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FOR STRATEGIC STUDIES

NATIONAL SECURITY STRATEGY DEVELOPMENT

South Sudan Case Study

Working Paper
(Preliminary Draft)

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1. Introduction[1]:

South Sudan became the youngest country Africa in 2011 after almost half a century of fighting and with an eleven (11) year gap of relative peace. This violent history will continue to shape the strategic policy direction of the youngest nation. The 2005 Comprehensive Peace Agreement (CPA) that ended 21 years civil war provided basis for the people of South Sudan to articulate their vision, core values and strategic interests as spelled out in its 2011 Transitional Constitution; particularly in the preamble and chapter on objectives and principles. The Constitution clearly states that security and welfare of the people of South Sudan to be the primary duty at levels of government. Besides the Constitution, South Sudan has Vision 2040 titled "Towards Freedom, Equality, Justice, Peace and Prosperity for All and adopted immediately after its independence Development Plan that identified good governance, transparency, a balance of power and a zero-tolerance corruption policy as its first pillar.

Although South Sudan does not have National Security Strategy, it has drafted in October 2013 its National Security Policy document but it has not been approved by the Council of Ministers or adopted by the National Legislature because of the eruption of violent conflict in December 2013. In absence of NSS, the Sudan People's Liberation Army (SPLA, the national army) Defense White Paper, the SPLA Act, the Police Act, Prison Act, National Security Service Act and Judiciary Act all act as key strategic documents for security governance.

2. Process (Development and Implementation):

Entry Point, Initiation and Legal and Institutional Foundation:

After launching in 2011 South Sudan Vision 2040 to guide strategic thinking and the policy-making process, the Southern Sudan Legislative Assembly in March 2011 and before independence passed a resolution for the development of a comprehensive national security strategy for the new state by the end of 2012. After its independence, the urgent need to develop national security was included in the 2011 Transitional Constitution of the new state in Article 160 that provides for the establishment of National Security Council that shall define the national security strategy.

The position of the Minister for National Security in the Office of the President and the Executive Secretariat of the National Security Council was established immediately after the independence and designated the role of developing national security architecture including national security policy, strategy and development plan at all levels of government. The creation of this position

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[1] This case study is informed by my personal engagement in the events in South Sudan and interviews with former minister of national security and former chief of general staff, former deputy minister of defense and some members of the drafting committee and South Sudan Security Sector Reform Note by DCAF (2016).

helped in the initiation of the NSSD as the newly appointed Minister of National Security formed in 2012 a drafting committee to develop the first National Security Policy. So the development of national security policy was initiated first by the parliament and then enshrined in the constitution and executed by the Minister of National Security.

The Drafting, Consultation Process, and Stakeholders:

The Drafting Committee consisted of 11 including two women with its members drawn from security sector institutions and agencies such as national army, police, national security service, parliament and civil society. In June 2012, the Drafting Committee, in collaboration with the African Union, held a planning meeting in Juba, in order to identify a roadmap for the development of the Policy and a subsequent implementation Strategy. The Committee launched its work in September 2012 in Juba, the capital city and attended by various stakeholders and national and international scholars.

At the launching of the work of the Committee, Professor *Eboe Hutchfal*, chair of the Africa Security Network, in his address of the meeting praised the initiative and said: "*By Beginning to develop a national security policy, South Sudan was moving in a direction other African countries were just beginning to understand*". Also during the meeting, the representative of the President and presidential legal advisor elaborated more about the process and purpose of the first National Security Policy document by emphasizing that the process must be inclusive by consulting people as the very ones that policy seeks to protect and the document will be a public document and should not be divorced from foreign, economic and regional policies.

In March 2013, the initial (zero draft) was ready. Between March and May 2013, the drafting committee and the main security sector institutions and agencies started a countrywide consultation process with support of UN at all levels of government (national, state and county) with the aim of:

- Creating Awareness of the initial (zero) draft.
- Engaging stakeholders in discussions on its content
- Reaching an agreement on the document
- Developing the final draft to be submitted to the Council of Ministers and Parliament.

In each state of the ten states, three days of consultations were held, targeting: the state government, the state legislature, the state judiciary, traditional authorities, religious leaders, women, youth and civil society organizations. It is estimated that more than 4000 persons have been involved in this process of consultation. Between July and August 2013, a series of one-day national level consultations were held with: the National Legislature, Judiciary, Ministry of

Defence, Ministry of Interior, National Security Services, the Governance Cluster of ministries, the Development Cluster of ministries, and civil society organisations.

Immediately following the completion of the six-month national consultation process, the Drafting Committee developed a final draft National Security Policy, aligning the nationwide feedback with the existing the initial (zero) Draft Document. With power struggle within the SPLM, the ruling political party, the minister of national and other senior members of the SPLM were sacked by the end of July 2013 by the President and later on detained with others and charged for coup attempt and subsequently resulted in eruption of civil war in December 2013. The final draft of National Security Policy was ready and presented to the new Minister of National Security in October 2013. With eruption of violent conflict in Juba in December 2013, the drafting committee was unable to submit the final draft to the Council of Ministers for approval and then to the national parliament for adoption.

Involvement of Foreign Expertise:

The security sector reform program supported by international donors (US, Norway and UK) and UN before and after the independence of South Sudan played a critical role not only in assisting the initiation of the development of National Security Policy but also in supporting the entire drafting process and countrywide consultation. In particular, the United Nation Mission in South Sudan (UNMISS) with Chapter VII mandate put UN in strategic position to support and strengthen security sector including its program of enhancing the capacity of South Sudan in national security policy/strategy making and in monitoring, oversight and accountability. The successful countrywide consultation to build consensus and vision on the draft national security policy document was largely facilitated by UNMISS. Although, the government of South Sudan might have seen the need for formulating its national security policy, the UN security experts have undoubtedly influenced the initiative. Like the 2008 SPLA Defense White Paper that its production was sponsored and driven by international support, mostly UK and UN, the UN largely funded the production of the draft National Security Policy.

Division of Labor and Lead Agency:

The draft National Security Policy maps out very well the security threats with their lead agencies and institutions. Without National Security Policy, the various laws promulgated for the establishment of the security sector institutions and agencies helped a lot in the division of labor for addressing national security threats. Yet, it is one thing having good laws and policies but it is another thing to implement them. This seems to be a dominant phenomenon in Africa as these laws and policies are prescribed as best practices for any successful state rather than been guided by nationally defined and driven problems.

In South Sudan, the role of police continues to be intruded and undermined by national army and national security service. The 2014 National Security Service Act makes division of labor in security sector blurred and overlapping. The Act has given the National Security Service the constitutional powers of police to arrest, detain, seize and search instead of its constitutional mandate of information gathering and analysis and advice to the relevant authorities. Also, the national army's military intelligence that is responsible for all collected information during army mission has also encroached into the civilian powers of police to arrest, detain, seize and search.

Inter-agency Coordination and Collaboration mechanisms

South Sudan has the necessary institutions and mechanisms for security sector inter-agency coordination and collaboration that are provided for by laws and constitution. The 2011 Constitution as mentioned earlier provided for the establishment of security coordination bodies at national level (National Security Council) and security committees at state and county levels. The 2014 National Security Service Act provides the composition of the council chaired by the President, Vice-President as deputy chairperson and membership of ministers responsible for defense, foreign affairs, justice, finance, interior and national security as secretary.

The Act also defines the power and functions of the Council to define national security policy, coordinate among security organs, and follow-up the implementation of security programs, plans and policies and to meet once every week. Although the Constitution provides for the establishment of the Council by law, the 2014 National Security Service (Intelligence) Act; paradoxically, makes the Council as one of its organs and defines its composition, power and functions. The 2014 Act also provides for establishment of Technical Security Committee to be shared by the minister for national security and with membership of chief of general staff of SPLA, inspector general of police, director of military intelligence, director of the general intelligence, director of internal security as secretary, and undersecretaries of ministries of foreign affairs, justice and finance.

All these security coordination council and committees have been established but are operating as part of the National Security Service (Intelligence) that usurps all powers and functions of security sector agencies and institutions. Rather than having the normal functions of gathering and analyzing intelligence and advice the relevant authorities as provided for in the constitution, the Act gives the National Security Service (Intelligence) the power to maintain security, protect the Constitution and national social fabric and safety of South Sudanese from any internal and external danger. Besides these vertical security coordination mechanisms, the government established horizontal coordination mechanisms such as security sector budget working group as the main security body for coordination, planning and implementation of security related issues. This Group consists of both government spending security sector institutions and agencies and development partners.

Resource Allocation and Implementation Plan.

The Security Sector Working Group produces security sector annual budget plan that sets government security priorities and expenditure allocations for the next three years and also maps donor support in security sector. It is the main forum for security sector planning and budgeting and sets out the security sector objectives, targets and expenditures. However, it role has been limited to the annual preparation of security sector budget plans. Besides the Security Sector Working Group, the National Security Council is the body responsible for the follow-up the implementation of security sector programs, plans and policies but without national security policy/strategy. Despite the establishment of the Council, the security sector continues to take the lion share of the overall budget; creating imbalance between security and development needs. Also, the security sector budget plans are prepared without overarching national policy/strategy that results in overlapping in allocating resources, neglect of other security sector agencies such as police and concentration of security resources with national army and intelligence.

External Partnerships

Before its independence, South Sudan developed in 2006 a comprehensive aid coordination strategy for leveraging partnership and improving the effectiveness of development assistance and revised it immediately after independence in 2011. It focuses on alignment, coordination, predictability, harmonization, institutional development and mutual accountability. The Security Sector Budget Working Group as mentioned earlier includes development partners with one lead aid agency. Also the aid strategy provides for the formation of Inter-ministerial Appraisal Committee that appraises and approves all donor-funded projects and ensures government ownership of development financing, donor projects are aligned with government priorities and avoids duplication, concentration or neglect. Besides this partnership forum, the donor support to development and strengthening of security sector used to be coordinated by the Joint Donor Office until it was closed in September 2013. Yet, these external partnerships have not been guided by national security policy/strategy and subsequently the objectives provided in the Aid Strategy are hardly pursued.

3. National or Sectorial Security Strategy Document:

Purpose, Objectives and Coverage:

The draft National Security Policy provides its rational, purpose and objectives and it covers both internal and external national security threats.

Definition of security and Identification and prioritization of security threats:

The 2011 Transitional Constitution sets security of citizens as the primary duty of all levels of government but without defining it explicitly. The resolution of the Parliament to develop national security policy specifies its main objective to deliver security to citizens and their property as well as the protection of the State. The draft National Security Policy adopts this provision in the constitution and the resolution of the Parliament.

The 2014 National Security Service fails to define "national security" or even "security" but defines instead "Enemy" to mean a natural or unnatural person who or which is (a) in state of war with the Republic, (b) threatening security of the Republic, (c) carrying out an act of sabotage or terrorism against the Republic and (d) is in collaboration with the enemy in (a, b and c). The Act defines national security not only as "state-centric" but also from the lens of "intelligence". This is not surprising as the Act was promulgated during civil war that erupted in 2013.

The 2011 Transitional Constitution clearly spells out in Article 160 that the National Security Council shall define national security Strategy based on the analysis of all threats to national security of South Sudan. Without National Security Policy, each security institution and agency identifies and prioritizes its own security threats.

Linkage with Other Sectorial Security Strategies and Sub-national Levels:

The draft National Security Policy maps out the national security threats and formulates national security goals and objectives guided by the national core values and interests and division of labor. It was hoped that this document would be followed by each security sector agency/institution to develop its detailed security strategies for the implementation of the draft National Security Policy. In fact the 2008 SPLA Defense White Paper should have ideally been developed after the development of the National Security Policy as a guiding document for security sectorial policies and strategies.

The 2011 Transitional Constitution and the 2014 National Security Service Act provide for establishment of security committees at sub-national levels (state and county). However, these security committees are as discussed before becoming part of the National Security Service (Intelligence) and operating without National Security Policy/Strategy.

Confidentiality:

The National Security Policy was envisaged and intended to be a public document since it is about security and safety of citizens as articulated by the Presidential Legal Advisor and representative of the President during the launching of the work of the Drafting Committee in

September 2012. The only confidentiality should have been during the implementation of each strategy of each and every institution tasked in the policy.

4. Security Oversight:

Oversight Institutions and Mechanisms

The draft Policy provides mechanism for national and sub-national mechanisms for security coordination and parliamentary oversight as provided in the constitution, the conduct of business of the parliament and the 2014 National Security Service Act. Without the National Security Policy, the national parliament and state assemblies have established specialized standing committee for Defense, Security and Public Order. Also the National Security Council provides oversight of all security sector agencies and institutions. Also several civil society organizations have been very active in providing checks and balances to the security sector institutions and agencies including security sector reform process.

Periodic Re-assessment of Security Threats

The Constitution and draft National Security Policy provide for periodic reassessment of security threats as the basis for revising and updating the National security Policy/Strategy. Without national policy guidance for the reassessment and analysis of national security threats, the culture of reacting to security threats becomes dominant in the security sector.

5. Conclusion:

The process of National Security Policy Development in South Sudan provides a good example of a country that took a lead in developing its national security policy in structurally fragile political environment that resulted in the demise of such process instead of producing a national policy to address such environment. The formulation of national policy requires accurate diagnosis of the real politics of transition, a conducive political environment, political will and leadership and a genuine domestic constituency for change. By the time the national security policy was developed with nationwide consultation, the newly drafted and promulgated 2011 Transition Constitution provides for the establishment of autocratic system that undermines checks and balances mechanisms, rule of law and separation of powers. Despite the government of South Sudan took initiative to develop its own national security policy, the entire process and its funding was largely influenced and driven by international donors as part of security sector reform program. The case of South Sudan underscores one fact: that instead of rushing to well-articulated policies and strategies in the post-conflict environment, the focus should be on building and strengthening checks and balances institutions and mechanisms and nurturing social cohesion as foundation for formulating such policies and strategies.