Juba - the capital of Southern Sudan - and in Aweil East county, Northern Bahr el-Ghazal state. A second period of field research is being carried out from October 2009 to April 2010, mostly in Aweil East county. Data has been collected in the form of interviews, informal conversations and observation.

In this paper I focus on traditional authorities<sup>4</sup> and their relation to government institutions during the current transition in Southern Sudan.

### TRADITIONAL AUTHORITIES IN SOUTHERN SUDAN: A BRIEF HISTORICAL OUTLINE

During Anglo-Egyptian rule in Sudan (1899 to 1956), a «native administration» based on indirect rule was set up in Southern Sudan, incorporating existing socio-political structures wherever possible. In the kingdoms of the Shilluk, Azande and Anuyak the British found centralised political structures on which they based their administration. However, where no centralised hereditary authorities existed – for instance in the cases of the Dinka<sup>5</sup> and the Nuer – such political and administrative institutions were created. These «invented» chieftainships were often headed by influential persons such as lineage or clan heads who took over administrative tasks such as settling disputes, solving cases and collecting taxes (Johnson 2003).

Following the local practice, I refer to administrative traditional authorities as chiefs. Traditional authorities without administrative responsibilities such as spear masters<sup>6</sup> as well as most elders, clan and lineage leaders fulfil specific spiritual and political tasks for defined territorial or kinship groups. Both chiefs and non-administrative traditional authorities in Southern Sudan usually follow the practice of hereditary succession.

The first war between the North and the South started in 1955, shortly before Sudan's independence in 1956, and ended in 1972. In a second war between 1984 and 2005, the Sudanese government and the SPLA fought over the control of Southern Sudan. As a result, government institutions and infrastructure in the South have been destroyed or have not been

maintained for decades. In some areas the influence of chiefs diminished during the war as they had no means to enforce their authority against armed groups and were forced to collaborate (Johnson 2003; Rolandsen 2005). During the war the SPLA/M as well as the Sudanese government relied on chiefs who found themselves in a challenging role wedged in between the armed forces (of both parties to the conflict) and the communities. Apart from collecting taxes and acting as judges for customary law courts<sup>7</sup>, chiefs also had to supply the SPLA with food and new recruits. Chief Garang Deng recalled in one interview (November 2009) how during the war in Aweil East, «chiefs had to provide sorghum and bulls for the SPLA to feed the fighters. This was difficult as the communities themselves struggled to survive during the war».

### CHIEFS IN THE POST-CONFLICT CONTEXT IN AWEIL EAST

The CPA and the Interim Constitution of Southern Sudan (2005) define chiefs as part of local government. Southern Sudan is divided into ten states with their own executive, legislative and judiciary institutions. Administrative levels in the rural areas are county, *payam* and *boma*<sup>8</sup>. In Aweil East county chiefs are classified as executive chiefs (*alama thit*), sub-chiefs (*alama col*) and *gol* leaders (*nhom e gol*) and their activities concentrate on the *payam* and *boma* levels. Although representatives of the Southern Sudanese administration (the county commissioner and his staff) are present in the Aweil East county headquarters in Mabil town and in the villages, no budget is provided for the county, *payam* and *boma* level administration in Aweil East county. In practice, the local government level is characterised by lack of funds to pay salaries and provide infrastructure and services. Where education, health services and access to clean water are available, international NGOs or churches provide most of the assistance. Given the current limited capacity of the newly installed administration, chiefs' activities remain important.

<sup>4</sup> The term «traditional authorities» may be misleading, suggesting roots dating back to pre-colonial times. However, there are no institutions of traditional authority that have not been influenced strongly by the political changes and developments that have taken place since the beginning of the 20th century. Höhne (2008: 24) argues that «in southern Sudan, as elsewhere, tradition is a claim to the past that not always matches with the exact historical reality». In this paper, referring to Leonardi, Biong, Majak, Höt, Achol et al. (2005: 4), the term traditional authorities describes «forms of authority which are perceived to be located within the local community; to represent local customs, laws and history; and to be accountable primarily to their own community».

<sup>5</sup> The Dinka are organised into hereditary structures (notably clans and lineages) and age sets as well as territorial entities: the cattle camps (*wuf*). Cattle camps are groups of people herding their cattle together. They vary in size according to the availability of grass (Lienhardt 1961).

<sup>6</sup> Masters of the fishing spears (*benybiith*) fulfil spiritual functions in the Dinka society.

<sup>7</sup> The colonial rulers introduced customary law courts headed by chiefs to resolve cases such as conflicts related to marriages and cattle exchange referring to Dinka norms and rules in Aweil East. Allott (1984: 57) defines customary law under colonial Anglo-Egyptian rule as a dual legal system «comprising both a general or territorial law of European origin, and a number, varying according to the number of ethnic groups involved, of customary and religious laws».

<sup>8</sup> The terms county, *payam* (encompassing several villages), and *boma* (one village) were introduced by the SPLA/M in the areas under its control in 1993 (Rolandsen 2005: 159).

The current political setting and the security situation in Southern Sudan are fragile. Various conflicts within Southern Sudan, partly originating from disputes over land and cattle, have claimed over 2000 lives during 2009 alone (Gettleman 2009) and the region is awash with arms. In this context, conflict resolution within families and between clans and preventing disputes from escalating into armed conflicts is the most important aspect of chiefs' activities. In each *payam* two executive chiefs each head an executive chief's court and supervise sub-chiefs and *gol* leaders. Sub-chiefs are members of the executive chiefs' courts and resolve smaller cases in their area such as neighbourhood disputes or delayed payments of cattle. *Gol* leaders resolve minor disputes in the local neighbourhoods and collect taxes. During November 2009 I attended court cases in the executive chiefs' courts of Mangartong *payam*. Most of the court cases were linked to the exchange of cows (relating to the delayed payment of bride prices), divorce, refusal to repay loaned cows and the elopement of girls.

Chiefs cooperate with the administration to organise community labour – for instance, in order to build health centres or schools and to support development projects. In 2007 in Baac village, community members joined chiefs and the *payam* administrators to bake bricks in order to build a health centre. They launched the initiative in which an NGO supported them in the construction of a health centre and regularly supplies it with medicine. Chiefs also cover administrative tasks such as collecting taxes for the government. Since the colonial era, tax collection has been one of the most important tasks of *gol* leaders, who currently collect 25 Sudanese Pounds (\$10 US) per year from each household and deliver the taxes through the sub-chief to the administration. Since the end of the war, some chiefs have received salaries for their services, although in 2007 and 2008 a number of chiefs complained about the lack of salaries, justifying the truth of their claims by referring to their support for the SPLA/M during the war. In Aweil East county, only the executive chiefs and their deputies currently get monthly salaries of 900 Sudanese Pounds (\$333 US) and 700 Sudanese pounds (\$260 US) respectively. Sub-chiefs and *gol* leaders are not formally paid but some keep part of the court fees and taxes they collect.

### THE LOCAL GOVERNMENT ACT

Traditional authorities' relationship with governments in post-colonial Africa has been ambiguous. During the 1960s and 1970s numerous governments criticised traditional authorities as «repressive collaborators of colonial masters» and «impediments to the modernization and nation-building projects»

(Kyed and Buur 2007: 1) and limited their power and influence accordingly. However, since the 1990s, traditional authorities have been empowered and «revitalised» in state-building, bottom-up democratisation and decentralisation projects in several African countries (Höhne 2008; Kyed and Buur 2007).

At the time of my first field research in 2007-08 a Local Government Act was in the process of being enacted. Finally passed in April 2009, this act defined administrative authority and functions and set the role of chiefs in the local government as «semi-autonomous authorities at the state and local government levels; [who] administer customary law and justice in the customary law courts [...] and exercise deconcentrated powers in the performance of executive functions at the local government levels within their respective jurisdictions» (The Local Government Act 2009: 56). The act refers to the establishment of chieftainships and determines the minimum number of residents for a chieftainship to be qualified as such. Diverging and at times conflictive expectations of the chiefs' role within post-conflict Southern Sudan influenced the process of drafting the law. Individuals working for the GoSS and the UN, who were involved in enacting the law, see chiefs mainly as part of the administration whose authority and functions should be determined by the government in a top-down approach. However, other Southern Sudanese and expatriates perceive chiefs as apolitical representatives of their communities and custodians of traditions and therefore expected a bottom-up approach in which the chiefs and the communities could have negotiated and defined their roles and the types of authority to be exercised. My data shows that traditional authorities perceive themselves and are seen by community members as being part of the administration and at the same time community representatives. This dual role is not seen as contradictory.

During my second period of field research none of the interviewed chiefs or staff members at the country-level administration and judiciary (or those below this) had ever heard of the new Local Government Act. As long as national policies remain unknown and are supposed to be implemented by actors at the local level – who are in the case of chiefs in Aweil East county mostly illiterate – national policies may not have much impact on the ground. Lacking knowledge of the Local Government Act, authority and competencies are still negotiated locally. One current point of contention between chiefs and commissioners is whether commissioners are authorised to dismiss chiefs. In a meeting organised by the Southern Sudanese Local Government Board and attended by chiefs and staff members of the state Ministries of Local Government in November 2009, chiefs criticised some commissioners for dismissing chiefs.

## THE OUTLOOK: AN UNCERTAIN FUTURE

In the current political context the spheres of traditional authorities and state actors overlap. Actors in local political arenas – including traditional authorities – are often active in various fields. Some of today's administrators, politicians and senior SPLA officers are sons and brothers of chiefs. In Aweil East county, some *payam* administrators are also lineage heads at the same time while others fought for the SPLA during the war, blurring the lines between state and non-state spheres.

In accordance with the CPA, elections and a referendum are part of the peace process in Southern Sudan. During November 2009 chiefs played a crucial role during the vot-

ers' registration for the elections in Sudan in April 2010. In Aweil East county the governmental information campaign hardly reached the rural areas. As a result, only a few people registered during the first days of the 30-day period. After an emergency meeting, government officials sent chiefs to rural areas to mobilise the communities. As a result, hundreds of voters went to the registration centres within a few days. Politicians needed the support of their constituencies to get elected in the 2010 general elections. Traditional authorities were the key gatekeepers to mobilise votes in rural constituencies. Many observers fear a possible outbreak of violence during or after the planned 2011 referendum on independence. Without doubt, the role of traditional authorities in the elections and the upcoming referendum is of great importance for the future of Southern Sudan.

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