

# **Submission dated 25 February, 2015 to the parties negotiating peace for South Sudan, under the mediation of IGAD.**

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## **Civil Society Submission on Security Sector Reform and Defence Transformation**

We the undersigned civil Society organizations have the honour to submit to you the following recommendations on the theme of Security Sector Reform and Defence Transformation. These recommendations were drafted based on a roundtable of representatives of the Civil Society organizations on the above subject matter in August 2014. The roundtable was facilitated by the South Sudan Action Network on Small Arms (SSANSA).

We are grateful to present to you the attached conclusions as issues for consideration in the drafting of the provisions of the potential peace agreement, relating to security sector and defence transformation. (See annex)

### **Signatories**

1. Assistance Mission Africa (AMA)
2. Change Agency Association (CAA)
3. Citizens for Peace and Justice (CPJ)
4. Community Initiative for Rural Development (CIRD)
5. Equatoria Rehabilitation and Development Agency (ERADA)
6. Women Development Group (WDG)
7. Kueng Community Development Agency (KUCDA)
8. Losolia Rehabilitation and Development Association (LRDA)
9. The Roots Project
10. Seed for Democracy for South Sudan
11. South Sudan Action Network on Small Arms (SSANSA)
12. South Sudan Law Society (SSLS)
13. Soweto Community Based Organization
14. Standard Action Liaison Focus (SALF)
15. Sudanese Network for Democracy and Elections (SuNDE)
16. The Organization for Children Harmony (TOCH)
17. Upper Nile Youth Development Agency (UNYDA)
18. Women in Action
19. Youth Out of Poverty and AIDS (YOPAS)

# **Annex to the Submission dated 24 February, 2015 to the parties negotiating peace for South Sudan, under the mediation of IGAD**

## **Recommendations for Security Sector Reform and Defence Transformation in the South Sudan peace process**

### **Introduction**

South Sudan warring parties are currently negotiating peace. The negotiation follows an outbreak of a ghastly violence in December 2013 at the South Sudanese capital Juba, which quickly spread to other parts of the country. The warring parties at the negotiation table are Sudan People's Liberation Movement – In Opposition, led by Dr. Riak Machar and South Sudan's government. The talks are expected to conclude with a peace agreement on various sectors, such as; civil service, transitional government, judicial reform, transitional justice, constitutional reform, service delivery, economic reforms and security sector reforms. Hitherto, the talks have achieved an agreement on cessation of hostilities (CoH), however, there have been numerous violations and that persists. Despite the situation on ground being punctuated by violation of the CoH agreement, the talks are proceeding. This submission provides guidance on security arrangements and how to reform and transform South Sudan's security architecture into a professional security provider.

This is a joint civil society position paper that addresses why there is need to incorporate in a potential peace agreement, strong commitments for restructuring and reforming South Sudan's security architecture. It is underpinned by the believe that a safe and secure environment for the people and state of South Sudan is a fundamental requirement for transition from war to peace, sustainable economic, social and political development, people's livelihoods and reducing poverty. South Sudan's current security architecture is unable to provide that safe and secure environment. This owes mainly to the current crisis and failures and limitations of past reform efforts to make the security system more capable and professional.

The paper presents recommendations for essential reforms needed in the security sector. Besides, it provides proposals for the mandates that should be embedded into the peace process and effectively reflected in the subsequent peace agreement. The paper captures harmonized civil society views on SSR, with recommendations on how best to steer the reconstruction of the South Sudanese security sector; The Principles underpinning the reform process such as the inviolability of human rights; democratization of security sector governance; and the role of government and guarantor of the social contract with its citizens. The paper also suggests a vision that could guide the security sector reform agenda.

Overall, the paper calls the warring parties to be explicit about SSR requirements in the subsequent peace agreement. As an integral part of the agreement, SSR frameworks should be elaborated to stipulate commitments to, inter alia; transformation and reform programme priorities, timelines, lead national implementers and monitoring mechanisms. That would give the appropriate mandates and legal framework to embark on these essential reforms. It would also facilitate priority setting, resource allocation, proper sequencing and coherence at the implementation stages of the peace agreement.

These recommendations are primarily based on deliberations during a two-day civil-society roundtable on security sector reforms held in Juba, August 2014.

## **Security Sector – Definition**

Security sector is a broad term often used to describe the structures, institutions and personnel responsible for the management, provision and oversight of security in a country. It is generally accepted that the security sector includes defense, law enforcement, corrections, intelligence services and institutions responsible for border management, customs and civil emergencies. Elements of the judicial sector responsible for the adjudication of cases of alleged criminal conduct and misuse of force are, in many instances, also included. Furthermore, the security sector includes actors that play a role in managing and overseeing the design and implementation of security, such as ministries, legislative bodies and civil society groups. Other non-State actors that could be considered part of the security sector include customary or informal authorities and private security services<sup>1</sup>.

However, while reforms across all those sub-sectors are essential for a comprehensive reform and well functioning of the entire security sector, this paper dwells more on reforms needed in the military, the police, the justice sector and the oversight institutions. Accordingly, the paper stresses that the parties should place emphasis on commitments for coherent reforms in those aspects. Yet, they should put in place a joint coordination board to ensure reforms are coherent in broader security and justice sector.

## **Why Security Sector Reform is critical**

The overall objective of security system reform is to create a secure environment that is conducive for development, poverty reduction and democracy to thrive. This secure environment rests upon two essential pillars:

- the ability of the state, through its development policy and programmes, to generate conditions that mitigate the vulnerabilities to which its people are exposed;
- the ability of the state to use the range of policy instruments at its disposal to prevent or address security threats that affect society's well-being.

South Sudan's current security architecture is unable to provide a safe and secure environment due to break down of the security system and rule of law. This owes not only to the current crisis but also failures and limitations of past reform efforts to make the security system more capable and professional. Additionally, it is important to note that, besides the conflicts within the SPLM party, the current crisis can significantly be attributed to the crisis within the security system, especially the military. Therefore reforming the security architecture will not only help resolve the current crisis but prevent similar crisis in the future.

## **The Current Challenges with the Security Sector**

As the parties deliberate on restructuring and reforming the security sector, it is imperative that besides appreciating the overall need for transformation, the parties understand some key aspects that have broken down and requiring reforms and restructuring. Below is an outline of the set of challenges that characterizes the security system. These issues highlight the imperative for security sector reform to begin at the outset of a peace process and should be incorporated into early recovery and peace building and development strategies.

- a) The size of the military is huge yet precise estimates cannot be established unknown due to the ever growing number as a result of the project of accommodation and ongoing recruitments. The burden of this is well reflected in the annual national budgets where over 40% of the country's expenditure goes to the defence and security sector. A plan for the transformation of the SPLA (Objective Force 2017) already existed before fighting broke out, but it had not been implemented. Yet, the peace agreement risks making the army even bigger if parties choose to integrate most of the current fighters on both sides into the national army.

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<sup>1</sup> Report of the Secretary-General on Securing peace and development: the role of the United Nations in supporting security sector reform, 23 January 2008, (A/62/659–S/2008/39))

- b) Events in December 2013 have challenged the long-held assumptions by the government that blanket amnesties contribute to peace. It can be argued that to some extent, it has contributed to peace but certainly not a long lasting peace. The granting of unconditional and open ended amnesty to various militias that fought the government enabled an end of violence and relative peace. But this has also fed new grievances, as rebellion has been made attractive.
- c) The army is further disintegrated as a result of defections during the current crisis. A divided army cannot foster unity in the country. Besides, without reform, it will certainly remain poorly placed to protect the territorial integrity of South Sudan from any external aggression.
- d) Negative ethnicity plagues national politics and the composition of the security forces. The ethnic composition of forces is not representative and reflective of the country's ethnic diversity.
- e) Security forces' excesses have fed public fear of these state actors; informed a public perception of the forces as enemy; and inadequate state protection has fuelled the illicit proliferation of small arms as civilians seek their own protection.
- f) Members of forces of both warring parties have engaged in committing atrocities and violation of human rights and violation of international law. No transparent process is known to have been put place to prevent such atrocities and violations from recurring.
- g) There is no coherent approach to national security. A national security policy was drafted by the Ministry of National Security in 2013, based on wide public and private consultations, but it was never formally endorsed by the president and parliament.
- h) The military has often taken up policing roles; this has led to confusion on responsibilities and promoted militarization of the society as there are more contacts between the military and the society.
- i) South Sudan's violent past continues to haunt the country, with the gun still viewed by many as a source of power. This attests to the continuing challenges of the mostly unsuccessful yet considerably funded DDR initiatives and the culture of impunity – including security forces' excesses. It also underscores the need for reform of governance, judicial, and law and order institutions; and national reconciliation.
- j) The DDR process in South Sudan has largely failed. The relapse into war has brought back some demobilized soldiers back to fight on both sides. Earlier demobilized soldiers didn't want to leave the army but instead wanted to retain their salary. Also several people who were on the list of DDR candidates were reportedly not combatants. As such the military is in dire need of a proper DDR process to address the issue of former fighters after the war ends.
- k) Some political leaders on all sides of the divide maintain loyal militias perpetuating a high level of militarization. This is complicated by the fact that the military is believed to have split loyalties to respective generals and therefore lacks a professional, unified command structure.
- l) There continues to be secrecy and unaccountability in deployments and integration. Untransparent and unaccountable decision about the integration and deployment of southern soldiers was a key reason why the 2<sup>nd</sup> civil war broke out in 1983.
- m) Lack of coherence and transparency in security sector management has made the work of the Parliamentary Standing Committee for Defence, Security and Public Order committee ineffective. Besides, the does not have adequate expertise to exercise their roles.

- n) There has also not been much appetite among the committee on Defence, Security & Public order to rigorously oversee the work of the security sector, because the Assembly has been controlled by the SPLM. And being necessarily strict on management of security issues was easily seen as being tough on the party they represent.
- o) Security forces are poorly resourced, poorly equipped and work under tough conditions. This has presented the need of adequate training facilities for each respective security agency (military, police, prisons, intelligence).
- p) South Sudan's National Security Council has not effectively played its roles since it was established in 2011. This underscores the need for reactivation.
- q) Unlike in other countries, South Sudan's security organs have since 2011 been largely focused on internal security. For this reason they have come into contact with the civil population more than armies in other countries do. This has nurtured the culture of militarism in South Sudan. Yet, the relationship between security organs and the people is currently very poor, making the work of the security organs more difficult.
- r) The 2011 Constitution called for the establishment of the South Sudan Armed Forces (SSAF) to replace the SPLA, but it was not done. This has kept the National army nominally a military wing of the ruling party SPLM.
- s) The dire state of South Sudan's correctional system does not guarantee rehabilitation of convicts. Due to lack of adequate facilities for detention and the military often getting involved in law enforcement,
- t) Corruption and violence using salary delays as the pretext has manifested among members of the security sector in the form of sporadic violence. This has almost become a routine.
- u) Cases of indiscipline of the military and police officers are rife. With misuse of power for private purposes and smuggling of government arms to black markets as main examples.

## **Consequences for ignoring critical Security Sector Transformation needs**

As peace is being negotiated, it is important to recognize the crises in the security sector are among the triggers of the current crisis. The peace agreement should place adequate focus on developing safeguards to prevent similar future crisis. Moreover, the parties should seize the peace process as an opportunity for comprehensive reform in the security sector as it is certainly envisaged in other sectors.

Without restructuring and reforming the security architecture, South Sudan is poised for tough challenges in its aspiration to transition from the current crisis to stability. These challenges include;

- Achieving only temporary peace and/or being drawn into protracted internal conflict,
- Emergence of and proliferation of (ethnic-based) militias and warlords.
- Inability to protect its hard won sovereignty and territorial integrity from external threats, given the nature of its divided military.
- Inability of the police to protect civilians given the lack of trust generated as a result of victimization of civilians in the hands of some police officers, and the weak capacity to provide the protection needed by communities.
- Failure by the South Sudanese state to remove illicit arms from communities and establish monopoly over use of force.
- Continued human right violations by members of the armed forces and pervasive unaccountability by security agencies.
- Increasing lack of capacity to enforce law and order and subsequently further deterioration of rule of law.
- Overall state failure and complete collapse of social order.

## **Vision of the reform**

It is possible that due to some circumstances, parties may fail to agree on all technical aspects of SSR. However, such lack of consensus should not stall the peace process, but there should at least be commitment to that common vision for transformation.

We in the civil society share the vision of *“a united and accountable security sector that is able to deliver security to the people of South Sudan and the state while operating in accordance with the rule of law, human rights and democratic principles.”*

## **Principles for carrying out Security sector reforms**

The agreement to that common vision should be backed by commitment on a set of principles that will guide the direction and nature of any reform process. We in the civil society sector have built consensus on the following principles.

### **Inclusivity**

All reform processes should include the needs and perspectives of citizens of South Sudan from all walks of life. The composition of all security services shall reflect the diversity of the peoples of South Sudan, especially ethnic and gender. The new armed forces and other security services should be composed of men and women not only drawn from the forces of SPLA & SPLA-IO but also other South Sudanese civilians who are willing, fit and proper.

### **Democratic control and Accountability**

Armed forces shall be subordinates to democratically elected civilian authorities. Reforms should ensure that every member of the security services shall be equally held responsible for the costs and benefits of their actions by a superior authority. And those who manage security service institutions are all answerable to the legislature, as the oversight body.

Reforms shall ensure there is adequate oversight mechanism in all security sector institutions. Managing of the security sector should be same as managing public sector – using international best practices.

### **Nonpartisan ship**

The reform process should ensure a mechanism in place to ensure that no security agent shall lend their services to a political party or group. The opposition and/or other political parties must not seek to become an armed force by finding sympathetic ears in the military. On the same emphasis, the military must not seek to manipulate the political process to their own ends. This shall apply to all security agencies.

### **The Rule of Law and inviolability of Human Rights**

Security services shall be reformed to respect, protect and uphold human rights and the rule of law including international law. Reforms in the security services should be consistent with national and international human rights and rule of law principles. There is a range a range of instruments available to provide guidance to ensure the reform process is consistent with international law, norms and principles <sup>2</sup>.

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<sup>2</sup> For instance, see; **THE UNIVERSAL DECLARATION ON HUMAN RIGHTS**, available here; <http://www.un.org/en/documents/udhr/>; and **BASIC PRINCIPLES ON THE USE OF FORCE AND FIREARMS BY LAW ENFORCEMENT OFFICIALS**, available here,

## **Transparency**

Budgeting, management and oversight of the Security services shall be done in a transparent manner. Also, information regarding security and defence affairs shall be kept available for citizens in accordance with the right to access to information enshrined in the constitution of South Sudan.

## **Professionalism**

All persons serving in any security sector shall have received the necessary professional training to perform their duty, such as, the role of the military in a democracy, democratic policing, human rights, and operational efficiency. All security services shall be reoriented towards a common vision and ideology. Promotion shall be based on merit.

## **Economic viability**

The reform process shall ensure efficient and effective use of resources & the resulting security system is affordable. All national resources shall be aligned to priorities in logical sequence. Overall, national budget allocations to the security sector should be kept to no more than 30% of the overall budget of the country for any fiscal year. And finance management in the security sector shall be incorporated into sector wide fiscal accountability and transparency processes.

## **Lessons from past Security Sector Reform efforts**

- Priority was strengthening operational capacity overall. This was essentially for expedience in case of possible external aggression. More on Military followed by police and less on security sector management and oversight institutions and systems.
- Main components of SSR focused on DDR and professionalization of the SPLA. These were underway until the crisis broke out. Main focus was the SPLA Improving operational capacity of the SPLA. Rule of law components, such as, policing and judiciary saw less reform efforts.
- The outcomes of these efforts were superficial there was restructuring and downsizing of the armed forces, and a level of modernization of police structures and border guards but without strengthening parliamentary and other forms of civil oversight mechanisms.
- National Security Council is non-functional even though it was prescribed in the constitution and effectively established in 2011.
- Many DDR candidates were not the legitimate targets of the DDR program designed.
- Downsizing pursued simultaneously with new recruitments. DDR stalled partly due to the high cost of the program and on the side of the government of South Sudan, due to lack of meaningful commitment to demobilize without a pension plan.
- The parliament that holds the purse of the defense sector is mainly SPLM, and the army seen as a arm of the party. Meant there was no appetite for reform and scrutiny.
- The country got stuck in a cycle of disarmament and re-armament as arms are collected from some communities flew back to the society. The organized forces have been named to be responsible for supplying arms to the communities.

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<http://www.ohchr.org/EN/ProfessionalInterest/Pages/UseOfForceAndFirearms.aspx> ; also see, **CODE OF CONDUCT FOR LAW ENFORCEMENT OFFICIALS**, available here,

<http://www.ohchr.org/EN/ProfessionalInterest/Pages/LawEnforcementOfficials.aspx>;

On prevention of torture, see; **Convention AGAINST TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT**, full text available here, <http://www.hrweb.org/legal/cat.html>; and see, **COMPENDIUM OF UN STANDARDS AND NORMS IN CRIME PREVENTION AND CRIMINAL JUSTICE**, Available here <

<http://www.uncjin.org/Standards/compendium.pdf>>

## Recommendations

### a) On the Military

Restructure and reorient the military and its leadership – to create a new unified force. This can take the form of the following:

- Disbandment of all forces and reestablishment of a new unified force under a new command.
- SPLA and SPLM-IO should screen their forces and contribute their highly professional personnel to form the nucleus of the new united army.
- The new united army shall be reoriented with a national and professional military ideology, trained further and well equipped to increase their operational effectiveness.
- The percentages of the new army should be agreed between the two parties. However, it should be deliberated while taking into consideration the principle of inclusivity outlined in the principles part of this paper.
- The number of the new army shall be determined by the National Security Council based on a national security analysis.
- Proportional integration into the national armed forces general officers, senior officers, junior officers, non-commissioned officers, sergeants and other enlisted personnel from opposition forces.
- Ethnic, gender and regional representativeness of the military rank and file e.g. “not more than 15 percent of the national defense force shall be drawn from any one ethnic group, in view of the need to achieve ethnic balance and to prevent acts of genocide and coups d'état”
- Development of common defense, security and organization principles of the military (Common Military Doctrine). The doctrine shall encompass respect for the South Sudanese constitution, human rights, international instruments ratified by South Sudan, protection of national sovereignty and independence, South Sudan’s territorial integrity and the spirit of the agreements on sustainable peace.
- Unified command structure not based on ethnic loyalties or history of [re]integration.
  - ii. Rename the military (so it is not thought to be a wing of the SPLM) and completely delink it from the party.
  - iii. Downsizing of a clearly spelt out proportion of the forces (before the next elections) based on the following criteria:
    - An consultatively developed and adopted National Security Policy
    - Comprehensive and objective assessment of the magnitude of internal and external threats
    - Economic and financial resources of the country
    - Budgetary allocations to the security forces
  - iv. Integrate livelihoods enhancement and vocational training in DDR processes
  - v. Incorporate strong components of restoring trust between ex-combatants and communities. Without this, ex-combatants benefiting from DDR related livelihood programs could actually be perceived by the local population as benefitting from killing their family members through reintegration benefits.
  - vi. Formulate and adopt laws, policies and professional guidelines on:
    - Training
    - Recruitment practices to outlaw child soldiers and avoid political, ethnic, gender and regional bias
    - Code of Conduct
    - Terms of service
    - Veterans affairs
    - Require military officers to stay in the barracks, unless when they are deployed
  - vii. Monitoring framework for progress of military reforms; reporting arrangements

## **b) On the Police**

The South Sudan Police Service (SSPS) should be reformed into a new police service that is professional police, neutral, service-oriented and ensures law and order for all persons;

- i. The reform should establish a united small and operationally effective and professional unit to form the nucleus of the new police service.
- ii. This new unit should be further trained, equipped and reoriented under a new ideology of police professionalism.
- iii. The new police service shall be established in accordance with the principles for reforms listed in this paper (in the previous part) especially in regard to inclusivity.
- iv. Formulate and adopt laws, policies and professional guidelines on:
  - Recruitment practices
  - Code of Conduct
  - Terms of service
- v. The South Sudan Police Service shall:
  - Perform its duties and functions in accordance with internationally recognized democratic principles
  - Respect and uphold civil and political rights of citizens as well as internationally recognized human rights and fundamental freedoms
  - Be guided in the performance of their duties by the Constitution of South Sudan, all relevant legislation, and a Police Code of Conduct
- vi. The National Police Service Commission (NPSC) shall be reconstituted
  - A relevant committee of the South Sudan Parliament shall:
  - Legislate the NPSC Act
  - Develop detailed terms of reference for the nine-member NPSC
  - Through a publicly monitored vetting process, interview applicants for NPSC membership
  - Prepare a list of the 15 most competitive candidates and forward these to the President
- vii. The President shall select nine members from the parliamentary shortlist to form the NPSC
- viii. The NPSC shall:
  - Vet all police officers, starting with the senior most to the lowest rank
  - Ensure a transparent vetting process that is open to members of the public and civil society
  - Where deliberations are of a sensitive nature that could threaten national security, proceedings can be held in camera by a two thirds vote of the NPSC members
  - The NPSC shall invite members of the members of the public, civil society actors, and security forces to make submissions on any and every officer being vetted. These submissions shall be confidential written sworn affidavits
  - The NPSC shall consider police officers' human rights record, and professional conduct
  - The vetting process shall be non judicial. The NPSC shall not consider judicial charges against police officers who fail the vetting on grounds of human rights violations and corruption.
  - Police officers who are retained after successful vetting shall be subjected to professional refresher training
- ix. A revamped Police Service shall be set up through the vetting process and professional training
- x. The professional training of the Police Service shall henceforth assure a new orientation, by emphasizing professionalism, the importance of human dignity and democratic values and respect to and protection of human rights

- xi. Provide better police equipment
- xii. The conduct of members of the Police Service shall be free from all partisan considerations of politics, ideology, ethnic and social position
- xiii. The Police service shall not be deployed for combat missions of a military nature

**c) On the Prisons**

- i. Formulate and adopt laws, policies and professional guidelines on:
  - Recruitment practices
  - Code of Conduct
  - Terms of service
  - Review the Penal Code and Code of Criminal Procedure to ensure suspect appear before a judge within 24 hours, and ingrain progressive provisions in both
- ii. Training
  - Including modules on human rights, public relations, sociology, laws of the country
- iii. Provide better police equipment
- iv. Construct a separate juvenile correctional facility for children
- v. Reform shall be carried out in accordance with the principles listed in this paper.

**d) On the Intelligence Service**

- i. Parties shall set up Intelligence Services by an Act of Parliament that shall detail its functions and guiding principles for its work
- ii. The aforesaid principles shall include:
  - Upholding internationally recognized democratic principles
  - Respect for civil and political rights of all citizens without discrimination on the basis of age, politics, ethnicity, gender, religion and region
  - Non-partisan discharge of its mandate in interests of national security
  - Respect for distinct roles of other security actors including the military, police and prison department
- iii. The actions of the Intelligence Department shall at all times be in accordance with the laws of South Sudan
- iv. In no case may police functions be assigned to and/or performed by the Intelligence Department. This includes the power to execute an arrest.
- v. The Human Rights Commission, the Commission on the Implementation of the Constitution, and an Independent Complaints Department set up under the new constitution shall have the mandate of investigating cases of extra-legal use of the Intelligence Department and the Intelligence Department's violation of human rights of civilians with a view to taking legal action against officers responsible

**e) On Ceasefire and DDR**

- i. The Ceasefire Commission shall be established with a clear mandate
- ii. The Ceasefire Commission shall be composed of representatives of Government, Opposition, representatives of IGAD, and the AU. The Commission shall be presided over by the UN
- iii. The Ceasefire Commission shall be based in Juba, have regional offices in greater Upper Nile and greater Bahr el Ghazal and offices at the assembly and billeting locations of the two parties
- iv. The Ceasefire Commission shall have, inter alia, the function of implementing the demobilization process, with the following tasks:
  - Planning and organization;
  - Regulation of procedures;

- Direction and supervision;
  - Biometric registration of troops to be demobilized and issue of demobilization certificates;
  - Collection, registration and custody of weapons, ammunition, explosives, equipment, uniforms and documentation; destroying or deciding on the other disposition of weapons, ammunition, explosives, equipment, uniforms and documentation as agreed by the Parties;
  - Medical examination
- v. The UN shall assist in the implementation, verification and monitoring of the entire demobilization process
- vi. Timeline:

<b>Timeline</b>	<b>Target</b>
D-Day	Installation of the Ceasefire Commission and commencement of its functions
D-Day + 30	Definition by all Parties of the troops to be demobilized; activation of demobilization structures and initiation of the process
D-Day + 60	Demobilization of at least 20 per cent of the total troops to be demobilized
D-Day + 90	Demobilization of at least a further 20 per cent of the total troops to the demobilized
D-Day + 120	Demobilization of at least a further 20 per cent of the total troops to the demobilized
D-Day + 150	Demobilization of at least a further 20 per cent of the total troops to the demobilized
D-Day + 180	Demobilization of at least a further 20 per cent of the total troops to the demobilized

- vii. For all purposes, demobilized soldiers of both Parties shall become civilians and shall be accorded equal treatment by the State.
- viii. A Reintegration Commission shall be established
- ix. The Reintegration Commission shall operate under the direct authority of the National Security Council and shall initiate functions upon the lapse of the Ceasefire Commission's demobilization work (D-Day + 180 of demobilization work)
- x. The Reintegration Commission shall be composed of representatives of the Government, Opposition, representatives of IGAD member states, a representative of AU, civil society and a representative of the UN, who shall preside
- xi. The Reintegration Commission shall be based in Juba, have regional offices in greater Upper Nile and greater Bahr el Ghazal and state offices in each state capital
- xii. The assignment of the Reintegration Commission shall be to effect the economic and social reintegration of demobilized soldiers, and it shall for this purpose conduct the following tasks:
  - Planning and organization;
  - Regulation of procedures;
  - Direction and supervision;
  - Monitoring.
- xiii. The Reintegration Commission shall, upon formation, prepare a comprehensive budget of resources needed for sustainable reintegration

- xiv. There shall be a donor conference on a predetermined date and location to discuss the resources necessary for economic and social reintegration of demobilized soldiers.

## **Amnesties**

While amnesty can be used to give peace a chance, there are certain crimes that do not warrant amnesty under international human rights law and international humanitarian law. Those security agents responsible for serious crimes should not be granted amnesty under the peace agreement. Giving amnesties to perpetrators of serious crimes will be contradictory to international law and promote the culture of impunity that has been prominent in South Sudan. For example, even the UN shall not endorse provisions in peace agreements that include amnesties for genocide, crimes against humanity, war crimes or gross violations of human rights. Furthermore, a peace agreement that ignores the serious crimes committed would only resolve the conflict between the warring parties but not the conflict between victims and perpetrators. Restricted amnesty would contribute to accountability and ending impunity. This element of amnesty should be factored in the transitional justice provision of the peace agreement and should be consistently promoted with other SSR provisions at the implementation stages.

However, the parties should consider the difficult task of drawing precise dichotomy between perpetrators and victims and that some atrocities are committed through coercive orders. Therefore, there should be established a commission to receive submissions, hold hearings and address these cases in line with public interest and the interests of the victims. A measure should be put in place to guard against the possibility of incriminating less politically influential combatants to suffer the mistakes of their power wielding superiors. A transparent, capable and independent transitional justice commission would be well placed to undertake these tasks. This recommendation is consistent with earlier recommendations on transitional justice, jointly submitted by the Civil Society.

## **Children Associated with Armed Forces**

All children associated with armed forces should immediately be released. This should be the first element in security arrangements. Provisions of the peace agreement should explicitly include financial and other resources required for programmes to support the swift and safe release, return and reintegration or integration of children at the earliest opportunity. There should be no liability for future conscription into the armed forces of South Sudan for those who fought as children<sup>3</sup>.

## **Civilian Disarmament**

The peace agreement should include clear commitments from all the parties to embark on a nation-wide civilian disarmament campaign before the next election is conducted. The CPA was silent about civilian disarmament; as a result, the issue of civilian disarmament was swept aside in the national peace building priorities. Consequently, from 2005 until now, civilian disarmament has been conducted in a haphazard manner. This has produced mixed outcomes. Where there were successes in arms collection, communities rearmed and where communities refused to surrender their arms, coercive efforts resulted into needless bloodshed. This has pitched South Sudan in a cycle of disarmament – and – rearmament. This cycle is not only a waste of resources but a major challenge to state legitimacy.

Including civilian disarmament in the peace agreement ensures it is in line with other SSR components and other peace building and stabilization elements. This would give way for focusing adequate attention to the various aspects of carrying out civilian disarmament, which include adopting the appropriate legal instrument for regulating firearms possession by civilians, public consultations on civilian disarmament and aligning community security improvement with arms removal.

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<sup>3</sup> See Paris Principles and guidelines on Children associated with armed forces. Available here; <https://childrenandarmedconflict.un.org/our-work/paris-principles/> [Accessed 10 September 2014]

## **Security Sector Reform Council**

The peace agreement should establish an institution responsible for coordinating defense and security sector transformation related initiatives. This would inter alia ensure consistency between policies and plans, priorities and resource allocation, proper sequencing and logical pooling of efforts towards the common reform vision.

In the past, there were a range of SSR related activities that had been pursued separately, in less coordinated manner. These reform efforts resulted into varied reforms. For instance, on top of the lion share of the national budget, the military received most of the support and external funding. However, fewer resources went to the law enforcement and justice sectors. Besides, these support focused mainly on improving the operational capacity of the SPLA with only a limited effort devoted to nurturing democratic control and oversight. These mixed outcomes were partly responsible for the December 2013 crisis.

We therefore call for the establishment of a coordinating body called The Security Sector Reform Council/Board. Membership of the SSR council/Board, should include representatives from all the security services institutions, members of the parliamentary committee on security defence and public order, other political parties and civil society. The primary responsibility of this body would be to coordinate all SSR related efforts of the government including international assistance to sure coherence and consistency in the SSR and defence transformation process.

### **Balancing Short-term wins and long term reform imperatives**

Quick wins may preserve peace and stability (such as the integration of ex combatants into existing security institutions), but they need to be in line with the security sector's legitimacy, size, role and financial cost to society. Long-term sustainability must be considered even as quick wins are being planned, to ensure that short-term responses do not harm initiatives planned for the longer term.

In the short time, appeasing the huge number of combatants is seen as a feasible way of dealing with the challenge to downsizing. However, there is no evidence that this contributes to the security of the state or that of the people. Instead, it has drained the resources meant for social services and creation of employment in a wide range of sectors. Furthermore, apportioning of excessively huge budgets for the military has turned the army into a survival route taken by many desperate youth seeking livelihood. It is known to have encouraged militarism as the youth see joining military groups to gain quick high ranks in the military as integration into the military hitherto takes place without vetting and trimming of ranks. Coupled with perceived unfair promotion practices, military personnel look at rebelling as a means of achieving more ranks, which translates into more money. One of the main implications of this is military ranks with no qualifications & professional skills to perform effectively their duties.

Moreover, keeping a large and mainly unprofessional army and police does not improve security both in the short and long run. Therefore, establishing small units of armed forces in the short run would certainly improve security and help build trust between government and the people. Arriving at the desired numbers of each unit of the armed forces shall be achieved through an incremental approach. This would be aligned with the DDR and vetting process that follows the establishment of the first smaller but highly professional units of armed forces for South Sudan.

### **International cooperation and assistance**

The peace agreement should include a mechanism to attract and enable greater coherence in the support of international community for SSR in South Sudan. Lack of coherence in past reform efforts has made distribution of efforts complex and measuring progress even harder. Specifically, this failure of past DDR efforts can be attributed to the conflicting priorities and lack of consensus among international supporters and with the government of South Sudan on requirements, expectations and outcomes of DDR. The new reform process should involve better coordination between national authorities and external actors to develop meaningful political and operational coordination. However, the definition of priorities shall be a local prerogative. All assistance shall be tailored to

processes that adhere to the principles adopted herein and other principles as articulated by the UN and OECD<sup>4</sup>. Coherence can be achieved by recognizing instruments such as;

- The basic principles guiding the approach of the UN<sup>5</sup> in SSR<sup>6</sup>
- The AU policy framework on SSR

\*\*\*END\*\*\*

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<sup>4</sup> See; OECD Security Sector Reform and Governance policy, available at; <  
<http://www.oecd.org/development/incaf/31785288.pdf>>; Also see; OECD-DAC Handbook on Security System Reform,  
Available at; <http://www.oecd.org/development/incaf/38406485.pdf>

<sup>5</sup> For UN integrated technical guidance notes on SSR, See; <http://unssr.unlb.org/Portals/UNSSR/UN%20Integrated%20Technical%20Guidance%20Notes%20on%20SSR.PDF>

<sup>6</sup> <http://unssr.unlb.org/SSR/Principles.aspx>



South Sudan Action Network on Small Arms



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