



Dialogue and Research Initiative

Transitional Justice Public Debate on Accountability in Relation to Security Sector Reforms.

Juba Grand Hotel, 13 July 2015

Introduction and Background

On July 13th, UNDP, in partnership with the Dialogue and Research Initiative (DRI), a national Civil Society Organization (CSO) that promotes peace-building, governance, transitional justice, human rights and accountability, facilitated a public debate on accountability and Security Sector Reform (SSR). As part of UNDP's support to transitional justice initiatives in South Sudan, the event brought together a diversity of civil society actors as well as the Council of Churches and the media.

Transitional Justice

The South Sudan Law Society (SSLS) provided an overview on transitional justice as a set of measures available to a country to come to terms with the legacy of a violent past. The transitional period following the violence provides an opportunity to secure accountability, to serve justice for the victims and to achieve national reconciliation and healing. Transitional justice initiatives can include legal accountability, truth-telling, reparations, national healing and reconciliation, memorialization, guarantees of non-repetition and institutional reforms. The debate paid specific attention to questions of accountability and how to develop a modern security system that can function as an instrument for national reconciliation and promotes the rule of law.

Security Sector Reform

During periods of wide-spread violence, as have occurred in South Sudan, the security institutions fail to provide an environment conducive for human security that also facilitates development, poverty reduction and democratization. As a result, the systematic occurrence of wide-spread violence implies a need for institutional reform. It was noted that security actors in South Sudan are participating in the ongoing harassment of civilians looting of property, and attacks on health facilities, in violation of their mandate to provide protection. This has amounted to a situation in which civilians are left with no other option but self-protection. Further, increasing the presence of armed forces on the street does not correspond to an increase in feelings of security amongst South Sudanese. A point was made that the high levels of illiteracy amongst the armed forces indicates a need to increase education. In this light, education offers opportunities to generate income lawfully rather than through violence or force.

Accountability, peace and justice

Participants to the debate discussed 'peace versus justice' given the current security and political context of South Sudan. On the one hand, participants expressed a need to prioritize peace over justice in the immediate term, without losing sight of the administration of justice in the long run. Concerns were expressed that prospects of criminal accountability would lead the warring parties to be disinclined to work towards peace and give them an incentive to continue fighting and evade justice. Special reference was made to the applicability of the death penalty as a deterrence for fighting actors to lay down their weapons as well as the practical challenges of arresting alleged war criminals.

Participants also noted that peace can come at the expense of justice and that prosecution and accountability mechanisms can induce warring parties to negotiate, as was the case with Milosevic in the former-Yugoslavia. The danger of prioritizing peace over (transitional) justice was emphasized by referencing the situation in Afghanistan, where a transitional justice plan was written, but never implemented. There was general agreement amongst the participants that justice should be served, that the culture of impunity should be addressed and the provision of blanket amnesties for the most serious crimes should be rejected as they are in violation of international law.

The Role of the Media and Transitional Justice

A presentation by a renowned South Sudanese journalist illustrated the challenges the media faces when security forces are able to close papers if they find news that is unfavorable to the government. With a government that has a tight grip on the media, it is close to impossible for the media to play a key role in reporting on the peace process in an objective and independent manner. This in turn makes it difficult for the people of South Sudan to construct an informed opinion. This level of control also affects the media's ability to effectively report and document serious human rights abuses. The media is further challenged by a lack of funding which makes it logistically difficult for them to report on the peace process on location. The participants shared the belief that the media in South Sudan is not sufficiently strong enough to contribute to peace and justice processes.

Reconciliation

The representative of the Council of Churches spoke about the need to transform and heal society through reconciliation efforts. To achieve this, he encouraged the South Sudanese to start incorporating their customs and traditions in security and justice mechanisms to achieve reconciliation. He defined reconciliation to be the mending of a broken relationship and with acknowledgement to the high levels of trauma experienced by the people of South Sudan, called upon all South Sudanese to become "wounded healers". He recognized that due to the high levels of trauma forgiveness would be a challenging state to achieve. Nevertheless, efforts should be made bring people and group together who are looking to forgiveness and reconciliation as the way forward.

Recommendations:

The participants at the debate put forth the following recommendations:

1. Security sector reform should be a process that includes all actors involved in security matters including, but not limited to, the army, police, corrections, and the anti-corruption committee.
2. Civil society should be involved in dialogues, the (further) formation of a human security network and early warning mechanisms for conflict. Apparently exists, but unclear what the current status is.
3. Security Sector Reform must be made an inclusive process. The people of South Sudan should be part of the design and participate in monitoring of the process.
4. The security apparatus should be subordinated to democratic controls and accountability mechanisms such as a democratically elected and civilian leadership, rather than aligned to a political party as is currently the case in South Sudan. A culture of rule of law should be fostered in which the armed forces do not act beyond democratic control.
5. Efforts should be strengthened to protect, promote and uphold human rights and international humanitarian law which is currently lacking in the security sector where attacks on civilians and health facilities are not uncommon. Efforts to increase awareness on the illegality of such attacks must be strengthened.
6. Steps should be taken to ensure that the composition of the army reflects the diversity of the ethnic groups in South Sudan.
7. Solutions have to be found to address the illiteracy problem in the armed forces.
8. Debates on the priorities of peace and justice should continue.

Conclusion:

The debate was concluded by the recognition that change will not only come from the warring parties, but through the involvement of South Sudanese civil society and citizens. DRI sent a strong message that any peace agreement that is signed, cannot justify impunity.

In his closing remarks, Dr. Rowland Cole, the representative of UNDP stressed the importance that any intervention or strategy defined to achieve sustainable peace, reconciliation and justice will have to come from the people of South Sudan. UNDP will continue to provide support to stimulate dialogue and debate around transitional justice in South Sudan.

