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„Decolonization and State Failure in Sub-Saharan Africa“

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1. Introduction

'To act effectively, we need a new conceptualization of how states function, how they fit in the contemporary globalized world, and how the international community should use its vast resources to help the recovery of failed or failing states'[1]

The end to colonial rule in Africa was one of the decisive events of the 20th century. It had significant implications for the newly-independent states, the former colonial powers and the international community. The precipitancy of decolonization in Africa was astonishing to most but the acquisition of sovereignty and equality with all other states was a moment of great celebration and optimism for African countries. More than fifty years on, the word optimism is rarely mentioned in connection with the African continent, in particular, sub-Saharan Africa. A large number of sub-Saharan African states are considered fragile, weak or even failed; many of them have never, in their short history since the decolonization, fulfilled the most basic features of the modern Westphalian state. Violent conflict, political instability, economic weakness and poverty are among the characteristics consistently observed in many sub-Saharan African states. There are, of course, relatively successful exceptions of functioning states – e.g. Botswana, Ghana, Senegal, South Africa, Namibia – but many have failed to live up to the expectations existing at the time of decolonization and after. The remarkable continuity of state weakness in many states south of the Sahara is a striking and lasting phenomenon in international relations that raises the question in how far it constitutes a consequence of certain developments linked to the colonial era.

Therefore, this thesis aims at bringing together two aspects of great relevance to the discipline of international relations - state failure and decolonization – and shall provide answers to the following research questions:

- Has the arbitrary demarcation of the territory by the European colonial powers laid the foundation for the structural weakness of sub-Saharan African states?
- In how far has the continuity of state failure in sub-Saharan Africa been the result of the international community's attitude towards statehood and self-determination upon decolonization?

[1] Ashraf Ghani and Clare Lockhart, *Fixing Failed States* (Oxford: Oxford University Press, 2008), p. 27.

Building on an analysis of the phenomenon of failed states, I argue that the (de)colonization of Africa has had strong implications for the future nation-states on the continent. In order to build the foundations for the verification of this thesis, the first part of the thesis will deal with the role of the state in public international law and international relations followed by a determination of the characteristics of a 'failed state'. Subsequently, the thesis will examine the general developments leading to the decolonization of the African continent, in particular the right to self-determination, the role of the United Nations and African nationalism.

The main chapter will then combine the findings of the previous chapters and especially put its emphasis on two essential aspects: first, the impact of the demarcation by the colonial powers will be assessed with a view to the establishment of a decisive geo-political precondition for state failure; second, the international community's position with regard to statehood and national self-determination in former colonies that may have contributed to the above-average appearance of state failure in sub-Saharan Africa. The research questions will be finally verified in comparative case studies including two selected countries: the Democratic Republic of Congo and Sudan/South Sudan.

The methodology of this thesis will predominantly follow a comparative approach of relevant literature from various academic fields: international law, international relations, political science, economy and history. The thesis builds on a number of authors that have explored a possible relation between (de)colonization and weak statehood in Africa: Robert H. Jackson was one of the first to examine the question of the international community's attitude towards statehood and sovereignty in his seminal publication *Quasi-states: Sovereignty, International Relations and the Third World*.[2] This idea was picked up and developed further in particular by American political scientist Jeffrey Herbst[3] and Dutch lawyer Gerard Kreijen.[4] The findings of these principal publications will be complemented by books and scientific articles on fundamental issues that are closely related: statehood in public international law, state failure, African history, decolonization, and self-determination.

[2] Robert H. Jackson, *Quasi-States: Sovereignty, International Relations, and the Third World* (Cambridge: Cambridge University Press, 1990).
[3] See for example: Jeffrey Herbst, 'Responding to State Failure in Africa', *International Security*, 21 (1996); Jeffrey Herbst, 'The creation and maintenance of national boundaries in Africa', *International Organization*, 43 (1989).
[4] Gerard Kreijen, *State Failure, Sovereignty and Effectiveness* (Leiden/Boston: Martinus Nijhoff Publishers, 2004).

The thesis aims at clarifying the manifold approaches to these fields of research in order to achieve a concise picture of underlying developments contributing to a structural weakness of many sub-Saharan African states. Empirical analysis, mainly by incorporating various indices and empirical studies dealing with state failure and decolonization, will add to the theoretical underpinnings.

2. The state in public international law

Public international law essentially regulates the rights and obligations in the relations between states, international organisations and other international legal personalities. Despite the ever-increasing number of subjects of public international law, the states have retained their position as the most important actors within the international community.[5] In order to be able to understand the phenomenon of state failure which will be the focus of this thesis, it is fundamental to gain an insight into the features of the modern state. Therefore, this chapter will provide an overview on the historical evolution of the state followed by an analysis of the main characteristics of the state as well as its position in the international community.

2.1. A brief history

The birth of the Western modern nation-state, the role model of today's international community, is most commonly, albeit not entirely undisputed[6], associated with the Peace of Westphalia in 1648 which terminated the Thirty Years War. However, as the state is inherently tied to sovereignty, the origins of the definition of the state could be even traced back to the ancient Greek philosopher Aristotle.[7] It was Jean Bodin (1530-1597) in the 16th century who developed his model of the ideal Republic and, thus, laid the foundations of today's understanding of the concept of sovereignty.[8] One of the first to mention the word 'state' to describe political entities such as monarchies or republics was the Italian politician, philosopher and writer Niccoló Machiavelli (1469-1527).[9]

The Peace of Westphalia in 1648 was a decisive point for the appearance of sovereign states and the international community as such. As Richard Falk aptly puts it:

> As event, Westphalia refers to the peace settlement negotiated at the end of the Thirty Years War (1618-1648), which also served as establishing the structural frame for world order that has endured, with modifications from time to time, until the present. As idea, Westphalia refers to the state-centric character

[5] Walter Berka, *Verfassungsrecht*, 4th edn (Vienna: SpringerWienNewYork, 2012), p. 75.
[6] Luís Moita, 'A critical review on the consensus around the "*westphalian system*"', *JANUS.NET*, 3 (2012), 17-42.; see also: Rainer Grote, 'Westphalian System', in *Max Planck Encyclopaedia of Public International Law* <http://opil.ouplaw.com/home/EPIL> [accessed 12 July 2014].
[7] Samantha Besson, 'Sovereignty', in *Max Planck Encyclopaedia of Public International Law*, para. 11., <http://opil.ouplaw.com/home/EPIL> [accessed 12 July 2014].
[8] Ibid., para. 10.
[9] Niccoló Machiavelli, *Der Fürst* (Hamburg: Nikol Verlag, 2013), p.19.

> of world order premised on full participatory membership being accorded exclusively to territorially based sovereign states.[10]

The Treaty of Westphalia, thus, represented an incisive change in the order of the international system that can be exemplified by two major developments that formally established the principle of sovereignty: one the one hand, the gradual secularisation of power towards a territorial delimitation found its realisation and, on the other, non-intervention became one of the key principles of the modern Westphalian system of states.[11]

In the decades and centuries after the Treaty of Westphalia, the state developed rapidly under the influence of international competition between the European powers as well as philosophical influences and the growing weight of evolving public international law. In particular, famous thinkers such as Thomas Hobbes, John Locke and, later, Jean-Jacques Rousseau added the intellectual fundament for the newly-established system of states by illustrating the transition from the state of nature to a sovereign entity by means of a social contract. From a legal point of view, international law derived from the late medieval return to the Roman *ius gentium*, and evolved into a modern legal framework until the beginning of the 20th century.[12]

Although the states retained their hegemonic position, the international order as such was subject to important transformations in the 20th century. The number of independent states rose drastically due to decolonization and subsequently, the power was shifted from a more or less Eurocentric system to a global system.[13] The end of the Cold War also abandoned the bipolar system and new actors such as global corporations and transnational civil society actors emerged.[14] Together with increasing interdependence and cooperation, these developments have substantially changed the shape of the international order and some go as far as declaring that the Westphalian system has become a post-Westphalian system.[15]

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[10] Richard Falk, 'Revisiting Westphalia, Discovering Post-Westphalia', *The Journal of Ethics*, 6 (2002), 311-352 (p. 312).
[11] Besson, 'Sovereignty', in *Max Planck Encyclopaedia of Public International Law*, para. 13., <http://opil.ouplaw.com/home/EPIL> [accessed 12 July 2014]
[12] James Crawford, *Brownlie's Principles of Public International Law*, 8th edn (Oxford: Oxford University Press, 2012), pp. 3-5.
[13] Kreijen, *State Failure*, p. 8.
[14] Falk, 'Revisiting Westphalia', p.321.
[15] Kreijen, *State Failure*, p. 8.; see also: Bjorn Hettne, 'The Fate of Citizenship in Post-Westphalia', *Citizenship Studies*, 4 (2000), pp. 35-46.

2.2.Statehood

According to German sociologist Max Weber, '[a] compulsory political association with continuous organization […] will be called a state if and in so far as its administrative staff successfully upholds a claim to the *monopoly* of the *legitimate* use of physical force in the enforcement of its order'.[16] While this precise, at the same time comprehensive, definition by Weber essentially focuses on the legitimate use of physical force it also implies the existence of further criteria such as territory and population.

In this regard, Weber's definition can be considered to be within the range of criteria that are provided in the Montevideo Convention on Rights and Duties of States passed by the International Conference on American States in 1933[17], which is considered to be part of customary international law.[18] Article 1 of the Convention states: 'The State as a person of international law should possess the following qualifications: (a) a permanent population; (b) a defined territory; (c) government; and (d) capacity to enter into relations with the other States.' The Convention does not offer further guidance as to the exact meaning of these criteria. However, Australian expert of International Law James Crawford provides a subtle interpretation of each of the four categories in his standard work *Brownlie's Principles of Public International Law*[19].

2.2.1. Permanent Population

A permanent population includes a certain element of consistency without specifying the degree of stability. According to Crawford, this element is closely related to the criterion of territory since a permanent population without a given territory lacks the preconditions of a state-resembling entity.[20] Furthermore, this criterion is to be understood independent of the nationality of that population.[21] This was firmly established by the famous decision in the 'Nottebohm' case by the International Court of Justice stating that 'nationality has […] its

[16] Max Weber, *The Theory of Social and Economic Organization*, ed. and trans. by Talcott Parsons (New York: The Free Press, 1964), p. 154.
[17] Convention on Rights and Duties of States adopted by the Seventh International Conference of American States, 26 December 1933, 165 League of Nations Treaty Series, 19.
[18] Abebe Aynete, 'Unclear Criteria for Statehood and its Implications for Peace and Stability in Africa', *Conflict Trends*, 1 (2012), 42-48 (p. 43).
[19] Crawford, *Public International Law*, pp. 128-136.
[20] Ibid., 128.
[21] James Crawford, 'State', in *Max Planck Encyclopaedia of Public International Law*, para. 21., <http://opil.ouplaw.com/home/EPIL> [accessed 12 July 2014]

only effects within the legal system of the state conferring it'[22]. In this case, the court held that the government of Guatemala was entitled not to recognise the Liechtenstein citizenship of former German citizen Friedrich Nottebohm for the lack of actual connections to Liechtenstein and ruled that diplomatic protection depended on 'effective' citizenship.

2.2.2. Defined Territory

The element of territory can be interpreted in a rather broad sense. The existence of so-called micro-states such as Liechtenstein, Monaco, and Andorra clearly demonstrate that no minimum size of territory is required.[23] Moreover, the existence of a defined territory does not imply fully defined frontiers.[24]

2.2.3. Government

A territory with a stable population must require an effective government to form a state. Effective government can be equated with a centralised administration and the existence of a legislative body.[25] At first sight, this appears quite self-explanatory, but history has shown several instances where statehood was attributed to a certain territory despite the non-existence of an effective government, most notably during the era of decolonization in Africa at the end of the 1950s and beginning of 1960s – a process that is central to the analysis of the research question provided in chapter 5.

2.2.4. Capacity to enter into relations with the other states

The criterion of capacity to enter into relations with other states essentially describes the state of independency. According to Crawford, independence is the 'central criterion for statehood'[26]. In order to be able to establish relations with other states, an entity must be independent from external control or intervention; at the same time, it must be competent to carry out effective control over territory and population by possessing a legal order uniquely applicable to this entity.[27] From these gatherings, one may come to the conclusion that the

[22] International Court of Justice, *Liechtenstein v Guatemala* (Nottebohm Case), Judgment of 6 April 1955, ICJ Reports 1955, p. 20.
[23] Crawford, 'State', in *Max Planck Encyclopaedia of Public International Law*, para. 15., <http://opil.ouplaw.com/home/EPIL> [accessed 12 July 2014].
[24] Crawford, Public International Law, p.129.
[25] Ibid., p.129.
[26] Crawford, 'State', in *Max Planck Encyclopaedia of Public International Law*, para. 26., <http://opil.ouplaw.com/home/EPIL> [accessed 12 July 2014].
[27] Crawford, Public International Law, p.130.

capacity to enter into relations with other states is a consequence of the previous criteria rather than a constitutive characteristic of statehood. Additionally, a state will not be able to enter into relations with another state without its consent, a fact closely related to recognition.[28]

2.2.5. Other criteria

The four criteria of Article 1 of the Montevideo Convention on Rights and Duties of States have generally been viewed as the key elements required for an entity to become a state. However, over time, further criteria have been brought forward and, although there is no consensus on their pertinence as defining prerequisites for statehood, it is worth mentioning some of them due to their controversial role in the academic discourse.

2.2.5.1. Recognition

From a legal point of view, it is quite obvious that recognition is no criteria for the definition of statehood. In this regard, Article 3 of the Montevideo Convention on Rights and Duties of States determines that '[t]he political existence of the State is independent of recognition by other States'. [29]

Yet, there exist two schools of thought in regard to the position of recognition within the concept of statehood: the declaratory theory and the constitutive theory. The former basically follows the legal standpoint of the Montevideo Convention on Rights and Duties of States and sees recognition only as a mere confirmation of an already existing state which is defined exclusively by the fulfilment of the four 'classical' criteria of statehood. In contrast, the constitutive theory perceives recognition as a precondition to statehood; in other words, no state can exist without recognition, even if it meets the requirements of the above criteria.[30] While the declaratory view appears to prevail in state practice[31], the constitutive view certainly may play a vital role in specific situations such as in the context of decolonization.

2.2.5.2. Observance of human rights

It has been suggested by some that the protection of human rights has become a criterion for statehood. Recent history has provided examples during which the observance of human

[28] Kreijen, *State Failure*, p. 21.
[29] See also: Crawford, 'State', in *Max Planck Encyclopaedia of Public International Law*, para. 44., <http://opil.ouplaw.com/home/EPIL> [accessed 12 July 2014].
[30] Kreijen, *State Failure*, pp. 15-16.
[31] Crawford, *Public International Law*, p. 155.

rights has indeed played a valuable role, in particular the right to self-determination. The dissolution of the Soviet Union led to the claim by European countries that human rights were a fundamental requirement for the recognition of newly-independent states.[32]

The decolonization of Africa in the mid-20th century is a prime example for the application of the principle of self-determination. It has to be emphasised, though, that the relation between the observance of human rights and the right to self-determination appear to be limited to the moment of the creation of a state. In the case of already existing states, the non-observance of human rights has surprisingly not concerned the continuity of statehood[33]; e.g. Somalia, the Democratic Republic of Congo, or Cambodia under the Khmer Rouge.

2.2.5.3.Observance of international law

The willingness or ability to follow the rules of the international legal regime has been brought forward as a further criterion for statehood. However, according to Crawford, ability to observe international law is not a precondition for statehood but rather the consequence of it.[34] Breaches of international law occur quite frequently by a great variety of states. Recently, in March 2014, the annexation of the former Ukrainian peninsula Crimea by Russia led to firm criticism by the majority of the international community for an apparent breach of international law by Russia. In spite of such a breach, no one would even consider denying statehood to Russia. What matters 'is not "ability to obey international law" but failure to maintain any state authority at all'[35]. Since this is essentially a reference to the classical criterion of effective government, the observance of international law is no precondition for the mere existence of a state.

[32] Kreijen, *State Failure*, pp. 23-24.
[33] Ibid., p.24.
[34] Crawford, *Public International Law*, p. 134.
[35] Crawford, 'State', in *Max Planck Encyclopaedia of Public International Law*, para. 43., <http://opil.ouplaw.com/home/EPIL> [accessed 12 July 2014].

3. State Failure

Building on the analysis of the indispensable features of statehood in the previous chapter, this part of the paper shall examine the phenomenon of failed states. State failure has acquired a prominent place on the agenda of the international community primarily since the end of the Cold War, but even more so after the terrorist attacks on 11 September 2001 on the United States when failed states developed into a synonym for safe havens for international terrorism as well as other transnational and international security threats.[36]

State failure represents a complex and controversial topic and no universally accepted definition of a failed state has been able to prevail; this is mainly due to the different opinions on the causes and consequences of state failure. In order to shed some light on the meaning of state failure and its implications for the international order, this chapter will start by aiming to arrive at a satisfactory definition of state failure. Moreover, the impacts of state failure will then be analysed and clustered into categories. Lastly, the current state of the international community in regards to state failure will come under the microscope, with a particular focus on the area of sub-Saharan Africa. This chapter will not examine strategies to prevent state failure or rebuild collapsed states on a general level; in fact, this will be dealt with in chapter 5.3. where possible and specifically tailored solutions for sub-Saharan African countries will be analysed embracing the circumstances that led to the peculiar cumulative appearance of failed states in this region.

3.1. Definition and Causes

Defining state failure is a complex process and depends much on one's perception of the essence of statehood. If the essence of statehood can be considered not to be fulfilled or has ceased to exist, a state may well be coined 'failed'. Hence, there are a number of different starting points for coming to an acceptable definition. In general terms, the proximity of the classical criteria for statehood – territory, population, government, independence – to the phenomenon of state failure is indispensable. In order to characterise a state as failed one or more of these criteria must be in serious doubt. There are also no sharp boundaries to distinguish failed states from 'weak', 'fragile', or 'failing' states, terms also often used to

[36] Edward Newman, 'Failed States and International Order: Constructing a Post-Westphalian World', *Contemporary Security Policy*, 30 (2009), 421-443 (p. 423)

approach the characterisation of the current state of a territory.[37] Thus, it is essential to emphasise that state failure is always a question of degree very much dependent on the indicators used in the analysis.

One of the first attempts to define state failure was published in 1992 by Gerald B. Helman and Steven R. Ratner who identified a state as failed when it is 'utterly incapable of sustaining itself as a member of the international community'[38]. This very broad definition implies a series of possible reasons that may have been causal factors for such a development. Even before, Robert H. Jackson published an influential book on the role of the international community in regard to Third World countries, in particular the former colonies of Africa, in which he referred to such states as 'quasi-states'.[39]

Ever since, new definitions have appeared elaborating the causes for state failure in more detail. A very common approach is to define state failure along the lines of the criterion of government effectiveness. In this regard, Gerard Kreijen establishes that 'the single most salient internal manifestation of state failure is the virtual absence of government'[40]. This absence of government subsequently often leads to a lack of territorial control and the loss of the monopoly of the legitimate use of force.[41] According to this concept, the government is more or less equated with the state as such and, thus, becomes the central point of reference for the attribution of statehood. This appears to be a very plausible explanation for state failure since the model of the 'Westphalian' state, albeit possibly not functioning equally well in all societies, builds on the rule of law determined by and carried out by the respective government. In other words, without a government performing its legislative and executive functions, the rule of law becomes obsolete and, so does the state.

A second line of argument can be identified with authors such as Monika François and Inder Sud[42], or Jean-Germain Gros[43]. Here, the focus lies primarily on the inability of a state to provide its citizens with the most basic goods – security, health care, nutrition, education, etc.

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[37] Monika François and Inder Sud, 'Promoting Stability and Development in Fragile and Failed States', *Development Policy Review*, 24 (2006), 141-160 (p.141).
[38] Gerald B. Helman and Steven R. Ratner, 'Saving Failed States', *Foreign Policy*, 89 (1993), 3-20, (p. 3).
[39] Robert H. Jackson, *Quasi-States: Sovereignty, International Relations, and the Third World* (Cambridge: Cambridge University Press, 1990).
[40] Kreijen, *State Failure*, p. 86.
[41] Ibid., p.87.; see also: Daniel Thürer, 'Failing States', *Max Planck Encyclopaedia of Public International Law*, para. 3., <http://opil.ouplaw.com/home/EPIL> [accessed 12 July 2014].
[42] François, and Sud, 'Promoting Stability', p. 142.
[43] Jean-Germain Gros, 'Towards a taxonomy of failed states in the New World Order: Decaying Somalia, Liberia, Rwanda and Haiti', *Third World Quarterly*, 17 (1996), 455-472 (p. 456).

This functionalist approach may be somewhat a consequence of the absence or ineffectiveness of government as outlined above, but not necessarily. There may be countries with functioning governments with a monopoly over the means of violence that are still unable or unwilling, for various reasons, to allocate the necessary basic resources to its population. This approach has been criticised for its disparity between ideal (what the state should provide) and the empirical reality of the world. According to Stein Sundstøl Eriksen, such a view 'implies that most, if not all, states must be classified as failed'[44].

Recently, in 2013, Daniel Halvorson contested the prevailing theories on state failure and argues that the analysis of possible characteristics of failed states is necessarily a constructed one: 'The norms of international order are constitutive of state failure in a given period'[45]. According to Halvorson, the defining criterion for failed states is not empirical but much rather the composition and rules of the international community that have changed since the end of the Cold War. In this sense, Halvorson identifies a normative shift towards a solidarist international order that aims at the extension of liberal-democracy to all states as a contributing factor to state weakness.[46] This appears to follow a certain logic if one considers that it took the 'Western' countries centuries to achieve the Westphalian state as well as liberal-democratic societies. Weak or failed states have generally not been able to go through such an evolution from inside but large parts of their history were dominated by colonialism and dependency.

Following from the analysis of these three approaches it becomes evident that the opinions on the causes for state failure cover a broad spectrum. Nevertheless, it is essential, for the purpose of this thesis, to find an acceptable working definition for the phenomenon of state failure. Before that, it must be emphasised that the composition and structure of the various weak states differ significantly from country to country. Therefore, an abstract definition may be a useful indicator for identifying key weaknesses contributing to state failure, but it is indispensable, due to the varying characteristics of states, to conduct a case-by-case analysis in order to label a state as failed or weak and identify the root causes.

Concluding from these observations, the definition used in this thesis, will primarily follow the first line of argumentation and place 'government ineffectiveness' at the heart of the

[44] Stein Sundstøl Eriksen, '"State failure" in theory and practice: the idea of the state and contradictions of state formation', *Review of International Studies*, 37 (2011), 229-247 (p. 231).
[45] Dan Halvorson, *States of disorder: understanding state failure and intervention in the periphery* (Farnham: Ashgate Publishing Limited, 2013), p. 5.
[46] Ibid., p. 26.

causes for state failure, but also include certain other elements. Thus, the definition for a failed state could look as follows: *A state may be considered failed if the absence or ineffectiveness of a government coincides with the loss of the legitimate monopoly of force over (significant parts of) its territory and, therefore, erodes the characteristics generally attributed to a state of the Westphalian model*. As will be dwelled on in chapter 5, elements of the constructivist argumentation by Halvorson are central to the correlation between state failure and decolonization and, thus, complement the general definition of state failure.

3.2. Impacts

State failure causes a number of unwanted consequences. Before considering several of these consequences it should be made clear that these effects cannot only be caused by state failure but that they can also precede, and subsequently cause, state failure. In this sense, uncontrollable violent conflict can either or both be the cause and/or impact for/of state failure. This '*vicious cycle'*[47] can be extremely detrimental for the respective country, the region or even the international community. From the prominence of the phenomenon of state failure it can be construed that it has strong implications not only for the state concerned but also pertains to a large extent neighbouring countries or even countries geographically far away. Therefore, the next sub-chapters will categorise the impacts of state failure in internal and external impacts. It is important to mention that the following effects are by no means to be understood exhaustively, but to describe the most common impacts associated with state failure.

3.2.1. Internal impacts

State failure has primarily devastating and immediate effects on the population and the territory of the concerned state. Among the most common impacts violent conflict occupies a central and outstanding position. Since state failure is characterised by a lack or the complete absence of a functioning government that retains the monopoly of legitimate force, it usually creates a power vacuum leading to violent disputes between various groups aspiring to fill the void the anterior government has left.[48] These violent contestations can easily turn into a civil war. A large number of sub-Saharan African countries are continuously related to state failure

[47] Wim Naudé and Mark McGillivray, 'Fragile States: An Overview', in *Fragile States*, ed. by Wim Naudé, Amelia U. Santos-Paulino and Mark McGillivray (New York, Oxford University Press, 2011), p. 7.
[48] François, and Sud, 'Promoting Stability', p. 144.

and civil wars. In fact, between 1960 and 1999, 40% of sub-Saharan African countries were entangled in at least one period of civil war.[49]

Internal armed conflicts have massive ramifications on the security and existential situation of the population. The most immediate reaction to violent conflict by the citizens is, in many cases, to flee from the region or even the country. According to a report by the Internal Displacement Monitoring Centre, 33.3 million people were estimated to be internally displaced at the end of 2013 as a result of armed conflict, violence or human rights violations.[50] The report continues by pointing out that, in 2013, Africa registered the highest number of violent conflicts since 1945 and that sub-Saharan African countries were the most affected with more than a third of all internally displaced persons.[51] One can conclude from these numbers that, although migration is most commonly perceived to be a transnational process, internal migration flows are much larger and that failed states are certainly not in a position to deal adequately with a phenomenon that would even pose serious, if not unsolvable, problems for highly-developed countries.

The absence of effective political structures also represents a highly inhospitable environment for economic development. The lack of infrastructure and security impedes most of the desired economic activities and leaves large parts of the population in a state of despair with regards to any desirable income.[52] Poverty, therefore, is often rampant in failed states. A look at the Multidimensional Poverty Index of the Human Development Index from 2012 shows that nineteen out of the twenty worst-scoring countries are located in sub-Saharan Africa.[53] Many of them frequently feature in the discourses on failed states.[54] The weakness of the public sector also often leads to the existence of vast black market economies and corruption preventing the state from profiting from its natural resources.[55] As promising the existence of natural resources in a state may sound, it may also be conducive to the

[49] Ibrahim Elbadawi and Nicholas Sambanis, 'Why Are There So Many Civil Wars in Africa? Understanding and Preventing Violent Conflict, *Journal of African Economies*, 9 (2000), 244-269 (p. 244).
[50] Internal Displacement Monitoring Centre, *Global Overview 2013* (Geneva, 2014), p. 9.
[51] Ibid., p. 9.
[52] Brennan M. Kraxberger, 'Rethinking responses to state failure, with special reference to Africa', *Progress in Development Studies*, 12 (2012), 99-111 (p. 103).
[53] United Nations Development Programme, 'Multidimensional Poverty Index 2012', <https://data.undp.org/dataset/Table-5-Multidimensional-Poverty-Index/7p2z-5b33> [accessed 12 July 2014].
[54] See generally: Kreijen, *State Failure*, pp. 66-86.; Newman, 'Failed States and International Order', p. 427.; Stefan Wolff, 'The regional dimensions of state failure', *Review of International Studies*, 37 (2011), 951-972 (pp. 964-970).
[55] Kreijen, *State Failure*, p. 88.

appearance of warlords or insurgents who sell them outside of official trade channels to use them as means of financing for their activities.[56]

Other characteristics typically associated with state failure are the loss of control over territory, an increase in criminal activity, the absence of large parts of infrastructures, and a breakdown of educational and health facilities.[57] The conflict in Darfur in Sudan illustrates that state failure can also be caused by and lead to environmental degradation with spill-over effects to neighbouring countries.[58]

3.2.2. External impacts

State failure can have adverse effects not only on the failed state itself but also on neighbouring countries, the region or even on a global scale. As pointed out in the previous chapter on internal impacts, state failure may result in large migration flows of which the majority occurs within state borders. Nevertheless, migration due to violent conflict or other factors such as the inability to survive as a result of rampant poverty is a major concern for neighbouring countries. The Rwandan civil war in the 1990s which culminated in the genocide of 1994 exemplifies the consequences such migration flows can have. After the Rwandan Patriotic Front came to power, over two million people, many of them Hutus involved in the massacres, fled to the Democratic Republic of Congo (Zaire at the time) and other neighbouring countries.[59] The destabilising effects in the Democratic Republic of Congo can be observed until today with some of the refugees having formed militarised groups and using the locations of the former refugee camps outside of government influence as a basis for military operations.[60]

Apart from the possible danger of radicalisation by refugee groups to regain power in their own country, there may be refugee flows across borders of a size that overburden both the neighbouring countries and the international community in terms of humanitarian aid and longer-term solutions. A recent example is Syria, where more than two million people[61] have

[56] Kraxberger, 'Rethinking responses to state failure', p. 103.
[57] Robert I. Rotberg, 'Failed States, Collapsed States, Weak States: Causes and Indicators', in *State Failure and State Weakness in a Time of Terror*, ed. by Robert I. Rotberg (Washington D.C.: Brookings Institution Press, 2003), pp. 6-7.
[58] Newman, 'Failed States and International Order', p. 430.
[59] BBC News, 'Rwanda: How the genocide happened', 18 December 2008, <http://news.bbc.co.uk/2/hi/1288230.stm> [accessed 12 July 2014]
[60] Newman, 'Failed States and International Order', p. 429.
[61] UNHCR, '2014 UNHCR country operations profile: Syrian Arab Republic', <http://www.unhcr.org/pages/49e486a76.html> [accessed 12 July 2014]

fled across the borders to Lebanon, Turkey and Jordan since the beginning of the devastating civil war in 2011 that has turned the country effectively into a failed state.

The terrorist attacks of 11 September 2001 possessed direct implications on the perception of failed states as to its relevance to security on a global level. The United States of America especially were fast to identify the frailties of failed states as a breeding ground for terrorist groups and, subsequently, as a potential threat to national security: 'The challenges to U.S. leadership and security will not come from rival global powers, but from weak states'[62]. The enhancement of the link between state failure and terrorism has also widely replaced the former focus on state-sponsored terrorism.[63] This may be true for a country such as Somalia, where 'a permanent state of anarchy'[64] has provided armed groups and terrorist organisations with an area easily exploitable for violent activity. Although the formation of terrorist groups may well lead to trans-border or international operations, the majority of terrorist activity is directed towards the governments of their own states – whether strong or weak – and could, therefore, also be pertain to the internal impacts of state failure.[65] In fact, it is highly controversial if there exists any intrinsic link at all between the weakness or collapse of a state and the appearance or increased activity of terrorist organisations.[66]

The economic degradation in the weak or failed state also tends to have negative spill-over effects on economic growth in neighbouring countries.[67] The interdependency of the today's globalised world, in particular on an economic level, certainly plays a factor for developed countries to increase efforts to prevent states from failing. Most countries will also have a strong interest in averting war economies that engage in activities such as smuggling, arms trafficking, and the production of drugs.[68] These war economies cover the external dimension of undesired economic impacts state failure may cause and are a strong contributing factor to the pertinence of violent conflict.

Lastly, state failure generally has adverse effects on the infrastructure of a country. In this regard, the provision of health care deteriorates to an extent that the spread of contagious

[62] Chuck Hagel, 'A Republican Foreign Policy', *Foreign Affairs*, 83 (2004), p.64.
[63] Edward Newman, 'Weak States, State Failure, and Terrorism', *Terrorism and Political Violence*, 19 (2007), 463-488 (p. 463).
[64] Kreijen, *State Failure*, p. 71.
[65] Newman, 'Weak States', p. 464.
[66] See generally: *Root Causes of Terrorism*, ed. by Tore Bjørgo (London: Routledge, 2005).
[67] François, and Sud, 'Promoting Stability', p. 145.
[68] Newman, 'Failed States and International Order', p. 430.

diseases is virtually impossible. Migration flows to neighbouring countries often result in the 'exportation' of such diseases to neighbouring countries or even further.[69]

3.3. Failed states in sub-Saharan Africa

The number of violent incidences in the area of sub-Saharan Africa may be an indicator that this region is particularly susceptible to the appearance of failed states due to their geo-political as well as socio-economic position. Moving on from the academic literature that attempts to explain state failure on an abstract level, hence, analysing root causes or conditions that may be favourable to dissolve structures of functioning states, this chapter will choose a more empirical approach. It attempts to observe the geographical composition of the states defined as failed by comparing several indices on the phenomenon of state failure.

It seems worth pointing out that, just as with the abstract definition of a failed state, there is also no clear consensus on which states can be classified as collapsed, failed, fragile or weak. These descriptions are often used interchangeably and 'describe a continuum, with fragile states at one end and failed/collapsed states at the other'[70]. Similarly, various indices use differing indicators to analyse state failure and, consequently, arrive at different outcomes. The results reveal the disagreement over the deciding attributes of a failed state but, at the same time, provide a certain convergence as to which states are unanimously, although to varying degrees, declared as weak or failed. For the purpose of this thesis, three indices will be compared for the year 2013: the Failed States Index by the Fund for Peace (renamed in 'Fragile States Index' in May 2014 and used as such hereinafter), the Global Peace Index by Vision of Humanity, and the State Fragility Index and Matrix by the Center for Systemic Peace.

In order to understand the discrepancies between the rankings, it is fundamental, in a first step, to have a close look at the methodology and indicators used by each index. The Fragile States Index covers a broad spectrum of indicators categorised in three major groups – social, economic, and political and military indicators – with several subgroups. All in all, these categories cover almost ninety different parameters such as demography, group grievance,

[69] Ibid., p. 431.
[70] François, and Sud, 'Promoting Stability', p. 143.

economic development and poverty, state legitimacy, human rights, external intervention, etc.[71]

The Global Peace Index comprises twenty-two indicators grouped in three main categories: ongoing domestic conflict and international conflict, societal safety and security, and militarisation.[72] Although this index primarily observes the state of peace within a country, it uses indicators that are instructive for the level of state fragility. In this regard, parameters such as the number of external and internal conflicts, political instability, number of refugees and displaced persons, and ease of access to small arms and light weapons, can be regarded as directly illustrating the capacity of a government.

The third index, the State Fragility Index and Matrix, analyses the effectiveness and legitimacy for four categories: security, governance, economic, and social. These indicators, which include a number of sub-categories (e.g. vulnerability to political violence, state repression, armed conflicts, regime durability, discrimination, regime type, GDP per capita, score in the Human Development Index), are rated on a four-level scale of fragility with the total sum pivotal for the ranking. [73]

As can be concluded from the diverging composition of the respective sets of indicators, there is disagreement on the essence of state fragility. In how far produce the different indicators used also varying results in the rankings? And how many of the twenty worst-ranking countries are located in the region of sub-Saharan Africa? To answer the second question, it is necessary to clarify which African states belong to the category of sub-Saharan Africa. The United Nations lists fifty-two territories as sub-Saharan African countries.[74] One can deduce from this enumeration and the term itself that sub-Saharan African countries can be defined as countries that are situated fully or partly south of the Sahara desert.

[71] Fund for Peace, 'The Indicators' <http://ffp.statesindex.org/indicators> [accessed 12 July 2014].
[72] Vision of Humanity, 'About the Global Peace Index' <http://www.visionofhumanity.org/#/page/about-gpi> [accessed 18 April 2014].
[73] Monty G. Marshall and Benjamin R. Cole, 'Fragile States and Index Matrix 2012', *Center for Systemic Peace*, 2012.
[74] United Nations, 'World Mortality Report 2013' (New York: Department of Economic and Social Affairs, 2013); The fifty-two countries are: Angola, Benin, Botswana, Burkina Faso, Burundi, Cape Verde, Cameroon, Central African Republic, Chad, Comoros, Congo Rep., Cote d'Ivoire, Democratic Republic of Congo, Djibouti, Equatorial Guinea, Eritrea, Ethiopia, Gabon, Gambia, Ghana, Guinea, Guinea-Bissau, Kenya, Lesotho, Liberia, Madagascar, Malawi, Mali, Mauritania, Mauritius, Mayotte, Mozambique, Namibia, Niger, Nigeria, Réunion, Rwanda, Saint Helena, Sao Tomé and Príncipe, Senegal, Seychelles, Sierra Leone, Somalia, South Africa, South Sudan, Sudan, Swaziland, Tanzania, Togo, Uganda, Zambia, Zimbabwe.

Both the Fragile States Index (15) and the State Fragility Index (16) show that around three quarters of the twenty lowest-scoring countries are sub-Saharan African countries. While there are some discrepancies about the composition and ranking within the twenty, there is wide consensus on the states that are deemed to be fragile or even failed. Sub-Saharan African states that appear in both indices among the twenty worst-off countries are (in alphabetical order): Burundi, Central African Republic, Democratic Republic of Congo (DRC), Ethiopia, Guinea, Guinea-Bissau, Niger, Nigeria, South Sudan, Sudan, and Zimbabwe. Other countries that appear in either of them are Cote d'Ivoire and Kenya (Fragile States Index) and Mali, Rwanda, and Uganda (State Fragility Index). In both indices the DRC, Somalia and both Sudan and South Sudan are found among the worst-scoring states.

The third index, the Global Peace Index, lists ten sub-Saharan African states among the twenty worst-ranked countries: Somalia, Sudan, DRC, Central African Republic, Cote d'Ivoire, Nigeria, Zimbabwe, Ethiopia, Burundi, and South Sudan (in descending order). The comparably lower occurrence of sub-Saharan African states reflects the different approach of the Global Peace Index and clearly shows that the state of peace can be a telling determinant for state failure – but not necessarily. State failure comprises far more elements than the occurrence of violent conflict.

Concluding from this concise analysis, there are clear indications on the geo-political composition of the group of states generally considered approaching state failure. Despite criticism about the methodology and the indicators used by such indices[75], the comparison evidently shows that a large number of weak, fragile or failed states are located in sub-Saharan Africa. The reasons for that may be very diverse; yet, this thesis will pursue the question whether, apart from the particularities of the deficiencies of each state, there may be any structural factors contributing to the continuous weakness of sub-Saharan African states with their colonial history as the main reference point.

[75] See for example: The World Policy Institute, 'The Failure of the Failed States Index', 17 July 2012 <http://www.worldpolicy.org/blog/2012/07/17/failure-failed-states-index> [accessed 12 July 2014].

4. The decolonization process

4.1. Introduction

The process of decolonization was one of the major developments of the 20th century along with the two World Wars and the Cold War. Decolonization can be described as a development 'that signifies the attainment of independence of colonial territories, mandates, trusteeship territories, non-self-governing territories, and the remnants in these categories'[76]. As David Birmingham aptly puts it: 'Decolonization was the mirror image of the colonization that had slowly brought European domination to Africa in the nineteenth century'[77].The continent of Africa was partitioned among the European colonial powers in the years and decades after the Berlin West Africa Conference in 1884/1885. Only two countries, Liberia and Ethiopia and were able to maintain their independent status for most of the colonial era.[78]

The decolonization of Africa was a very heterogeneous process depending on both the colonial power and the African territory in question. For the purpose of this thesis, these differences on the road to independence are largely negligible; in fact, it is the effects the turbulent decolonization had on the newly-independent states that will come under close scrutiny as they might be indicative for the persistence of state failure. Therefore, this chapter will not provide an analysis of the colonization as such nor of the path that the various colonial powers have taken to grant independence to its territories, but will identify general developments within the international community and on the African continent that inevitably contributed to decolonization.

4.2. World War I and the interwar period

As devastating as World War I was for the European powers, it had limited impact on the status of their colonies in Africa. In fact, the outcome of the war even allowed the British, French and Belgians to extend their colonial influence over former German colonies and Ottoman territories such as Syria, Southwest Africa and Cameroon via the mandates system

[76] Rahmatullah Khan, 'Decolonization', in *Max Planck Encyclopaedia of Public International Law* <http://opil.ouplaw.com/home/EPIL> [accessed 12 July 2014], para. 1.
[77] David Birmingham, *The decolonization of Africa* (London: UCL Press, 1995), p. 2.
[78] A. Adu Boahen, 'Africa under Colonial Domination 1880-1935', in *UNESCO General History of Africa*, ed. by J. Ki-Zerbo and others, 8 vols (London: James Currey, 1990), VII, p. 120.

of the League of Nations.[79] However, the European colonial empires used soldiers from their colonies to fight in both World Wars. France alone deployed around one million of them in World War I of which 250,000 died.[80]

Throughout the 1920s and beginning of 1930s the colonial empires were deemed to be relatively stable.[81] Colonies at that time were seen as a natural component of the respective European powers. As Raymond Betts puts it: '[E]mpire was like Nelson's statute in Trafalgar Square of the Eiffel Tower on the Champs de Mars – it was just there'[82].

Nevertheless, the largely unquestioned and natural-seeming colonialism by European powers began to be challenged, ironically, by the two non-European powers that would dominate world politics in the second half of the 20th century – the United States and the Soviet Union. This development can be seen as a direct result of the return the principle of self-determination already emphasised in the American Declaration of Independence (1776) and during the French Revolution (1789).[83] American president Woodrow Wilson is widely regarded as an instrumental figure for the emergence of decolonization despite the fact that the idea of 'national' self-determination does not feature prominently in his line of argumentation. In fact, for Wilson, self-determination essentially had the notion of self-government and no collective or ethnic component.[84] The relatively vague terminology of Wilson that can also be found in his famous Fourteen Points, has allowed a significant leeway for interpretation that almost uniformly assumed him to be in favour of the liberation of European colonies. Only later it became clear that Wilson did not anticipate the consequences of his terminology.[85]

The establishment of the Soviet Union and the institutionalisation of communism also had strong ramifications for decolonization. Vladimir Lenin postulated the concept of self-determination and proclaimed that European imperialism was essentially a capitalist policy of exploitation and extension of (market) power.[86] Whereas the demand for self-determination by Lenin appears to be primarily to underline his ideological position, as a means of winning the support of the non-Russian peoples for communism and for the politically progressive strata

[79] Raymond F. Betts, *Decolonization* (London: Routledge, 1998), p. 11.
[80] Henry S. Wilson, *African Decolonization* (London: Edward Arnold, 1994), p.15.
[81] Betts, *Decolonization*, p. 10.
[82] Ibid., p. 17.
[83] Kreijen, *State Failure*, p. 116.
[84] Allen Lynch, 'Woodrow Wilson and the principle of "national self-determination": a reconsideration', *Review of International Studies*, 28 (2002), 419-436, p. 424.
[85] Ibid., 426.
[86] Betts, *Decolonization*, p. 13-14

of a people, the Soviet Union adhered to this principle and became one of the main proponents for the inclusion of the principle in the Charter of the United Nations.[87]

A similarly strong impact for the future of colonisation resulted from the economic crisis of 1929. The global economic depression had substantial ramifications on the African continent with world-wide demand for minerals and agricultural products deteriorating rapidly. Since all colonies were, more or less, dependent on the export of such products, it is very clear that they were affected heavily.[88] Although the years of economic decline did not lead to an increased level of disorder in the colonies, the European colonial powers were hit by the consequences of the depression realising that an autonomous financing by the colonies was practically impossible.[89] There was still strong belief that the economic advantages of colonisation outweighed the negatives but the Europeans slowly started to think about alternative models that would not weaken their position while, at the same time, reduce costs.

In summary, World War I and the interwar period did not, therefore, lead to much geographical change with regard to the colonies of the European empires but rather to a shift in the perception of colonialism. Both Woodrow Wilson and Vladimir Lenin as well as the impacts of the economic crisis starting in 1929 were decisive factors for such a development that slowly began to reject the idea that colonialism was a given and turned the attention to the principle of self-determination.

4.3. World War II and aftermath

The outbreak of World War II in 1939 heralded a number of significant developments with regard to the colonial world that accompanied the atrocities of the war. Similar to World War I, the European empires, most notably Great Britain and France, used soldiers from their colonies. Britain deployed over two and a half million citizens from India to fight in North Africa and the Middle East against Nazi Germany and Italy, and later in Asia against Japan.[90] While British colonies in Africa served mainly as military bases[91], the French army comprised

[87] Kreijen, *State Failure*, p. 117.
[88] Wilson, *African Decolonization*, p.32.
[89] John D. Hargreaves, *Decolonization in Africa* (New York: Longman Group, 1988), p. 34.
[90] Marika Sherwood, 'Colonies, Colonials and World War Two', *BBC History*, 30 March 2011, <http://www.bbc.co.uk/history/worldwars/wwtwo/colonies_colonials_01.shtml#two> [accessed 12 July 2014].
[91] Ibid.

almost nine percent Africans, mainly from French Algeria and other Northern African colonies.[92]

During the course of the war, the fighting extended to the territories of the colonies and, thus, had a more direct impact on them. The successful invasion of large parts of Northern Africa by the Nazis under Erwin Rommel from 1941 to 1943 was, however, only a brief disruption for colonial control by France and Great Britain.[93] In Asia, the situation was similar to the extent that an external power – Japan in this case – challenged the European powers on their colonial territory. However, the Japanese invasion had a much more severe impact on colonial role as the military focus on Europe left the Asian colonies in a vulnerable situation. In most of the Southeast Asian colonies, the Japanese replaced the European colonial administration by structures of indirect rule and even granted independence to Burma and the Philippines in 1943.[94] The intention by Japan to become a colonial empire themselves and the brutality of both the Japanese troops and their counterparts cost around 24 million lives in Asia between 1941 and 1945 alone.[95] While these developments in South East Asia led inevitably to a power vacuum in the region and, subsequently, to the dismantling of colonies in this region and, the European colonial powers were not willing to concede their influence as rapidly in Africa.[96] In fact, the colonial landscape has virtually remained unchanged over the two World Wars.[97]

Although decolonization in Africa came at a later stage than in Asia, one can observe a direct correlation between some developments implicated by World War II and the fall of the colonial empire in Africa. The following part will focus in particular on the events leading to decolonization in Africa.

The end of World War II brought a radical change to the structure of the international community. For centuries, Europe was the absolute centre of political and military power. In 1945, after the devastating effects of a second World War within barely thirty years, Europe found itself in ruins. Nazi Germany was defeated but the outlook was very meagre. If this was not enough to end Europe's dominance in world affairs, the emergence of the United States

[92] Hargreaves, *Decolonization in Africa*, p. 49.
[93] Betts, *Decolonization*, p. 21.
[94] Ibid., p. 22.
[95] Tim Harper, 'Japan's gigantic second world war gamble', *The Guardian*, 7 September 2009, <http://www.theguardian.com/world/2009/sep/07/japan-imperialism-militarism> [accessed 12 July 2014].
[96] Martin Shipway, *Decolonization and its Impact: A Comparative Approach to the End of the Colonial Empires*, (Malden: Blackwell Publishing, 2008), p. 114.
[97] Herbst, 'The creation and maintenance of national boundaries in Africa', p. 673.

and the Soviet Union as the new global powers meant a complete overhaul of the international community.[98] As Betts accurately observes: 'World War II was the violent manifestation of globalization in which all the traditional "Great Powers of Europe" became secondary states'[99]. The alterations of the international legal order together with the political, economic and military weakness of most European countries also affected their colonies in Africa. An analysis of the various developments allows one to align them into two broad categories: first, developments within the colonial empires, and second, developments within the international community.

4.3.1. Developments within the colonial empires

The economic disaster caused by World War II made the colonial empires realise that a continuation of hitherto existing strategies with regard to their colonies was unbearable.[100] Undoubtedly, there was a strong desire by the colonial powers to maintain or even strengthen their influence in their dependent territories to facilitate economic recovery.[101] For this purpose, solutions were discussed on how colonial policy could be altered in order to make the colonies more productive and less prone to political instability.[102] The approaches to reach this objective differed significantly. As Raymond Betts argues, several practices can be observed: while the United States called for internationalisation and Great Britain agreed to some devolution of some of its empire, France and the smaller colonial powers (Belgium, Netherlands, Spain, Portugal) were not keen, at least for the foreseeable future, to change their colonial policy much.[103] Great Britain, in particular, acknowledged the route towards eventual self-government and, thus, placed its emphasis on structures of local government.[104] At the same time, the growing anti-colonial stance, notably by the United States, provoked Great Britain and France to change their rhetoric towards a policy of development and progress and led them to stronger investment in social and political structures in their colonies.[105] In this regard, it is worth mentioning that Great Britain, already in 1940, passed the Colonial Development and Welfare Act for investments in their dependencies while France reacted

[98] Betts, *Decolonization*, p. 20.
[99] Ibid., p. 21.
[100] Ibid., p. 27.
[101] Shipway, *Decolonization and its Impact*, p. 118.
[102] Andreas Eckert, 'Exportschlager Wohlfahrtsstaat? Europäische Sozialstaatlichkeit und Kolonialismus in Afrika nach dem Zweiten Weltkrieg', *Geschichte und Gesellschaft*, 32 (2006), 467-488 (p. 479).
[103] Betts, *Decolonization*, p. 26.
[104] Shipway, *Decolonization and its Impact*, p. 123.
[105] Eckert, 'Exportschlager Wohlfahrtsstaat?', p. 479.

with the foundation of the *Fonds d'Investissement et de Développement Economique et Social* (FIDES).[106]

These new approaches – development of and economic partnership with the colonies rather than domination as well as a growing acceptance of eventual self-government – never brought the desired effect. Inspired by the developments in Asia, anti-colonial nationalism soon began to challenge the European colonial powers in Africa. Although nationalism in Africa was far from being a homogenous movement – in fact, leaders of such groups 'sought support in the seething complexity of colonial societies splintered by class, ethnicity and belief, which foreigners so readily simplified into black and white'[107] – the demand for European retreat unified them to a certain extent. It can be assumed, however, that nationalism was primarily existent in the conscience of a small indigenous elite educated in the home countries of the colonial rulers.[108] One of the leaders, Kwame Nkrumah, who led the Gold Coast to independence in 1957, was involved in organising a pan-African congress in Manchester in October 1945 that was chaired by the African-American W. E. B. Dubois. The congress passed a number of resolutions that called for the independence or self-government of all colonies in Africa and the West Indies and formulated a Declaration to the Colonial People that included a number of suggestions for both workers and intellectuals on which measures could be taken to successfully reach political independence.[109]

Nkrumah's vision for a United States of West Africa soon turned out to be an impossible plan considering that West Africa had never in its entire history been more than a fragmented region of kingdoms, states, other political entities and dependent territories.[110] Despite the fact that his adamant calls for unity that lasted until 1965 remained vastly unheard, Nkrumah can be considered one of the central characters in the process of decolonization. Already in 1952 he became Prime Minister of the Gold Coast and achieved independence five years later. Although Great Britain chose to allow decolonization in Ghana, as it was called upon independence, due to its relatively strong economic prosperity and a growing intellectual elite, it did not foresee the wave of enthusiasm that spread over other colonies in Africa.[111] According to David Birmingham, '[t]he course of decolonization had been conceded rather

[106] Ibid., p. 479-480.
[107] Birmingham, *The decolonization of Africa*, p. 5.
[108] Kreijen, *State Failure*, p. 121.
[109] Marika Sherwood, 'Pan-African Conferences, 1900-1953: What Did "Pan-Africanism" Mean?', *The Journal of Pan African Studies*, 4 (2012), 106-126 (p. 109).
[110] Ibid., p. 111.
[111] Birmingham, *The decolonization of Africa*, p. 27.

than directed by Britain'[112]. The independence of Ghana accelerated the decolonization of Africa and declarations and concessions of independence came at a remarkable pace.

Even before the relatively successful transition to independence by Ghana, Northern Africa was the setting of the first African countries to achieve formal independence. In Egypt, for instance, Great Britain ended its protectorate already in 1922 but remained in factual control by the instalment of a high commissioner responsible for the Suez Canal. A military *coup d'état* in 1952 was followed by the declaration of the Egyptian republic one year later. The complete end of British domination came with the nationalisation of the strategically important Suez Canal in 1956 by Egyptian president Gamal Abd al-Nasser and with the following intervention that led to a military disaster for France and Britain and strengthened the nationalist forces in Egypt.[113]

While controlled decolonization in north-eastern Africa (Libya and Sudan also achieved independency) remained a relatively calm process, the French territories in the Maghreb experienced violent conflicts with France in their struggle for independence. France eventually changed its strict policy and granted independence to Morocco and Tunisia. Algeria constituted a different case due to the integration of parts of the territory as *départements* of France and its economic significance to France. Under the strong influence of the high number of French white settlers in Algeria, also called *pieds noirs*, France fought a devastating war against the National Liberation Front (FNL) until Charles de Gaulle denied the *pieds noirs* his support and agreed a ceasefire with the FNL in 1962. Shortly after, on 5 July 1962, Algeria became independent.[114]

By 1960, most of Northern and West Africa was decolonized. The pace of decolonization of the rest of Africa, however, was stunning. In sub-Saharan Africa a large number of today's sub-Saharan African states became independent between 1960 and 1963. Of the fifty-two states classified by the United Nations as belonging to sub-Saharan Africa, twenty-three achieved independence and immediately acceded to the United Nations in that short time span.[115] The significance of this expeditious development for the vast appearance of failed states in sub-Saharan Africa will be analysed in chapter 5.

[112] Ibid., p. 28.
[113] Ibid., p. 10-12.
[114] Ibid., 17-22.
[115] United Nations, 'Member States of the United Nations', <http://www.un.org/en/members/> [accessed 12 July 2014].

Concluding from these observations on the 'national' dimension of the fall of the colonial empires, the decolonization of Africa was a product of various factors such as the loss of power and economic decline caused by World War II, and the appearance of nationalist tendencies in the colonies following anti-colonial rhetoric mainly coming from the United States. Probably the most influential development was, however, the establishment of the United Nations in 1945 and the promotion of the right to self-determination. This 'international' dimension of decolonization will be analysed in the next chapter.

A few final remarks on some general post-colonial developments are worth mentioning since they also had an impact on the weakness of the sub-Saharan African post-colonial state. Upon decolonization, African leaders were usually quick to replace the constitutions developed for the newly-independent states by other instruments deemed more appropriate to fulfil the needs of the government and generally favoured single-party regimes. Although this was supposed to promote African unity, it tended to develop into authoritarian forms of government.[116] Such policies were often used as a means of distancing itself from the colonial regime but, in many cases, delayed parliamentarianism and democratisation. The lack of school and university graduates in sub-Saharan Africa also was a determining problem for the future state consolidation.[117]

According to Daron Acemoglu, Simon Johnson, and James A. Robinson, the differences in development between African states largely depend on the type of colonization that was imposed on the respective colony.[118] They argue that different forms of colonialism depended on the mortality rates settlers experienced in colonial territories. Thus, under favourable conditions, Europeans were quick to settle in the colonies and establish institutions while, under contrary circumstances, the primary aim was to extract natural resources. Former extractive colonies, therefore, inherited very weak institutions and subsequently developed much slower than former settler colonies.[119] The Democratic Republic of Congo, for instance, is deemed to be one of the standout cases of extractive colonialism with the consequences felt until today.[120] In this regard, the different colonial strategies of the two main colonial empires, Britain and France, also played a decisive role. Britain tended to follow a system of indirect

[116] H. Kwasi Prempeh, 'Africa's "constitutionalism revival": False start or new dawn?', *I.CON*, 5 (2007), 469-506 (pp. 474-476).
[117] Ibid., p. 475.
[118] Daron Acemoglu, Simon Johnson, and James A. Robinson, 'The Colonial Origins of Comparative Development: An Empirical Investigation', *The American Economic Review*, 91 (2001), 1369-1401.
[119] Ibid., p. 1395.
[120] Ibid., p. 1375.

rule which 'involved the use of indigenous African power structures, including local institutions, kings, chiefs, eldermen and so on, as conduits for the implementation of British colonial policies'[121]. In contrast, the French established a centralized system of rule ('direct rule') that directly imposed existing French structures on indigenous power structures with little or no administrative or budgetary competences for the African population.[122] While the motives for indirect rule are disputed – preservation of indigenous structures and necessity at the two extreme ends of argumentation – it contributed to a certain extent to the learning of administrative and institutional settings by the indigenous population. This approach of decentralization cautiously indicates that indirect rule has favoured the self-governing and, thus overall, development of former British colonies in sub-Saharan Africa compared with the strategy of direct rule imposed by France.[123]

4.3.2. Developments within the international community

The changes of colonial policy by the European colonial powers following World War II and the appearance of groups within the dependent territories opposing colonial rule were strongly coined by a new international order. As outlined above, the emergence of the United States and the Soviet Union as new global powers disturbed the traditional euro-centric international community. The shift in world politics was completed by the foundation of the United Nations on 26 June 1945 in San Francisco. How did this shift affect the process of decolonization? And why did the principle of self-determination acquire such a prominent position in the discourse?

As we can conclude from chapter 4.2. early calls for self-determination by Woodrow Wilson and Vladimir Lenin represented a point of departure for decolonization and gave both liberal and communist critics of colonialism an ideological foundation. Colonialism was not an undisputed fact anymore. In fact, the 1930s and the 1940s, under the strong influence of World War II, proved to be decades of rapid change. Central to the acceleration of decolonization was the signing of the Atlantic Charter on 14 August 1941.[124] In this pivotal document US President Franklin D. Roosevelt and British Prime Minister Winston Churchill drew up a number of principles that should be an integral part of the future world. The third

[121] Ambe Njoh, 'The Impact of Colonial Heritage on Development in Sub-Saharan Africa', *Social Indicators Research*, 52 (2000), 161-178 (p. 163).
[122] Ibid., p. 166.
[123] Ibid., p. 177.
[124] Kreijen, *State Failure*, p. 119.

principle stipulates that the states 'respect the right of all peoples to choose the form of government under which they will live; and they whish to see sovereign rights and self government restored to those who have been forcibly deprived of them'[125]. It seems rather paradox that a colonial empire such as Great Britain would agree to sign a charter that effectively called for a halt to decolonization. Now, there are diverging views on what the UK and the US understood under the term 'all peoples'. Although Churchill reiterated his contemporary understanding of the principle only to be a reference to occupied states by the Nazis, he set in motion an irreversible debate on the justification of colonialism.[126]

The right to self-determination is one of the more controversial principles of public international law. Thus, in a first step, it is necessary to analyse its actual meaning. In a very broad sense, 'the concept of self-determination concerns the right of a collectivity to exercise control over its own affairs'[127]. Such a wide description could be interpreted in a number of different ways with the term 'collectivity' being particularly susceptible to challenge the sovereignty of states. The term was equally controversial in the first half of the 20th century. From the diverging interpretations of Wilson, Lenin, Roosevelt and Churchill to the inclusion of the United Nation's objective '[t]o develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples'[128], self-determination appeared manifold; yet, the precise meaning of the term remained unclear. This inconclusiveness has posed substantial problems to the international community ever since, in particular, with regards to decolonization. While this issue will play an integral part in the analysis of the structural weakness of sub-Saharan African states in chapter 5, it is enough to indicate its importance for decolonization at this point. In fact, in the post-war period the principle of self-determination was more or less equated with the right of colonial people to be freed from colonial rule and closely tied to the growing reception of racial equality and human rights.[129]

The United Nations issued a number of resolutions on self-determination in the 1950s and several dependent territories gained independence. Yet, the largest wave of decolonization coincided with the passing of General Assembly Resolution 1514 in 1960. This Declaration

[125] Atlantic Charter, reproduced in Yale Law School, *The Avalon Project*, <http://avalon.law.yale.edu/wwii/atlantic.asp> [accessed 12 July 2014].
[126] Kreijen, *State Failure*, p. 119.
[127] Ingrid Barnsley and Roland Bleiker, 'Self-determination: from decolonization to deterritorialization', *Global Change, Peace & Security*, 20 (2008), 121-136 (p. 121).
[128] Charter of the United Nations, Article 1.2., San Francisco (1945), <http://www.un.org/en/documents/charter/chapter1.shtml> [accessed 12 July 2014].
[129] Barnsley and Bleiker, 'Self-determination', p. 125.

on the Granting of Independence to Colonial Countries and Peoples emphasised the principle of self-determination and reiterated that '[a]ll peoples have the right to self-determination; by virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development'[130]. It also condemns alien domination and exploitation and stipulates that the '[i]nadequacy of political, economic, social or educational preparedness should never serve as a pretext for delaying independence'[131].

By 1967, the number of member states of the United Nations reached 122 including forty-nine former colonies compared to the fifty-one founding states.[132] This explosion of participants unsettled much of the equilibrium that existed until then and has had a considerable impact on global affairs ever since.

One last factor worth mentioning with regard to the Europe-African relations is the impact of the foundation of the European Economic Community in 1957 on the French empire. In the 1950s, France was confronted with increasing difficulties to maintain the costly policies it applied in its dependent territories in Africa. Therefore, when the conclusion of the Rome Treaties came in sight, France prevailed in the establishment of a European Development Fund and a facilitation of access for its colonies in order to bring the Community to 'participate', mostly financially, in the upholding of the French overseas empire. Despite the loss of most of its dependent territories in the following years, this coined the relations and association between Europe and former French Africa for the coming decades.[133]

We have witnessed that the major wave of decolonization took place in the 1950s and 1960s. Over 700 million people have been freed from colonial rule since World War II. Notwithstanding, a small amount of the world's population can still be considered to live in dependent territories. As of 2011, sixteen such territories are still governed by the UK, the US, France and New Zealand.[134] Well aware of the fact that the developments of World War II and the post-war period with regard to the principle of self-determination and its significance for decolonization are a complex phenomenon, this chapter aimed at providing a foundation

[130] United Nations General Assembly, Resolution 1514 (XV), 14 December 1960, <http://www.un.org/documents/ga/res/15/ares15.htm> [accessed 12 July 2014].
[131] Ibid.
[132] Betts, *Decolonization*, p. 41.
[133] Martin Rempe, 'Decolonization by Europeanization? The Early EEC and the Transformation of French-African Relations', *KFG Working Paper* 27 (2011), Freie Universität Berlin, p. 9-10.
[134] Rahmatullah Khan, 'Decolonization', in *Max Planck Encyclopaedia of Public International Law* <http://opil.ouplaw.com/home/EPIL> [accessed 12 July 2014], para. 1.

for a much more intense analysis on decolonization and state failure in sub-Saharan Africa in the next chapter.

5. (De)colonization and state failure in sub-Saharan Africa

This chapter will be the central part of this thesis. It aims at finding answers to the research questions formulated at the beginning of the thesis. Has the arbitrary demarcation of territory by the European colonial powers laid the foundation for the strong appearance of state failure in sub-Saharan Africa? In how far have the changes in the international system since 1945 had impacts on the continuity of state failure in sub-Saharan Africa? In accordance with these questions, this chapter will be structured along two lines of argumentation: first, an analysis of both pre-colonial Africa and the delimitation of territories by the European colonial power shall investigate possible impacts on the permanence of state failure; second, developments within the international community shall be identified that may have contributed to structural weaknesses in sub-Saharan African states.

5.1. Arbitrary Demarcation

5.1.1. Pre-colonial Africa

Africa is the oldest of all continents and has, therefore, a unique, long and eventful history.[135] Obviously, a substantive account of the history of Africa would go far beyond the scope of this thesis. Hence, the focus will be placed particularly on the developments in the nineteenth century that formed the structure of Africa prior to European colonization.

Africa has been of great interest to Europeans since ancient times and with the Portuguese extending their missions of exploration to the parts south of the Sahara in the fifteenth century the formerly mystic continent slowly began to shape in the minds of the Europeans, albeit restricted to the coastal areas at first.[136] Trade was the defining element between Europe and Africa for centuries to come but, due to the geographical limitation of European influence along the coasts, the established structures of trade in most of African societies remained stable until the nineteenth century.[137] Still, already in the eighteenth century, under the impact

[135] Robert O. Collins and James M. Burns, *A History of Sub-Saharan Africa* (Cambridge: Cambridge University Press, 2007), p. 7.
[136] Ibid., pp. 175-176.
[137] J. F. Ade Ajayi [ed.], 'Africa in the Nineteenth Century until the 1880s', in *UNESCO General History of Africa*, ed. by J. Ki-Zerbo and others, 8 vols (Oxford: James Currey, 1998), VI, p. 5.

of Enlightenment, improved means of exploration allowed for some expeditions beyond the coastal regions.[138]

The long-existing Euro-African links are obvious; however, the defining question is how the African continent was structured in comparison with the European model of the Westphalian state that was imposed on Africa upon colonization. In fact, structures resembling to those of states have existed in Africa already approximately in 3200 BC when Kemet, Kush, Meroe and Axum were political entities with a centralised and multi-national appearance.[139] For much of Africa's history states and large empires such as Ghana, Ashanti, Mali, Bunyoro-Kitara, Zimbabwe, and Dahomey existed. Such pre-colonial African states were generally 'characterized by the intensification of social hierarchy, territorial expansion and integration, economic specialization, control over labor, long-distance exchange, and the promulgation of state ideologies'.[140] Therefore, the notion that Africa has been a continent largely deprived of any form of political structure can be dismissed. Nonetheless, these empires were different to the Westphalian state in the sense that they were not inherently tied to the model of 'nation states'. In fact, the nation state has had no tradition in African societal, cultural and political conditions.[141] According to Obiora Chinedu Okafor, African states typically comprised power structures extending 'widely toward a flexible, changing periphery and the spheres of "ritual suzerainty" and "political sovereignty" do not coincide'[142].

The recurrent theme of difficult state-building in Africa over centuries of African history must always be viewed to be much influenced by topographic conditions. The vast territory and comparably low density of people, and varying and often inhospitable environmental and ecological conditions represented impediments to consolidation of states.[143]

Turning to the beginning of the nineteenth century one can see that Africa was already relatively structured in terms of defined territories inhabited by different cultural and linguistic groups. Despite such structures, local and regional mobility remained a frequent phenomenon due to various factors such as occupational reasons, periods of drought, or

[138] Collins and Burns, *A History of Sub-Saharan Africa*, p. 255.
[139] Obiora Chinedu Okafor, *Re-Defining Legitimate Statehood. International Law and State Fragmentation in Africa* (The Hague, Martinus Nijhoff Publishers, 2000), p. 22.
[140] J. Cameron Monroe, 'Power and Agency in Precolonial African States', *Annual Review of Anthropology*, 42 (2013), 17-35 (p. 21).
[141] Saadia Touval, 'Africa's Frontiers: Reactions to a Colonial Legacy', *International Affairs*, 42 (1966), 641-651 (p. 642).
[142] Okafor, *Re-Defining Legitimate Statehood*., pp. 23-24.
[143] Jeffrey Herbst, *States and Power in Africa*, (Princeton: Princeton University Press, 2000), pp. 11-13.

war.[144] The importance of agriculture in Africa and the often poor soils paired with inadequate technology led to a certain necessity of movement which also had an impact on the forms of government. There was a tendency, except for territories along coastal strips, to exert authority over people instead of land.[145] The rule over people in Africa was very diverse but ranged, in general, between two extremes of authority.

> 'Basically, there were two patterns of authority in Africa in the early nineteenth century. One was the centralized "hierarchical, well-defined order based on the payment of tribute", which could be found in the kingdoms and centralized states. The other was the less authoritarian, and informal type of government by councils of elders and notables found in the non-centralized societies.'[146]

Moreover, pre-colonial African structures often involved the affiliation of people to more than one sovereign. In fact, due to the difficulties to uphold territorial claims because of insufficient communication and technology sovereignty over land and authority over people have not always coincided. Such a condition could be compared to structures in medieval Europe but it was exactly the loose ties that also allowed for quite dynamic developments. Authority depended very much on the means of infrastructure and the construction of loyalties.[147]

The evolving nineteenth century brought several changes to these patterns. There were both internal and external influences, socio-economic and religious, that shaped the African continent in the nineteenth century. Some of these developments shall be described hereinafter.

Socio-economic changes had a substantial impact on the structure of Africa. The abolition of slave trade was central to this trend. The depopulation that slave trade implied for Africa was a great impediment for economic development. European states, most notably Great Britain, began to vow for the abolition of slave trade in the early nineteenth century but it took until 1850 for the population to rise again.[148] This is not surprising given that in the eighteenth century around seven million slaves were traded for European goods. Europeans agreed to the abolition of slave trade due to an oversupply of labour, for humanitarian reasons and the increasing orientation towards Asia; hence the impact on Europe was relatively small.[149] But

[144] Ajayi [ed.], 'Africa in the Ninteenth Century', p. 2.
[145] Jack Goody, *Technology, Tradition and the State in Africa* (London: Oxford University Press, 1971), p. 30.
[146] Ajayi [ed.], 'Africa in the Ninteenth Century'., p. 7.
[147] Herbst, 'Responding to State Failure in Africa', pp. 128-129.
[148] Ajayi [ed.], 'Africa in the Nineteenth Century', p. 3.
[149] Ibid., p. 27.

what were the implications for Africa? It mainly meant the loss of Europe as destination for slaves and a reorientation for Africa towards the production and selling of products else than slaves.[150] Despite the great moral success of abolition of slave trade for Africans this was a massive task to cope with, in particular, considering the effects of depopulation that slave trade brought with it and the growing global economy. Also, the inner-African slave trade that was not covered by the abolition of the European states was growing as a result.[151] Although difficulties were plenty, there were also some immediate and positive effects other than the abolition itself. One of them was the creation of Liberia. Free slaves that returned from the United States established Liberia as the first independent state of Africa that was recognised by public international law.[152]

The first half of the nineteenth century also was a time of state fragmentation in Africa with a trend towards a centralised pattern of authority and the disintegration of large empires in smaller units or the integration of smaller units into larger authoritarian states.[153] Two major movements supported the fragmentation: one the one hand, the jihads in Western Africa aimed at replacing existing structures by for systems based on theocratic principles[154]; on the other hand, the Mfecane movement that was triggered by demographic pressures and famine radically changed the political landscape in the nineteenth century also allowing the *Boers* to occupy much of the depopulated areas of Southern Africa.[155]

Finally, essential to the shaping of the African continent was the influence of European Christian missionaries. The spread of Christianity had a lasting impact on African societies interfering with traditional beliefs and institutions leading to a certain rivalry between followers of the Protestant and Catholic religion and those who retained their beliefs. The missionaries also contributed to a certain modernisation and educational facilities, mainly along the coast, soon reproduced an elite of Africans educated in these institutions.[156]

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[150] Adiele E. Afigbo, 'Africa and the Abolition of Slave Trade', *The William and Mary Quarterly*, 66 (2009), 705-714, p. 709.
[151] Andreas Eckert, '125 Jahre Berliner Afrika-Konferenz: Bedeutung für Geschichte und Gegenwart', *GIGA Focus*, 12 (2009), 1-8 (p. 2).
[152] Ibid., p. 2.
[153] Ajayi [ed.], 'Africa in the Ninteenth Century'., p. 7.
[154] Mervyn Hiskett, 'The nineteenth-century jihads in West Africa', in *The Cambridge History of Africa*, ed. by John E. Flint, 8 vols (Cambridge: Cambridge University Press, 1976), V, p. 167.
[155] Ajayi [ed.], 'Africa in the Ninteenth Century', p. 39.
[156] Ibid., p. 19.

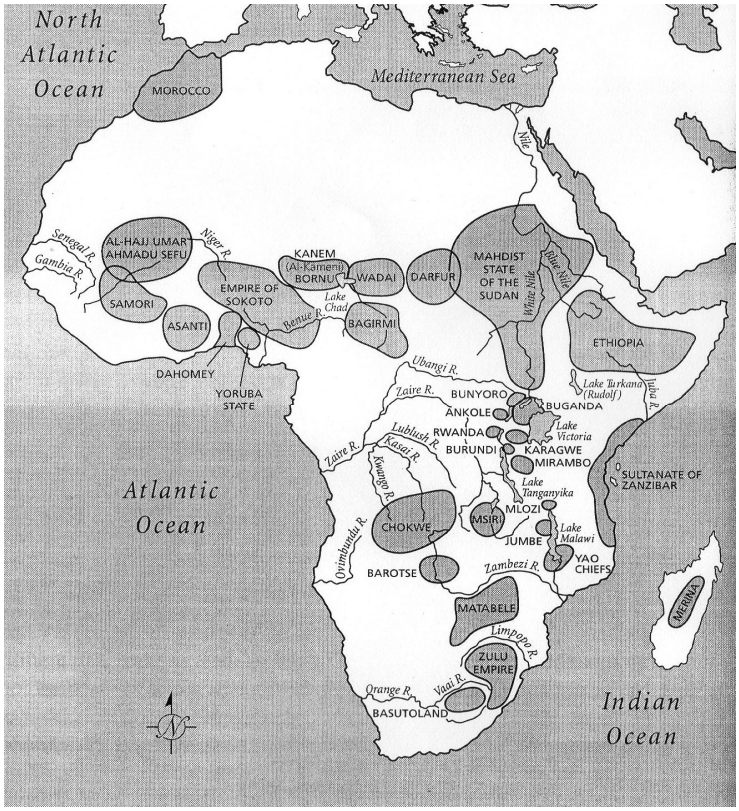

Figure 1. *African states on the eve of the partition.*[157]

This concise overview of the most fundamental changes to the political and socio-economic structure of Africa will allow us to paint a picture of the state of the continent prior to the Berlin West Africa Conference in 1884/1885 that aimed at bringing order to the beginning 'scramble of Africa'. This picture is quite fragmented with a large number of upheavals that challenged existing structures. The map above (*Figure 1*) shows a number of political entities that can be compared to state-like formations: Morocco, Ethiopia, Mahdist State of the Sudan (belonging to the Ottoman Empire), Empire of Sokoto, Asanti, Chokwe, and the Sultanate of Zanzibar, to name just a few. Borders in the sense of strict and defined delimitations were more or less inexistent. The circular shape of the territories of African states at the time suggests that approximations sufficed to establish authority over people in the vast landscapes. Almost all of these entities could be found in the inner parts of Africa which, in the nineteenth century, were mainly influenced by internal developments such as the jihads and the Mfecane.

[157] Collins and Burns, *A History of Sub-Saharan Africa*, p. 266.

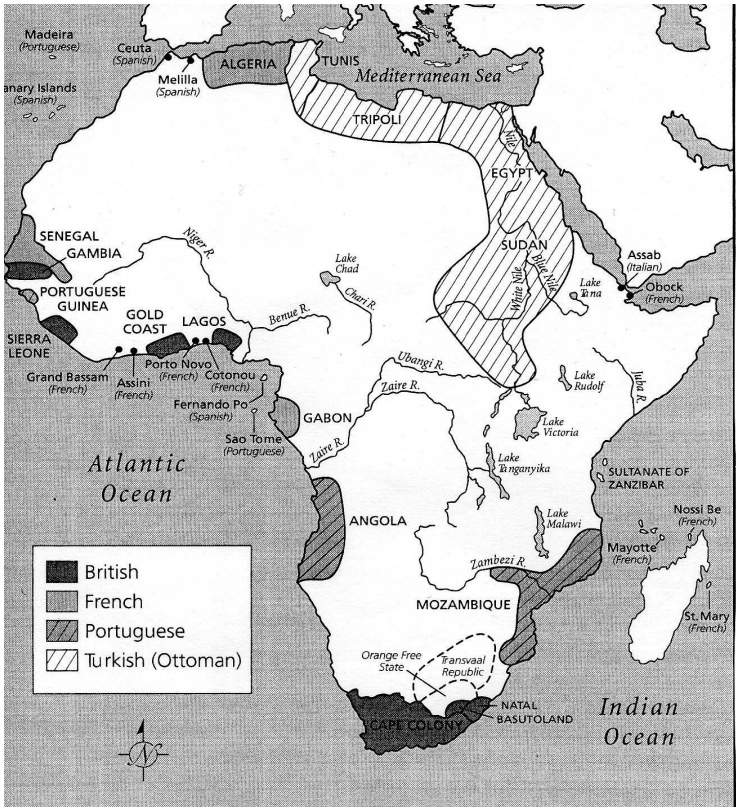

Figure 2. *Europe in Africa on the eve of partition.*[158]

Figure 2 illustrates the presence of European powers at the time. The European influence until the actual colonization can still be confined mainly to the shores of Western Africa with a growing orientation towards the hinterlands. The coastal regions experienced much change due to the European presence; trade structures were established and the Christian missionaries exerted their influence on the resident population. The exploration of the coastal areas was vital for the British, French, Portuguese and Turkish in the first half of the nineteenth century, but soon the striving for more and improved access to the natural resources of the African continent became growing desire that could not be satisfied. All in all, an intensification of conflicts and indigenous resistance to African or European expansionism meant the occurrence of a state of crisis for the African continent that would later came to be exploited by the European colonial powers.[159]

[158] Ibid., p. 271.
[159] Okafor, *Re-Defining Legitimate Statehood*, pp. 28-29.

5.1.2. The Berlin West Africa Conference and the ‚Scramble for Africa'

The Berlin West Africa Conference from 15 November 1884 to 26 February 1885 was a decisive phase for the future of the African continent. Most European powers as well as the United States and the Ottoman Empire followed the invitation to attend the Conference by Prussian King Otto von Bismarck. No African representative was part of the Conference. It is fundamental to stipulate that, in contrast to the perception of many, Africa as such was not partitioned at the Conference. In fact, the so-called scramble for Africa had begun much earlier as can be observed in the previous chapter. The geographical curiosity that befell the Europeans upon discoveries by explorers and missionaries such as David Livingstone led to the first claims of territories in the hinterlands well before the Berlin West Africa Conference.[160] It is equally unconvincing that the degree of colonization that spread over Africa was already envisaged at the Conference. The inner parts of Africa were still a mystery to the European powers; concrete knowledge about the geographic constitution of the continent was rare.[161] The main purpose of the Conference was to establish rules over the future acquisitions of territory and the navigation on the two large rivers Congo and Niger.[162]

A look into the General Act of the Conference[163] reveals the two decisive articles with regard to the future occupation of Africa. Article 34 determines that new acquisitions of territory shall be accompanied by a 'notification addressed to the other signatory Powers of the present Act'. This provision was included in order to avoid conflicts between the European powers. Article 35 foresees that 'the signatory Powers […] recognize the obligation to assure, in the territories occupied by them, upon the coasts of the African Continent, the existence of an authority sufficient to cause acquired rights to be respected […]'. Specifically, this was only an obligation to establish some effective authority on the coast while any territorial claims made during expeditions into the inner parts of the continent from this basis ought to be respected by the other colonial powers irrespective of actual authority.[164]

The Berlin Conference, therefore, did not split Africa among the European powers but was a symbolic event that laid out ground-rules for the conquering of Africa and the prevention of

[160] Eckert, '125 Jahre Berliner Afrika-Konferenz', p. 2.
[161] Ibid., p. 3.
[162] Herbst, 'The creation and maintenance of national boundaries in Africa', p. 683.
[163] 'General Act of the Conference of Berlin Concerning the Congo', *The American Journal of International Law*, 3 (Supplement: Official Documents, 1909), 7-25.
[164] Herbst, 'The creation and maintenance of national boundaries in Africa', p. 684.

conflicts between the Europeans. Within roughly thirty years following the Conference territorial delimitations were imposed on the African continent by means of hundreds of treaties creating protectorates, colonies and other forms of political entities.[165]

5.1.3. Borders and state failure

There is virtually undisputed consensus that most of the African borders have been drawn arbitrarily by the European colonial powers without considering topographic characteristics, nor taking into account cultural, social, or ethnic conditions.[166] According to Gerard Kreijen, the boundaries '[o]n the one hand cut right trough existing tribal societies, whereas on the other they cast into territorial units cultures which by African definitions may have had no social ties at all.[167] Indicative for this evidence is the fact that around eighty percent of African borders have been created along latitudinal and longitudinal lines, many of them constituting straight lines.[168] The great majority of these borders have remained more or less unchanged; the borders in 1995 much resembled those at the end of World War II.[169] This remarkable stability of national frontiers seems paradox given the fact that decolonization aimed at liberating the African peoples from colonial influence. Yet, while such liberation has occurred in numerous fields, leaders of the newly-independent states chose deliberately to retain colonial borders.[170] One of the reasons certainly was a rational choice for security and stability over possibly uncontrollable events of state formation leading to violent conflict over people and land. A reciprocal respect for the borders by the newly independent states and the international community clearly bore advantages for African leaders.[171] Even if a redrawing of the map of Africa had been envisaged, the heterogenic and diverse societal landscape would have offered few indicators for new borders. Probably the most decisive explanation stems from the substantial alterations in the international legal order that essentially rendered impossible the disintegration of states.[172]

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[165] Saadia Touval, 'Treaties, Borders, and the Partition of Africa', *Journal of African History*, 7 (1966), 279-293 (p. 279.).
[166] Herbst, 'The creation and maintenance of national boundaries in Africa, pp. 673-675.
[167] Kreijen, *State Failure*, p. 132.
[168] Alberto Alesina, William Easterly, and Janina Matuszeski, 'Artificial States', *Journal of the European Economic Association*, 9 (2011), 246-277 (p. 246).
[169] Birmingham, *The decolonization of Africa*, p. 6.
[170] Herbst, 'The creation and maintenance of national boundaries in Africa', p. 676.
[171] Robert H. Jackson and Carl G. Rosberg, 'Why Africa's Weak States Persist: The Empirical and the Juridical in Statehood', *World Politics*, 35 (1982), 1-24 (p. 18).
[172] Herbst, 'The creation and maintenance of national boundaries in Africa', p. 677.

Since these changes will be the central focus of chapter 5.2., no further deliberations will be included here. It is sufficient to establish that the preservation of borders is, to a large extent, owed to this development.

According to Jeffrey Herbst, it would be inconclusive to focus exclusively on post-1945 developments. Due to the relatively scarce population in vast territories in pre-colonial Africa ethnicity played a subordinate role to political ties to the chief of the respective population and, thus, revealed little orientation for the creation of borders.[173] The emphasising of ethnicity and national affiliation in distinction to other groups is largely and paradoxically the result of the colonial and post-colonial state.[174] There are also geographical conditions in Africa that provide very few indications of natural boundaries, such as high mountains.[175] At this point it seems useful to say a few words on the arbitrariness of borders. Topographic characteristics may be helpful or indicative for the demarcation of territories, but borders are usually arbitrary.

> All frontiers are artificial, in the sense that they are humanly contrived divisions of landscapes often indistinguishable on either side and restrictions upon contacts between peoples who may, on both sides of the line, speak the same language, profess the same religion, possess common cultural traits, and engage in similar economic activities.[176]

This is obviously a correct observation; yet, compared to the war-ridden centuries that the process of state formation in Europe has endured ('war made the state, and the state made war'[177]), the African continent was partitioned much faster by external powers and with certainly less inclusion of historical, socio-cultural and ethnic considerations.

There were, however, brief instances of reconsideration of borders in the late 1950s. At the All-African Peoples Conference in 1958 in Accra the participants issued several resolutions. The third of these resolutions stipulates that the Conference '(a) denounces artificial frontiers drawn by imperialist Powers […], particularly those which cut across the ethnic groups and divide people of the same stock; (b) calls for the abolition or *adjustment* of such frontiers'[178]. This suggests that there was a consciousness about the arbitrariness of the borders and the problems that might result because of it. However, the adjustment of borders was never

[173] Ibid., p. 679.
[174] Jackson and Rosberg, 'Why Africa's Weak States Persist', p. 15.
[175] Herbst, 'The creation and maintenance of national boundaries in Africa, p. 680.
[176] Touval, 'Africa's Frontiers', p. 641.
[177] Charles Tilly, *The Formation of Nation States in Western Europe* (Princeton: Princeton University Press, 1975), p. 42.
[178] Reprinted in Colin Legum, *Pan Africanism* (London: Pall Mall, 1962), pp. 229-232.

seriously considered and with the adoption of the Charter of the Organization of African Unity in 1963 any hope of alterations to the colonial borders was quashed. Its article III declares that the 'respect for the sovereignty and territorial integrity of each state'[179] is one of the key principles.

We have established that the map of the African continent was drawn by European colonial powers with limited knowledge on the topography and demography of Africa and more or less has retained its shape until today. Coming back to the research question on whether the arbitrariness of the borders have contributed to structural weakness of sub-Saharan African states, it is fundamental to recall the characteristics of weak or failed states. The definition of a failed state was provided in chapter 3.1.: *A state may be considered failed if the absence or ineffectiveness of a government coincides with the loss of the legitimate monopoly of force over (significant parts of) its territory and, therefore, erodes the characteristics generally attributed to a state of the Westphalian model.* State failure may be caused by or lead to numerous impacts; most notably, violent conflict, migration, economic decline, poverty, and terrorism, to name just the most prominent.

The thesis here is that African states are particularly susceptible to violent conflict because of the nature of their borders. In an empirical study, Stelios Michalopoulos and Elias Papaioannou analyse the implications of arbitrary borders in Africa for violent conflict because of ethnic division caused by the colonial demarcation.[180] The authors build their observations on the influential Ethnolinguistic Map by George Peter Murdock[181] that shows the boundaries of historical ethnicities in Africa before colonization. In total, 834 ethnic areas are taken into consideration. By comparing this map to the borders valid in the year 2000, they identify 231 ethnic groups with at least 10% of their historic homeland spread across at least two states. Comparing that data with the forty-nine instances of civil war in Africa since 1970, defined as both internal (involving a government and one or more internal opposition group(s)) and international (in addition, one or more 'third' state(s) intervene), Michalopoulos and Papaioannou come to the conclusion that 'partitioned ethnicities have suffered systematically more from civil conflict compared to groups that have not been directly

[179] Organization of African Unity, *Charter of the Organization of African Unity*, 25 May 1963, available at: <http://www.refworld.org/docid/3ae6b36024.html [accessed 12 July 2014].
[180] Stelios Michalopoulos and Elias Papaioannou, 'The long-run effects of the scramble for Africa', *NBER Working Paper Series*, Working Paper 17620 (2011).
[181] George Peter Murdock, *Africa. Its people and their culture history* (New York: McGraw-Hill, 1959).

affected by the improper border design'[182] and that the 'differences in the probability of civil war between partitioned and non-partitioned groups becomes more dramatic when viewed in the light of the fact that these two groups of ethnicities were socially, culturally and economically very similar in the eve of colonization'[183]. Other authors come to similar conclusions.[184]

In contrast, Andreas Eckert suggests not to overestimate the significance of borders.[185] According to his observations the number of border disputes is relatively low despite the arbitrariness of many borders. Nevertheless, he concedes that this number has increased since the end of the Cold War. Indeed, the fall of the Berlin Wall has provoked an increase of failed states that have previously been supported by either of the bipolar powers due to their strategic positions.[186] For Eckert, the main reason for the continuing appearance of violent conflicts in Africa is the weak political structures in the post-colonial African state.[187] In this sense, the vast occurrence of weak or failed states in Africa would not be a problem of arbitrary borders but refer directly to the ineffectiveness or inability to a government to uphold the legitimate monopoly of force in a state. The most obvious explanations lie in the insufficient inclusion of indigenous people in the higher administration of the colonial state and the exceptionally weak political institutions existing at the time of decolonization.[188]

According to Ibrahim Elbadawi and Nicholas Sambanis, the causes for the endemic appearance of civil war and violent conflict go far beyond ethnicity and religious beliefs.[189] They argue that '[d]eep political and economic development failures – not tribalism or ethnic hatred – are the root causes of Africa's problems'[190]. In their empirical study, the authors stipulate that despite rebel groups are usually defined by ethnic criteria, other factors are decisive: the strive for natural resources, poverty, lack of education, and weak political institutions.[191] It is important to highlight that the working definition of 'civil war' used by Elbadawi and Sambanis is a much more narrow definition than the one used by

[182] Michalopoulos and Papaioannou, 'The long-run effects of the scramble for Africa', p. 29.
[183] Ibid., p. 30.
[184] See: Johnson Olaosebikan Aremu, 'Conflicts in Africa: Meaning, Causes, Impact and Solution', *An International Multi-Disciplinary Journal, Ethiopia*, 4 (2010), 549-560.; Robert Blanton, T. David Mason and Brian Athow, 'Colonial Style and Post-Colonial Ethnic Conflict in Africa', *Journal of Peace Research*, 38 (2001), 473-491.
[185] Eckert, '125 Jahre Afrika-Konferenz', p. 4.
[186] Herbst, 'Responding to State Failure in Africa', p. 124.
[187] Eckert, '125 Jahre Afrika-Konferenz', p. 6-7.
[188] Herbst, 'The creation and maintenance of national boundaries in Africa', p. 682.
[189] Elbadawi and Sambanis, 'Why Are There So Many Civil Wars in Africa?', p. 245.
[190] Ibid., p. 245.
[191] Ibid., p. 253.

Michalopolous and Papaioannou. Elbadawi and Sambanis limit civil war to internal conflicts that challenge the sovereignty of the respective state involved and have caused at least 1,000 deaths.[192] Moreover, they use a model estimating the probability of civil war in 161 countries during a period of five years between 1960 and 1999.

The very differing views on state failure may be explained by differences in measurement and the indicators used. The empirical evidence by Michalopolous and Papaioannou clearly shows the increased incidences of civil war in areas where ethnic groups were split by the boundaries imposed by European colonial powers. However, it remains unclear whether ethnic tensions were actually the very reason for the conflicts. There may have been a number of underlying causes being the main factor for violent conflict; for instance, economic underdevelopment or the struggle for power and/or natural resources. The truth may well be somewhere in between; however it is impossible to deny historic events supporting the view that ethnic divisions have played a major role for violent conflict in sub-Saharan Africa. Between 1956 and 1982, the countries Sudan, Zaire, Rwanda, Ethiopia, Burundi, Zanzibar, Chad, Uganda, Nigeria, and Angola have all experienced civil wars that had an ethnic dimension.[193] Recent examples also appear to underpin this view. The separation of South Sudan in 2011 after more than twenty years of civil war evidently had an ethno-religious dimension since – in contrast to the Arab-Muslim population of the North – the South Sudan is predominately inhabited by people with traditional religions and Christianity although both parts remain culturally and ethnically diverse.[194] In Nigeria, the conflict has been prevailingly religious but also one of economic inequality. The largest African country with regard to the size of the population has over 250 ethnic groups; yet, the religious composition of the population is more or less equal between Muslims in the poor northern and Christians in the more-developed southern parts of Nigeria.[195] The terrorist attacks of the Islamist group Boko Haram that intensified in 2014 aim at the creation of an Islamic State and have left Nigeria on the verge of state failure.

While the occurrence of violent conflicts in sub-Saharan Africa is particularly high, it is surprising how few of them were secessionist conflicts. A secessionist conflict may be described as movements aiming 'to dismember an independent state by either forcible or non-

[192] Ibid., p.247.
[193] Jackson and Rosberg, 'Why Africa's Weak States Persist, p. 5.
[194] BBC News Africa, 'South Sudan profile', 23 April 2014, < http://www.bbc.com/news/world-africa-14069082> [accessed 12 July 2014].
[195] Central Intelligence Agency, 'The World Factbook: Nigeria', <https://www.cia.gov/library/publications/the-world-factbook/geos/ni.html> [accessed 12 July 2014].

forcible means into two or more independent countries with legal personalities that are acknowledged in the international community'[196]. One would assume that the African borders that provide for massively heterogeneous population structures had been challenged frequently in the past. Yet, the boundaries of only ten sub-Saharan African states were challenged within the first forty years of independence.[197] Only two struggles for secession were successful: Eritrea from Ethiopia in 1993[198], and more recently, the break-up of Sudan and South Sudan in 2011. Somaliland is a *de facto* state since 1991 but has not been recognised.[199]

What are the reasons for the lack of secessionist and separatist movements in sub-Saharan Africa especially given the fact that most of them are considerably weak? Firstly, the structure of African states may provide some guidance. The highly heterogeneous composition of African states in terms of ethnicity, religion and culture does not offer valuable clues to the possible redrawing of the boundaries. This is true both internally and between African states. In fact, Eritrea or Somaliland are not more homogenous than most other African states but have achieved secession (Eritrea) or constitute a *de facto* state (Somaliland).[200] This implies that ethnic diversity may not always be conducive for secessionist movements although countries with few but large ethnic groups may well become the target for separatist groups.

Secondly, the availability of resources is evidently important for secessionist groups. Separatist movements may well claim independence from a state or even engage in armed conflict with the state; however, the conditions of the territory claimed are equally relevant.[201] To succeed as a state in sub-Saharan Africa natural resources appear to be vital. Apparently, such resources may be scarce in regions where an ethnic or religious group is not willing to comply with the state's territory and thus secession may not be a viable option. Instead such groups may challenge the state as such; this may be an explanation why Africa experienced more conflicts than any other continent but only very few secessionist conflicts.[202]

Thirdly, and lastly, the international community is very reluctant to recognize secessionist territories. The case of Somaliland proves that despite being a *de facto* state the odds of

[196] Edmond J. Keller, 'Secessionism in Africa', *The Journal of African Policy Studies*, 13 (2007), 1-26 (p. 2).
[197] Pierre Englebert and Rebecca Hummel, 'Let's Stick Together: Understanding Africa's Secessionist Deficit', *African Affairs*, 104 (2005), 399-427 (p. 399).
[198] Ibid., p. 401.
[199] Ibid., p. 401.
[200] Ibid., p. 409.
[201] Keller, 'Secessionism in Africa', p. 5.
[202] Englebert and Hummel, 'Let's Stick Together', p. 402.

international recognition are very low.[203] This may deter separatist groups from seeking independence but rather attempt to seize control within existing borders, either overthrowing the state or establishing itself at regional level. It has also been suggested that the weakness of the state – as it is more or less irrelevant due to the prevalence of *de jure* statehood[204] – is appealing to the elite governing the state since both internal and external sovereignty equips them with benefits such as little incentives for capacity-building, protection from outside interference, receiving international aid, and access to natural resources.[205] In summary:

> Constrained by prevailing international norms of state recognition and their continent's widespread poverty and undiversified economic structure, local political elites, ethnic leaders and other communal contenders face compelling material incentives to avoid strategies of regional self-determination, and compete instead for access to the national and local institutions of the weak sovereign state, irrespective of the latter's history of violence towards them.[206]

Concluding from all of the information gathered on the implications of the arbitrariness of African borders it is evident that the colonial shaping of boundaries has had an impact on the weak structure of sub-Saharan African states. Ethnic, religious and cultural parting lines are not congruent with the political borders and thus bear the potential for violent contestations as has been shown by Michalopolous and Papaioannou and other authors. However, the above-average incidence of ethnic conflict in sub-Saharan Africa must not be contemplated isolated. The underlying reasons or 'roots', as Eckert, and Elbadawi and Sambanis suggest, may lie to a certain extent in the rampant political and economic weaknesses of most sub-Saharan African states. The relatively small number of secessionist conflicts due to the above-mentioned factors indicates that the African borders will remain relatively stable in the future although the secession of South Sudan in 2011 has proved that it is not impossible to achieve border changes.

5.2. The international community's response to decolonization

The foundation of the United Nations in 1945 was a key event in the history of international relations and had an enormous influence on decolonization. It also substantially changed the power structures within the international community. This chapter shall establish whether both legal and factual changes within the international community have contributed

[203] Ibid., p. 412.
[204] See chapter 5.2.2.
[205] Englebert and Hummel, 'Let's Stick Together', pp. 413-415.
[206] Ibid., p. 400.

to the structural weakness of sub-Saharan African states. In this regard, it constitutes the second main string of argumentation of this chapter. The right to self-determination and its particularities with regard to decolonization will once again be a crucial element in this analysis. Moreover, it shall be observed if the restrictive attribution of statehood by the international community and the preservation of its current state are significant for the continuous occurrence of state failure.

5.2.1. The singularity of the right to self-determination

We have already established a certain ambiguity of the meaning of self-determination in chapter 4 and briefly outlined its historic development from Wilson and Lenin to the United Nations resolution 1514. This chapter will now focus on the position the international community, especially the United Nations, has taken on during and after decolonization.

To begin with, it is worth determining the meaning of 'international community' and to describe briefly the nature of it since this knowledge appears fundamental for the understanding of this chapter. In principle, the meaning of international community entails two main characteristics. On the one hand, international community always has the notion of common values and beliefs; on the other, it is essentially based on international law. For all the disagreements existing with regard to a large number of worldwide challenges – military conflicts, famine, human rights, environmental problems, etc. – the institutionalisation of the international community in the United Nations has at least achieved consensus on several important norms included in the 'International Bill of Rights'.[207] Former UN Secretary General Kofi Annan acknowledged the difficulties to clearly establish what the international community is but described it as a pluralistic term including a shared vision for a better world, a common vulnerability, international law and common opportunities. However, he also pointed to the weaknesses of the international community and labelled it a work in progress.[208] The international community, therefore, is clearly an ambiguous construct that has its primary use within the framework of international organisations; in particular, the United Nations. Moreover, the international community is essentially a system of states. As Crawford puts it, 'the power structures within the international system are such that sovereignty and statehood

[207] Andreas Paulus, 'International Community', in *Max Planck Encyclopaedia of Public International Law* <http://opil.ouplaw.com/home/EPIL> [accessed 12 July 2014], para 2-15.; the International Bill of Rights consists of the Universal Declaration of Human Rights (1948), the International Covenant on Civil and Political Rights (1966) and the International Covenant on Economic, Social and Cultural Rights (1966).
[208] Kofi A. Annan, 'The Meaning of International Community', UNIS/SG/2478, 30 December 1999 <http://www.unis.unvienna.org/unis/en/pressrels/1999/sg2478.html> [accessed 12 July 2014].

remain the basic units of currency'[209]. Nevertheless, recent developments such as the growing institutionalisation and increased application of international law point to some change. In particular, human rights and environmental protection were catalysts for the emergence of further actors, albeit to a limited extent: individuals and in some cases corporations.[210]

This shall not dilute the fact that the statist structure of the international community is based on the adherence to fundamental principles of statehood: territorial integrity, non-intervention and absolute sovereignty.[211] The international system is also deeply conservative. External interferences into domestic politics are usually prohibited and condemned – interventions on the basis of the responsibility to protect principle are an exception[212] – and the maintenance of the existing state system is a central element with discrepancies being rarely tolerated.[213]

In a more specific context, the following paragraphs will provide an analysis of the controversial right to self-determination and its implications for state failure in sub-Saharan Africa. There exist numerous definitions and perceptions of self-determination but as we have already determined above in chapter 4, it is a collective right to exert control over political, economic or social affairs without outside influence. It could also be described as the right to be a state. This right to self-determination can, in principle, be exerted by means of secession, association in a federal state or autonomy; in the context of decolonization it meant the achievement of sovereignty from colonial dominance.[214]

Decolonization has been fuelled by the right to self-determination and the General Assembly of the United Nations was a key in this regard. Already in the UN Charter of 1945, the principle of self-determination was included in Article 1 (2) where one of the purposes of the United Nations was '[t]o develop friendly relations among nations based on respect for the principles of equal rights and self-determination of peoples, and to take other appropriate measures to strengthen universal peace'[215]. A closer look at the Charter reveals, however, that the precipitous decolonization was not envisaged by its founding fathers since Article 73 provided a particular provision for non-self governing territories which should be developed

[209] Crawford, *Public International Law*, p. 16.
[210] Ibid., pp. 16-17.
[211] Barnsley and Bleiker, 'Self-determination', p. 127.
[212] See: United Nations General Assembly, '2005 World Summit Outcome', A/RES/60/1, 24 October 2005, para. 138-140.
[213] Jackson and Rosberg, 'Why Africa's Weak States Persist', p. 20.
[214] Crawford, *Public International Law*, p. 141.
[215] Charter of the United Nations, San Francisco (1945) <http://www.un.org/en/documents/charter/chapter1.shtml> [accessed 12 July 2014].

towards self-government 'according to the particular circumstances of each territory and its peoples and their varying stages of advancement'[216]. This proved to be insufficient to delay the decolonization and the landmark resolution 1514 by the General Assembly on the Granting of Independence to Colonial Countries and Peoples of 1960 all but ended any hopes of maintaining colonial empires.[217]

The special feature of self-determination with regard to the decolonization of Africa was that any colony could refer to this right and almost immediately achieved sovereignty and member status in the United Nations regardless of the composition of its society and often lacking the classical features of statehood.[218] Also, sovereignty was more or less confined to existing colonial borders for the various reasons explained in chapter 5.1. One may assume that the right to self-determination resulted in a fragmentation of the continent once the various ethnicities and religious groups of a former colony commonly demanded control over their own affairs. However, upon decolonization the right to self-determination has radically changed its meaning due to the conservative nature of the international community and its fears of uncontrolled state fragmentation. As Jackson rightly observes, the right to self-determination was no more 'the positive right to have a state and government which coincided with historical or cultural nationality or was subject to popular consent'[219]. This explains the lack of significant border changes in Africa ever since the colonisation. The right to self-determination was applied uniquely to the decolonization of European colonies awarding them sovereignty.[220] This means that instead of being a continuous right, self-determination was a momentous event. This striking particularity is what I call the *singularity* or the *paradox nature* of the right to self-determination.

Although there is no indication in international law that the right to self-determination is exclusively connected to decolonization, it was soon made clear by the United Nations that territorial changes were undesirable.[221] The UN General Assembly Declaration on Friendly Relations of 1970 states that, while acknowledging the right to self-determination, this should not authorise or encourage 'any action which would dismember or impair, totally or in part,

[216] Charter of the United Nations, San Francisco (1945) <http://www.un.org/en/documents/charter/chapter11.shtml> [accessed 12 July 2014].
[217] Kreijen, 'State Failure', pp. 127-128.
[218] Ibid., p. 129.
[219] Jackson, *Quasi-States: Sovereignty, International Relations, and the Third World*, p. 152.
[220] Ibid., p. 41.
[221] Barnsley and Bleiker, 'Self-determination', p. 125.

the territorial integrity or political unity of sovereign and independent States'[222]. This confirmed the prevailing *uti possidetis* doctrine that African borders shall be established and upheld on the basis of the frontiers of the former colonies.[223] The International Court of Justice followed this argumentation in its famous *Frontier Dispute* case in 1986 where it ruled on the disputed frontier line between Burkina Faso and the Republic of Mali and held that the intangibility of frontiers is crucial to 'prevent the independence and stability of new States being endangered'[224]. The court also continued its practice to avoid the use of 'right' to self-determination in favour of 'principle' of self-determination.[225] In addition, African leaders and statesmen had no aspiration to object the *uti possidetis* doctrine. After all, a rejection of the principle would most definitely have resulted in the loss of territory and power for the new rulers.[226]

The international community in the shape of the United Nations is state-centric, static, and conservative and, thus, anxious to preserve the status quo of the member states in order to avoid the unclear outcome if self-determination was to be equated with the right to secession without the consent of the parent state.[227] This approach coincides with the lack of territorial changes in Africa and may also be a contributing factor to the inherent structural weakness of many sub-Saharan African countries given the fact that current borders barely reflect the social, religious, ethnic and cultural characteristics of African society. The reluctance by both African leaders and the international community to apply alternative solutions to the statist *uti possidetis* doctrine leaves failed states captured in their own misery. Obviously, despite all the risks it may involve the detachment of self-determination from the colonial context would allow for more flexibility[228] and possibly enable failed states to search for solutions independent of the strict border regime.

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[222] United Nations General Assembly, Resolution 2625 (XXV), 24 October 1970 <http://www.un.org/documents/ga/res/25/ares25.htm> [accessed 12 July 2014].
[223] Guiseppe Nesi, 'Uti possidetis Doctrine', in *Max Planck Encyclopaedia of Public International Law*, <http://opil.ouplaw.com/home/EPIL> [accessed 12 July 2014].
[224] International Court of Justice, *Case concerning the Frontier Dispute (Burkina Faso/Republic of Mali)*, Judgment of 22 December 1986, General List No. 69, para. 20.
[225] Jan Klabbers, 'The Right to Be Taken Seriously: Self-Determination in International Law', *Human Rights Quarterly*, 28 (2006), 186-206 (pp. 195-196).
[226] Herbst, 'Responding to State Failure in Africa', p. 121.
[227] Barnsley and Bleiker, 'Self-determination', p. 127.
[228] Barnsley and Bleiker, 'Self-determination', p. 135.

5.2.2. The prevalence of *de jure* statehood

The structural weakness of many sub-Saharan African states can also be viewed as the result of normative changes within the international community with regard to the concept of statehood. These changes shall be the focus of this chapter. First, the significant distinction between *de facto* and *de jure* statehood shall be elaborated. This will be followed by an analysis of why juridical statehood has acquired such an important position in the context of decolonization and finally, what effects this has had on state failure in sub-Saharan Africa.

5.2.1.1. De facto *and* de jure *statehood*

The differences between *de facto* and *de jure* statehood reflect two different conceptions of the state: the sociological and the normative. *De facto* statehood is a reflection of the definition by sociologist Max Weber which prioritises the existence of a monopoly of force over population as the determining factor. The definition 'emphasizes the empirical rather than the juridical, the *de facto* rather than the *de jure*, attributes of statehood'[229]. In this sense, the sociological point of view aims at catching the tangible reality of the conditions within a certain territory and makes the fulfilment of the empirical criteria a precondition for the attribution of statehood. According to this description, several African states including in particular those on the verge of state failure or those who can already be described as failed states do not possess empirical statehood and, thus, not meet the criteria of a state.[230]

The fact that virtually all of the post-colonial African states are still part of the international community is a product of *de jure* or *juridical* statehood. In contrast to the sociological perception, this definition is essentially normative. It reflects the ambitions of the international community of states to maintain the existing order. *De jure* statehood can be seen as a reference to the elements of 'territory' and 'independence' as stipulated by the Montevideo Convention on Rights and Duties of States.[231] These two elements, therefore, ensure the continuing existence of states that would fail to qualify as states in the empirical sense. We have already established that the current international order only very reluctantly accepts territorial alterations. Recognition has become the key feature for statehood and, consequently, also triggered a shift from the declaratory theory to the constitutive theory.[232]

[229] Jackson and Rosberg, 'Why Africa's Weak States Persist', p. 2.
[230] Ibid., p. 2.
[231] Ibid., p. 13.
[232] Kreijen, *State Failure*, p. 159.

The international community very rarely recognises territories that are *de facto* states, as states. A paradigm for the difficulty to achieve international recognition is the case of Somaliland which enjoys much more stability and resemblance to a state than its parent state Somalia but has so far failed to be recognised.[233] We will see in the next section that *de jure* statehood has occupied a dominant position in Africa ever since decolonization.

5.2.1.2. Institutionalisation of de jure *statehood and state failure*

Decolonization in Africa happened with a pace that even the strongest supporters of liberation from colonial rule could not have envisaged. As we have seen in chapter 5.1., there were little alternatives but to constitute the new states within the territorial boundaries of the former colonies. Nevertheless, it was striking how quickly the international community abandoned its principles regarding the classical criteria of statehood. In the words of Jackson, '[t]o be a sovereign state today one needs only to have been a formal colony yesterday'[234]. Certainly, the granting of sovereignty on the basis of the existence of a legitimate monopoly of force (*de facto* statehood) would have prevented quite a number of territories from becoming independent states; something that was not an option at the time.[235] It was rather assumed that following the achievement of sovereignty, the newly independent African states would soon become to possess the empirical attributes of a state.[236] This is a diametrically opposed process to the tedious state-building processes in Europe where *de jure* statehood always was the logic result of *de facto* statehood that was reached in Machiavellian fashion.[237]

The question is in how far this normative change has had a lasting impact on the existence of failed and weak states in sub-Saharan Africa. Weak states have always existed. What has changed is the structure of the international order after 1945. Before then, weak states were usually either were dissolved, conquered or partitioned or just left stranded to cope with their problems on their own. The present order, in place since the decolonization, shows no signs of flexibility with the main purpose of preserving the existing system of states.[238] A comparison between the old and the new order suggests that the current system has not improved the

[233] Ibid., p. 72.
[234] Jackson, *Quasi-States: Sovereignty, International Relations and the Third World*, p. 17.
[235] Kreijen, *State Failure*, p. 143.
[236] Herbst, 'Responding to State Failure', p. 121.
[237] Jackson and Rosberg, 'Why Africa's Weak States Persist', p. 23.
[238] Kreijen, *State Failure*, p. 153.

situation in many former colonies, but that conditions have rather deteriorated since the end of colonial rule.[239]

It is because of the reluctance of the international community to withdraw recognition from states that lack most or all empirical conditions that weak post-colonial governments until today are embedded in a relatively safe environment with little external pressures.[240] 'The juridical guarantee of the state's existence that is the by-product of international sovereignty reduces pressures for capacity-building'[241]. In a way, one could say that the wish to remain in power by leaders often has trumped the desire to provide security to its population since there were little consequences to be expected from the international community. Therefore, colonial states tended to confine their government efforts to the capital city and the surrounding areas.[242]

Despite all these conditions, many African states were able to economically grow and provide relative security in the two decades after decolonization. The end of the Cold War, however, meant that strategic considerations gave way for a more common international approach focusing on the economic and political performance.[243] Ever since, the stability much more depends on the internal degree of security than on the aspirations of the United States and the Soviet Union and that has certainly exacerbated the situation for many weak African states.

In summary, the structural occurrence of weak states in sub-Saharan Africa can be seen as deeply entrenched in the normative changes that took place during decolonization and that put '[t]he juridical cart […] before the empirical horse'[244]. The criterion of government effectiveness has been largely abandoned in relation to the concept of statehood with the *uti possidetis* doctrine and the principle of non-intervention occupying a privileged position in the international relations.[245] This is not to say that there is a general lack from African leaders and the international community to work towards an improvement. However, the conditions in failed states often include ethnic or religious conflicts, territorial disputes, lack of effective control by the government and many more deficiencies which are, as history so far has shown, rarely possible to solve by strictly adhering to existing state patterns.

[239] Ibid., p. 162.
[240] Ibid., p. 374.
[241] Englebert and Hummel, 'Let's Stick Together', p. 413.
[242] Herbst, 'Responding to State Failure', p. 122.
[243] Ibid., p. 124.
[244] Jackson, *Quasi-States: Sovereignty, International Relations and the Third World*, pp. 23-24.
[245] Kreijen, *State Failure*, p. 147.

5.3. Possible solutions

So far, this thesis has focused almost entirely on the root causes for the structural weakness of many sub-Saharan African states. While establishing a link between state failure and decolonization is a complicated enough process, coming up with tangible solutions appears to be an improbable task. A comprehensive analysis of the numerous propositions by various authors would go far beyond the scope of this thesis. Nonetheless, a brief outlook including some suggestions on how to tackle this fundamental issue in international politics shall be conducted in order to complement to a certain extent the findings of the thesis.

Trying to predict future developments is always a risky operation. However, the recent decades suggest very little progress which may lead to the conclusion that state failure in Africa will remain an ongoing problem.[246] Over a period of nine years since the first publication of the Fragile States Index in 2005 a continuous and disproportionately high appearance of African states among the twenty worst-scoring countries can be observed.[247] Despite the indisputable importance of development aid it cannot be dismissed that the over $40bn of annual development aid for sub-Saharan Africa has produced only limited, if any, effects on state-consolidation in sub-Saharan Africa.[248]

Plenty of ways to improve or re-establish failed states have been proposed. Usually, these approaches suggest an increase of humanitarian assistance and development aid, UN peacekeeping missions, human rights monitoring, trade policy, security and technical assistance, capacity building, promotion of democracy, etc.[249] Several of these recommendations are of a rather reactive nature and may relieve a state's burden for the short term. In the long run, they seem to fail more often than not to bring lasting change.[250]

One of the most favoured methods for (re)establishing peace in African states has been the concept of 'power-sharing' in which 'the negotiating of a peace settlement between

[246] Ibid., p. 376.
[247] See: Fund For Peace, 'Fragile States Index' <http://library.fundforpeace.org/fsi> [accessed 12 July 2014].
[248] World Bank, 'Net official development assistance and official aid received', <http://data.worldbank.org/indicator/DT.ODA.ALLD.CD/countries/1W-ZG-A9?display=graph> [accessed 12 July 2014].
[249] See generally: François and Sud, 'Promoting Stability', pp. 149-156; Newman, 'Failed States and International Order', p. 438; Department for International Development, 'Why we need to work more effectively in fragile states', London, 2005.
[250] Kraxberger, 'Rethinking responses to state failure', p. 104.

incumbents and rebels […] provides for the partition of power within a government of national unity'[251]. Drawing on multiparty elections and the support of international institutions, power-sharing is deemed to facilitate the political dialogue between contending groups and bring stability. Despite some positive short-term results, there is a strong possibility of unintended long-term consequences. The inclusion of all ethnic minorities and/or rebel groups in the often complicated arrangements may effectively paralyse the government's activities and lead to the appearance of new groups demanding inclusion.[252]

A comparison between several authors that have explicitly dealt with state failure in Africa shows that there is a tendency towards rather unconventional solutions that would imply significant changes of the international order with regard to self-determination and statehood in order to get to the root of the problem. Already in 1996, Jeffrey Herbst called upon the international community to change its attitude with regard to the strict perseverance on the current state-centric system.[253] The easier recognition of new states under certain circumstances may be able to inflict a new dynamism challenging the colonial demarcation and facilitating a better reflection of social, cultural and ethnic realities within a territory, albeit the dangers and instability such a process may imply.[254] Equally, he suggested a more regional approach to the analysis of state weakness instead of following the usual separation along the boundaries.[255] Finally and probably the most revolutionary proposal includes allowing the existence of entities other than the nation-state within the international system that follow different approaches to sovereignty.[256]

Another author, Gerard Kreijen, also believes a fundamental change of the international community's view on statehood in Africa by reverting to traditional empirical criteria of statehood is necessary.[257] According to his analysis, humanitarian interventions, the allowance of secession and allowing war would not result in an improvement of the situation of failed states. The only viable option for Kreijen, despite is unrealistic chances of realisation due to its hegemonic and neo-imperialist connotation, would be to re-establish the UN Trusteeship System for failed states to achieve political, economic and educational progress.[258] The UN

[251] Denis M. Tull and Andreas Mehler, 'The Hidden Costs of Power-Sharing: Reproducing Insurgent Violence in Africa', *African Affairs*, 104/416 (2005), 375-398 (p. 386).
[252] Ibid., pp. 392-393.
[253] Herbst, 'Responding to State Failure in Africa', p. 133.
[254] Ibid., p. 136.
[255] Ibid., p. 134.
[256] Ibid., pp. 139-140.
[257] Kreijen, *State Failure*, p. 297.
[258] Ibid., pp. 374-375.

trusteeship system replaced the Mandates System of the League of Nations in 1945/1946 and introduced a large number of details on the international administration of territories that was previously missing in the Mandates System.[259] The UN Trusteeship Council ended its work in 1994 with Palau being the last UN Trust territory to become an independent state.[260] The proposal by Kreijen to re-establish international supervision of territories principally foresees detailed trusteeship agreements between the concerned state and one or two capable UN member states. However, he concedes that a failed stated is unlikely to give its consent. In this regard, he suggests to withdraw statehood altogether: 'The only way in which this [establishment of a UN trusteeship] can be achieved is by divesting the failed State of its statehood, and thus of the sovereign prerogatives that imply its consent. The establishment of a UN trusteeship, therefore, depends on the de-constitution of the failed State'[261]. Such a solution would be diametrically opposed to the current practice of persisting on statehood even if the empirical or *de facto* conditions traditionally attributed to a state have ceased to exist. If the international community would eventually rethink its position the cooperative and consensus-based approach between the failed state and one or more overseeing countries may actually have significant advantages for the failed or weak state.[262] In particular, 'a trusteeship model could facilitate a longer-term commitment to rebuilding troubled states'[263], if it can avoid any possible neo-colonial intentions by overseeing countries. This may, for instance, be achieved by considerably integrate the UN Security Council as control mechanism.[264]

The virtual absence of an effective government that characterises a failed state is usually very troublesome for the international community since a cooperative amelioration of the situation is hindered by the lack of a viable partner in the failed state. There is growing consensus that a fundamental remodelling of the international order is indispensable.[265] Kenneth Chan recommends that certain aspects of international law – sovereignty, equality, and the principle of non-intervention – should be specifically adapted to the phenomenon of failed states. This would facilitate under predetermined conditions successful external interventions and loosen the statist Westphalian system.[266] For the current international state-

[259] Ibid., pp. 312-313.
[260] Ibid., p. 318.
[261] Ibid., p. 375.
[262] Kraxberger, 'Rethinking responses to state failure', p. 106.
[263] Ibid., p. 106.
[264] Ibid., p. 107.
[265] See: Kenneth Chan, 'State Failure and the Changing Face of the *Jus ad Bellum*', *Journal of Conflict & Security Law*, 18 (2013), 395-426; John Yoo, 'Fixing Failed States', *UC Berkeley Public Law Research Paper No. 1552395* (2010), 1-43.
[266] Chan, 'State Failure and the Changing Face of the *Jus ad Bellum*', p. 426.

centric system appears to be inapt to address state failure successfully, John Yoo argues that the widely unchallenged acceptance of the nation-state as the principal actors of international law should be questioned. Although he concedes that a replacement by other forms of political organisation is far from being an easy operation and that the nation-state is the most suitable construct in many current situations, Yoo carefully indicates that alternative political entities may be useful to seize the roots of the problem of state failure. He also believes that the current precondition to re-establish the nation state in cases of intervention effectively prevents many states from seriously considering such an intervention in the light of the costs involved. Thus in order to facilitate such interventions, '[t]he international legal system should loosen its protections for the territorial integrity and political independence of failed states, and focus instead on constructing institutions that could facilitate cooperation and burden-sharing among regional and global powers'[267].

As outlined before, a substantive analysis of the various proposals to combat state weakness is neither the objective nor possible within the limits of this thesis. The concise overview on some unconventional, if not radical, suggestions presented above aimed at making two points clear. First, traditional approaches to state failure may relieve some pressure from weak or failing states but appear to lack the long-term component necessary to tackle the structural deficiencies of state failure. Second, the international community should reflect on whether the inflexible existent Westphalian system of nation-states is always the adequate response to global problems including state failure or whether the impact of significant changes in the structure of the international order on failed states would eventually prevail over the risks associated with.

[267] Yoo, 'Fixing Failed States', p. 26.

6. Case Studies

Conducting a comparative analysis, this chapter shall contrast the hitherto findings with the developments in two selected sub-Saharan African states in order to find out whether the arbitrary demarcation and the normative and factual changes in the international community can be characterised as defining causes for state failure. The countries chosen are the Democratic Republic of Congo and Sudan/South Sudan.

The analysis will be carried out as follows: first, a short historical insight in the developments since decolonization will be given; then, the structure of the borders as well as the ethnic, religious and cultural composition shall be subject to an analysis; finally, it will be assessed if the country shows characteristics of a failed state and whether the causes for that lie in the processes implied in the research questions: arbitrary boundaries and changes in the international order.

6.1. Democratic Republic of Congo

The Democratic Republic of Congo (DRC), throughout its history, has repeatedly been mentioned as a prime example of a failed state. Much of the DRC's history inevitably relates to the colonisation of the country. In 1885, King Leopold II of Belgium announced the Congo Free State and, subsequently, exploited the country's natural resources under a brutal regime. Until 1908, nearly ten million people died in slavery-like conditions.[268] Between 1908 and 1960, the then-called Belgian Congo was gradually industrialised under still terrible conditions for the workers and without any-high level participation of the indigenous Congolese population. By 1960, only sixteen indigenous persons had graduated from university.[269] This was disastrous for the future of the country and immediately after declaring its independence in 1960, Congo became 'Africa's first example of state collapse'[270]. The rapid decolonisation paired with a power struggle between Patrice Lumumba and Moise Tshombe, and later Joseph Mobutu, as well as the respective strategic and economic interests by the superpowers USA and the Soviet Union led to disaster in the country. For several years, there was no coherent state territory or effective institutions. In 1963, the deployed UN

[268] Georges Nzongola-Ntalaja, 'The Failing State in the Democratic Republic of Congo', *Global Dialogue*, 13(1) (2011), 1-11 (p. 2).
[269] William Reno, 'Congo: From State Collapse to "Absolutism", to State Failure', *Third World Quarterly*, 27(1) (2006) 43-56 (p. 45).
[270] Ibid., 1.

forces terminated the secession of Katanga but it was only in 1965 when Joseph Mobutu seized power that the Congo acquired some stability and made some economic progress in the two decades after.[271]

In the 1970's and 1980's Joseph Mobutu ruled the country, called Zaire since 1971, in an absolutist manner but state-building successes were increasingly hindered by rampant corruption and repression of any other political groups. The disintegration of security forces[272] and the strong tribalism destabilised the country and, under the influence of the Rwandan genocide in 1994 and the later invasions by Rwanda and Uganda in eastern Congo, Mobutu and his successor Laurent Kabila (1997-2001) were unable to uphold the territorial integrity for large parts of the country. The difficult history of the Congo shows that it has never been able to perform the essential tasks of a functioning state for longer than a few years.[273]

Even today, the DRC is considered a 'failed' state by most analysts and is prominently represented in the various rankings of state weakness. Despite a peace deal in 2002 between the government and rebel groups and the first democratic elections in 2006, violence continued, in particular, in the eastern part of the DRC. Clashes in 2008 led to massive internal and external migration flows and political instability. The last years, however, were characterised by some progress. The International Criminal Court, in 2012, convicted warlord Thomas Lubanga in its first-ever judgment to fourteen years in jail for using child soldiers. In December 2013, the M23 rebel group vowed for a political solution after the Congolese army had prevailed in eastern Congo several months after the deployment of 3,000 UN soldiers in the region.[274]

The question is whether the continuous lack of empirical statehood can be explained by the main arguments of this thesis – the nature of the borders and the changes within international society since decolonization. It should, first of all, be repeated that the national boundaries of Africa that were drawn during the colonial era are by no means a reflection of ethnic, religious, societal or cultural borders. The Great Lakes Region, including the DRC, is no exception.[275] The DRC comprises over two hundred ethnic groups[276], many of which have

[271] Theodore Trefon, Saskia van Hoyveghen, and Stefaan Smis, 'State Failure in the Congo: Perceptions & Realities', *Review of African Political Economy*, 93/94 (2002), 379-388 (p. 380).
[272] Nzongola-Ntalaja, 'The Failing State in the DRC', p. 3.
[273] Ibid., p.3.
[274] BBC News Africa, 'Democratic Republic of Congo profile' (7 November 2013) <http://www.bbc.co.uk/news/world-africa-13286306>, [accessed 12 July 2012]
[275] Alexander Wright, 'Ethnic Identity in the Democratic Republic of Congo', in *The State of Africa: Post-conflict Reconstruction and Development*, ed. by Dirk Kotzé and Hussein Solomon (Pretoria: African Institute of South Africa, 2008), p. 83.

been partitioned by the colonial borders that have been preserved upon decolonization. While ethnic diversity not always leads to violent conflict, the ethnic component of the manifold conflicts in the DRC cannot be neglected.[277] According to Alexander Wright, 'consistently throughout its history, ethnic conflict in the DRC has been most conspicuous and violent when the state has been weak, failing, or has failed'[278]. The ongoing presence of Hutu rebels from Rwanda operating as the *Forces Démocratiques de Libération du Rwanda* in the eastern parts of the DRC as well as the conflicts in Kivu, Katanga and, increasingly less, Ituri arguably contribute strongly to the ethno-political division of the country and the government's inability to exert control over the whole of DRC's territory.[279]

The deployment of the United Nations Organization Mission in the Democratic Republic of Congo (MONUC) since 1999, called United Nations Organization Stabilization Mission in the Democratic Republic (MONUSCO) as of 1 July 2010, has led to some positive developments such as the provision of humanitarian assistance and a certain political stability. However, with regard to state-building, MONUSCO has largely failed to improve the situation.[280] The Human Development Index by the United Nations Development Programme confirms the deplorable state of the DRC. Since 1980, the DRC only marginally improved and continues to remain, jointly with Niger, at the bottom of the ranking.[281] Equally, the Fragile States Index lists the DRC among the worst-scoring states since its first publication in 2005. Significantly, between 2006 and 2014, the situation worsened particularly in the areas of group grievances, state legitimacy, public services, human rights and rule of law – all of which are elements traditionally attributed to functioning states.[282]

All these figures may be an indication that current, traditional efforts by the international community are rather toothless. The question is whether the allowance of border changes or facilitated recognition of new territories as states would be a considerable option in the DRC as identified as unconventional solutions in chapter 5.3.

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[276] Central Intelligence Agency, 'The World Factbook: Congo, The Democratic Republic of the' <https://www.cia.gov/library/publications/the-world-factbook/geos/cg.html> [accessed 12 July 2014].
[277] Wright, 'Ethnic Identity in the Democratic Republic of Congo', p. 84.
[278] Ibid., p. 85.
[279] Stein Sundstøl Eriksen, 'The Liberal Peace Is Neither: Peacebuilding, State building and the Reproduction of Conflict in the Democratic Republic of Congo', *International Peacekeeping*, 16 (2009), 652-666 (p. 661).
[280] Ibid., p. 659.
[281] United Nations Development Programme, 'Human Development Index trends' <https://data.undp.org/dataset/Table-2-Human-Development-Index-trends/efc4-gjvq> [accessed 12 July 2014].
[282] Fund For Peace, 'Country Data & Trends: Congo, D.R.' <http://ffp.statesindex.org/2014-drcongo> [accessed 12 July 2014].

There are two reasons why it is unrealistic and presumably incongruous that solutions will be accepted outside the current entity of the state. First, the bids for independence by the provinces of Katanga and South Kasai following the decolonization in 1960 by ethnic groups were effectively prevented by the international community which reiterated the principle of territorial integrity. The mineral-rich provinces were not allowed to secede due to fears that this might set a precedent contributing to state fragmentation in the whole of post-colonial Africa.[283] Thus, and as we have seen in chapter 5, there is little probability, albeit not impossible, that the international community will abandon the principles of sovereignty and territorial integrity for the post-colonial African states.

Second, we have established previously that conflicts in Africa have rarely been of a secessionist nature with only ten sub-Saharan African states having experienced secessionist conflicts in the roughly fifty years of independence. The only two attempts to secede from the then Republic of Congo involved Katanga and South Kasai and were conducted right after decolonization.[284] Neither of the two short-lived claims for secession was successful. This, in turn, means that all other of the plenty conflicts of the DRC have been of a different nature, mostly challenging the government within the state's territory or seizing control of certain parts of it without raising a claim to constitute an own state. Together with the almost inexistent indications on how a solution of two or more states in the highly diversified territory could look like, the apparent lack of a secessionist desire effectively means that the structural weakness of the DRC, at least up to this day, will have to be fought with traditional means of state-building – capacity-building, democratisation, political and economic reforms, external aid, etc.

6.2. Sudan and South Sudan

The second case study will be about one of the only two successful secessions in Africa since decolonization: Sudan and South Sudan. Apart from Eritrea which achieved sovereign statehood in 1993, the partition of the Sudan in 2011 was the only departure from the strict application of the principle of territorial integrity in the almost six decades of post-colonial African history.[285]

[283] Raymond C. Taras and Rajat Ganguly, *Understanding Ethnic Conflict* (New York: Pearson, 2009), p. 212.
[284] Englebert and Hummel, 'Let's Stick Together', p. 401.
[285] Terence McNamee, 'The first crack in Africa's map? Secession and Self-Determination after South Sudan', *The Brenthurst Foundation Discussion Paper*, 1 (2012), p. 14.

The current territories of Sudan and South Sudan have been highly diverse in their ethnic, religious and economic composition throughout their history. The northern part of the Sudan was traditionally inhabited by people of Arab Muslim descent while the southern territory comprised a highly diversified, but generally black animist and Christian population.[286] These differences were preserved and intensified under British rule in the Anglo-Egyptian condominium from 1899-1956. The British also placed its emphasis on very few, productive areas and the city of Khartoum while neglecting most other regions. This has had devastating consequences in terms of disparities between the regions – a development that has been sustained or even exacerbated in the post-colonial Sudan that was established within the former colonial borders.[287]

Unification attempts by the government were largely efforts of 'Arabisation' and 'Islamicisation' directed from Khartoum that became the trigger for two devastating and decades-long civil wars that eventually ended with the Comprehensive Peace Agreement (CPA) in 2005.[288] The Agreement was signed in Nairobi by the government and the Sudan People's Liberation Movement (SPLM) and included, apart from measures to establish and maintain peace, a six-year transitional period at the end of which a referendum would be held in southern Sudan on whether to secede from the parent state.[289] The CPA was also the result of the insistence of the government to maintain an Islamic state and the south's strong aversion against it which further sparked the desire to secede.[290] The overwhelming participation in the referendum and the almost 99% in favour of secession proved the failure of the government to create a sense of togetherness during the six years since the CPA. Therefore, on 9 July 2011 South Sudan became an independent and fully recognised state.[291]

The reasons for not achieving the planned sense of unity among the southern and northern population in the transitional period are manifold. Certainly, the violence and humanitarian catastrophe in the Darfur region was the prevailing issue during the transitional period and

[286] Ibid., p. 7.
[287] Gunnar M. Sorbo and Abdel Ghaffar M. Ahmed, 'Introduction: Sudan's Durable Disorder', in *Sudan Divided: Continuing Conflict in a Contested State*, ed. by Gunnar M. Sorbo and Abdel Ghaffar M. Ahmed (New York: Palgrave Macmillan, 2013), p. 4.
[288] Anthony J. Christopher, 'Secession and South Sudan: an African precedent for the future?', *South African Geographical Journal*, 93 (2011), 125-132 (pp. 127-128).
[289] Ibid., p. 128.
[290] Peter Woodward, 'Sudan after South's Secession: Issues of Identity', in *Sudan Divided: Continuing Conflict in a Contested State*, ed. by Gunnar M. Sorbo and Abdel Ghaffar M. Ahmed (New York: Palgrave Macmillan, 2013), p. 93.
[291] Asteris Huliaras, 'The unanticipated break-up of Sudan: causes and consequences of redrawing international boundaries', *Commonwealth and Comparative Politics*, 50 (2012), 257-270 (p. 257).

took away much attention from the North-South conflict.[292] Subsequently, the then-president of Sudan and other members of government were indicted by the International Criminal Court for crimes against humanity, war crimes and genocide.[293] Equally, there were a number of disputed issues between the North and South which would continue to remain great obstacles even after the referendum: the exact demarcation of the border, the status of disputed regions such as Abeyi and the Blue Nile regions, the partition of economic revenues mostly stemming from the large oil reserves in the border regions, and infrastructural arrangements.[294]

Some bright prospects can be identified for the new state of South Sudan in the shape of large oil reserves and a considerable amount of agricultural land. However, South Sudan remains one of the most underdeveloped regions in the world and the lack of basic infrastructure and state institutions will only allow slow process.[295] South Sudan also features prominently among the worst-scoring states in various indices.[296] Ethnically and linguistically, South Sudan remains a highly heterogeneous state which has resulted in some violent conflicts between rival groups over land, economic development and political participation within the new state of South Sudan.[297] The united vote for secession from Sudan by the southern population was rather the solitary renunciation of the northern Arab Islamic society than a genuine sense of cohesion.[298]

Roughly three years after independence it appears that one weak state has turned into two weak states. Could this be used as an argument to counter the growing number of authors who call for a rethinking of the African borders inherited from the colonial era? Or will it, despite all deficiencies, set a precedent for further state fragmentation in Africa? Prior to the referendum, both African leaders and the UN secretary-general Ban-Ki Moon voiced their dissatisfaction over the possible secession of South Sudan fearing that it would strengthen secessionist tendencies in other countries.[299] This must be interpreted as confirmation of the reluctance of the international community to recognise *de facto* states such as Somaliland.

[292] Gareth Curless and Annemarie Peen Rodt, 'Sudan and the Not So Comprehensive Peace', *Civil Wars*, 15 (2013), 101-117 (p. 104).
[293] Princeton N. Lyman, 'Sudan-South Sudan: The Unfinished Tasks', *American Foreign Policy Interests*, 35 (2013), 333-338 (p. 334).
[294] Christopher, 'Secession and South Sudan', p. 129.
[295] Curless and Rodt, 'Sudan and the Not So Comprehensive Peace', p. 110.
[296] See for example: Fund for Peace, 'Fragile States Index 2014' <http://ffp.statesindex.org/rankings-2014> [accessed 12 July 2014]; Vision of Humanity, 'Global Peace Index 2014', <http://www.visionofhumanity.org/#/page/our-gpi-findings> [accessed 12 July 2014]; Monty G. Marshall and Benjamin R. Cole, 'Fragile States and Index Matrix 2012', *Center for Systemic Peace*, 2012.
[297] McNamee, 'The first crack in Africa's map?', p. 10.
[298] Christopher, 'Secession and South Sudan', p. 128.
[299] Huliaras, 'The unanticipated break-up of Sudan, p. 258

Sudan represents an exception in as far as the partition was one of the rare examples in which the government consented the secession as part of the CPA and immediately recognised the new state upon proclaiming independence. Such a constellation is highly exceptional but currently seems the only viable option for the achievement of international recognition. However, since such willingness by a government to give away a part of its territory it is very unlikely that the case of South Sudan will trigger further disintegration of states in Africa.[300] Nevertheless, it may inject other regions in sub-Saharan Africa with secessionist tendencies – Cabinda, Ogaden, Somaliland, Western Sahara – with new hope for a two-states solution at some point in the future.[301] It also, at least, proves 'that respect for the territorial integrity of African states and the principle of *uti possidetis* is no longer absolute and unconditional'[302].

It is difficult to tell what long-term consequences the border changes will have on the two states and whether such a model may contribute to the reduction of state weakness in sub-Saharan Africa. Currently, both Sudan and South Sudan face overwhelming problems and the existing latent conflicts between and within the two states have escalated and will continue to do so for the foreseeable future. In particular, South Sudan has been hit with violent clashes and famine since the end of 2013 and more than one million people have been displaced in roughly half a year.[303] The conflicts are further fuelled by regional conflicts and conflicts in neighbouring states such as Chad, the Central African Republic, Libya, the DRC and Uganda.[304] Creating or building a new state is a difficult and risky task, especially in highly diverse societies whose sense of unity begins and ends with the wish to separate from the parent state. As Mohamed Salih rightly observes, '[t]he case of South Sudan illustrates that even when such liberation movements have overcome or set aside divisions in the course of the struggle, they often find it difficult to maintain their unity after the initial goal of liberation is attained'.[305]

[300] McNamee, 'The first crack in Africa's map?', p. 13.
[301] Ibid., p. 20.
[302] Solomon Dersso, 'International law and the self-determination of South Sudan', Institute for Security Studies, 231 (2012), p. 8
[303] The Editorial Board, 'South Sudan in Peril', *The New York Times*, 17 May 2014 <http://www.nytimes.com/2014/05/18/opinion/sunday/south-sudan-in-peril.html> [accessed 12 July 2014].
[304] M. A. Mohamed Salih, 'Conflict and Nation Building: Lessons for Darfur from South Sudan', in *Sudan Divided: Continuing Conflict in a Contested State*, ed. by Gunnar M. Sorbo and Abdel Ghaffar M. Ahmed (New York: Palgrave Macmillan, 2013), p. 191.
[305] Ibid., p. 188.

7. Conclusion

The thesis was designed to provide answers to the following research questions:

- Has the arbitrary demarcation of the territory by the European colonial powers laid the foundation for the structural weakness of sub-Saharan African states?

- In how far has the continuity of state failure in sub-Saharan Africa been the result of the international community's attitude towards statehood and self-determination upon decolonization?

The findings of this thesis strongly suggest that there is an inherent correlation between state failure and decolonization in sub-Saharan Africa. Both the nature of African borders rooted in the arbitrary demarcation by the colonial empires and the attitude of the international community towards self-determination and territorial integrity serve as compelling arguments in this regard.

The concept of statehood served as the starting point for the analysis conducted. The Westphalian nation-state in its current manifestation continues to be the prevailing actor of international law and is considered to possess at least four defining criteria: population, territory, government, and the capacity to enter into relations with other states (independence). There are a large number of states that show a considerable lack of one or more of these elements. To varying degrees, such states are generally referred to as weak, fragile, failing, failed or collapsed but we have elaborated that there is no consensus on the definition of state failure and that the debate is highly disputed. Taking into consideration various compelling propositions a definition has been elaborated which served as the basis for further observations: *A state may be considered failed if the absence or ineffectiveness of a government coincides with the loss of the legitimate monopoly of force over (significant parts of) its territory and, therefore, erodes the characteristics generally attributed to a state of the Westphalian model.*

Both the internal and external impacts of weak or failed states can be devastating for the state itself, the neighbouring countries, the region and the international community which is why this phenomenon has acquired such a prominent place in the academic and political discourse. A brief analysis of empirical indices on state failure has confirmed, despite their disputed nature, that sub-Saharan African states are highly overrepresented among the states which are perceived as lacking the fundamental criteria of a state. While the reasons for the

continuous weakness of states south of the Sahara may be both controversial and multifaceted, the chapters of this thesis placed most of the emphasis on the correlation between state failure and decolonization.

The precipitous decolonization was fuelled by various developments among which the two World Wars, the growing influence of the right to national self-determination, the increasing anti-colonial rhetorics, and African resistance to colonial rule stand out as determining factors. Concluding from the pre-colonial structure of the African continent it is evident how far-reaching the colonisation of Africa has been for its populations.

The first main argument of the thesis shows that the demarcation of the continent was more or less carried out with complete disregard of the topographical, cultural, social, or ethnic particularities. This often led to the partition of ethnicities and social groups as well as to the inclusion of such highly heterogeneous populations into the narrow corset of a dependent territory and later a sovereign state. The ethnic component in many violent conflicts in Africa appears to support the negative consequences of the preservation of colonial borders. However, relatively few of them had a secessionist motive and even less (only Eritrea and South Sudan) were successful given the reluctance of the international community to allow a violation of the principle of territorial integrity.

The international community's attitude towards decisive components with regard to statehood – in particular, self-determination and territorial integrity – constituted the second line of argument. Indeed, the *singularity* of the right to self-determination was its unique nature in the context of decolonization. It was right exclusively granted to former colonies to achieve sovereign statehood. The prevalence of *de jure* statehood in sub-Saharan Africa shows the ambiguity in the normative changes caused by the international community's response to decolonization. Many sub-Saharan African states do not possess and some have never possessed the decisive criteria of traditional statehood: a legitimate monopoly of force over population. They rather tend to be 'artificial' constructs with territory and independence (or international recognition) at the heart of their legitimacy. Nevertheless, these states continue to be seen as an integral part of the international community with little indications that a return to the classical effectiveness test will be conducted any time soon. This has been identified as a contributing factor to the structural weakness of many African states. It could be said that failed or fragile states are not allowed to 'fail'. The statist nature of the international system, thus, impedes any solution that would entail territorial changes and state disintegration.

Such ‘radical’ solutions can be considered on the rise among a number of academics. Traditional approaches including development aid, human rights monitoring, capacity-building, promotion of democracy, etc. have generally failed to bring lasting change in many target countries. Therefore, more revolutionary suggestions comprise a facilitated redrawing of the colonial map or even allowing other political entities than nation-states to exist. Others call for a modified reestablishment of the UN trusteeship system which may, under specific circumstances, be suited for a cooperative development under the auspices of one or more states. Generally, there is a growing consensus that the international community should develop particular strategies to address failed states in the context of the structural weakness of many sub-Saharan African states.

The two brief case studies on the Democratic Republic of Congo and Sudan/South Sudan at the end show the highly complex nature of the topic. The DRC will most likely remain a unified state for the foreseeable future due to its highly diversified structure, the apparent lack of secessionist movements and the persistence of the international community to respect the territorial integrity. This, in turn, means that state-building efforts will continue to follow traditionally-applied measures such as capacity-building, power-sharing arrangements, development aid, democratisation efforts, etc. In contrast, the secession of South Sudan was one of the only two departures from the preservation of colonial boundaries. Although both states, Sudan and South Sudan, continue to struggle with a large number of difficulties it may eventually lead to a more peaceful and satisfactory solution for both. The secession shows that the adherence to African borders is not unconditional; however, according to most authors it is rather unlikely that it will set a precedent for further state disintegration in Africa.

I will conclude with a telling comparison that sums up the essence of the thesis: ‘In 2000 only five states in Europe had the same frontiers that they had in 1900. States are not permanent entities; historically, in other parts of the world they have been permitted to fail when they didn’t work, but not so in Africa’[306].

[306] McNamee, ‘The first crack in Africa’s map?’, p. 20.

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9. Appendix

9.1. Abstract

The phenomenon of failed states has acquired a prominent position in the discourse of international relations. The structural weakness of many sub-Saharan African states is a particularly noticeable pattern and constitutes the fundament for this thesis. The history of Africa is closely tied to the colonial rule in the nineteenth and twentieth century and had significant implications for the future of the African states. The main objective of this thesis is to put into context both fields – failed states and decolonization – in order to answer the following research questions:

- Has the arbitrary demarcation of the territory by the European colonial powers laid the foundation for the structural weakness of sub-Saharan African states?
- In how far has the continuity of state failure in sub-Saharan Africa been the result of the international community's attitude towards statehood and self-determination upon decolonization?

The thesis starts with an analysis of the state in public international law, an illustration of various approaches to the definition and causes of state failure and an overview on the essential developments contributing to the decolonization. The main chapter shows that the boundaries of Africa have been drawn regardless of existing ethnic, religious, social particularities and, thus, significantly increased the potential for conflict in African states. Moreover, the insistence of the international community on the principles of territorial integrity and absolute sovereignty had a substantial impact on state consolidation. In this regard, the thesis places a particular emphasis on the singularity of the right to national self-determination in public international law and its predominant application in the context of decolonization as well as on the significance of the differentiation between *de jure* and *de facto* statehood.

A concise overview on several unconventional, but possibly promising, solutions complements the gathered findings. Finally, two case studies – the Democratic Republic of Congo and Sudan/South Sudan – demonstrate the complexity of the impacts of decolonization on the structure of many sub-Saharan African countries.

9.2. Zusammenfassung

Das Phänomen der *failed states* – gescheiterte oder schwache Staaten – nimmt einen prominenten Rang im Diskurs der internationalen Beziehungen ein. Die strukturelle Schwäche vieler Staaten im Afrika südlich der Sahara ist dabei ein besonders auffallendes Muster, welches die Grundlage für diese Arbeit darstellt. Die Geschichte Afrikas ist eng verbunden mit der Kolonialherrschaft im 19. und 20. Jahrhundert, die große Auswirkungen auf die Zukunft der afrikanischen Staaten hatte. Das Ziel dieser Arbeit ist, beide Themenbereiche – failed states und die Dekolonisierung Afrikas – miteinander in Zusammenhang zu bringen, um folgende Forschungsfragen beantworten zu können:

- Hat die willkürliche Grenzziehung durch die europäischen Kolonialmächte das Fundament für die strukturelle Schwäche vieler afrikanischer Staaten südlich der Sahara gelegt?

- In wie weit war die Beurteilung von Staatlichkeit und nationaler Selbstbestimmung durch die internationale Gemeinschaft im Zuge der Dekolonisierung ausschlaggebend für den Fortbestand von *failed states* im subsaharischen Afrika?

Die Arbeit baut zunächst auf einer Analyse des Staates im Völkerrecht, der Darstellung verschiedener Denkansätze zu Definition und Auswirkungen von *failed states*, sowie einem Überblick über wesentliche Entwicklungen, die zur Dekolonisierung geführt haben, auf. Im Hauptkapitel zeigt sich, dass die Grenzen Afrikas ohne Rücksicht auf vorherrschende ethnische, religiöse, kulturelle und soziale Eigenheiten gezogen wurden und damit das Konfliktpotenzial in den Staaten erheblich erhöht wurde. Ebenso hatte das Beharren der internationalen Gemeinschaft auf den Prinzipien der territorialen Integrität und der absoluten Souveränität wesentlichen Einfluss darauf, dass viele Staaten in Afrika als unvollkommen ausgeformt betrachtet werden. In diesem Zusammenhang wird insbesondere die Eigentümlichkeit des Rechts auf nationale Selbstbestimmung im internationalen Recht und deren überwiegend ausschließliche Anwendung im Kontext der Dekolonisierung untersucht sowie auf die Bedeutung von *de jure* und *de facto*-Staatlichkeit eingegangen.

Ein kurzer Überblick über einige unkonventionelle und dennoch möglicherweise vielversprechende Lösungsansätze komplementieren die gewonnenen Erkenntnisse und zwei Fallstudien – die Demokratische Republik Kongo und Sudan/Südsudan – zeigen

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