

Envisioning South Sudan Security Sector Reform

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INTRODUCTION

The signing of the R-ARCSS¹ provides a wonderful opportunity for the government to revisit the thorny issue of security sector reform with fresh eyes. In March 2008, policymakers wrote the SPLA White Paper on Defence to address the security challenges facing the new nation-in-the-making. The objective of the White Paper was a transformation roadmap for the rebel-led Sudan People's Liberation Army (SPLA) to transition it from a revolutionary armed movement into a nonpartisan national force that is patriotic, regular, professional, disciplined, productive and subordinate to the civilian authority as established under the constitution and the law.²

Similarly, in 2011 after launching South Sudan Vision 2040 -- a guideline for policy and the strategic concept of the new nation -- the National Legislature passed a resolution authorizing the security sector institutions to develop a comprehensive national security strategy.³ This resolution recommended the creation of the National Security Service (NSS), which was established later under article 160, sub articles (1), (2) and (3), of the TCSS 2011. It was amended with two operational organs: the Internal Security Bureau (ISB) and General Intelligence Bureau (GIB). Both bureaus were placed under overall supervision of the minister responsible for national security in the Office of the President, who is also individually and collectively accountable to the president, the Council of Ministers and the national legislature.

In June 2012, the first-ever consultative efforts toward the development of a national security architecture began with deliberations that involved the lead security agencies of defence, national security service and police as primary stakeholders. Other stakeholders included the prisons, civil defence and wildlife service; and parliament, civil society organizations and law enforcement agencies, amongst others⁴. The joint committee, with help from foreign experts from the Troika countries of United States, United Kingdom and Norway, as well as the United Nations and the African Union, developed a zero draft of the national security strategy. A countrywide consultation on the form and content of what could become the national security and defence policy was held.⁵

FOOTNOTES

1. Agreement on the Resolution of Conflict in South Sudan
2. Article 151(2) of the Transitional Constitution of the Republic of South Sudan (TCSS 2011) as amended
3. Dr Luka Kuol (July 2018) National Security Strategy Development South Sudan Case Study
4. Ibid
5. Ibid

“Security sector reform must finally be founded on activities with multisectorial strategies based upon a broad assessment of the range of defence, security and justice needs of the people and the state, while adhering to basic good governance principles of transparency and accountability.”

FAILURES OF SECURITY SECTOR REFORM

According to the available research, security sector reform in South Sudan has failed considerably for many reasons. Chief amongst them is an imminent external threat from neighboring Sudan. This failure of security sector reforms is traceable to the design of the comprehensive peace agreement CPA of 2005 between the government of Sudan and the Sudanese People Liberation Movement (SPLM). The peace deal was largely viewed as a temporary truce by the protagonists, who lived under perpetual uncertainty that hostilities might resume — particularly along the northern border — and take control of the oil fields. In fact, the SPLA White paper on defence in 2008 clearly identifies Sudan as a threat.

Under these circumstances, a key element of security sector reform, which is right-sizing through well-coordinated disarmament, demobilization and reintegration processes, was deliberately put on the backburner. In their concept paper, the South Sudanese Church Leaders Mediation Initiative (CLMI) stressed that the history of South Sudan has kept South Sudanese focused on defeating the common enemy — and in this case the government in Khartoum — “rather than generating dialogue and building consensus on who we are as a nation, why we belong together and how we can unite in our destiny.”⁶ Instead, the national army and other security organs were, and to date continue to be, a handful of militia groups integrated with conflict entrepreneurs in the name of buying peace. The military integration became highly characterized by the trade-off of loyalties in a typical political marketplace.

The second failure of the security sector reform is caused by crisis of state and nation building. It is evident that the political leadership failed to maintain the political and security stability of the state in a vision enshrined under article 1 (4) of the TCSS 2011.⁷ “To the contrary, the government is overcome by challenges affecting national security, including but not limited to: increasing proliferation of small arms and light weapons in the hands of the civil population; oversized and unprofessional security forces; inter- and intra-communal violence; unregulated cattle economy; lack of demarcation of internal borders; and terrorism crouching along porous borders-in-the-making. Worst of all, there is no peace in the

country, as there is still a growing armed rebellion in some parts of South Sudan, despite the R-ARCSS signed on 12 September 2018.

The third glaring failure of security sector reform was the internal power struggle within the SPLM ruling party.⁸ The unity of the internal front cracked from bad to worse when President Salva Kiir Mayardit sacked the entire cabinet in July 2013, including his first deputy in the party, Dr Riek Machar. This grand reshuffle affected the security sector reform; it happened before the completion of the national security strategic policy was presented to the cabinet and the national legislature for approval. The post-July cabinet did not care to advance the cause, notwithstanding the fact the incumbent executive was already embroiled in bad politics with disgruntled groups left out in the cabinet.

The last but not least issue affecting security sector reform is the double-edged problem of militarization of politics and politicization of military. Politics in South Sudan is not done in respect to ideology, but rather organized along communities and tribal constituencies. This is because political parties are allied with military wings as a means to an end of getting employment, and any political disagreement consequently spills over into the military sphere. In other words, without demilitarization of public life⁹, the cycle of recurrent political violence supported by foot soldiers along ethnic lines will remain a challenge for years.

VISION OF SECURITY SECTOR REFORM IN THE R-ARCSS

The security sector reform has a clear vision provided by the R-ARCSS to address the missed opportunities during the past attempts to develop national security and defence policies. Accordingly, chapter two on permanent ceasefire and transitional security arrangements under article 2.5 of the R-ARCSS established a multi-stakeholder Strategic Defence and Security Review Board (SDSRB). The mandate of the SDSRB is to formulate a blueprint that will guide the creation of the security sector institutions to enhance the safety and welfare of the populace, as well as the national core interests and values.¹⁰ These interests and values, according to the work done by the SDSRB, include: respect for the

rule of law and the constitution at all times in the discharge of its duties, -- including human rights and fundamental freedoms; defend sovereignty and provide national and human security; establish good governance; sustain political stability and achieve gender equity; and promote regional and international peace.

To complete the security sector review process, it is divided into thematic stages: strategic assessments that examine the military and nonmilitary security challenges affecting the country; development of a security policy framework outlining the responsibilities of various agencies on how to respond to security challenges; development of a defence policy that will identify responsibilities for the armed forces and other security sector institutions; a vision for the unification and modernization of the army and other security organs; and, finally, a comprehensive security sector transformation roadmap.¹¹

Although this is an ambitious process in a limited timeframe, it is considered that to have an effective national security architecture, the security sector must be based on volunteerism, and must be professional, nonpartisan and national in character. With such standards in place, the security sector is positioned to embrace inclusivity and reflect the diversity and patriotic interests of the country to better serve South Sudan and its people, regardless of ethnicity, gender and religion, and without prejudice or favour.

In the course of national security roles and responsibilities, the security sector must be subject to democratic civil authority to ensure that it is accountable to the people through their elected representatives in the implementation of vital national interests. This means that parliament have the power to initiate policy, scrutinize its implementation and hold executive officeholders accountable. This is to take into consideration that the concept of national security is holistic in approach, meaning that the security sector shall be committed to uphold both state and human security aspects.

In particular, the security sector must commit to the principles of credibility, transparency and accountability. It must accept scrutiny and oversight of its activities, and it must coordinate and collaborate openly when confronting threats to national security. This requires effective communication across all agencies of government through the National Security Council, chaired by the president.¹²

In line with the doctrine of separation of powers under the constitution and relevant national legislations, each component of the security sector should respect and uphold the clear and distinct mandate accordingly. The laws for the national armed forces and other law enforcement agencies must be amended to align with constitutional mandates. The current practice by SSPDF and the NSS of usurping policing powers of arrest, detention and search mandates is unconstitutional. Their intervention, if any, cannot be

underestimated when requested by relevant authorities in exceptional situations. The South Sudan People's Defense Force (SSPDF) and National Security Services (NSS) recognize and carry out the roles and responsibilities enshrined under articles 151 and 159 of the TCSS 2011 as amended. In particular, they should emphasize nonpartisanship, representativeness, professionalism and, above all, they must focus on information gathering, analysis and providing advice to the relevant authorities, respectively.

RECOMMENDATIONS

For security sector reform to succeed, there are few actionable ways forward. Foremost is the will of the political stakeholders to set a vision for a democratic reconstruction of post-conflict South Sudan beyond and above ethnic and political divide. In this case, the government -- through relevant mechanisms such as the strategic defence and security review process -- as well as the Council of Ministers and the national legislature, must develop a fairly universal security interest¹³, including territorial integrity, and ensure all forms of sovereignty are intact. According to the R-ARCSS, the security reform is the result of a final-step security sector transformation roadmap. Such reform must be people-centered, locally owned and based on democratic norms, human rights principles and the rule of law. It must provide freedom from fear and measurable reductions in armed violence and crime.

Security sector reform in South Sudan must be a framework to structure thinking about how to address diverse security challenges facing the state and population. This must happen through the integrated development of security policies and through greater civilian involvement and oversight. This long-awaited reform must finally be founded on activities with multi-sectorial strategies based upon a broad assessment of the wide range of defence, security and justice needs of the people and the state, while adhering to basic good governance principles of transparency and accountability.

FOOTNOTES

6. CLMI Concept Note on National Dialogue (2015)
7. Article 1(4) of TCSS (2011) South Sudan is governed on the basis of a decentralized democratic system and is an all-embracing homeland for its people. It is a multiethnic, multicultural, multilingual, multireligious and multiracial entity where such diversities peacefully co-exist.
8. Sudan People's Liberation Movement.
9. Lt General (ret) Kuol Deim Kuol, (2018) *Confronting the Challenges of South Sudan's Security Sector: A Practitioner's Perspective*
10. For details of Vision of SDRS, see article 2.5 of the R-ARCSS 2018
11. Article 2.5 Chapter two of the R-ARCSS (2018)
12. Article 161 of the TCSS (2011) as amended
13. Bard B. Knudsen (2012) *Developing National Security Strategy/Policy: A Roadmap*



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About the Author

Beny Gideon Mabor is a commissioner at the South Sudan Human Rights Commission and advocate of high courts in South Sudan. He holds a Bachelor of Laws degree from the University of Juba, South Sudan, and post-graduate diploma in legal practice at the Institute of Legal Practice and Development, Republic of Rwanda.

Prior to joining the commission, Mabor was at the Ministry of Justice and Constitutional Affairs in the department of legislation, gazette and printing press. In professional memberships, he is a member of the South Sudan Bar Association, Pan African Lawyers Union, Pan African Human Rights Defenders Network and the South Sudan Law Society.. During the IGAD-led peace process for South Sudan in 2014-2015, Mabor was a civil society representative at the peace talks that brought Agreement on the Resolution of Conflict in South Sudan. Mabor's academic scholarship focuses on governance, human rights and social accountability.