



October 8, 2014

To: AU Commission of Inquiry on South Sudan

Re: Recommendations regarding arms flows into South Sudan

Dear Members of the Commission of Inquiry on South Sudan,

The South Sudan Action Network on Small Arms (SSANSA), together with 15 other South Sudanese organizations and with the support of 5 international non-governmental organizations, thank you for the time you have spent over the past six months investigating the human rights abuses that have taken place in South Sudan and listening to the perspectives of so many South Sudanese on justice, healing, reconciliation and institutional reform. We write to you as representatives of civil society and human rights groups that seek peaceful, just and sustainable solutions to the crisis in South Sudan. We write to bring to your attention the problem of the proliferation of arms within our country and to request that this issue receive due attention in your final report.

The widespread availability of small arms and light weapons, and their corresponding ammunition, has been one of the major security concerns in South Sudan since the signing of the Comprehensive Peace Agreement in 2005. Since 2005 thousands of South Sudanese civilians have been killed with firearms in the context of violent crime, cattle rustling, inter-communal violence and armed rebellions. The Government of South Sudan has conducted numerous civilian disarmament programs. However, these campaigns have generally failed to yield any significant number of firearms from communities, while arms continued to flow into communities through spillage from government stocks and from militia groups. Disarmament efforts have often pitted local communities against the SPLA due to the coercive approach involving arbitrary and disproportionate use of force by government security forces, including extra-judicial killings, rape and torture.

In the context of the current armed conflict in South Sudan, both government and opposition forces have used a range of conventional arms and military equipment to commit or facilitate violations of international human rights and humanitarian law that we believe amount to war crimes and crimes against humanity. They have—as you well know – targeted civilians based on their ethnicity, killed individuals seeking refuge in hospitals and places of worship and attacked humanitarian workers. Many of the killings have been carried out using small arms and light weapons which are in wide circulation in the country.

Both the government and the opposition have also recruited children into their forces, destroying and traumatizing future generations. Child recruitment is facilitated and encouraged by the widespread availability of weapons. As the African Committee on the Rights and Welfare of the Child noted in its report following its September mission, “the proliferation of weapons fuels children’s exposure to, and association with armed conflict, and heightens their vulnerability to violence, injury and death.” The Committee called on the African Union, its member states and the international community to “take all necessary measures to reduce the flow of arms into South Sudan in the interests of children.” The Committee expressed support for efforts towards disarmament and demobilization.

We do not want additional arms to flow into our country. We believe that additional arms will fuel further violence and increase the prospects for protracting the war in South Sudan. We are also concerned that arms have been transferred by or through neighbouring countries who have their own interests in the conflict, and that the continuation of this risks complicating, regionalizing and even internationalizing the war. Furthermore, additional arms flows will undermine the prospect for long-term stability as high proliferation of arms will set the stage for increased criminality and violence even after the current conflict ends.

The South Sudan Bureau for Community Security and Small Arms Control (SSBCSSAC) is currently developing national legislation to provide the legal framework for addressing problems posed by the high proliferation of small arms and light weapons in South Sudan. The South Sudan Small Arms and Light Weapons Control Bill is under review at the Ministry of Justice. This is in response to the current and immense challenges to both state and community security posed by the high volume of illicit arms already in circulation in the country. The efforts of the bureau in this regard are consistent with our call to stop the irresponsible flow of arms into South Sudan.

We therefore request the Commission of Inquiry to support our call for the imposition of a comprehensive arms embargo on South Sudan. Such an embargo would require every state to end the supply of arms, ammunition, military material and related services to South Sudan and take all necessary measures prevent indirect supply, sale or transshipment of such articles through their territory to South Sudan. If effectively implemented, we believe that an arms embargo would help stop the flow of arms to government and opposition forces, and could play a role in preventing additional human rights and humanitarian law violations and abuses. Pending such an embargo, all states should immediately suspend international arms transfers to the warring parties and fighters allied to them until such arms no longer pose a substantial risk of being used to commit or facilitate serious abuses of human rights or war crimes.

We note that on 25 September, the Arms Trade Treaty received its 50th ratification—the number required to trigger the 90-day count down to its entry into force. The ATT includes a number of rules to stop the irresponsible trade in arms. These measures include stopping transfers of weapons to countries when there is substantial risk that they would be used to commit or facilitate genocide, crimes against humanity, war crimes or other serious violations of human rights. Five African countries have already ratified the treaty and twenty five others have signed awaiting ratifications.

While our government argues that it has a right to acquire and possess arms for law enforcement and national security purposes, it also has an obligation to respect international human rights and humanitarian law. The Government forces have committed serious violations of human rights and international law, that may tantamount to war crimes, and we believe that additional weapons and munitions will likely be used to commit and facilitate further serious violations of similar nature. Moreover, there is plenty of evidence that legally acquired arms from the government forces have spilled to the opposition forces – which have also been documented to have committed serious violation of human rights and international law. Once adopted, a well designed arms embargo would provide the mandate for monitoring and ceasing arms transferred in contravention to the arms embargo. Therefore, a comprehensive arms embargo has the potential to soak supplies of arms to both the government and opposition forces.

There is significant illicit small arms and ammunition trafficking into South Sudan and within the country by unauthorised groups. Small arms and light weapons are also diverted due to high levels of

corruption and mismanagement of official stocks as well as theft. It is imperative for South Sudan to make concerted effort to secure official stocks. Therefore, an arms embargo must also be accompanied by parallel processes, such as efforts to improve the management of government arms stocks like constructing secure storage facilities for all arms, ammunition and military equipment; establishing a comprehensive and regularly audited inventory of arms in state stockpiles and; improving control of borders and arms import and transit routes. These measures would reduce the currently substantial risk of diversion to unintended end-users. Besides, the government must demonstrate meaningful effort to put in place a mechanism to ensure accountability for the unlawful use of lethal force by its armed forces to address the substantial risk of arms being used in violation of domestic and international human rights law. Neighbouring countries and the larger international community must work to address arms trafficking from neighbouring states into South Sudan.

The Commission of Inquiry should also make recommendations for improving respect for international human rights and humanitarian law by South Sudan's security sector and for disarmament, demobilisation and reintegration of government and opposition forces. Given the widespread proliferation of arms among civilians, efforts at civilian disarmament are also imperative.

We hope that the Commission of Inquiry will recognize the role that arms proliferation has played in contributing to violence and human rights abuses in South Sudan and the challenges it brings for future stabilization efforts, and that the Commission's recommendations will offer some guidance towards stopping additional arms flows and addressing the existing proliferation within the country.

If you have any questions or need more information regarding the letter, please feel free to contact: Geoffrey L. Duke, at GeoffreyDuke@ssansa.org Tel: +211 921 288 340

Sincerely,

Signed by:

South Sudan Action Network on Small Arms (SSANSA)

Community Empowerment for Progress Organization (CEPO)

Citizens for Peace and Justice (CPJ)

South Sudanese Network for Democracy and Elections (SSuNDE)

South Sudan Law Society (SSLS)

Human Rights Development Organization (HURIDO)

Women Development Group (WDG)

Standard Action Liaison Focus (SALF)

Peace and Development Collaborative Organization (PCDO)

Community Initiative for Rural Development (CIRD)

Losolia Rehabilitation and Development Association (LRDA)

Change Agency Association (CAA)

Youth Out of Poverty and AIDS (YOPAS)

Solidarity Association for Rehabilitation and Recovery Affairs (SARA)

South Sudan Development Agency (SSDA)

Supported by:

PAX

International Centre for Policy and Conflict (ICPC)

Humanitarian Aid Relief Trust (HART)

Foundation for Human Rights Initiative (FHRI)

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