

THE MAKING OF ZIMBABWE’S NATIONAL SECURITY POLICY THROUGH THE GLOBAL POLITICAL AGREEMENT: AN ANALYSIS OF THE CONSTITUTION OF ZIMBABWE AMENDMENT NO.20 OF 2013

Wenceslaus Mudyanadzo

Lecturer, Dept. of Politics and Public Management, Midlands State University, Gweru, Zimbabwe

ABSTRACT

The article explores the development of Zimbabwe’s National Security Policy (NSP) as a product of the Global Political Agreement (GPA) of 15 September 2008 which created a negotiated Government of National Unity (GNU) through Constitution of Zimbabwe Amendment No.19 of 2009. The GPA prescribed that the Parliament of Zimbabwe was to set up a select committee of parliament, two months from the start of the GNU, to prepare a new constitution, through a people driven, inclusive and democratic process leading to the adoption of a new constitution through a referendum and the holding of democratic elections. The adoption of the new constitution was meant to transform the country’s body politic by building a society “free of violence, fear, intimidation, patronage and corruption founded on democratic values”. The crafting of a new National Security Policy through the new constitution was meant to be part of the social re-engineering process of addressing permanently the multiple threats and challenges faced by the people and the nation. The article concludes by pointing out national security policy gaps in the Constitution which may require future policy formulation or adjustment in line with international best practices.

1.0 Introduction

Zimbabwe adopted a new National Security Policy (NSP) following the adoption of the Constitution of Zimbabwe Amendment No.20 Act of 2013. The NSP is codified and articulated in various provisions of the new constitution and is meant to re-engineer the country’s political and security processes by building a society, which according to the Global Political Agreement (GPA) of 15 September 2008 is “free from violence, fear, intimidation, hatred, patronage and corruption”, and founded on democratic principles and values of “justice, fairness, openness,

tolerance, equality, non-discrimination, respect of the dignity of all persons without regard to race, class, gender, ethnicity, language, religion, political opinion and place of origin or birth as the bedrock of Zimbabwe's democracy and good governance." The GPA, through the Government of National Unity, committed itself to putting people and the country first by ending "polarization, divisions, conflict and intolerance that characterized Zimbabwean politics and society" and to "reorient people's attitude towards respect for the constitution and all national laws, the rule of law, observance of Zimbabwe's national institutions, symbols and national events"; and a general commitment to Zimbabwe's national purpose, core values, interests and aspirations. Furthermore, the GPA prescribed that the Parliament of Zimbabwe was to set up a Select Committee of Parliament, two months from the start of the GNU, to prepare a new constitution, through a people driven, inclusive and democratic process leading to the adoption of a new constitution through a referendum and the holding of democratic elections as a legitimating formula for the new government. The new constitution gave Zimbabweans the opportunity to rebuild their country through the new national security policy which addresses governance issues, delivery of basic services, economic reconstruction, sustainable development and the renewal of the security sector in key functional areas.

1.1 Definitions of national security policy

Acquino, B.S. (2010) defined National Security Policy as a statement of principles that should guide national decisions and determine courses of action to be taken in order to attain the state of condition wherein the national interests, the well-being of people and institutions, and the sovereignty and territorial integrity are protected and enhanced. According to Acquino, NSP outlines principles and priorities governing the relationship between external and internal defence of a country. Obama, B (2010) stated that the United States of America's security policy and strategy is anchored on four enduring national interests which are based on: (a) Security; the security of the USA, its citizens and the security of USA allies and partners, (b) Prosperity; a strong, innovative and growing US economy in an open international economic system that promotes opportunity and prosperity, (c) Values; respect for universal values at home and around the world and (d) International Order; an international order advanced by US leadership that promotes peace, security, and opportunity through stronger cooperation to

meet global challenges. The US national security policy is therefore structured around the four major pillars of its national interests. The Organization for Economic Cooperation and Development (OECD, 2005) defined security as “an all-encompassing condition in which people and communities live in freedom, peace and safety, participate fully in the governance of their countries, enjoy the protection of fundamental rights, have access to resources and basic necessities of life, and inhabit an environment which is not detrimental to their health and well-being”.

The United Nations Development Program (2005) defined security to include the human security agenda of livelihoods and social organization of the poor. Security and development are in this context viewed as mutually reinforcing aspects which are crucial in sustainable security systems that contribute towards national development and stability. According to the OECD (2001), security and development are increasingly seen as being inextricably linked which opens the way to mainstreaming security as a public policy and governance issue and this linkage invites greater public scrutiny of security policy.

The mandate of NSP is to serve the military, political, economic, social and cultural interests of Zimbabwe through the coordination of instruments of national endowment i.e. military, economic, diplomatic, political, social, communication and culture, to achieve national objectives.

1.2 The National Security Architecture of Zimbabwe

1.2.0 The national security architecture of Zimbabwe comprise of core security actors, security sector governance bodies, justice institutions, and non-statutory security actors.

1.2.1 Core Securities Actors

According to Chapter II, Section 207 of the Constitution of Zimbabwe Amendment (No.20) Act of 2013, herein after referred to as the Constitution, the core security actors in Zimbabwe comprise of the Defence forces (Zimbabwe National Army (ZNA) and the Air force of Zimbabwe (AFZ), the Police Service (Zimbabwe Republic Police), the Intelligence Service (Central Intelligence Organization), the Prisons and Correctional Services, and any other security

service established by an Act of parliament. The NSP relating to these core securities service actors' stipulates that they are subject to the authority of the Constitution, the President and the Cabinet and that they are also subject to Parliamentary oversight. The NSP also stipulates that membership of the security services must reflect the diversity of the people of Zimbabwe. Members of the security services are, in the exercise of their functions, not permitted to (a) act in a partisan manner, (b) further the interest of any political party or cause, (c) prejudice the lawful interests of any political party or cause, or (d) violate the fundamental rights or freedoms of any person (section 208(2)(a) to (d)). Members of security services are prohibited from being active members or office bearers of any political party or organization. Moreover, serving members of the security services are prohibited from being employed or engaged in civilian institutions except in periods of public emergency (section 208(3) and (4)). The in-built constitutional provisions in the NSP are meant to ensure that security services do not use their positions and constitutional powers to influence civilian institutions and personnel to act in their interests. The provisions ensure that security services are provided impartially, fairly, equitably and without bias. The provisions also ensures that security service personnel are broadly representation of the diverse communities of Zimbabwe and that employment, training, and advancement practice are based on merit, ability, objectivity, fairness and gender balance.

The NSP also outlines in detail the functions of Defence Forces (Section 211), Police Service (Section 219) and Prisons and Correctional Service (227). The NSP stipulate the constitutional mandate of core security sector actors which are a major reference point in accountability and oversight exercise relating to democratic governance of the security sector. The NSP also stipulates the role of the Defence Force Service Commission (Section 217), Police Service Commission (section 223) and the Prisons and Correctional Services Commission (section 231). The commissions are responsible for the employment and regulation of conditions of service of personnel, and to ensure the general well-being of these organizations and their maintenance in a high state of efficiency. A notable omission in this NSP is the absence of the constitutional mandate of the intelligence services, presumably due to the secretive nature of the service. Many countries including South Africa stipulate their constitutional mandate. Accountability and oversight of the intelligence services is therefore difficult in the absence of a constitutional mandate.

1.3 Security Sector Governance Bodies

The bodies which are concerned with the operational efficiency and effectiveness and democratic governance of the security system are called security sector governance bodies. In the context of Zimbabwe's National Security Policy , these include the Executive (President and Cabinet, National Security Council and Ministries who determine NSP) , the legislature –through its Standing and Select Committees and its legislating function- which provide oversight functions relating to NSP, and the Judiciary and Independent Commissions which redress injustices and promote constitutionalism, transparency and accountability in public institutions, and the observance of democratic values.

1.3.1 Executive governance

The President and Cabinet, with the assistance of security cluster ministries, are the centre of gravity in the development and management of the country's NSP. The President and Cabinet may, from time to time, give policy directives to the security services to improve their operational efficiency and effectiveness. The constitution stipulates that the development of NSP is done by the National Security Council (NSC). The NSC consists of the President (Chairperson), Vice President and such other ministries and members of the security services and other persons as may be determined in an Act of Parliament. According to section 209 (1) to (3) of the constitution, the function of the National Security Council is to develop the NSP of Zimbabwe and to inform and advise the President on matters relating to national security and to exercise any other function that may be prescribed in an Act of Parliament. Commanders of security services are required to provide the NSC with such reports on the security situation in Zimbabwe as the Council may reasonably require. NSP, by its nature, straddles across a multiplicity of ministerial mandates, and therefore it is necessary to coordinate such a policy through the NSC by involving the security and non-security cluster ministries and other actors as the situation may demand.

A key feature of NSP governance in Zimbabwe is the centralization of decision making in the Office of the President and Cabinet which deals with national emergencies, crises and high impact security issues both internal and external to the country. The logic of placing the

President at the centre of national security policy governance is that he is the head of state and government and commander-in-chief of the defence forces. Therefore, the President has tactical and strategic deployment superiority of human, financial and material support systems in the event of emergencies and crises which require a partnership of both security and non-security cluster agencies of government to resolve. The President is also central to good civil-military relations (CMR) and the constitution under section 90 (2) (a) require him to “promote unity and peace in the nation for the benefit and well-being of the people of Zimbabwe”.

1.3.2 Parliamentary Governance

Parliament is another body which is responsible for security sector governance, through its Standing and Select Committees, which provide oversight functions to security sector agents of government. Parliament is required by law to review the work of security sector agencies of government to ensure that they operate according to their constitutional mandate. Parliament is also constitutionally mandated to initiate, prepare, consider or reject any legislation including security sector legislation.

1.3.3 Justice Institutions Governance

Justice institutions which govern the security system include the Judiciary which adjudicate on all matters brought before the courts (Chapter 8; Section 162), the National Prosecution Authority (NPA) which is responsible for instituting and undertaking criminal prosecutions on behalf of the state (Chapter 13;Section 258) and Independent Commissions supporting democracy and good governance which are contained in chapters 12 and 13 of the constitution. The names of the constitutional bodies/commissions are:

- (a) Zimbabwe Election Commission (ZEC)
- (b) Zimbabwe Human Rights Commission (ZHRC)
- (c) Zimbabwe Gender Commission (ZGC)
- (d) Zimbabwe Media Commission (ZMC)
- (e) National Peace and Reconciliation Commission (NPRC)
- (f) Zimbabwe Anti-corruption Commission (ZACC)

According to Section 233 of the Constitution, the objectives of these bodies in summary are:

- To support and entrench human rights and democracy.
- To protect the sovereignty and interests of the people.
- To promote constitutionalism.
- To promote transparency and accountability in public institutions.
- To secure observance of democratic values and principles by the state and all institutions and agencies of government, and government controlled entities, and
- To ensure that injustices are remedied

1.4 Non-statutory Security Actors and Governance

Non-statutory security actors are part of Zimbabwe's national security architecture and governance and they include War Veterans (Former ZANLA and ZIPRA guerilla forces of the liberation struggle), customary/traditional security actors under the control of chiefs and village heads, community vigilante groups, private security companies and watchmen personnel. These actors enjoy a degree of public authority and legitimacy which may not be derived from legal statute or the state.

1.5 Regional and International Security Governance

The NSP of Zimbabwe requires the country to protect and defend its sovereignty and territorial integrity by working closely with regional and international organizations and/or countries that stand for peace and the well-being of and progress of Zimbabwe, the region, the continent and the international community. Such organizations include the SADC Organ on Politics, Defence and Security Cooperation, the African Union's Peace and Security Council and the United Nations' Peace and Security Council. In this regard, Chapter 2, Section 12 of the Constitution mandates Zimbabwe's Security Actors to cooperate with regional and international countries and organizations through a foreign policy framework to maintain peace, stability and development for the good of humanity.

2. National Security Policy Making, Implementation, Monitoring and Evaluation

The Security Sector architecture and governance is coordinated by the Office of the President and Cabinet and the National Security Council in all functional areas relating to national security policy making (especially in areas of major policy choices and challenges), inter-ministerial/agency co-ordination, implementation of policy and the monitoring and evaluation of national security policy. NSP priorities the Government of Zimbabwe's state security and human security needs and challenges.

3. Zimbabwe's Security Sector Oversight and Accountability Systems

Zimbabwe's National Security Sector oversight and accountability systems are codified in the constitution as part of the national security policy and are in line with international best practices. Oversight and accountability of the security sector helps to remove the culture of secrecy which is associated with security sector agencies and it promotes the interests of the people by ensuring security sector actors operate in the public interest, builds public confidence in security sector agencies through transparent processes and procedures, controls security sector agencies' excesses and promotes the rule of law.

According to Nicole Ball and J. Kayode Fayemi (2001) democratic accountability in the security sector is premised on three principles, that is;

- a) Security organizations are subordinate to civilian authority in democratically constituted states,
- b) Security organizations are obliged to explain their actions to civil authorities and civil society.
- c) Security organizations are subject to sanction for inappropriate actions or for inadequately explaining their actions.

In Zimbabwe civil oversight bodies include the Executive (President and Cabinet), Parliament, Independent Accountability bodies and Public Sector Accounting bodies. These bodies are created by the constitution. A closer analysis of their oversight and accountability function with respect to security sector agencies is appropriate.

(a)The President and Cabinet

According to section 216(5) of the constitution, the commander of a service of the Defence Force must exercise his or her command in accordance with general written policy directives given by the Minister responsible for Defence Forces acting under the authority of the President. This requirement also applies to all the security services (Police service, Prisons and Correctional Service and Intelligence service). The constitution also stipulates that the national security of Zimbabwe must be secured in compliance with the constitution and rule of law. Therefore, the President and Cabinet, through the reporting structure of the security services of Zimbabwe, are required to monitor compliance of security services with their constitutional mandate and to sanction inappropriate action or behavior. The constitution stipulates that security services are subordinate and answerable to civilian authorities (President and Cabinet/Ministers).

(b) Parliament

Parliamentary oversight bodies include parliament and its parliamentary portfolio committees (standing or select committees) such as defence and security committees, public financial management committee, parliamentary legal committee, indigenization and economic employment committee etc. Through these committees of Parliament, Ministers in charge of the security cluster or their designated subordinates may be summoned by these parliamentary committees to respond to written request for information. Parliamentary portfolio committees also review security ministries' expenditure, procurement, operations and/or deployments to assess whether these are in line with the law.

Section III (2) and (3) of the Constitution requires the approval of Parliament when the President declares war and the Senate and the National Assembly by a joint resolution passed by at least two thirds of the total membership of the Parliament may resolve that a declaration of war should be revoked, and in that situation the President is required by the Constitution to take all practical steps to disengage from the war, taking due account of the need to ensure the safety of Zimbabwean personnel and equipment.

Section 119 (2) and (3) stipulates that parliament has the power to ensure that all institutions and agencies of government at any level act constitutionally and in the national interest. Chapter 17 Section 299 of the Constitution provides that parliament monitors and oversees revenues and

expenditures of all institutions or agencies of government to ensure that all the revenue is accounted for, all expenditure has been properly incurred, and that any limits and conditions on appropriations have been observed. Section 306 (3) requires every public official who has custody or control of public property to safeguard that property and to ensure that it is not lost, damaged, misplaced or misused. Where this provision is breached, Parliament is authorized to discipline or punish persons responsible for such breaches and where appropriate, the recovery of misappropriated funds or properly.

(c) Independent Accountability Bodies

Independent Accountability Bodies such as the Auditor-General, the Constitutional Court and the judicial system in general, the Ombudsperson/public protector and the Anti-Corruption commission may review decisions made by security sector agencies and make recommendations or mete out appropriate punishments in the event of breaches of the law. Section 309 of the Constitution authorizes the Auditor-General to audit the accounts of all departments, institutions and agencies of government, carry out special audits of the accounts of any statutory body or government controlled entity, at the request of government, and to take measures to rectify any defects in the management and safeguarding of public funds and public property. Such constitutional provisions ensure that security sector organizations are answerable to those organizations legally authorized to oversee their operations.

(d) Public Sector Accounting Bodies

Public Sector Accounting Bodies are also crucial in providing security sector oversight. Such bodies include Permanent Secretaries/ Accounting Officers of the respective security ministries/agencies, Treasury, budget monitoring departments, and State Procurement Board.

(e) Civil Society Bodies

Civil Society Bodies dealing with security sector governance issues have a crucial role to play in the accountability and oversight of the security sector. Such groups may bring public pressure for change in the way certain things are done in the security sector through public complaints, public advocacy and campaign for government and public sympathy.

The purpose of accountability in the security sector is to ensure that government and its officials do not deviate from their legal mandate in discharging their duties. Security sector officials should be accountable to elected civilian authorities, constitutionally established independent oversight agencies and civil society bodies. Security sector agencies that are not accountable are likely to engage in off-budget transactions which will undermine the operational efficiencies of the security agencies concerned and the country at large. Lack of accountability may promote an environment conducive to systematic gross violation of human rights, promotion of direct intervention by security agencies in the political process and the general undermining of professionalism in the security sector agencies. A key feature of democratic accountability in the security sector is to establish processes and procedures of oversight to ensure that relevant legislation and regulations are implemented as required by law. The institutionalization of accountability and oversight bodies in Zimbabwe's constitution was a major milestone in the development of NSP and the democratization of the security sector.

Recommendations

The national security policy of Zimbabwe, like any public policy, is subject to continuous evaluation and improvement. While it may not be necessary to review the policy for now to gauge its efficiency and effectiveness in implementing its human security ("soft") and traditional state security ("hard") agenda, future reviews should focus on the following aspects of the NSP which the formulators may have inadvertently overlooked.

- a) Section 224 of the Constitution does not stipulate the functions of the intelligence services of Zimbabwe unlike the other security services (defence force, police service and prisons and correctional service) whose functions are clearly outlined in the constitution. In the absence of a clearly outlined constitutional mandate, it makes it difficult to hold such a service to account by civilian oversight bodies like Parliament and its selected committees, auditor-general, human rights commission, and civil society "watchdog" organizations. The only accountability and oversight that exists is that found in Section 226 (2) where the Director-General of Intelligence Service must exercise his/her command or control in accordance with any general written policy directives given by the Minister responsible for the national intelligence service under the authority of the

President. Outlining the functions of the intelligence service, in general terms, cannot be expected to compromise the secretive nature of the organization's operations as this is standard practice in most countries with democratic constitutions like that of Zimbabwe.

- b) All independent commissions established by the constitution which act as oversight to the work of Government security institutions are supposed to be accountable to Parliament for the efficient performance of their function. Such bodies should have their budgets funded directly from the Consolidated Revenue Fund to bolster their professional independence and cushion them from political interference unlike the discredited arrangement where they get their funding from and report to parent ministries. The inclusion of independent reporting mechanism for such independent commissions will strengthen their oversight effectiveness vis-a-vis government institutions dealing with national security policy issues by exercising their functions without fear, favor or prejudice in accordance with the constitution.

Conclusion

The adoption of the National Security Policy (NSP) for Zimbabwe as a product of the Global Political Agreement (CPA) which created the Government of National Unit (GNU) with a mandate to come up with a new democratic constitution was a major milestone in Zimbabwe's post-conflict reconstruction. The adoption of the new NSP through a people-driven constitutional process was a legitimating formula meant to re-engineer the country's body politic by addressing permanently the multiple threats to peace, security and stability which revolved around security sector governance issues. The active co-operation of all the security sector actors in the crafting of the NSP meant that the policy was widely accepted by all for the good of the country. The NSP framework for Zimbabwe which is codified in various provisions of the new constitution is built around the concept that peace, security and development are mutually reinforcing in establishing sustainable security systems that contribute positively to the human security agenda and national development. Legitimate and accountable systems of security sector governance help to prevent societal conflict by promoting transparency, constitutionalism and the rule of law, informed debate and national development.

Zimbabwe's NSP is a product of national dialogue, consultations between elected representatives, security experts and researchers, and a people-driven constitutional reform process which ensured that national consensus was established with respect to security sector governance policy framework. The aim of developing NSP for Zimbabwe was to solve permanently security sector governance challenges and obstacles which affected the politics of the country and the human security agenda. The process of NSP development entailed creating a Zimbabwean-owned and led-vision of national security policy framework and the required institutional framework to implement the NSP. Emphasis was put on developing a national security policy that was effective and efficient in carrying out its constitutional mandate whilst at the same time recognizing the need to entrench democracy, transparency, accountable government and observance of the rule of law. Whilst the state of Zimbabwe remained militarily strong in terms of the "hard options" of force, deterrence and secrecy, the security of individuals in the form of "freedom from fear and freedom from want" remained precarious and the NSP was crafted to address that anomaly, through constitutional provisions, as a permanent formula to address state security and individual security.

The adoption of the NSP of Zimbabwe through a constitutional referendum which was overwhelmingly approved by over 90% of those who voted put to rest growing calls for security sector reform which was championed by opposition parties and civil society groups. The NSP therefore is a product of the constitutional reform process and is governed by the fundamental law. Zimbabwe's peace building Government of National Unity (2009-2013) with its emphasis on power sharing and the constitutional reform agenda as the centre piece of its mandate, ensured a "stealth reform" of the security sector which contributed positively to national peace and stability.

REFERENCES

African Union Policy Framework on Security Sector Reform (2014), African Union Commission, Addis Ababa.

Antoni van Nieuwkerk and Katharina Hofmann (2013), Southern African Security Review, Centre for Defense and Security Management, Wits University, Johannesburg.

Antoni Van Nieuwkerk (2012), Towards Peace and Security in Southern Africa. A critical analysis of the revised Strategic Indicative Plan for the Organ on Politics, Defence and Security Cooperation (SIPO) of the Southern African Development Community, Friedrich-Ebert-Stiftung, Maputo.

Chidambaram, P. (2013). National Security, Challenges and Priorities, Institute for Defence Studies and Analysis, New Delhi.

Constitution of Zimbabwe Amendment (No.19)ACT 2009,Fidelity Printers and Refiners, Harare

Constitution of Zimbabwe Amendment (No.20)ACT 2013, Fidelity Printers and Refiners, Harare.

National Association of Non-Governmental Organizations (2010) Understanding the Basics of Public Policy and Advocacy. A Training Manual Prepared for Community Based Organizations, NANGO, Harare.

Nicole Ball and J. Kayode Fayemi (Ed) (2001). Security Sector Governance in Africa: A Handbook, Institute for Security Studies, Pretoria.

Obama, B (2010) National Security Strategy, Office of the President of the United States of America, accessed 10 May 2014.

Organization for Economic Cooperation and Development (2005) Security Sector Reform and Governance, OECD Publishing, Paris

Report of the United Nations Secretary General of 13 August 2013 “Securing States and Societies: Strengthening the United Nations comprehensive support to security sector reform”, New York.