

Policy brief: South Sudan

Date: March 5, 2014

Re: South Sudan meeting March 13, 2014

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Concerning

On March 13, 2014 you will have a debate on the situation in South Sudan, specifically the renewal of the Dutch contribution to the United Nations Mission to South Sudan (UNMISS) and other relevant Dutch policies concerning South Sudan. PAX hopes the information in this policy brief will contribute to a better understanding of the highly volatile situation, and seeks your endorsement of the political recommendations in this document.

Background

Many may have thought that South Sudan, against all odds, could become a democratic, stable and prosperous country without dealing with the past. However, the escalation of violence in December and, despite a ceasefire, the continuous fighting in Malakal, which has become a ghost town¹, and other parts of the country (including Juba) indicate otherwise.

The international community is slowly realizing that an about-face is necessary when it comes to its policies towards South Sudan. As has been voiced by UNDP², among others³, one of the critical failures since 2005 has been the focus on technical state- and institution-building, without sufficient attention to true democratization, security sector reform and bottom-up nation-building. This has left the South Sudanese society fractured, with crimes unaccounted for, and wounds unhealed. The (IGAD)-led negotiations in Addis Ababa, are critical to move away from the technical apolitical approach and to start addressing the root causes of the conflict. This can only be done if the participation of all parties – including churches and civil society as independent actors – is ensured.

Unfortunately, mainly due to disagreement about which parties are allowed to be sitting at the table, the second round of the negotiations has not delivered any results. Despite (international) calls for the process to be inclusive, the South Sudanese Government has not been willing to allow Civil Society representatives to sit at the negotiation table and blames the failure of the second round of talks to the inclusion of a group of 7 politicians who were initially detained after the violence broke out.

Talks are scheduled to resume on March 20. In order to be able to create a more peaceful, democratic and stable South Sudan in the future, there seems to be a growing international consensus that the following core issues need to be addressed: 1) Protection of civilians and Security Sector Reform 2) Truth finding, justice and reconciliation. 3) Nation building and Constitution making

Based on our 20 years presence in South Sudan, the presence of our program manager Daud Gideon in Addis to follow events around the negotiations directly and on extensive talks with policy makers at the UN and in Washington DC, PAX asks the Dutch Government to advocate for the following outcomes of the negotiations, and to provide the required long-term support to achieve them.

¹ http://www.france24.com/en/20140303-south-sudan-fighting-machar-kiir-humanitarian/#/?&_suid=139402552792707139220691153556

² Tran, Mark. (2014/01/22). South Sudan failed by misjudgment of international community, says UN chief. The Guardian. <http://www.theguardian.com/global-development/2014/jan/22/south-sudan-failed-international-community>

³ 2 Jok, Madut Jok. (2014/01/04). South Sudan and the Prospects for Peace Amidst Violent Political Wrangling. The Sudd Institute. <http://www.suddinstitute.org/publications/show/south-sudan-and-the-prospects-for-peace-amidst-violentpolitical-wrangling/>

Core Issues and Recommendations

1. UNMISS, Protection of Civilians and Security Sector Reform

The Dutch Government has decided to continue its contribution to UNMISS and will investigate the possibility of a greater thematic and geographical focus in the near future. Currently, under extreme circumstances, UNMISS is doing the best it can to protect the IDP's that have fled to its compounds. Still, the situation on many of these compounds remains troublesome and fighting on the UN Compound in Upper Nile (Malakal) has left at least 10 people dead. It is clear that in a continuously complicated security and political situation the mission is struggling to find a clear role. A complicating factor seems to be that UNMISS, while supporting state building and being dependent on the Government of South Sudan (GoSS) and the South Sudanese People's Liberation Army (SPLA), was never fully accepted by them. This has greatly hampered the ability of UNMISS to deliver and has led to a lack of trust in UNMISS among South Sudanese citizens.

The UN Security Council is considering a renewal, or reprioritization of the UNMISS mandate. One of the main issues seems to be whether UNMISS should continue to closely cooperate with the GoSS, or that it should create a more impartial-independent role.

PAX feels that most of all, in order to better align Protection of Civilian (PoC) actions with civilian needs, UNMISS should redefine PoC strategies based on direct consultations with the people that require protection. This can inform which priorities can and should be addressed, what civilians can and should expect from UNMISS, and how civilians can contribute to security promotion.

Recommendation and actions:

- a) UNMISS should maximize current limited patrol capacity by assessing the needs and capabilities to peacefully resolve local conflicts and support local "champions of change" like church actors, trusted governance actors, chiefs, and other change agents for peace, and facilitate their work by providing transportation and communication support, allowing access to necessary areas, and assisting with other actions that may be identified.
- b) UNMISS should communicate in clear terms what UNMISS can do practically in the near future for each location. This should also include how civilians outside UN bases can access the protection services of UNMISS when in need, and how civilians can report human rights abuse cases as they happen.
- c) UNMISS should keep on gather information necessary for truth finding, but also make use of reports of civil society and report this publically.
- d) UNMISS should regularly gather and analyze information regarding the security and safety of civilians outside UN bases in order to prepare and advise on the displaced civilians returning to their homes.
- e) UNMISS should assure the gradual safe return of IDPs and take measures to protect them when they have returned to their local communities.
- f) Ensure that the next Addis agreement recognizes that the views and insights of civilians themselves are indispensable to effectively protect civilians. Civil society initiatives that foster dialogue between communities and protection actors, like the community security meetings being held by the South Sudan Action Network on Small Arms (SSANSA) under the theme "Security is everyone's business", can all be used to gather information on protection

needs and capacities at the local level in order for UNMISS and the South Sudan Police to provide meaningful protection within their capacity.

- g) Ensure agreement on the start of a political process to restructure the SPLA to become a unified National Army composed of men and women from the 10 states in South Sudan, including in senior ranks. Reform of police, national security and other organized forces also needs to be included. Long-term issues on reform of the security sector should further be discussed in the constitution making process.
- h) Develop processes that facilitate political engagement with current commanders of different factions under and outside of the control of SPLA throughout South Sudan, to understand their agendas, motivations and ambitions in order to see how these issues can be addressed to increase chances for peaceful resolutions in South Sudan.

2. Truth, justice, and the long path to reconciliation

The Dutch Government applauds the announcement of the African Union to establish a Commission of Inquiry to investigate the human rights violations and other abuses committed during the armed conflict. However, two months after the announcement, the members of the Commission of Inquiry have still not been named and terms of reference have not been published. Human Rights Watch⁴ and UNMISS in their interim Report on Human Rights⁵ have found that both pro and antigovernment armed forces are responsible for serious abuses that may amount to war crimes. It is of great importance that evidence of atrocities will not disappear.

Another priority on the ground – in towns, villages, and IDP camps – is crisis management and prevention of further localized conflicts. Several initiatives by local partners of PAX continue to this date, with efforts to prevent conflict within and between their communities, and to pave the way for a solid and sustainable democracy. These activities contribute to the foundation on which South Sudanese society can be rebuilt, where reconciliation can take place and break the destructive, vicious cycle of the political and military power play. Reconciliation should not be organized from the top and imposed on citizens, but rather be built from the bottom up, in close collaboration with churches. Without addressing human rights violations, perpetrators will continue to enjoy impunity and the future of South Sudan will be in jeopardy as historical grievances are not dealt with, and twisted narratives for political gain will lead to renewed conflicts in the years to come, which will require endless streams of aid.

Therefore, the inclusion of truth telling and justice to heal the wounds of the past should be a key element of the Addis political agreement. Given the weakness and lack of independence of the South Sudanese judicial system, South Sudanese legal experts⁶ argue this could be achieved through the framework for a hybrid court established in the South Sudanese judiciary and linked to the customary courts which emphasize restorative justice. Such a court will help with fair adjudication, strengthened independent national accountability mechanisms and rule of law in the long term.

Recommendations and actions:

- i) Request that the EU and the UNSC support and advocate for the immediate establishment of the AU Commission of Inquiry.

⁴ <http://www.hrw.org/news/2014/02/26/south-sudan-war-crimes-both-sides>

⁵ <http://reliefweb.int/sites/reliefweb.int/files/resources/HRD%20Interim%20Report%20on%20Crisis%202014-02-21.pdf>

⁶ David Deng and Elizabeth Deng, Toward an Integrated Response to Justice and Reconciliation in South Sudan, 8 January 2014, www.africanarguments.org

- j) Ensure that the Addis agreement extends the mandate of the church-led Committee for National Healing, Peace and Reconciliation and broadens its membership to include a wide range of Civil Society representatives. Thereafter its work should include truth-telling and confession in order to come to an independent process of meaningful reconciliation and build a national narrative on the past.
- k) Call upon the international community and UNMISS to facilitate the work of the church-led Committee for National Healing, Peace and Reconciliation and support local and church-led peace initiatives that address historical conflicts between tribes and current conflicts between IDPs and host communities.⁷
- l) Ensure a framework for independent investigations and impartial prosecutions such as a hybrid court. This should be connected to a mechanism of establishing the truth and due justice processes for the perpetrators.
- m) Ensure that an agreement on a process for truth and reconciliation includes a commitment of all parties to improve human rights and justice by ratifying core human rights treaties and adopting new legislation on the penal code.

3. An inclusive national political dialogue and constitutional review process

The Dutch government indicates that a nation-building process that addresses the root causes of the conflict in South Sudan must involve a broad range of civil society, state and local actors. The now-stalled Constitutional making process can and should provide an excellent platform to establish a more solid democratic foundation and guarantees for upholding basic rights in South Sudan. Before the fighting started, the EU Commission had announced its support for civil society organizations aiming to participate in this process. Currently, consultations by civil society on the constitution have been put on hold due to insecurity in the 10 states. We call upon the EU and other international actors to renew their commitment to this process as soon as possible. Because it has not demonstrated sufficient commitment to Constitution making, we urge the GoSS to fulfill its obligations and establish a mechanism to ensure that the process is participatory, inclusive and democratic.

Recommendation and actions:

- n) Ensure that the process in Addis leads to the formation of a broad, inclusive interim coalition government with the mandate to facilitate the above-mentioned inclusive national processes of political dialogue on, but not limited to, protection of civilians, truth and reconciliation, constitution-making and the task of preparing national elections.
- o) Agree upon a process of national political dialogue that includes the restart of the constitution-making process as a key element, and an adjustment to the composition of the National Constitutional Review Commission in order to ensure broad civilian participation.
- p) Support South Sudanese citizens' participation in the Constitution-making process by providing logistical and judicial support and safe places to meet (via UNMISS) for existing civil society initiatives which organize public consultations and feedback sessions.

⁷ Reconciliation initiatives in many states are currently hindered by insecurity and logistical obstacles. UNMISS could offer its support by providing transport and safe places to meet.