

# BULLETIN

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## In this Issue

Ambassador Princeton Lyman's address to SSA annual meeting "Sudan and South, A Fragile Peace"

Mey el-Tayib "Bridging the Gap between National and Indigenous Conflict Management Systems in Blue Nile"

Richard Lobban, "Sudan, a Cartographic History"

Highlights of the 31st Annual SSA Conference, Arizona State University

Highlights of the 9th International Conference of Sudan Studies, Bonn, Germany

## Reviews

A Civil Society Deferred, A. Gallab, review by C. Fluehr-Lobban

Global Security Watch, Sudan, R. Lobban, review by G. Warburg

Changing Identities in Northeast Africa, review by Enrico Ille

Connecting South and North, review by R. Abusharaf

# The Role of Women in the Nation and State Building Projects in South Sudan

by Christopher Zambakari\*

It has been close to eight months since the Republic of South Sudan became independent. The process of state and nation-building is well underway. On March 7<sup>th</sup>, South Sudan's President, Salva Kiir, issued four decrees announcing ninety ambassadors to be deployed throughout the world in various diplomatic and foreign services posts. Presidential Decree No. 18/2012,<sup>1</sup> No. 19/2012,<sup>2</sup> No. 20/2012,<sup>3</sup> and No. 21/2012<sup>4</sup> appointed 10 Grade (1), 43 Grade (2), and 37 Grade (3) ambassadors. Out of the total of ninety ambassadors, nine were women: three from Grade (2) and six from Grade (3). This only represents a ten percent representation for women among ambassadors, most of whom come from Grade (3). The Transitional Constitution of the Republic of South Sudan (TCRSS)<sup>5</sup> stipulates that at least twenty-five percent of the seats and positions in each legislative and each executive organ of the state<sup>6</sup> needs to be allocated to women as part of Affirmative Action designed to redress historical injustices created by history, customs and traditions.<sup>7</sup> This is not confined to legislative and executive organs but also extends to judiciary,<sup>8</sup> Council of Ministers,<sup>9</sup> to Independent Institutions and Commissions.<sup>10</sup>

The move by the Government of South Sudan (GOSS) has already come under criticism from Ambassador Sitona Abdella Osman, who pointed out that there is a great imbalance in the appointment of ambassadors and demanded that the current Constitution be revised to solve the imbalance. While the reaction from Ambassador Osman is understandable, the problem does not rest in the current Constitution which is very clear about the representation of women in various organs of government. The problem arises from its implementation. The current breakdown shows that the minimum of twenty-five percent that is required by the Constitution has not been met. It points less towards the Constitution but more towards the political will to implement the provisions already included in the TCRSS. Amending the Constitution will not solve the problem raised by Ambassador Osman. Only a prolonged political struggle for the rights of women can ensure that the imbalance is redressed. Political rights are an outcome of a political struggle and not a gift from above. To think of fundamental rights as a handout of seats in various organs of government is to reduce the struggles and gains made politically by women throughout South Sudan to a mere allocation of positions. It ultimately defeats the purpose of a political struggle for rights.

In light of this development this article reviews the mandated Affirmative Action embedded in the current Transitional Constitution of the Republic of South Sudan and discusses whether South Sudan has lived up to its constitutional requirement and the fulfillment of its Affirmative Action provision towards women. This article further argues that the new Republic in the South cannot achieve its political, economic, and social objectives without a successful integration of women into the nation and state building projects.

### **The Transitional Constitution and Gender Equality**

The Transitional Constitution of the Republic of South Sudan (TCRSS), promulgated right before the declaration of independence on July 9<sup>th</sup>, 2011, is a very comprehensive document that covers a broad range of rights for all South Sudanese and specifically includes an Affirmative Action Clause for women. It provides rights to women, as well as the right to have access to health care and education for all South Sudanese. More importantly, it does away with the legal ethnic distinction that is a common feature of many African Constitutions.<sup>11</sup> The challenge in South Sudan is less in the provisions of the constitution but more in the implementation of the rights provided for at the state and local levels. It is in the former where the success of the reform of the colonial state can best be observed.

When the Transitional Constitution was promulgated shortly before South Sudan declared independence, it took stoke of the plight of women in South Sudan. The TCRSS set out to rectify historical injustices that have affected women. To do so it included an Affirmative Action Clause designed to increase the number of women in key positions throughout institutions of governance. Part II of the TCRSS (The Bill of Rights), Section 16 (1-5) provides for several rights for women, one of which is “the right to participate equally with men in public life.”<sup>12</sup> Section 16(4) mandates that all government institutions must promote the following: “women participation in public life and their representation in the legislative and executive organs by at least twenty-five percent as an Affirmative Action to redress imbalances created by history, customs, and traditions.”<sup>13</sup> Other rights include “equal pay for equal work”<sup>14</sup>, provision for “maternity and childcare, medical care for pregnant women”<sup>15</sup>, and “right for women to own property and share in the estates of deceased husbands.”<sup>16</sup> Part IX, Ch. II, Sec. 142(3) provides that the National Government ensures that twenty-five percent of the seats on Independent Institutions and Commissions shall be allocated to women.<sup>17</sup> Part VI, Ch. III, Sec. 108(3) deals with the National Council of Ministers and requires that the President shall ensure that at least “twenty-five percent of members of the Council of Ministers are women.”<sup>18</sup>

South Sudan has ten states and ten governors.<sup>19</sup> Of the ten only one state has a female governor, Warrap State.<sup>20</sup> There are currently seven Presidential Advisor’s positions. Six advisors are males and one is female. Out of twenty-nine Ministerial Portfolios, five positions are occupied by women.<sup>21</sup> There are fifteen members on the Austerity Measures Committee established by the President.<sup>22</sup> No woman sits on that committee.

There are currently ten Grade 1 Ambassadors. All ten positions have gone to male ambassadors and none to women. There are twenty-seven Undersecretaries and only four are women. Other organs of government<sup>23</sup> show a similar pattern, all failing to reach the twenty-five percent mark, most of which don't even attain half of the required quota. There is a wide discrepancy between the professed ideal, the constitutional mandate and the reality on the ground.

To make sense of this discrepancy, it is instructive to look at one of South Sudan's neighbors and how it dealt with a similar historical injustice. The country is Uganda and from one of its leading scholars, Mahmood Mamdani,<sup>24</sup> we learn that when the National Resistance Movement (N.R.M.) took power in 1986 it introduced a reform in a "broad coalition of government by allocating a number of seats in the new legislative body" for groups that have been historically disenfranchised: women, youth, and workers.<sup>25</sup> Given the tendency to see rights simply as a gift from above, new members of the legislature were captured by the ruling power. For the representative of youth and women's groups, they felt "so thankful and beholden to the ruling power" they functioned less as representatives of the disfranchised groups who have won political rights through a political struggle and acted more "as the regime's 'representatives' to women and youth!"<sup>26</sup> This was however not the case with the Trade Unions which objected to the ruling party's tendency to capture, divide and conquer. The outcome was a concession resulting in rights "extended in response to a definite struggle."<sup>27</sup> The success of Trade Unions lied in their organizational capability and tenacity to stand up to the ruling power without conceding ground. The lesson of Uganda is that:

Rights acquires the most significance where the issue of state power appears to be clearly settled, most notably as the result of a protracted armed struggle, itself evidence of both the limited development and organisational weakness of the so-called 'civil society' or non-state sectors. However, such an outcome is likely to exacerbate this contradiction, because to have been successful, the armed struggle has almost certainly been supported by many civilian activists, and yet upon victory the new regime proceeds to reorganise the state, and only from that standpoint to develop an agenda for social change. If this is combined with a hegemonic perspective that sees in the growing insistence on greater democracy nothing but a demand for 'bourgeois' rights, nothing but fresh evidence of 'counter-revolution' rearing its ugly head under new conditions, the danger is that civil society is likely to be left even weaker than before!"<sup>28</sup>

While Trade Unions successfully defended their autonomy, youth and women's representatives were incorporated into the ruling power, thereby neutralizing their ability to self-organize, mobilize and maintain autonomy in the face of a central power that sought to deny the right to self-organization of various group interests.<sup>29</sup> The tendency of postcolonial régimes in the region has been with monopolizing of power that goes hand in hand with a preoccupation with capturing organized political entities and subsequently incorporating them into the ruling party. The tendency to effect a

democratic change from above has not produced qualitative benefits in the African context. Such an attempt in South Sudan should be actively discouraged and resisted by members of the civil society organizations. This technology of rule has a tendency to paralyze and ultimately neutralize the ability of civil society organizations to self-organize in order to keep the ruling structures of power in check.

### **Women, State and Nation Building In South Sudan**

In discussing the role of women in the nation-building project in South Sudan, a good place to start is the statistics on the referendum, which according to Ms. Lula Riziq, Director of the South Sudan Women's Empowerment Network, showed that of the total number of registered voters in South Sudan, 52 percent were women.<sup>30</sup> Today women make up 65 percent of South Sudan's total population.<sup>31</sup> For South Sudan to optimize its full potential it will need to integrate the mass by straddling both the urban and rural population into the nation and state building projects. For a durable peace and sustainable development, these projects will need to include women and youth. The reason is simple: the youth make up the majority of the population of South Sudan with 72 percent under the age of 30.<sup>32</sup> In short, South Sudan will need to invest in developing its human capital.

The blood that was shed during the civil war, the suffering inflicted on people as a direct consequence of war, affected both men and women. Sudanese women, specifically in the south, played a significant role in the war, fighting and supporting the multiple armed movements. According to experts, women also suffered sexual violence throughout the struggle.<sup>33</sup> Sudanese women play a central role in Sudanese society, in physical and psychological welfare as well as conflict prevention and peace-building. Today, their post-conflict status is among the lowest of all groups in South Sudan, regardless of ethnic background. As a member of the Sudanese Community in the United States, I have seen the efforts that Sudanese women put into building strong, vibrant, and healthy communities. From Boston, to Phoenix, Portland to Washington, Sudanese women play a role in shaping community life, engaging in conflict resolution, assisting with fundraising when a member is in need, nurturing healthy families, raising future generations, and providing for family needs all over North and South Sudan.

The success of the referendum also bears testimony to the role of women in the political process in South Sudan. South Sudanese women were mobilized around the world to educate community members about the referendum in addition to leading voting centers in registering and making sure the election was transparent, fair, and credible. However, the recognition of these roles has been slow to arise. Today, much is demanded from the South Sudanese women and yet little legal, economic and political recognition is given to what these women are already doing to make South Sudan a healthy state. A sustainable policy will also require the education of men in Sudanese communities alongside their female counterparts. Without the incorporation of men, the reform can only be partially successful. It requires the integrated work

of men and women to make the South a stronger, healthy, and prosperous place to call home. Given that South Sudanese women are affected by both the political and economic forces, a constructive effort must engage women in the Post-CPA era for building the new nation in the south. In regions plagued by conflict, such as Southern Sudan, Eastern and Western Sudan, women have been subjects to some of the worst marginalization, oppression, and violence perpetrated by various groups within and outside the region. These various crises have inevitably transformed women into heads of households without granting them the legal status, political power and other social, symbolic and cultural benefits.

## Conclusion

The development in the new Republic thus far as it relates to gender equality and the redress of historical injustice is inconsistent with the tenets of the Conceptual Framework of the New Sudan. When the Sudan People's Liberation Movement/Army (SPLM/A) convened for the First Convention in 1994, Dr. John Garang, the late Chairman and Commander in Chief of the Sudan People's Liberation Movement/Army (SPLM/A), identified the challenges facing women throughout Sudan (North, South, East, and West) and acknowledged that "women were the marginalized of the marginalized."<sup>34</sup> So if males were marginalized in the Old Sudan, then females, in both North and South Sudan, were doubly marginalized and faced a challenge that their male counterparts did not. Given that that Old Sudan and the New Sudan were mutually exclusive political projects,<sup>35</sup> the only solution was to bring forth the New Sudan. This model recognized multiple histories, identities, diversity of religions and races, in a plural society.<sup>36</sup> It promised justice and equality for all stakeholders "irrespective of their religion, race, tribe or gender."<sup>37</sup> It was this framework that inspired the framing of the Comprehensive Peace Agreement (CPA)<sup>38</sup> and later the Constitution in South Sudan.<sup>39</sup>

The new Republic in the South cannot achieve its political, economic, and social objectives without a successful integration of women into the nation-building project. Progress in the South will depend to a larger extent on how the state integrates the mass into the nation-building project. The success of the Republic hinges on its ability to democratize the nation-building process by integrating and educating its population with a special emphasis on women and the youth, the groups that make up the majority of the population in South Sudan.

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