



# PROTECTION OF CIVILIANS SITES

LESSONS FROM SOUTH SUDAN FOR FUTURE OPERATIONS



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Cover Photo: UN House Protection of Civilian site in Juba, January 25, 2017.

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# TABLE OF CONTENTS

<b>FOREWORD.....</b>	<b>7</b>
<b>1 INTRODUCTION.....</b>	<b>12</b>
Methodology.....	14
Acknowledgements.....	14
<b>2 THE HISTORY OF PROTECTED SITES.....</b>	<b>15</b>
Bosnia and Rwanda.....	15
DRC, Sudan, and South Sudan (pre-2013).....	16
POC sites post December 2013.....	16
Challenges and dilemmas in past protected sites.....	16
The impossible question: are protected sites a “good” model?.....	21
<b>3 DEFINING POC SITES.....</b>	<b>22</b>
Understanding the differences between POC sites and traditional IDP camps.....	22
Guidelines on managing protected sites.....	27
Predicting the emergence of POC sites.....	30
<b>4 COORDINATION BETWEEN HUMANITARIANS AND PEACEKEEPERS.....</b>	<b>35</b>
Establish clear roles and responsibilities between humanitarians and peacekeepers.....	35
Develop global guidelines for key positions.....	36
Conduct joint, realistic planning.....	39
Prioritize deconfliction where possible.....	40
Exercise caution with Quick Impact Projects (QIPs) and public messaging.....	41
Agree on civil military coordination structures and focal points.....	42
Establish a high-level coordination forum.....	43
Maintain transparency.....	43

<b>5 HUMANITARIAN RESPONSES INSIDE AND OUTSIDE POC SITES .....</b>	<b>44</b>
Maintain equal monitoring of needs and risks inside and outside of sites.....	44
Rationalize the number of humanitarian partners inside POC sites .....	45
Contextualize and agree on technical guidelines and standards for POC sites .....	48
Deciding between targeted and blanket humanitarian assistance .....	51
Streamline humanitarian coordination .....	54
Be aware of conflict dynamics.....	56
<b>6 PROTECTING CIVILIANS IN POC SITE CONTEXTS .....</b>	<b>57</b>
Mandate .....	57
Realign the relationship with the government .....	58
Update relevant strategy documents.....	59
Conduct transparent troop rationalization exercises.....	59
Ensure adequate resourcing .....	60
Hold troops accountable to the mandate.....	60
Hold host Governments accountable for SOFA violations .....	61
Invest in analysis and maintaining adequate numbers of Protection of Civilians Advisors.....	61
Develop localized protection of civilians response plans.....	62
Ensure robust training and rehearsing for troops .....	63
Be aware of conflict dynamics when considering the balance of the response .....	63
<b>7 MAINTAINING THE CIVILIAN CHARACTER OF POC SITES.....</b>	<b>64</b>
The importance of maintaining the civilian character of POC sites .....	64
Assess the level of militarization.....	66
Develop and agree on robust screening procedures and DDR processes .....	67
Institute a weapons-free zone.....	70
Reinforce perimeter security and screenings .....	70
Develop a clear policy for confiscated weapons.....	71
Employ a conflict-sensitive approach to communications about militarization .....	72

<b>8 LAW, JUSTICE, AND SECURITY INSIDE POC SITES</b> .....	<b>74</b>
Legal status and jurisdiction inside POC sites.....	74
Overview of justice and security mechanisms in South Sudan’s POC sites.....	75
Considerations for the future: deciding on an approach to justice and security inside POC sites.....	81
Establish clear SOPs on how different types of cases will be managed.....	82
Commit sufficient resourcing.....	84
Prioritize robust training and complaints mechanisms.....	84
Potential alternatives.....	85
<b>9 HUMANITARIAN PROTECTION IN POC SITE CONTEXTS</b> .....	<b>87</b>
Finding the frame: provide an appropriate protection analysis.....	87
Establish a coherent strategy to address the needs inside and outside the POC sites.....	91
Provide clear operational tasks and space for humanitarian protection.....	94
Protection issues linked directly to the POC sites.....	96
<b>10 EXIT STRATEGIES AND SOLUTIONS</b> .....	<b>98</b>
Understanding the complexities of returns for IDPs.....	98
Principles and approaches to durable solutions and exit strategies.....	99
Lessons from South Sudan.....	102
<b>BIBLIOGRAPHY</b> .....	<b>110</b>



Wau POC site. August 2016. © IOM / Muse Mohammed

# FOREWORD

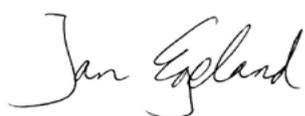
We cannot accept the continued horrific violence against civilians across the conflicts of our generation. International Humanitarian Law, designed to protect civilians from the worst horrors of war, has been abandoned by parties to conflict. Civilians have been forced to protect themselves and their families. Discussions of “safe zones” and “humanitarian spaces” have become frequent among actors who are desperate to enable protection for besieged populations.

In recent years in South Sudan, over 200,000 civilians sought refuge in the bases of the UN peacekeeping mission. This was unprecedented in the history of peacekeeping and humanitarian action. Although imperfect, these “protection of civilians” sites most probably saved tens of thousands of lives at the start of the war. The long and controversial history of “safe havens” and “protected sites” from Bosnia to Rwanda also shows that while the hosting of IDP camps inside UN bases may be new, the trend of IDPs seeking UN protection during times of violence is not – indeed, it has historical precedent and the debates have been many.

With violence against civilians continuing to haunt many current crises, the international community must anticipate that such sites may emerge in the future – including inside UN bases. Today there are UN peacekeeping missions in 16 countries, and internal conflicts in many more. Now is the time for humanitarians and peacekeepers to learn the lessons of the past and prepare for protected sites that could emerge in the future. Humanitarians and peacekeepers in places like the Central African Republic, Mali, and the Democratic Republic of Congo cannot wait until civilians are flooding into peacekeeping bases to begin developing plans.

This publication is a first step in enabling the humanitarian and peacekeeping communities to be better prepared for future protection of civilians (POC) sites. It reflects on the experiences of the POC sites in South Sudan, but is designed for humanitarians and peacekeepers working in other crises and at the policy level. It challenges actors to think critically about the complex issues that emerge inside and around protected sites. It provides suggestions and lessons that emerged from South Sudan.

Humanitarians and peacekeepers in South Sudan did a commendable job coping with a crisis of an unprecedented nature. The operational, legal, and moral challenges they faced were immense, and nevertheless, humanitarians and peacekeepers showed resolve in improving conditions for civilians. It is my hope that we will all learn from the experiences of these committed individuals and use this to guide our responses in the future.



**Jan Egeland**  
Secretary General of  
the Norwegian Refugee Council

# ACRONYMS

<b>CCCM</b>	Camp Coordination and Camp Management	<b>OCHA</b>	Office for the Coordination of Humanitarian Affairs
<b>CWG</b>	Community Watch Group	<b>POC</b>	Protection of Civilians
<b>DDR</b>	Disarmament, Demobilization, and Reintegration	<b>QIPs</b>	Quick Impact Projects
<b>DPA</b>	UN Department of Political Affairs	<b>RRP</b>	Recovery, Reintegration, and Peacebuilding section
<b>DPKO</b>	UN Department of Peacekeeping Operations	<b>SOFA</b>	Status of Forces Agreement
<b>DSRSG</b>	Deputy Special Representative of the Secretary General	<b>SOP</b>	Standard Operating Procedure
<b>DSS</b>	Department of Safety and Security	<b>SPLA</b>	Sudan People's Liberation Army
<b>FPU</b>	Formed Police Unit	<b>SRSR</b>	Special Representative of the Secretary General
<b>FRAGO</b>	Fragmentary Order	<b>TCC</b>	Troop Contributing Country
<b>GBV</b>	Gender-Based Violence	<b>TOB</b>	Temporary Operating Base
<b>HC</b>	Humanitarian Coordinator	<b>TOR</b>	Terms of Reference
<b>HCT</b>	Humanitarian Country Team	<b>UNAMID</b>	United Nations Assistance Mission in Darfur
<b>HRDDP</b>	UN Human Rights Due Diligence Policy	<b>UNAMIR</b>	United Nations Assistance Mission in Rwanda
<b>HRP</b>	Humanitarian Response Plan	<b>UNHCR</b>	United Nations High Commissioner for Refugees
<b>ICRC</b>	International Committee of the Red Cross	<b>UNMAS</b>	United Nations Mine Action Service
<b>ICWG</b>	Inter-Cluster Working Group	<b>UNMISS</b>	United Nations Mission in South Sudan
<b>IDP</b>	Internally Displaced Person	<b>UNPOL</b>	United Nations Police
<b>IMDRM</b>	Informal Mitigation and Dispute Resolution Mechanism	<b>UNPROFOR</b>	United Nations Protection Force (in Croatia and Bosnia and Herzegovina)
<b>IOM</b>	International Organization of Migration	<b>USD</b>	United States Dollars
<b>J9</b>	UNMISS Force Civil Military Coordination section	<b>WAM</b>	Weapons and Ammunition Management
<b>JOC</b>	Joint Operations Center		
<b>NGO</b>	Non-governmental organization		

# EXECUTIVE SUMMARY

Throughout the history of United Nations (UN) peacekeeping, civilians have sought protection with the UN during times of crisis. From the “safe areas” in Bosnia, to the “protected sites” in Rwanda, to the “protection of civilians sites” (POC sites) in South Sudan today, this trend has continued to develop and evolve over recent decades. In April 2015, the UN Department of Peacekeeping Operations (DPKO) released a *Policy on the Protection of Civilians in United Nations Peacekeeping*, which for the first time stated that as a measure of last resort in *in extremis* situations, UN missions must be prepared to open their gates to protect civilians. The precedent set in South Sudan, combined with the inclusion of this language in the global DPKO policy, means that there is a potential that such sites could emerge in future crises. In this context, it is imperative to learn from past experiences, particularly the ongoing response in the POC sites in South Sudan.

The objective of this publication is to examine the unique operational challenges and dilemmas associated with the POC site model, with the aim of drawing out lessons from South Sudan to help to inform future POC site responses. The publication begins by looking at the history of protected sites, from Bosnia and Rwanda in the 1990s, to the Democratic Republic of Congo (DRC) and Sudan in the 2000s, to South Sudan today. History shows that many of the peacekeeping missions charged with protecting such sites have encountered similar challenges – most notably, crippling resource and personnel constraints, and mandates that were not fit for purpose. Many missions were faced with the impossible task of having to protect sites without the means necessary to do so, which subsequent investigations found at times led to cases of peacekeepers potentially doing more harm than good.

The publication goes on to look at POC sites as we know them today, and argues that POC sites can be distinguished from traditional internally displaced person (IDP) camps in four main areas:

the legal status of the sites and protection offered therein, how the sites are administered, the intended purpose of the sites, and the freedom of movement associated with them. Recognizing that South Sudan is the first country to see long-term IDP camps emerge inside UN bases, the publication considers why POC sites may emerge in some countries but not others, and asks whether the presence of certain characteristics could make it possible to predict where a POC site might appear in the future.

Experiences from South Sudan show that the overlapping humanitarian and peacekeeping spaces inside POC sites can pose unique challenges with regard to coordination. Having clearly delineated roles and responsibilities between humanitarian and peacekeeping actors is essential, as is the need to conduct joint, realistic planning based on most-likely and worst-case scenarios. Likewise, despite the challenges in doing so, maintaining distinction where possible is central to enabling both sets of actors to effectively carry out their mandates, as is having clearly agreed upon civil-military coordination mechanisms.

When POC sites first emerge, there is a risk that humanitarian and peacekeeping responses can become overly site-centric. As time progresses, however, both humanitarians and peacekeepers will need to carefully monitor the context inside and outside the POC sites, and triage responses based on greatest needs. Likewise, humanitarians and the UN mission will need to continuously rationalize the presence of personnel across the country to ensure that an appropriate balance is maintained between POC and non-POC site responses.

In considering the delivery of humanitarian assistance in contexts with POC sites, humanitarian actors are likely to face a number of challenges. First, humanitarians must recognize that POC sites pose unique constraints with regard to the availability of operating space. Humanitarians will

need to contextualize technical standards for services inside POC sites, and will benefit from gaining UN mission endorsement in order to streamline future decision-making. Second, humanitarians will need to consider whether services in POC sites will be provided on a blanket or targeted basis, and how this will compare to the approach outside POC sites. There may be a risk or perception that blanket services could create a pull or entrenchment factor – although evidence from South Sudan does not suggest that this is as significant an issue as many had feared.

Providing physical protection to civilians in contexts with POC sites is no easy task, and will require committed action from the UN Security Council, Troop and Police Contributing Countries, and mission leadership. Following the emergence of a POC site, the mission mandate will need to be quickly revised to reflect the new context, and both the mandate and operations may need to be adapted to reflect changes in the relationship with the government. The Security Council should ensure that the mission is provided with sufficient amounts of troops and resources (including key civilian staff), and must hold the mission accountable to fulfilling the mandate. Likewise, when state interference prevents the UN mission from implementing its mandate, this needs to be addressed at the highest levels. At country level, experiences from South Sudan have shown that developing localized protection of civilians response plans can be a useful tool, and regular trainings and rehearsals for peacekeepers and UN police are integral to the effectiveness of responses.

Like many IDP and refugee camps, POC sites are susceptible to militarization and loss of their civilian character. While the capacity to prevent militarization may be higher in POC sites than in traditional IDP camps due to the role of UN peacekeepers, the potential damage caused by militarization is also far greater and can have a considerable impact on the perception of the UN and humanitarians. In such settings, there is a need to first objectively establish the level of and reasons for militarization (if the sites already exist), and agree on a robust screening and disarmament, demobilization, and reintegration (DDR) procedure for new arrivals. Instituting a

weapons-free zone and reinforced perimeter have proved useful in South Sudan to stem the flow of weapons into the sites, and could be considered in future operations. Policies will also need to be developed for how confiscated weapons will be managed, and it is strongly encouraged that the UN mission avoid handing weapons back to parties to the conflict.

The presence of thousands of people in congested camps creates an environment rife for crime and acts of aggression, and will require some form of rule of law to maintain stability. In the absence of an executive mandate, UN missions may find themselves in the uncomfortable position of having to try to uphold peace and security within a POC site without having the legal authority or resources necessary to do so. The publication looks at how this was managed in South Sudan (namely, through a combination of mediation mechanisms and the use of “holding facilities” for persons posing a serious threat), and considers lessons from these experiences as well as alternatives for how this could be managed in the future. Key concerns in South Sudan related to issues of due process, conditions for individuals in the “holding facilities,” and the need for greater consistency in how cases are managed.

POC site contexts also present a unique environment when considering approaches to protection. Humanitarians and peacekeepers have complementary, but distinct roles in supporting the safety and well-being of civilians, and differing mandates and priorities can at times place actors at odds with one another. Experiences from South Sudan highlight the importance of developing a humanitarian protection analysis and strategy that is independent of that of the UN mission. Humanitarians will need to be aware that the political elements of the UN mission’s mandate can influence their analysis and approach to protecting civilians, and should also recognize the potential for the “One-UN” framework to impact on how some UN humanitarian agencies engage.

Finally, POC sites are not a permanent solution for IDPs. Most IDPs would prefer to eventually leave the POC site and reestablish a life and livelihood in a more sustainable environment. Equally, UN missions may be eager to reclaim their bases and



UN House POC site in Juba. November 2016. © NRC / Albert Gonzalez Farran

relieve the strain created by providing static protection to large sites. Finding exit strategies and solutions for IDPs in POC sites is no easy task however: dynamics in IDPs' pre-displacement locations may have changed and become prohibitive to returns, and the experience of displacement may have altered some IDPs' preferences on where they would like to settle permanently. In considering solutions and exit strategies, it is important that humanitarians recognize that the principles that are fundamental to humanitarian approaches to solutions (namely that they must be voluntary, safe, dignified, and informed) may not be shared by the UN mission. This understanding will be critical in helping humanitarians determine how to engage with the mission and develop a strategy.

Experiences from South Sudan highlight a number of important considerations when designing an approach to solutions. First, it is essential to carefully consider the timing. Rushing into a conversation about solutions while mass human rights violations continue may be detrimental to the quality of the response and the safety and

well-being of IDPs. Linked to this, efforts to promote solutions should never come at the expense of addressing more imminent protection threats. Protection actors will need to carefully analyze the protection environment to determine how to prioritize. Sequencing will be a crucial part of this – focusing on the current threats does not mean deferring solutions, but rather is a first step towards making returns achievable.

Humanitarians will also need to be aware of conflict dynamics when considering how to support solutions to ensure that they do not inadvertently contribute to political or military strategies, and they should likewise prioritize robust communication – both between operational actors, and with the affected communities.

Humanitarians and peacekeepers in South Sudan have made commendable progress in strengthening the response to POC sites over the three years since they first emerged. While no response is ever perfect, important lessons can be drawn from these experiences that can help to inform future responses.

# 1

# INTRODUCTION

On the evening of December 15, 2013 fighting erupted at the army barracks in Juba between forces aligned with President Salva Kiir and former First Vice President Riek Machar. Over the following days, ethnically-motivated violence surged in Juba, Bor, Bentiu, and Malakal, and within two weeks the death toll reached an estimated 10,000 people killed.<sup>1</sup> Human rights groups found evidence to suggest that all sides had perpetrated war crimes and crimes against humanity,<sup>2</sup> and some experts argued that massacres in Juba from December 16 to 18 constituted ethnic cleansing.<sup>3</sup>

While experts may have seen warning signs of the coming violence,<sup>4</sup> no one predicted that within a week of the crisis unfolding, over 35,000 people would seek refuge inside the United Nations Mission in South Sudan (UNMISS) peacekeeping bases. Even as thousands of people began to pour through the gates, some UNMISS staff members still held out hope that this informal refuge would be short-lived. “We weren’t thinking five days, but maybe a week, maybe two, maybe three weeks was the assessment we had,” said then Special Representative of the Secretary General (SRSG) Hilde Johnson.<sup>5</sup> Three years later, over 200,000 IDPs continue to shelter inside these so-called Protection of Civilians (POC) sites within UNMISS bases.

In April 2015, it became binding policy of the United Nations Department of Peacekeeping Operations (DPKO) that all UN missions with a protection of civilians mandate must be prepared to house and protect displaced persons within their bases in *in extremis* situations, including when civilians are at risk “due to a lack of preparedness or where the mission has insufficient military or police capacity to secure a site outside the mission compound.”<sup>6</sup> This clause emerged in part from the experiences in South Sudan, where six POC sites had been established by the time of the DPKO Policy on Protection of Civilians entry into force.

The combination of the formalization of this directive into UN Policy and the experiences in South Sudan have, for better or for worse, set a precedent. While South Sudan may have been the first country to see formalized POC sites, it may not be the last. Indeed, as a 2015 DPKO document points out, “the numerous and varied incidents in which civilians have sought refuge with the UN indicate that it is a situation that will doubtlessly occur again.”<sup>7</sup> In this context, it is imperative that we learn from the experiences in South Sudan.

<sup>1</sup> Nicholas Kulish, “New Estimate Sharply Raises Death Toll in South Sudan,” *The New York Times*, January 9, 2014, <https://goo.gl/C56wgc>.

<sup>2</sup> United Nations Mission in South Sudan (UNMISS), *Conflict in South Sudan: A Human Rights Report*, May 8, 2014, <http://goo.gl/c3AjzS>.

<sup>3</sup> Mahmood Mamdani, African Union Commission of Inquiry on South Sudan (AUCISS), *A Separate Opinion: A Contribution to the AUCISS Report*, October 20, 2014, <http://www.peaceau.org/uploads/auciss.separate.opinion.pdf>

<sup>4</sup> See for example the Sudd Institute’s briefing note, *South Sudan and the Risks of Unrest*, December 3, 2013, <https://goo.gl/HPZ01S>.

<sup>5</sup> Hilde Johnson, as quoted in Michael Arensen, *If We Leave we are Killed: Lessons Learned from South Sudan Protection of Civilians Sites, 2013 – 2016*, International Organization of Migration, 2016, [https://publications.iom.int/system/files/pdf/if\\_we\\_leave\\_0.pdf](https://publications.iom.int/system/files/pdf/if_we_leave_0.pdf), 19.

<sup>6</sup> United Nations (UN) Department of Peacekeeping Operations (DPKO) Policy, Ref 2015/7, *The Protection of Civilians in United Nations Peacekeeping*, April 1, 2015, <http://goo.gl/ObGPXy>.

<sup>7</sup> UN DPKO, *Practice note on civilians seeking protection at UN facilities*, 2015.

While South Sudan may have been the first country to see formalized POC sites, it may not be the last... In this context, it is imperative that we learn from the experiences in South Sudan.

It is also likely that the POC sites in South Sudan will continue to exist for some time, and taking stock of current operational challenges could allow humanitarians and peacekeepers to further strengthen the response. In 2016, a Special Report of the UN Secretary General concluded “the United Nations presence in South Sudan must accept that civilians will continue to seek refuge in the protection of civilians sites until there is a significant improvement in the situation and should therefore turn its energies to improving its holistic approach to the management of the site.”<sup>8</sup> A careful examination of lessons from the past three years will be crucial to this process.

With this in mind, **the primary objective of this publication is to examine the unique operational challenges and dilemmas associated with the POC site model, and to draw lessons from South Sudan with the hope of informing future POC site responses.**

Recognizing that most POC sites are likely to emerge spontaneously, the publication does not aim to determine whether POC sites are a “good” or “bad” model (although this question will be briefly touched upon in the following chapter), nor does it intend to focus specifically on the successes and failures in South Sudan.<sup>9</sup> Given that South Sudan is the only place POC sites have existed thus far, it will be used as a lens through which to examine the POC site model, but analyzing the response in South Sudan is not the aim in and of itself. Equally, the publication does not delve into questions of the effectiveness of or challenges to humanitarian aid or peacekeeping as a whole. Rather, it merely considers how protection and assistance are impacted by the POC site model

compared to what might be experienced in a traditional IDP settlement. Along these same lines, entire publications can and have been written about the ability of peacekeeping missions to fulfill protection of civilians mandates, and as such this will not be discussed here except when considering unique circumstances of a POC site context.<sup>10</sup>

Although this publication will undoubtedly be relevant to humanitarians and peacekeepers working in South Sudan, it is designed to be accessible to individuals who are not intimately familiar with the experiences of that particular crisis. The primary target audience are humanitarian and peacekeeping professionals who are either faced with the emergence of a POC site in another country or who are designing guidelines or policies to inform future responses in POC site settings.

This publication makes a number of assumptions that are important to recognize. First, in keeping with the definition of POC sites outlined in the DPKO Policy on Protection of Civilians,<sup>11</sup> this paper is based on the assumption that POC sites exist inside the bases of UN missions with a Chapter VII protection of civilians mandate. While similar lessons could undoubtedly be applied if sites emerged in African Union bases, for example, such scenarios have not been considered in this publication. A second assumption is if a POC site has emerged, it is likely that the government is either unable or unwilling to fulfill its responsibilities to protect civilians in that location. If a POC site emerged in a location with functional authorities, many of the activities of the UN mission described in subsequent chapters might instead more naturally be implemented by the government.

<sup>8</sup> UN Security Council, S/2016/951, *Special report of the Secretary-General on the review of the mandate of the United Nations Mission in South Sudan*, November 10, 2016, [http://www.un.org/ga/search/view\\_doc.asp?symbol=S/2016/951](http://www.un.org/ga/search/view_doc.asp?symbol=S/2016/951).

<sup>9</sup> For more detail on successes and failures in South Sudan, see Michael Aarsen, *If We Leave we are Killed: Lessons Learned from South Sudan Protection of Civilians Sites, 2013 – 2016*, International Organization of Migration, 2016, [https://publications.iom.int/system/files/pdf/if\\_we\\_leave\\_0.pdf](https://publications.iom.int/system/files/pdf/if_we_leave_0.pdf).

<sup>10</sup> For more on the effectiveness of protection of civilians in South Sudan, see recent publications from the Center for Civilians in Conflict at <http://civiliansinconflict.org/our-work/countries/south-sudan/>.

<sup>11</sup> DPKO Policy, Ref 2015/7, *The Protection of Civilians in United Nations Peacekeeping*, 12.

## METHODOLOGY

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Research for this publication was carried out from January to March 2017, and additionally draws on the author's experience serving as the South Sudan Protection Cluster Co-Coordinator from July 2015 to December 2016. Developments in South Sudan that occurred after March 2017 are not reflected in this paper.

Research relied predominantly on qualitative methodologies. Semi-structured interviews were held with key informants in UN missions, UN agencies, NGOs, and Civil Society Organizations, and members of the affected community. Interviews were conducted both in person and remotely.

This publication is not exhaustive, and while the author has made every effort to consult all relevant sources of information and reflect diverse perspectives, there will invariably be issues that are insufficiently addressed or views that have not been adequately captured. It is also possible that despite best efforts at fact-checking, some inaccuracies may still exist – for this the author apologizes and takes full responsibility.

This publication was reviewed in full by three individuals who have worked in South Sudan, and each chapter was further peer reviewed by at least one person with technical expertise relevant to the specific theme of the chapter. All reviewers either currently or previously worked in South Sudan, and included both UNMISS staff and humanitarian personnel.

All names of interviewers and reviewers have been withheld from this publication, as in many cases individuals requested to be kept anonymous so as to be able to speak more freely.

## ACKNOWLEDGEMENTS

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# 2

## THE HISTORY OF PROTECTED SITES

Although December 2013 was the first time the world witnessed the emergence of formalized POC sites, it was not the first time civilians had sought refuge in peacekeeping bases. To the contrary, there is a long tradition both inside and outside of South Sudan of civilians seeking protection with the UN during times of violence. The following chapter provides a very brief introduction to cases of UN protected sites over the past three decades, and highlights some of the operational challenges and dilemmas that were common across these cases. Entire books can and have been written about many of these crises, and the content and lessons included below are therefore a small snapshot at best. Nevertheless, these summaries of historical lessons aim to draw out insights that may be relevant in future POC site operations.

### BOSNIA AND RWANDA

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One of the first experiences of protected sites was in Bosnia.<sup>12</sup> In the early 1990s, conflict devoured much of the former Yugoslavia. Ethnic cleansing and war crimes were widespread, and pockets of civilians became besieged in enclaves across Bosnia. Between April and June 1993, the UN Security Council passed Resolutions 819, 824, and 836 declaring six cities “safe areas” and placing them under the care of the UN Protection Force (UNPROFOR).<sup>13</sup> Hundreds of thousands of people lived in the safe areas for two years under siege, unable to travel in and out or access basic commodities. While the safe areas ostensibly offered some physical protection, in 1995, the conflict intensified and attacks on the safe areas became more frequent. July 1995 culminated in one of the worst massacres in recent history: the fall of the Srebrenica and Zepa safe areas, where over 8,000 Bosnian Muslim men and boys were killed in a period of days.

At the same time as Bosnia was unraveling, Rwanda was simultaneously descending into genocide and witnessing the emergence of a new kind of safe area – this time termed “UN protected sites.” Unlike the safe areas in Bosnia, the protected sites in Rwanda were never formally mandated, but rather emerged spontaneously as the genocide progressed. In some cases, this resulted from people fleeing to locations where United Nations Assistance Mission in Rwanda (UNAMIR) personnel were known to be stationed. In other cases, UNAMIR troops (sometimes no more than a handful) were dispatched to protect sites where civilians had congregated in search of safety.<sup>14</sup> UNAMIR succeeded in saving thousands of lives at some of these sites, but due to the scale of the crisis and shortage of troops, civilians in some of the sites ended up falling into the hands of *genocidaires*.

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<sup>12</sup> A note on terminology: Bosnia is technically a region within the country of Bosnia and Herzegovina, but is also commonly used to refer to the whole country. The shortened term Bosnia is used here for ease of readership.

<sup>13</sup> Srebrenica, Sarajevo, Gorazde, Zepa, Bihac, and Tuzla.

<sup>14</sup> Four of the locations that came to be known as UN protected sites included Amahoro Stadium, the Hotel Mille Collines, the Ecole Technique Officielle in Kicukiro, and the Saint Famille Church.

## DRC, SUDAN, AND SOUTH SUDAN (PRE-2013)

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Between 2000 and 2013, incidents of violence in Sub-Saharan Africa regularly drove civilians to seek protection in and around UN bases – albeit in fewer numbers than in Bosnia or Rwanda. In DRC, 6,000 people sheltered inside the UN peace-keeping base in Kinshasa in 2006, and 5,000 people sheltered near a base in Kiwanja in 2012. Informal protective sites also existed intermittently in Sudan between 2008 and 2014, including one incident in 2009 when over 10,000 people sought protection next to the UN Assistance Mission in Darfur (UNAMID) base in Muhajeriya.<sup>15</sup>

Similar patterns emerged in South Sudan in the years leading up to 2013. Intercommunal clashes in Jonglei state drove people to the UNMISS base in Pibor six times between October 2012 and March 2013.<sup>16</sup> Given the perceived imminent threat and reasonably small numbers of civilians, the IDPs were generally allowed to enter the UNMISS base, where they would typically stay for a few days and then leave. In December 2012, clashes in Western Bahr el Ghazal led 5,000 people to seek protection at the UNMISS base in Wau. As the former UNMISS Senior Protection of Civilians Advisor pointed out in a 2014 article, “most UN peacekeeping missions have encountered this phenomenon at one stage or another.”<sup>17</sup>

### POC SITES POST DECEMBER 2013

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The protected sites that emerged after Rwanda were in most cases smaller, shorter in duration, and were often a result of generalized violence as opposed to deliberate targeting of civilians. All of this changed when conflict erupted in South Sudan on December 15, 2013. Within a week of the resurgence of fighting, over 35,000 IDPs had entered UNMISS bases seeking protection. The UNMISS base in Juba was particularly

overwhelmed, sheltering over 30,000 IDPs. As the conflict continued to intensify and expand over the coming weeks and months, the number of IDPs in the sites steadily grew: by mid-February 2014, 54,000 people had moved into the Bor, Bentiu, and Malakal bases, and when fighting surged in Unity State in April 2014, the population in the Bentiu POC site soared from 8,000 to 43,000. As a 2016 DPKO document noted, “Although it soon became apparent that the IDPs would not be leaving UNMISS bases imminently, few within the UN foresaw that the population of the POC sites would continue to increase over the next two years, reaching a population of 102,000 at the end of 2014 and peaking at over 200,000 in August 2015.”<sup>18</sup>

Between December 2013 and December 2016 there would be four major attacks on the POC sites, and innumerable smaller incidents. Particularly egregious were the attacks on the Bor and Malakal POC sites: in April 2014, a group of youth stormed the POC site in Bor, killing at least 50 civilians, and in February 2016, the attack on the Malakal POC site killed an estimated 30 people and burned around a third of the site to the ground. Nevertheless, an estimated 200,000 people remain in the sites at the time of writing.

## CHALLENGES AND DILEMMAS IN PAST PROTECTED SITES

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Despite the contextual differences in each of these cases, there are nevertheless common experiences that are worth examining. Peacekeepers in each case have faced criticism for failing to effectively protect civilians, but there has not always been equal recognition of the challenges posed by protected sites and the constraints facing these missions. Below are some of the shared challenges and dilemmas.

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<sup>15</sup> UN Security Council, S/2009/201, *Report of the Secretary-General on the deployment of the African Union-United Nations Hybrid Operation in Darfur*, April 14, 2009, <http://goo.gl/c2d6qX>.

<sup>16</sup> UNMISS, *Guidelines on Civilians Seeking Protection in UNMISS Bases*, April 30, 2013, <http://goo.gl/VU1FDg>.

<sup>17</sup> Damian Lilly, “Protection of Civilians sites: a new type of displacement settlement?” *Humanitarian Exchange Magazine* No. 62, September 9, 2014, <http://goo.gl/TQYGXU>.

<sup>18</sup> UN DPKO, *Challenges, lessons learned and implications of the protection of civilians sites in South Sudan*, June 2016, 2.

## **AN IMPOSSIBLE (AND SOMETIMES UNWANTED) TASK**

A first issue that must be acknowledged is the magnitude of the challenge facing peacekeepers in each of these contexts – and most notably in Bosnia and Rwanda. Protected sites emerge, almost by definition, in environments characterized by extreme violence, and often targeting of civilians. In such situations, peacekeepers must not only provide security to the civilians in the protected sites, but must do so while simultaneously being expected (by the population even if not by their mandates) to bring an end to ethnic cleansing and genocide. While this expectation is understandable from a desperate population, a 2016 Special Report of the Secretary General clearly states, “United Nations peacekeeping operations do not have the appropriate reach, manpower or capabilities to stop mass atrocities.”<sup>19</sup> Indeed, as subsequent sections will illustrate, many of the missions faced crippling resource, personnel, and mandate constraints, combined with overwhelming security threats, which made the protection of protected sites a difficult, if not impossible task.

## **THE SPONTANEOUS NATURE OF SITES**

A factor that compounds these challenges is that over the past twenty years, protected sites have by and large emerged spontaneously. As such, peacekeepers may find themselves in a situation where, despite lacking the resources necessary to be able to effectively protect civilians, they are expected to do so regardless. In this sense, peacekeepers have been set up for failure.

The spontaneous nature of the sites also creates additional challenges in regard to infrastructure and physical security. In Rwanda, the protected sites were scattered across the capital city. Many were in hard to reach locations, and with the exception of Amahoro Stadium, the sites were far from ideal from a defensive or tactical perspective.

Most of the sites had no exterior berms or barriers, and some sat exposed on main roads and in areas that could be easily surrounded. Likewise, because UN bases are not designed to host displaced people, influxes of tens of thousands of people, such as those that occurred in South Sudan, can lead conditions to quickly deteriorate. During the first 12 months in South Sudan many of the sites flooded due to heavy rains, leading to overflowing latrines and disease outbreaks.

## **RESOURCE CHALLENGES**

Peacekeeping missions responsible for protected sites have also consistently faced resource constraints that severely hindered their ability to fulfill their protection responsibilities. When the UN Security Council passed Resolution 836 expanding the mandate of UNPROFOR in Bosnia to include to “deter attacks against the safe areas, to monitor the cease-fire, to promote the withdrawal of military or paramilitary units,” no additional troops were allocated. There was an elusive promise of NATO air support, but this only materialized after Srebrenica had already fallen. In a report to the UN Security Council on December 1, 1994, the UN Secretary General expressed his dismay that of the 34,000 troops needed to protect the safe areas, only 7,600 had been authorized, severely impairing the ability of the force to fulfill its mandate.<sup>20</sup>

In Rwanda, 14 days after the start of the genocide the UN Security Council voted to reduce UNAMIR’s troop numbers from 2,548 to 270.<sup>21</sup> The Council felt that conditions in the country were no longer permissive to supporting a peace process, and that the mandated purpose of the UN force was therefore no longer relevant. This mandate issue is discussed in greater detail below, but the practical implications of this for the protection of civilians was substantial. With only 270 troops, UNAMIR was forced to withdraw from many of the sites it protected, as well as reduce its protective presence in the town center.

<sup>19</sup> UN Security Council, S/2016/951, *Special report of the Secretary-General on the review of the mandate of the United Nations Mission in South Sudan*, November 10, 2016, [http://www.un.org/ga/search/view\\_doc.asp?symbol=S/2016/951](http://www.un.org/ga/search/view_doc.asp?symbol=S/2016/951), 16.

<sup>20</sup> UN Security Council, S/1994/1389, *Report of the Secretary-General Pursuant to Security Council Resolution 959*, December 1, 1994, [http://www.un.org/en/ga/search/view\\_doc.asp?symbol=S/1994/1389](http://www.un.org/en/ga/search/view_doc.asp?symbol=S/1994/1389).

<sup>21</sup> UN Security Council, S/Res/912, “Resolution 912,” April 21, 1994, <https://goo.gl/WlCuyA>.

While hopefully the Security Council has learned from these experiences, humanitarians and UN missions responsible for protected sites should nevertheless anticipate that they may not receive the full number of troops needed to effectively provide protection. Likewise, the troops that are provided may themselves face shortages of essential supplies, and may arrive without the weapons or subsistence materials needed to execute their mandates. Subsequent chapters will also discuss the challenges of troop caveats, or the conditions that dictate where and how troops engage. These caveats have had a paralyzing impact on mission capabilities in a number of the contexts mentioned above, as troops may be counted towards the total force strength but may not be allowed to work on the protection of civilians component of the mandate.

### **DELIBERATE ATTACKS ON PEACEKEEPERS AND INTERNATIONAL PERSONNEL**

A related challenge that has not yet been considered enough is the use of deliberate attacks on peacekeepers as a means of disincentivizing the UN from proactively engaging during a crisis, or provoking troop withdrawal. During the first days of the Rwandan genocide in April 1994, the *genocidaires* deliberately targeted a contingent of Belgian peacekeepers, knowing that this would cause Belgium to withdraw the remainder of its troops and further weaken the already struggling UNAMIR force. Their plan succeeded: by April 20, 1994, only 1,515 UNAMIR troops remained in Rwanda.<sup>22</sup> This departure (and the subsequent further reduction of troops following the April 21 UN Security Council Resolution mentioned above) crippled UNAMIR's ability to effectively protect the thousands of people under its protection. In Bosnia, a group of Dutch peacekeepers were held hostage by Bosnian Serb forces, who threatened to kill them if NATO bombed Bosnian Serb positions.<sup>23</sup> Although NATO did eventually bomb the positions anyway, the threats succeeded in delaying the response significantly. Attacks on

peacekeepers have likewise unfortunately continued over subsequent decades, as have attacks on and expulsions of humanitarian workers. In 2015, the Deputy Humanitarian Coordinator in South Sudan was attacked in her home, reportedly by members of the government forces.<sup>24</sup> This attack came only months after the previous Humanitarian Coordinator was declared a *persona non grata* and was forced to leave the country. More rigorous discussion is needed on how these types of deliberate threats and tactics will be managed.

### **MANDATE**

The appropriateness of peacekeeping mandates has also historically been a challenge in the provision of effective security at protected sites. Until 1999, no UN mission had ever been specifically mandated to protect civilians – including in Bosnia and Rwanda. In the case of the latter, at the time the genocide began, UNAMIR's primary mandate was to monitor compliance with the Arusha Peace Agreement and support the implementation of a weapons free zone in the capital.<sup>25</sup> When violence erupted in Kigali, troops were ill-prepared for the situation that followed. Rather than quickly adapting the mandate to reflect the changing context, the Security Council used the discord between the mandate and the situation on the ground as justification for troop withdrawal.<sup>26</sup> It was not until the genocide had been ongoing for nearly six weeks that the UNAMIR mandate was adjusted to include references to the protection of civilians. This delay had a devastating effect on the effectiveness of UNAMIR during the worst days of the crisis.

Similar delays in adapting the mandate occurred at the start of the crisis in South Sudan, where it took nearly six months for the priority mandate to be changed from state-building to protection of civilians. Even once the state-building aspect had been removed, its legacy appeared to continue to have a detrimental impact on the willingness of

<sup>22</sup> UN Security Council, S/1994/470, *Special Report of the Secretary-General on the United Nations Assistance Mission for Rwanda*, April 20, 1994, <https://goo.gl/JuF3U2>.

<sup>23</sup> Human Rights Watch, *The Fall of Srebrenica and the Failure of UN Peacekeeping*, October 15, 1995, <https://goo.gl/2m53Tp>.

<sup>24</sup> Jason Patinkin, "South Sudan needs peace as much as food," *IRIN*, March 20, 2017, <https://goo.gl/oLpL6T>.

<sup>25</sup> UN Security Council, S/1993/872, "Resolution 872," October 5, 1993, <https://goo.gl/O1obgY>.

<sup>26</sup> UN Security Council, S/1993/872, "Resolution 872."



Mission leadership and troop contributing countries to uphold the new protection of civilians focus. This is discussed in greater detail in Chapter 6.

### **RISKS ASSOCIATED WITH DEMILITARIZATION**

Another challenge that has historically occurred in protected sites is managing militarization. One of the trade offs of receiving international protection is that communities must forfeit their own means of military self-protection – namely, their weapons. The UN cannot protect armed actors, and thus to qualify for UN protection, the local population must demonstrate their civilian character. Surrendering weapons can be a difficult decision for a community, however, particularly if they have historically had to be self-sufficient in terms of their personal security, or if confidence in international protection is weak.

One such situation occurred in Bosnia. When the six Bosnian cities were declared safe areas in 1993, most had already been besieged for some time. Prior to the arrival of UNPROFOR, residents of the six cities had relied on local defense forces for security, and residents were understandably reluctant to surrender the weapons that had served as their primary means of protection until that point. An initial demilitarization effort took place in 1993, but when the UN Secretary General proposed further demilitarization in December 1994, the Permanent Representative of Bosnia and Herzegovina argued that “the demilitarization of the safe areas as a stand-alone measure could actually have the counter-productive impact of exposing the safe areas and their population to greater danger” given that “UNPROFOR’s and NATO’s previous responses to attacks on the safe areas do not engender confidence.”<sup>27</sup> Ultimately, partial demilitarization of the Bosnian safe areas took place, and some of the survivors of the

<sup>27</sup> Statement of the Permanent Representative of Bosnia and Herzegovina, as quoted in UN General Assembly, A/54/549, *Report of the Secretary-General pursuant to General Assembly resolution 53/35: The fall of Srebrenica*, November 15, 1999, <http://goo.gl/0Sga6f>, 40.

Srebrenica massacre argued that the demobilization of the safe area ultimately contributed to its demise. While there is no consensus among military experts about whether Srebrenica's men could have defended themselves had their weapons been returned, the failure of UNPROFOR to give the weapons back left a dark shadow on the feelings of some former safe area residents.<sup>28</sup>

### **HUMANITARIAN ASSISTANCE AS A REPLACEMENT FOR POLITICAL OR MILITARY ENGAGEMENT**

Another concern that emerged during the Bosnia crisis was whether humanitarian assistance to the safe areas was being used as a replacement for meaningful engagement by the international community. David Rieff, one of the preeminent journalists covering the conflict, wrote, "Instead of political action backed by the credible threat of military force, the Western powers would substitute a massive humanitarian effort to alleviate the worst consequences of a conflict they wanted to contain."<sup>29</sup> The airlift to Sarajevo alone cost over one million US dollars per day at one point in 1993, and would become the longest airlift in humanitarian history.<sup>30</sup> Though it is difficult to prove whether this humanitarian intervention did indeed contribute to political inaction, it is clear that regardless of the cause, the failure to address the more difficult threats would lead to some of the worst protection of civilians breakdowns of the 20<sup>th</sup> century.

### **DO NO HARM AND THE RISK OF CREATING A FALSE SENSE OF SECURITY**

Finally, one of the greatest risks associated with the protected site model is the potential for them to create a false sense of security among the displaced and conflict-affected populations. Although peacekeepers and international humanitarian personnel may be aware of the limitations

facing a UN mission, this understanding may not necessarily be shared by the affected persons. As a result, families may base their decision on where to seek protection on a false assumption that UN peacekeepers will be able (and willing) to protect them in case of violence. As examples have shown, the consequences of these assumptions and subsequent protection breakdowns can be devastating.

One such case occurred during the withdrawal of the Belgian troops and other contingents from Rwanda in 1994. As part of the UNAMIR force, Belgian troops had been stationed at various protected sites around Kigali, often serving as the only barrier between civilians and preying *genocidaires*. When the Belgian troops found out that they were withdrawing and no one would be replacing them, they in some cases snuck away from the sites, leaving thousands of people abandoned. In the 1999 Report of the Independent Inquiry into the actions of the United Nations during the 1994 genocide in Rwanda, the investigation team made the following observation:

*When the UNAMIR contingent at [the Ecole Technique Officielle] left, there could not have been any doubt as to the risk of massacre which awaited the civilians who had taken refuge with them. Indeed, the Interhamwe and the [Rwandan Government Forces] had for days been stationed outside the school. The manner in which the troops left, including attempts to pretend to the refugees that they were not in fact leaving, was disgraceful.<sup>31</sup>*

While the departure was undoubtedly a difficult situation to manage, particularly when troops were unable to offer any reassurance to civilians that help was coming, these types of examples highlight the importance of doing careful analysis and contingency planning in advance for worst case scenarios, and clearly communicating to the

<sup>28</sup> In 2007, the "Mothers of Srebrenica" filed a writ of summons accusing the UN and the Netherlands (whose troops had been deployed as part of UNPROFOR to protect Srebrenica) of breaching their duty of care and allowing the massacre of 8,000 men and boys, in part by failing to return their weapons. While this broader case was ultimately not upheld, this initiative speaks to the collective disappointment felt by Srebrenica's survivors.

<sup>29</sup> David Rieff, *A Bed for the Night: Humanitarianism in Crisis*, (New York: Simon and Schuster Paperbacks, 2003), 131.

<sup>30</sup> Rieff, *A Bed for the Night*, 136.

<sup>31</sup> UN Security Council, S/1999/1257, *Report of the Independent Inquiry into the actions of the United Nations during the 1994 genocide in Rwanda*, December 15, 1999, <http://goo.gl/Q5wHUO>, 46.

affected populations. Had the civilians hiding at *Ecole Technique Officielle* known that the Belgians would be departing, they may have tried to sneak away before the *genocidaires* had the opportunity to attack. Instead, many of the civilians hiding at the site were massacred. The 1999 report further concluded that “tragically, there is evidence that in certain instances, the trust placed in UNAMIR by civilians left them in a situation of greater risk when the UN troops withdrew than they would have been otherwise.”<sup>32</sup> This devastating critique foreshadowed concerns that emerged repeatedly in South Sudan and protected sites elsewhere: providing partial or incomplete protection to a civilian population can at times be worse than providing no protection at all.

In the years since Bosnia and Rwanda, the risk of peacekeepers creating a false sense of security has become better acknowledged by the international community – although this has not necessarily translated into improved information sharing with affected communities. When UNMISS developed *Guidelines on Civilians Seeking Protection in UNMISS Bases* in 2013, it specifically explained that “The term ‘protected area’ has been used instead of ‘safe haven’ or ‘safe area’ as these terms convey the unrealistic expectation that UNMISS will be able to guarantee the safety of civilians which is not the case.”<sup>33</sup> Although the attempt at expectation management has been reflected in the language change, it is not clear if or how this was communicated to the affected persons themselves.

Displaced populations need to have access to accurate information about the capabilities and willingness of the UN to offer them physical protection so that they can make informed choices. Coming to a UN base due to a belief that they will be provided with safe refuge, only to find out that they may have been better off relying on their usual self-protection strategies, can have damaging impacts on their ability to keep themselves safe from violence.

## THE IMPOSSIBLE QUESTION: ARE PROTECTED SITES A “GOOD” MODEL?

Any conversation about POC sites inevitably comes back to the question of whether protected sites are a “good” model. While most peacekeepers and humanitarians who have worked in a protected site will have a view on this, it is difficult to arrive at a definitive answer. In South Sudan, supporters argue that the fact that the POC sites undoubtedly saved tens of thousands of lives in December 2013 outweighs the other risks and negative consequences associated with the POC site model. Critics argue that the risk of a Srebrenica-type incident is too high to warrant having POC sites, regardless of the potential temporary protective benefits the sites can offer.

*Despite whatever beliefs we may hold about the merits or pitfalls of the POC site model, the ultimate decision about the viability of a site will be made by the IDPs themselves. The role of humanitarians and peacekeepers is to mitigate the risks as far as possible.*

The pros and cons of POC sites are discussed in greater detail elsewhere,<sup>34</sup> and will not be elaborated here. What is worth recognizing, however, is that despite whatever beliefs we may hold about the merits or pitfalls of the POC site model, the ultimate decision about the viability of a site will be made by the IDPs themselves. Most POC sites will emerge spontaneously, meaning the question of whether they are good or bad becomes somewhat irrelevant, as humanitarians and peacekeepers may have little ability to influence their creation in the first place. The role of these actors is to mitigate the risks of the sites as far as possible. In the case of South Sudan, even after the POC sites had repeatedly been attacked, IDPs still preferred to remain in the sites rather than attempt to find protection elsewhere.

<sup>32</sup> UN Security Council, S/1999/1257, *Report of the Independent Inquiry into the actions of the UN in Rwanda*, 45.

<sup>33</sup> UNMISS, *Guidelines on Civilians Seeking Protection in UNMISS Bases*, 6.

<sup>34</sup> See Caelin Briggs, “Protection of Civilians (POC) sites and their impact on the broader protection environment in South Sudan,” *Humanitarian Exchange No. 68*, January 2017, <http://odihpn.org/magazine/protection-civilians-poc-sites-impact-broader/>.

# 3

## DEFINING POC SITES

**Protected sites have evolved since their inception in the early 1990s. But what differentiates POC sites as we know them today from a traditional IDP camp? Many IDP camps receive some form of protection from peacekeepers, what makes POC sites so different? These questions are not only fundamental to understanding the nature of POC sites, but also have a direct operational impact on the protection afforded to IDPs, and the approach to security and service provision inside the sites. The following chapter looks at these questions in greater detail, and considers the evolution of policy and guidance on protected sites in recent years. The chapter will also look at whether it is possible to predict when and where POC sites could emerge in the future.**

### UNDERSTANDING THE DIFFERENCES BETWEEN POC SITES AND TRADITIONAL IDP CAMPS

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The most fundamental characteristic of a POC site is that they are situated within UN mission bases. Unlike the safe areas of Bosnia or the majority of the protected sites in Rwanda, the POC sites that emerged in South Sudan (and the description of POC sites in the global DPKO Policy on Protection of Civilians) are defined by the fact that IDPs have sought refuge “within existing [UN] mission premises.”<sup>35</sup> While there are obvious physical protection benefits of this co-location given the presence of UN troops, barricades, and other infrastructure, the most significant impacts of this model are arguably in the legal and administrative subtleties.

### LEGAL STATUS

When a UN peacekeeping mission enters a country, they sign a Status of Forces Agreement (SOFA) with the host government.<sup>36</sup> The SOFA dictates the rights and powers of the United Nations in the country, including its right to be allocated land to be used for UN premises. Although this land customarily remains the territory of the host state, it is typically designated as “inviolable” and “under the exclusive control and authority of the UN” for the duration of the time that it is used as a UN premise.<sup>37</sup> This language is almost identical to what is found in the Vienna Convention on Diplomatic Relations, which grants a similarly inviolable status to embassies and other sovereign state premises.<sup>38</sup>

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<sup>35</sup> DPKO Policy, Ref 2015/7, *The Protection of Civilians in United Nations Peacekeeping*, 12.

<sup>36</sup> If the UN mission does not include a military component, the agreement would instead be termed a “Status of Mission Agreement.”

<sup>37</sup> UNMISS, *The Status of Forces Agreement between the United Nations and the Republic of South Sudan Concerning the United Nations Mission in South Sudan*, 2011, <http://goo.gl/gUG0IQ>, para. 16.

<sup>38</sup> Article 22 of the Vienna Convention on Diplomatic Relations states that “The premises of the mission shall be inviolable. The agents of the receiving State may not enter them, except with the consent of the head of the mission.”

*The inviolable status of UN premises, combined with the protection of civilians mandate, means that those who seek refuge from threat of physical violence in UNMISS premises are both (a) provided physical protection and (b) cannot be removed by the Government, or any other party, without the consent of the United Nations.*

The SOFA also typically makes clear that officials of the government or any other non-UN entity may not enter a UN premise without the explicit permission of UN authorities.<sup>39</sup> In this sense, even though the land under a UN mission base is still technically under the jurisdiction of the government, the inviolable status means that the state's ability to exercise its powers within a POC site remains firmly at the discretion of the UN – thus offering an extra layer of protection to the IDPs.

While on the surface this may appear a legal technicality, in practice it has broad implications when comparing POC sites to normal IDP camps. “This is arguably the single defining feature of the ‘POC sites’ as distinct from IDP camps,” said an UNMISS memo in 2014, “the inviolable status of UN premises, combined with the protection of civilians mandate, means that those who seek refuge from threat of physical violence in UNMISS premises are both (a) provided physical protection and (b) cannot be removed by the Government, or any other party, without the consent of the United Nations.”<sup>40</sup>

Even if a normal IDP camp is protected by peacekeepers, the camp itself is still typically on land owned by the authorities or a private citizen. Peacekeepers can provide physical protection, but they have a limited legal basis to control who enters a site or what they do while they are there. If authorities want to come to a normal IDP camp and detain a large group of men for “questioning,” the peacekeepers may be unable to interfere unless their mandate specifically authorizes them to take pre-emptive action to prevent human rights violations (which is very rare) and they have determined that there is a credible threat. IDP camps do not inherently have any distinct status outside that of the host state, regardless of whether

they are humanitarian sites and managed by an international organization.

In South Sudan, UNMISS officials have often asked why IDPs inside POC sites could not instead seek refuge with humanitarian agencies who could provide relief and assistance. There are two main differences in the protection offered in this scenario: first, NGOs and churches do not have an inviolable status, and are thus unable to prevent actors who pose a threat from entering their bases. While “UN blue” agencies (namely, humanitarian UN agencies, funds, and programs) have inviolable status granted through the SOFA, their humanitarian character means that they would have limited means to prevent an intrusion if an actor were attempting to gain entry. Second, the purpose of POC sites is to provide physical protection – an intervention which humanitarian organizations have neither the mandate nor capacity to provide. While humanitarian agencies could indeed provide relief and assistance, they cannot provide for the security needs of a population who are under direct threat.

## **ADMINISTRATION OF POC SITES**

The inviolable nature of UN bases also places the peacekeeping mission in the unique position with regard to the administration of services and the rule of law inside POC sites. Both of these issues will be discussed in much greater detail in subsequent chapters, but in short, the fact that the mission has “exclusive control and authority” within their bases (and therefore over the POC sites) places the mission in a *de facto* position of filling many of the functions that would usually be carried out by the state – despite not having the resources, capacity, or full legal authority to do so. While this is an uncomfortable position for the UN and the government alike, it is largely

<sup>39</sup> UNMISS, *The Status of Forces Agreement*, para. 19.

<sup>40</sup> UNMISS, *Note to File: Legal ramifications related to designation of UNMISS POC sites as IDP camps on non-UNMISS premises*, August 4, 2014, para. 4.

unavoidable when, as is the case in South Sudan, government abuses are a primary driver of displacement.

As a result of this unique context, many of the administration and justice functions that would normally be exercised by local authorities in an IDP camp are instead held by the UN in POC sites. Compared to normal IDP camps where security and rule of law is the responsibility of the host government, in POC sites, the UN mission is responsible for maintaining internal peace and security. This includes preventing and responding to threats such as criminality, sexual violence, and other types of incidents that occur commonly in displacement settings. SOFAs usually include provisions allowing UN police to “take into custody any other person on the premises,”<sup>41</sup> which is uniquely tied to the inviolable status of the UN mission base. This provision normally applies only to issues pertaining to UN security, and typically also requires individuals to be handed over to the government within 48 hours, but these elements may be extended in POC site contexts. In a non-POC site setting, the UN’s ability to detain perpetrators of violence is far more limited as it falls squarely under the jurisdiction of the government.

Camp management specialists in South Sudan described UNMISS as filling the role that would normally be carried out by a camp administration, which is defined as “the functions carried out by governments and national (civilian) authorities that relate to the oversight and the supervision of activities in camps and camp-like situations. It comprises such sovereign State functions as... providing security, maintaining law and order and guaranteeing the civilian character of a displaced persons’ camp.”<sup>42</sup>

When asked about the differences in working with UNMISS as camp administrators compared to working with camp administrations in a normal IDP context, humanitarian officials in South Sudan acknowledged that both scenarios present

challenges. As one humanitarian explained, “the challenge [with local authorities as camp administrators] is that they advocate for a higher level of service provision. On the contrary, UNMISS was always advocating for no service provision at all.” Whereas local authorities often push for humanitarians to deliver far beyond their capacity, humanitarians working in the POC sites reported that they often found themselves having to fight for approval to deliver even the most basic services.

UNMISS’ determination to not have IDPs living in their bases long term was perceived by many humanitarians as negatively impacting UNMISS’ role as camp administrators. Instead of supporting humanitarians to meet international standards for humanitarian assistance, some humanitarians believed UNMISS often wanted to maintain a low standard of living in order to prevent IDPs from staying or incentivizing other people to seek refuge in the sites. Many humanitarians likewise felt that this same drive led to UNMISS overstepping its camp administration functions and attempting to dictate technical aspects of the humanitarian response. One example of this came in August 2016, when UNMISS initially prevented humanitarians from improving drainage and sanitation at Tomping POC site, even after cholera had emerged. Although humanitarians were equally committed to relocating people from the Tomping site, they had advocated for these basic measures in the interim as a matter of public health. Ultimately UNMISS reversed this policy (by which time humanitarians had relocated most of the IDPs), however IDPs in Tomping were left living in dangerous conditions far longer than was necessary as a result.

UNMISS officials, on the other hand, emphasized the extremely difficult circumstances POC sites create for the Mission. Not only do peacekeeping missions have their own infrastructure and security standards they must uphold for their staff, but individual troop contributing countries (TCCs) also sometimes have separate demands

<sup>41</sup> UNMISS, *The Status of Forces Agreement*, para. 44.

<sup>42</sup> Norwegian Refugee Council/Internal Displacement Monitoring Centre (NRC/IDMC), *Camp Management Toolkit*, May 2008, <http://www.refworld.org/docid/526f6cde4.html>, 29.



UN House POC site in Juba. November 2016. © NRC / Albert Gonzalez Farran

that can impact missions as a whole. In August 2016, one TCC reportedly threatened to withdraw all their troops and police from the Mission if IDPs were not cleared from their contingent's space in Tomping. Senior UNMISS staff have expressed concern that if humanitarians delivered assistance in accordance with international standards in the six remaining POC sites, not only would UNMISS not be able to adequately meet the standards required for its own staff, but the POC sites could become permanent settlements. In discussing this dilemma, one UNMISS official asked "do you think if you give each person 30m<sup>2</sup> they will ever go home? I don't think so – and we can't take that chance."<sup>43</sup>

With this in mind, the role of a UN mission as a camp administrator is one that may be fraught with challenges. While in other contexts the priorities of a camp management and camp administration are typically relatively aligned, in the case of POC sites, the competing priorities and constraints affecting the UN mission often lead to greater divergences than would otherwise be expected between humanitarians and a camp administration. These issues will be discussed at greater length in the chapter on coordination.

## PROTECTION VS. DISPLACEMENT SITES

Another factor that distinguishes POC sites from normal IDP camps is their intended purpose. Whereas in a traditional IDP camp there is less focus on differentiating between IDPs who face a threat of physical violence and those who are merely displaced, POC sites are designed to be exclusively an *in extremis* measure to support those persons who would be unsafe outside of a UN compound. Although in the most acute phases of an emergency there may be little difference between these two types of sites, it becomes increasingly significant as the crisis becomes more protracted. Given the relatively narrow mandate of POC sites compared to traditional IDP camps, POC sites are envisioned to be more temporary in nature, and there is often greater pressure to move people out of POC sites than may be the case in a normal IDP camp.

*Given the relatively narrow mandate of POC sites compared to traditional IDP camps, POC sites were envisioned to be more temporary in nature, and there is often greater pressure to move people out of POC sites than may be the case in a normal IDP camp*

<sup>43</sup> In their official response to this publication, UNMISS argued that this approach was appropriate given that "a) these are protection sites and not normal IDP camps; b) UNMISS has limited resources to offer static security to overly expanded POC sites; c) over 90% of the population lives outside of POC sites and UNMISS is required to offer protection through other tiers."

In South Sudan, this urgency to move IDPs frequently created tensions between humanitarians and peacekeepers. While there is generally consensus that POC sites (and camps in general) are never a preferable option long-term, peacekeepers and humanitarians in South Sudan often had differing perspectives on the security situation outside the POC sites, and contrasting approaches to conducting assessments of safety and viability for returns. When the situation temporarily stabilized or new government assurances were received, UNMISS officials often expressed the view that humanitarians and peacekeepers should try to maximize the window of opportunity to encourage returns or relocate as many IDPs from the POC sites as possible. Humanitarians often took a more pessimistic view of the security environment, seeing periods of calm and renewed assurances as merely the pause before the next outbreak of fighting. While some IDPs left voluntarily during such periods, many humanitarians were reluctant to proactively encourage or facilitate this for fear that doing so would expose the IDPs to greater harm once the fighting resumed.<sup>44</sup> UNMISS likewise also largely based their security assessments on a situational analysis of the political process as opposed to the individual case by case approach favored by humanitarians.

The perception of POC sites as being more temporary than normal IDP camps also has significant impacts on the approach to service provision. While in a traditional IDP camp humanitarians would work to provide assistance that is consistent with international standards and is moderately sustainable, in South Sudan, UN Mission officials argued that the protective (and therefore temporary) nature of the sites meant that minimum humanitarian standards were inapplicable and that humanitarians should avoid using durable materials that could incentivize people to stay. Indeed, in explaining why the Mission did not support meeting the 30m<sup>2</sup> emergency standard for living space, the first response from the Mission was that “These are protection sites and not normal IDP camps.” One shelter expert explained

that if humanitarians had been permitted to manage the response as they would in a normal camp, “from the beginning, we would have been able to provide more semi-permanent infrastructure that would have been much more efficient. Instead, [due to UNMISS’ restrictions], we keep renovating the plastic sheeting and wooden poles, and it has had huge cost implications.” Three years into the crisis, humanitarians have still struggled to gain permission to put in place more durable and sustainable infrastructure.

The protection mandate of POC sites also has implications on who is granted entry to the site. In a traditional IDP camp, it is uncommon for limitations to be placed on who may enter or stay in the camp. The camp management organization and the police (or other actor providing security) may prevent individuals from entering who are armed or otherwise deemed a threat to the camp, but individuals are not granted entry on the basis of their reason for requesting refuge. In POC sites, on the other hand, access to the site is determined by the UN mission. During periods of calm, the UN mission may be more selective in who it admits. The global DPKO Policy on Protection of Civilians highlights that peacekeeping missions should first exhaust the possibilities to provide security a) “outside UN premises, including in IDP camps or in host communities,” and b) “in areas adjacent or close to existing mission premises identified for that purpose.”<sup>45</sup> An UNMISS guidance note from 2014 went further and stated that “In locations where there is neither current fighting nor threat of physical violence, UNMISS will not admit additional individuals into its premises.”<sup>46</sup> Being displaced alone does not officially constitute sufficient grounds to be granted entry, nor does the guidance officially allow individuals to be admitted who continue to be persecuted in locations where active violence has ceased.

<sup>44</sup> This will be discussed in greater detail in Chapter 10.

<sup>45</sup> DPKO Policy, Ref 2015/7, *The Protection of Civilians in United Nations Peacekeeping*, 12.

<sup>46</sup> UNMISS, *Supplemental Guidance No. 2 to the UNMISS Guidelines on Civilians Seeking Protection at UNMISS Bases (2013)*, October 8, 2014, <http://goo.gl/XgxezC>, para. 2.

*The perception of POC sites as being more temporary than normal IDP camps also has significant impacts on the approach to service provision... UN mission officials argued that the protective (and therefore temporary) nature of the sites meant that minimum humanitarian standards were inapplicable and that humanitarians should avoid using durable materials*

Some humanitarians have nevertheless expressed concern that the assessment of a person's protection needs are sometimes conducted by UNMISS staff who do not have a protection or human rights background and who do not necessarily have the right profile to make such a determination. Nevertheless, humanitarians expressed appreciation that to date it has been rare for the mission to turn away women and children.

## **FREEDOM OF MOVEMENT**

Finally, another aspect that frequently distinguishes POC sites from normal IDP camps is the level of freedom of movement available to those seeking refuge in the POC site. While there is no standard profile for traditional IDP camps, self-settled IDP camps are often located in areas where IDPs feel safer and are able to move more freely. This could be an area that is in control of an armed group that is favorable to the displaced population, or somewhere sufficiently far from the front line that it is not yet affected by violence.<sup>47</sup>

POC sites typically have the exact opposite profile, and are islands of relative safety for IDPs in an otherwise hostile area. In South Sudan, the POC sites are surrounded by members of the government armed forces that are perceived to be hostile to the IDPs seeking refuge inside the UNMISS bases. While there is a limited degree of freedom of movement, IDPs did not choose the sites because they are in a safe part of the country. On the contrary, the IDPs who entered the POC sites did so in many cases because they were perceived to be

the only safe location in an area that was otherwise inhospitable.<sup>48</sup>

This position creates a myriad of challenges for the IDPs. Not only does it severely hamper their ability to sustain an independent source of livelihood, but it also diminishes IDPs' chances of being able to access areas of greater safety or conduct their own assessments of the viability of returning home. Being encircled by hostile armed actors also poses serious threats to the IDPs in the POC sites and to the peacekeepers that protect them.

## **GUIDELINES ON MANAGING PROTECTED SITES**

Although civilians have repeatedly sought protection at UN bases over the past two decades, by December 2013 (and indeed by the time of writing) there was still no formalized guidance on how such situations should be managed – either in DPKO or in the humanitarian community. Various investigations and inquiries looked into the events in Srebrenica and Rwanda, but although each of these reports captured invaluable lessons relating to protected sites, they were never distilled into common, practical guidelines for peacekeepers or humanitarians. To date, there are still no global standard operating procedures (SOPs) defining roles and responsibilities for POC sites, or minimum standards for their protection or maintenance.

In the absence of centralized guidance to direct them, a number of UN missions took the initiative to develop their own guidelines. Some of these went into a commendable level of detail, but because the various documents were developed by individual missions and were not adopted or consolidated at headquarters level, other missions rarely had the opportunity to benefit from lessons learned from other contexts.

<sup>47</sup> IDP camps are likewise not always a product of conflict – IDP camps can also occur after natural disasters, or as a preemptive mitigation strategy in proximity to areas that are newly liberated or where future conflict could be expected.

<sup>48</sup> UNMISS contests this point and explained in their formal response to this publication that “Although UNMISS acknowledge that the initial arrival of IDPs were for seeking protection. [sic] Subsequent arrivals are to access humanitarian assistance.” This issue is discussed in greater detail in Box 6 in Chapter 5.

**SNAPSHOT OF UN GUIDELINES THAT ADDRESS CIVILIANS SEEKING PROTECTION IN UN BASES:**

**2009**

MONUC Tactical Aide Memoire on Protection of Civilians

**2009**

MONUC Protection of Civilians Handbook for Peacekeepers

**2010**

UNMIS Operation Safe Refuge -FRAGO

**2011**

MONUSCO Contingency Plan for Securing Relief Sites

**2012**

MONUSCO Guidance for the Establishment of Safe Havens Sites in Goma – FRAGO

**2013**

UNMISS Guidelines on Civilians Seeking Protection in UNMISS Bases and Supplemental Guidance Notes 01 (December 29, 2013), 02 (October 10, 2014), and 03 (October 21, 2015)

**2014**

UNAMID SOP on Handling Requests from non-Government Armed/Unarmed individual(s)/Group(s) seeking assistance, protection and/or admittance into UNAMID premises

**2015**

DPKO Draft practice note on civilians seeking protection at UN facilities

**2016**

DPKO Challenges, lessons learned, and implications of the Protection of Civilians sites in South Sudan

In April 2013, UNMISS developed *Guidelines on Civilians Seeking Protection at UNMISS Bases*. The guidelines largely reflected the types of scenarios UNMISS had dealt with previously: short term population influxes into their bases that required only limited engagement from UNMISS. While these guidelines were suitable for situations such as those that had taken place in Pibor or Wau, they were not prepared for the type of crisis that would emerge in December 2013.

The biggest shortcoming of the April 2013 Guidelines was that they were based on the assumption that IDPs would stay in the bases for 72 hours maximum – not three years or more. In working within a 72-hour framework, the guidelines predictably centered on how to manage the initial influx and triage, and did not delve into the more complicated issues of administration of a long-term settlement.

Some of the assumptions underpinning the guidelines were also deeply problematic. Of note is the following statement: “it is not considered likely that UNMISS bases in which civilians have sought protection will be overrun by armed actors in the same way as in Srebrenica.”<sup>49</sup> No further explanation or justification for this statement is provided, and given that peacekeepers had regularly come under attack in the months leading up to the publication of the guidelines, it is unclear what led to this conclusion. Unfortunately just days after the crisis emerged in December 2013, the UNMISS base in Akobo would be attacked and overrun, and two peacekeepers and at least 20 civilians would be killed.

Although these guidelines came closer to offering suggestions on managing a protected site than any other document at that point, they became quickly outdated when the POC sites formed in South Sudan in December 2013. The equally well-intentioned *Guidelines for Coordination between Humanitarian Actors and the United Nations Mission in South Sudan*, which had been formally endorsed by the Humanitarian Country Team (HCT) just nine days before the outbreak of the

<sup>49</sup> UNMISS, *Guidelines on Civilians Seeking Protection in UNMISS Bases*, para. 7.



Wau POC Adjacent Area (POCAA) - a protected site just outside the UNMISS base in Wau. © IOM / Muse Mohammed

conflict, likewise became somewhat irrelevant as it focused extensively on the distinction between peacekeepers and humanitarians – a line that became heavily blurred when IDPs and humanitarians found themselves living inside UNMISS bases. Peacekeepers and humanitarians alike found themselves in a situation in which their normal ways of working were challenged (the distinction between peacekeepers and humanitarians in particular), and where they had to develop an approach as the went along. This organic approach was not necessarily negative, but as renowned think tank The Stimson Center pointed out in 2014, “Policies or laws that could clarify the rights and responsibilities of peacekeepers, civilians and parties to a conflict with respect to protected areas might help to improve the lives of the 100,000 people seeking shelter in POC sites in South Sudan and prevent a future Srebrenica.”<sup>50</sup>

Since the emergence of the POC sites in South Sudan, DPKO has worked to capture some of the lessons and best practices from contexts where civilians have sought protection in UN bases. In 2014 and 2015, a Practice Note was drafted on *Civilians Seeking Protection at UN Facilities*. Although it does not appear that this note was ever finalized, it made worthy efforts to consolidate best practices to date, as well as articulate some of the common challenges in these types of contexts. The finalization of this document (as well as detailed SOPs to be discussed later) could be instrumental in helping to prepare future peacekeeping missions for these types of realities.

<sup>50</sup> Stimson Center, *Making UN-Safe Areas Safer: From Srebrenica to South Sudan*, October 7, 2014, <https://goo.gl/urQXIX>.

## PREDICTING THE EMERGENCE OF POC SITES

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Why did the POC sites emerge in South Sudan, but not in other crises? Despite the frequency with which IDPs sought refuge at UN bases over the past decade, South Sudan was the first place to see IDPs stay inside UN bases in large numbers over an extended period. Although it is difficult to conclusively determine which factors led to this situation, it can nevertheless be useful to analyze whether there were specific characteristics of the political landscape, conflict dynamics, or humanitarian context in South Sudan that created an enabling environment for the creation of POC sites. If it is possible to isolate certain elements that existed in South Sudan but not in other similar crises, the question then becomes whether this correlation could provide indicators that could help to predict when and where POC sites may emerge in the future.

Below are some of the possible elements that may have contributed to the creation or acceptance of POC sites in South Sudan. At a general level, contributing factors tend to relate broadly to three issues: the determination and desperation of the civilian population to enter the base, the willingness of the UN mission to grant entry, and the history of peacekeeping within the country.

### CONFLICT DYNAMICS AND SEVERITY OF THE HUMAN RIGHTS VIOLATIONS

The first significant factor appears to be the level of threat to civilians, and the identity and tactics of the perpetrator. In December 2013, as in Rwanda and Bosnia, the targeting of civilians went beyond what is typical of a modern internal conflict. The violence against civilians was not isolated, but rather fell squarely into the realm of crimes against humanity, and involved tens of thousands of people fleeing ethnically-motivated attacks. As people began to arrive at UNMISS' gates, the perceived immediacy and severity of the threat made civilians far more determined to gain entry

to the UNMISS compounds than may have been the case in a "normal" episode of violence. "The scale of the atrocity perpetrated against civilians, an *in extremis* event even by the standards of peacekeeping, required the Mission to take last-resort measures to protect civilians," said a 2016 UN report.<sup>51</sup> For UNMISS staff, it became clear that failing to open the gates was leading to people climbing over the perimeter fences regardless.

Another significant element of the December 2013 violence was that many of the human rights violations were perpetrated by armed actors associated with the state. Whereas under international law the state can be called upon to uphold their primary responsibility for protection and security, when the state itself is the perpetrator, the UN has little recourse. The state-as-perpetrator can also significantly increase the fear factor for civilians, who may not know where else to turn except the UN after seeing their former protector morph into their primary threat.

Another element that can have an impact on whether civilians seek protection at UN bases are the military aims and tactics of the parties to the conflict. Humanitarian experts pointed out during interviews that compared to the types of ethnic clashes that occurred in neighboring countries, the parties to the conflict in South Sudan were uniquely concerned with holding territory and targeting civilians. As a result, while civilians in DRC may have been able to return to their homes relatively quickly following clashes, no such option was available for civilians in South Sudan. In other cases, displacement was an aim in and of itself for the parties to the conflict in South Sudan. In June 2015, government officials disseminated radio messages saying everyone should move to Bentiu (one town with a POC site) if they wanted to live.<sup>52</sup> Subsequent in-person communications were reportedly more explicit in saying that anyone who did not go to the POC site would be presumed to be a rebel and killed.<sup>53</sup>

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<sup>51</sup> UN DPKO, *Challenges, lessons learned and implications of the protection of civilians sites in South Sudan*, 1.

<sup>52</sup> Human Rights Watch, *They Burned It All: Destruction of Villages, Killings, and Sexual Violence in Unity State, South Sudan*, July 2015, <https://goo.gl/evbggY>, 16.

<sup>53</sup> South Sudan Protection Cluster, *Protection Situation Update: Southern and Central Unity (April – September 2015)*, September 24, 2015, <https://goo.gl/4zrTYb>.

With this in mind, it is likely that specific elements of the conflict dynamics (namely, the presence of mass atrocity crimes, the involvement of state actors, and the territorial tactics of parties to the conflict) could influence the likelihood of the creation of a POC site. The combination of the increased sense of urgency and determination among the civilian population to enter a UN base, plus the reputational risk to peacekeepers should they fail to grant entry, is likely to be significant. This may be true even if these dynamics have been observed only in another part of the country – the fear factor alone could have a similar effect as if the violence were occurring in a more proximate location.

### **ALTERNATIVES AVAILABLE TO THE CIVILIAN POPULATION**

A second major factor appears to be whether there are viable protection alternatives available to the civilian population. “Alternatives” in this context can take many forms, whether it is proximity to an international border that can be used to escape, the presence of a “friendly” armed actor who can provide effective protection, or the availability of nearby hiding spaces. In locations where these types of alternatives exist, some people may still opt to seek refuge with the UN, but others may choose to protect themselves through different means.

In the case of South Sudan, one of the defining aspects of the initial violence was that it took place largely in city centers. Compared to residents of rural areas, residents of the cities had far fewer self-protection options available to them. Usual strategies such as hiding in the swamps could not be accessed, and many people found themselves trapped within the city limits. City residents were also less accustomed to violence and displacement than their rural counterparts, who were far more likely to have been exposed to cattle raids and intercommunal clashes. Consequently, city-dwellers also had fewer coping skills than their rural relatives. Given that the state armed forces in many of these urban areas were now primary

aggressors, the sole source of physical security for many city residents became the UN.

Another potential alternative is the presence of proactive UN engagement outside the peacekeeping bases. As one former UNMISS official pointed out, in South Sudan, the fact that there was not robust patrolling or a visible presence of peacekeepers in the town meant coming to the bases for protection was, in many cases, the only option for civilians. UNMISS troops’ practice of refusing to move without the explicit permission of the government (even to collect water and resources for its own personnel) meant that it was highly unlikely UNMISS would be able to access areas most affected by violence given that requests (or notifications of intent) to move into such areas were regularly denied by the parties to conflict.<sup>54</sup> As such, little protection could be offered to civilians outside of UNMISS’ bases.

### **HISTORY OF DEPENDENCY ON INTERNATIONAL ACTORS INSTEAD OF THE STATE**

A third factor that can influence the emergence of POC sites is the pre-violence level of dependency on assistance or protection from international organizations instead of state mechanisms. In locations where aid or protection has been provided by external actors for an extended period, the population may be more likely to expect that they will be given refuge by the UN during times of violence.

Having received extensive humanitarian assistance from international organizations since the late 1980s, South Sudan is a country characterized by uniquely high levels of dependency on external actors. Many of the basic social services (schools, clinics, water and sanitation infrastructure) are provided by humanitarian organizations rather than the state. As a result, it appears that the civilian population in some locations has come to expect that they can rely upon the UN for many of the support mechanisms they would normally look for in a state. When the violence broke out in December 2013, turning to the UN was a natural

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<sup>54</sup> CIVIC, *Under Fire: The July 2016 Violence in Juba and UN Response*, 2016, <http://goo.gl/EyGRrH>, 77, 32.

step for many South Sudanese who had previously benefitted from humanitarian or protection services. It is worth noting however, that the absence of dependency does not necessarily mean that civilians will not seek refuge with the UN – many of the initial IDP arrivals in 2013 and 2014 were wealthy individuals who had limited dependency on international actors.

## **REPUTATION OF THE UN MISSION AND LOCAL CONTINGENT**

Another factor related to establishment of POC sites is the presence and reputation of the UN prior to the outbreak of fighting. As discussed above, POC sites by definition require there to be existing UN premises into which civilians can flee. If a UN mission is not present in the country at the outbreak of conflict, or is not present in the locations affected by violence, then a POC site cannot form.

Equally important, however, is the reputation of the UN and the level of trust from the civilian population. This relates both to the mission as a whole, as well as the individual peacekeeping contingent in place in the area affected by violence. This correlation can work in many directions however: if a contingent is well-known and trusted, people may believe either that a) the troops will offer them refuge, or b) that the peacekeepers are strong enough that civilians do not necessarily need to be inside the base to be protected. Taking an opposite example, if a contingent has come under pressure for failing to provide effective protection in the past, civilians may feel either that a) they must force entry into the base in order to receive adequate protection, or b) that they cannot rely on the UN and must seek out traditional hiding places instead. The reaction of the peacekeepers can also differ in such a scenario, and past failures could lead to the contingent either a) becoming more willing to open their gates in order to avoid further reputational damage, or b) keeping the gates shut if they know their protective capacity is weak.

Unfortunately, there is no foolproof equation to determine which outcome will occur on the basis of the mission's reputation – each case will have to be assessed carefully and independently. In South Sudan (and indeed most peacekeeping contexts), the capacity and commitment of peacekeepers varies significantly between contingents. In one example in Leer county, a particularly robust contingent was deployed from the end of 2015 to early 2016. During this period, civilians reported feeling safe even when violence continued in nearby areas, and did not seek out sustained protection at the UNMISS base.<sup>55</sup> Some months later when the contingents rotated, confidence in the peacekeepers diminished significantly. Humanitarians on the ground reported that the new contingent was not perceived by civilians to be as motivated as the previous company, doing fewer patrols and maintaining a less visible presence in the community. During an episode of intense fighting in late July 2016, hundreds of civilians sought refuge at the UNMISS base in Leer. Initially they were turned away, but after increased pressure the contingent eventually accepted people into their base. As of the end of 2016, over 1,600 of people continued to live in the Leer “temporary protection area.”<sup>56</sup>

## **POLITICAL APPETITE WITHIN THE UN**

Another element that may contribute to the likelihood of a POC site being created is the level of political appetite within the UN. If the UN has recently come under pressure for failing to adequately protect civilians or prioritize human rights, there may be greater willingness to open the gates and accept the responsibilities that come with a POC site. Conversely, if the UN mission feels it is able to adequately protect people outside its gates or there are acceptable alternatives available to the civilian population, they may be more likely to turn people away.

The outbreak of war in South Sudan came shortly after the release of the Internal Review Panel (IRP) Report on UN Actions in Sri Lanka, which found that there had been a “systemic failure” of the UN

<sup>55</sup> South Sudan Protection Cluster, *Protection Situation Update: Leer County, Southern Unity State*, May 11, 2016, <https://goo.gl/TFeU3E>.

<sup>56</sup> World Health Organization, International Organization of Migration, Concern Worldwide, *Leer Temporary Protection Area Rapid Assessment*, November 2016.

to protect civilians at the end of the war.<sup>57</sup> In the aftermath of this report, the UN came under heavy pressure to improve their responses to mass human rights violations, and subsequently launched “Human Rights Up Front,” which it described as “a plan of action to strengthen the UN’s role in protecting people in crises.”<sup>58</sup> The outbreak of violence in Juba came just five months after the launch of Human Rights Up Front, and in light of this timing, failing to open the gates to people fleeing ethnic cleansing may have been seen as an intolerable reputational risk.

Interestingly, it is possible that the experiences in South Sudan could have the opposite impact on the political appetite within the UN for new POC sites. UNMISS and the UN has been heavily critiqued for its protection failures at the POC sites in South Sudan, and in the UN special investigation into the July 2016 violence, the panel concluded that, “as highlighted in the UN Board of Inquiry for Malakal, protecting the POC sites – effectively small cities of thousands of people – is beyond the capability of UNMISS or any peacekeeping mission, and a task that raises unreasonable expectations.”<sup>59</sup> It is possible that this language may point to a reluctance of DPKO Headquarters to see POC sites emerge in the future. As will be discussed later in this publication, there have also already been instances within South Sudan of peacekeepers refusing to open the gates to civilians fleeing violence, seemingly for fear of another POC site being created.

## **EXISTENCE OF OTHER POC SITES IN THE COUNTRY**

Finally, the presence of other POC sites in the country is also likely to have an impact on the emergence of new sites. This may take two different directions: on the one hand, the presence of other POC sites could mean that members of the community are likely to be familiar with the model and know that in the past civilians have

been permitted to stay at bases. Conversely, if other POC sites exist and the peacekeeping mission is already overstretched, they may a) be more reluctant to allow a new POC site to form, or b) recognize that allowing people into their bases is the only hope of providing protection.

Ultimately, most POC sites will occur spontaneously. In times of extreme violence and limited options, civilians and peacekeepers alike work to find whatever solution will provide immediate protection for the population under threat. It is unlikely that the creation of a POC site will be pre-planned or organized, and even if the peacekeepers would rather not have a site, the determination of the civilian population and their willingness to jump the perimeter fences may make the creation of a POC site unavoidable. “We never ‘opened the gates,’” said former South Sudan Humanitarian Coordinator Toby Lanzer, “it was an attitude that if there are people under threat, under stress, jumping over the fence, which is what the vast majority were doing, we will welcome them and we will protect them.”<sup>60</sup> The above factors are identified with the hope that where these indicators are in place, humanitarians and peacekeepers may be able to monitor the environment for early warning signs and better prepare themselves in case a POC site should form spontaneously.

<sup>57</sup> United Nations, *Report of the Secretary General’s Internal Review Panel on United Nations Action in Sri Lanka*, November 2012, <http://goo.gl/J1xDA>, 28.

<sup>58</sup> United Nations, *Rights Up Front: A Plan of Action to strengthen the UN’s role in protecting people in crises*, July 9, 2013, <http://www.innercitypress.com/sriban1rightsupfronticp.pdf>.

<sup>59</sup> United Nations, *Executive Summary of the Independent Special Investigation into the violence which occurred in Juba in 2016 and UNMISS response*, November 1, 2016, <http://goo.gl/LVE8ma>, 5.

<sup>60</sup> Toby Lanzer, as quoted in Arensen, *If We Leave We Are Killed*, 19.

**BOX 1: HOW SHOULD THE GOVERNMENT BE ENGAGED IN POC SITES?**

If civilians have fled to a POC site instead of to an area protected by the government, one of the possible reasons is that the government itself is a perpetrator of violence. In such a situation, what role (if any) should the government or local authorities have in a POC site? While the government always retains the primary responsibility to protect and support their citizens, how should humanitarians and peacekeepers engage the government if they are a party to the conflict?

There is no easy answer to this. The longer civilians stay in a POC site, the longer the government is absolved of its responsibilities to uphold the rights of its people. But equally, involving the government too early in a crisis can create untenable risks for the civilian population. This dilemma has led to debates of whether humanitarians and peacekeepers should allow supportive, civilian sections of the government to respond in the POC sites even if the military sections perpetuate violence.

Viewpoints on this issue differ substantially between individuals and organizations. Some NGO officials perceived UN agencies to be particularly concerned with maintaining a positive relationship with the government, regardless of their role in perpetrating human rights violations. “UN agencies are trapped in the mindset of the government as primary duty bearer,” said one NGO official, who went on to describe the “cognitive dissonance” this caused for individuals who simultaneously wanted to support the

government, while at the same time recognizing them to be a threat to their own people. Numerous UN officials, on the other hand, described their disappointment that humanitarians had not done more to continue to engage with “cooperative” sections of the government and encourage them to take responsibility where possible.

This issue came to a head in South Sudan in 2014, when the Directorate of Nationality, Passports, and Immigration offered to assist with the provision of identification documents to IDPs in the POC sites. While this particular branch of government appeared genuine in their desire to be of help, many humanitarians feared that giving authorities access to sensitive personal information about IDPs in the POC sites could expose the IDPs to greater harm. Ultimately UNMISS facilitated visits of the officials, but during one visit IDPs attacked the government representatives, and the program was subsequently suspended.

Undoubtedly, the extent to which a government can be engaged in a POC site will depend on the conflict dynamics and context. Humanitarians will have to consider the short and long term risks, both of engaging the government and of failing to do so. If there is sufficient separation between branches of government, it may be possible to engage with some civilian sections, but all actors should be aware that trust will need to be slowly reestablished over time between the displaced community and the relevant authorities.

# 4

## COORDINATION BETWEEN HUMANITARIANS AND PEACEKEEPERS

**POC sites present unique challenges with regard to the roles and responsibilities of humanitarians and peacekeepers. Not only are actors required to work together in much closer proximity than would be the case in a traditional IDP site, but equally, many actors may be expected to fill functions that are outside their usual responsibilities or areas of expertise. Infrastructure constraints, differing mandates, and contrasting perceptions of the humanitarian and security environment can further complicate relationships between actors.**

Given that South Sudan was the first country to experience POC sites, and also arguably the first crisis since Bosnia where a UN mission has filled a role similar to that of a camp administration, the achievements of the UN Mission and humanitarians in South Sudan have been commendable. Nevertheless, coordination has continued to be challenging in the three years since the sites first emerged, and efforts to strengthen communication and collaboration between actors has been an ongoing and imperfect process.

The following chapter considers lessons from South Sudan on coordination between actors working in POC sites. It aims to identify both good practices and challenges, with the hope of offering considerations to strengthen future POC site responses should they emerge in other countries.

### ESTABLISH CLEAR ROLES AND RESPONSIBILITIES BETWEEN HUMANITARIANS AND PEACEKEEPERS

A first lesson to emerge from South Sudan in regard to coordination is the importance of establishing clearly defined roles and responsibilities. The emergence of a POC site may present many “firsts” in a country: the first time humanitarians and peacekeepers have worked in overlapping operational spheres, and the first time peacekeepers have become involved in a humanitarian operation or camp-based response, and the first time coordination emphasizes cooperation rather than deconfliction. In such a context, having guidelines that articulate the expectations and limitations of each actor will be crucial.

In South Sudan, numerous documents were developed before and during the crisis to assist in clarifying roles and responsibilities. As discussed in the previous chapter, just days before the outbreak of fighting, the HCT endorsed the *Guidelines for the Coordination between Humanitarian Actors and the United Nations Mission in South Sudan*.<sup>61</sup> Earlier that year, UNMISS had even taken the further step of

<sup>61</sup> UNMISS formally endorsed the guidelines in January 2014. They can be found at <https://goo.gl/lo69tw>.

articulating *Guidelines on Civilians Seeking Protection in UNMISS Bases*.<sup>62</sup> Although neither of these documents had anticipated a scenario like the one that would emerge in the POC sites, the fact that these issues had already been recognized meant that the mission and humanitarians did not have to start from scratch in attempting to disentangle coordination issues. It would be beneficial for humanitarians and peacekeepers to consider developing these types of documents even if a POC site does not yet exist.

When the violence broke out in December 2013, humanitarians were faced with having to construct a new, emergency-oriented coordination structure while simultaneously navigating a drastically changed relationship with UNMISS. The coordination guidance that had been developed pre-2013 was predominantly geared toward deconfliction, but the new environment called for much closer cooperation than had ever been anticipated. Following the emergence of the sites, it became clear that supplemental guidance was needed to outline the coordination arrangements in this new context.

In early 2014, UNMISS and the newly formed South Sudan Camp Coordination and Camp Management (CCCM) Cluster developed a *Roles and Responsibilities* document that outlined the respective areas of work of the humanitarian camp management actors and of the UN Mission. In broad terms, the document agreed that camp management would be responsible for coordinating the overall humanitarian response within the site, and UNMISS would be responsible for “providing security, maintaining law and order and guaranteeing the civilian character of the IDP settlements/POC areas.”<sup>63</sup> The articulation of this document was an important step for both the humanitarian community and the UN Mission. In order to be successful, however, a roles and responsibilities document needs to not only articulate these elements in broad strokes, but also make clear who is responsible for actual implementation. With this aim in mind, the initial *Roles and Responsibilities* document was further

complemented by a document titled *Responsibilities in UNMISS POC Sites for Planning and Budgetary Purposes*, which linked activities to specific sections in the mission and humanitarian clusters. Interviewees strongly recommended that this type of matrix be developed in future POC site settings to help navigate the complex sets of activities that will undoubtedly be required.

When developing a roles and responsibilities document for future POC site operations, protection actors emphasized that humanitarians and the UN mission should agree on who specifically will be responsible for managing sensitive issues such as conducting interviews, case management, or supervising community justice and reconciliation initiatives. The International Committee of the Red Cross (ICRC) Professional Standards for Protection Work can be a valuable tool in this process. In certain sites in South Sudan, actors were able to navigate these complex issues by relying more heavily on UNMISS civilian sections with particular expertise in dealing with sensitive cases. While multiple humanitarian actors and UN mission sections may have legitimate reasons to be involved in these issues, developing a streamlined and survivor-centered approach will yield the best outcome for all actors involved. Issues associated with humanitarians and peacekeepers working with survivors of sexual violence in particular are discussed in Box 2.

## DEVELOP GLOBAL GUIDELINES FOR KEY POSITIONS

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For UN sections that are likely to play a central role in POC site contexts, DPKO (in consultation with humanitarians) may want to consider developing suggested SOPs or Terms of Reference (TORs) at the global level. While each mission will need to contextualize these documents based on the specific dynamics and needs on the ground, having a document to start with may facilitate this process and help field missions avoid delays and pitfalls experienced in other locations. Three positions stand out in this regard: the Recovery,

<sup>62</sup> UNMISS, *Guidelines on Civilians Seeking Protection in UNMISS Bases*, April 30, 2013, <http://goo.gl/VU1FDg>.

<sup>63</sup> UNMISS and the South Sudan Camp Coordination and Camp Management (CCCM) Cluster, *Roles and Responsibilities*, 2014, <https://goo.gl/vltMyi>.

## BOX 2: THE IMPACT OF THE POC SITE MODEL ON SURVIVORS OF SEXUAL VIOLENCE

Survivors of sexual violence can face unique difficulties in POC site settings. Although the housing of an IDP camp inside a UN base can have advantages when it comes to proximity of services and physical security, the multiplicity of actors and ease of access for UN mission personnel can create its own challenges. As one gender-based violence (GBV) specialist in South Sudan explained, in POC sites “survivors are even more under the microscope than they would be in a normal IDP camp.”

Whereas in a traditional IDP camp there may be a small number of peacekeepers protecting the perimeter of the camp, in POC sites it is not uncommon to have United Nations Police (UNPOL) Individual Police Officers, Formed Police Units (FPU), Human Rights Division (HRD), and multiple other sections inside the POC site on any given day. Each of these sections have mandated tasks in the POC sites relating to the peace, security, and well-being of the IDPs, and as a result, survivors are sometimes interviewed by multiple different sections, each using the information for slightly different purposes. “Survivors are treated as passive subjects” in POC sites, said the GBV specialist.

In one case, after the resumption of fighting in July 2016, the Protection Cluster voiced concern about plans for a visiting high level delegation to meet with a GBV survivor. An UNMISS official responded that indeed, one survivor had already been interviewed over 10 times. Repeated interviewing of this nature can have extremely damaging impacts for both the individual and the community, from re-traumatizing the survivor, to breaching their anonymity, to making other survivors less likely to seek help in the future.

Should POC sites emerge in future crises, it will be important for the UN mission and humanitarian protection partners to develop a clear agreement on how cases of sexual violence will be managed. This agreement needs to include all the sections that might be involved in receiving a case or interviewing the survivor, as well as the political and senior leadership offices who organize visiting delegations. A plan should be developed that is survivor-centered and prioritizes Do No Harm. There were positive examples of this in South Sudan (most notably in the Malakal POC site), which resulted predominantly from humanitarian protection actors and UNMISS human rights actors developing a close working relationship and agreement on how cases would be managed.

Reintegration, and Peacebuilding section (RRP) in UN missions, State Coordinators (now retitled Head of Field Office in the case of South Sudan), and the Deputy Special Representative of the Secretary General (DSRSG).

In interviews for this publication, humanitarians almost unanimously cited frustration with the role of RRP in the South Sudan response, in one case saying that RRP “wants to have a say in everything but be responsible for nothing.” Many humanitarians felt that rather than facilitating engagement between humanitarians and different sections of the UN mission, RRP was often instead a blockage. “If you want to get things done, you go

straight to the troop contingents,” said one humanitarian official. A number of humanitarians expressed concern that the political role of RRP in supporting senior leadership often interfered with their role in facilitating humanitarian operations. They expressed concern that decisions relating to the welfare of the IDPs were often not made on the basis of security or protection (the primary concerns of Force), but rather for political reasons (as prioritized by RRP and mission leadership).

The role of the State Coordinator was also seen as controversial among many humanitarians. Although UNMISS officials were quick to highlight that State Coordinators (or Head of Field



Fire damage in the Malakal POC site following an attack in February 2016. © IOM / Rainer Gonzalez

Offices) are ultimately accountable for what goes on in UNMISS bases, some humanitarians felt that this was at times used as an excuse to excessively control humanitarian operations. One humanitarian explained that it was the State Coordinator, not camp management or a technical expert, who decided how many people would live in Malakal Sector 1. “We said that it could hold no more than 10,000 people safely, but eventually we had 12,500 people there because of UNMISS pressure.” Over subsequent years the Malakal POC experienced repeated fires, in part due to the level of overcrowding and the absence of adequate fire breaks.<sup>64</sup> Humanitarians repeatedly requested the Mission to ask for more land from the government, but the Mission appeared reluctant to do so lest this lead to the camp becoming more permanent.<sup>65</sup>

As in many operations, the role of the DSRSG (triple hatted as Humanitarian Coordinator [HC] and Resident Coordinator [RC]) was also noted by

interviewees as being problematic, and the success of the position being particularly personality dependent. Numerous publications have noted the challenges with having a triple hatted DSRSG/HC/RC, but these issues are uniquely acute in POC site settings where there is much greater overlap between the UN mission and work of humanitarian actors. Although having a triple hatted DSRSG/HC/RC can present opportunities for strengthened coordination, many humanitarian actors felt that there was a need for better structure and guidelines to articulate how the person filling this position should balance and prioritize their three roles.

Having global SOPs or suggested TORs that articulate the roles of these types of central (and sometimes controversial) positions in POC site settings could help to avoid confusion on the ground and reduce tensions between actors. Given the respective areas of expertise, it will be important that any such SOPs emphasize the criticality of humanitarians retaining control over the

<sup>64</sup> Radio Tamazuj, *Fire and grenade blast kill 7 at Malakal UN base*, January 12, 2016, <http://goo.gl/ns1heI>.

<sup>65</sup> In their official response to this publication, UNMISS leadership argued that the refusal to work towards site expansion related to the additional troops that would be required to protect a larger area, as well as the financial requirements this would entail. However, humanitarians had already developed a plan with UNMISS Force to construct a robust perimeter that would reduce the number of troops needed, and likewise humanitarians had already independently sourced the funding necessary to put in place such infrastructure.

technical aspects of the humanitarian response, while recognizing that the approach will need to be developed in close cooperation with the UN mission to ensure the feasibility within the given security context. A 2016 Special Report of the Secretary General recommended that UN missions “be responsible for ensuring the external security of the sites and their immediate surroundings...humanitarian actors should be responsible for the management of the sites and the provision of services therein.”<sup>66</sup>

Finally, any Roles and Responsibilities documents (particularly those developed at field level) will need to be reviewed at regular intervals. Having a senior level meeting at least once a year to discuss the division of responsibilities can help to ensure all actors have a common understanding of approach and could enable leadership to address coordination issues where tensions have been identified. It could likewise be useful to establish a formal complaints mechanism that humanitarians and UN mission staff could use to address issues that they have been unable to resolve at site or national level. This was attempted in South Sudan through a national POC site coordination meeting, but led to frustration within the mission that some issues had not first been adequately address at site level.

## CONDUCT JOINT, REALISTIC PLANNING

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Another lesson to emerge from South Sudan and previous crises is the need for joint and realistic operational planning between the UN mission and humanitarians. This imperative applies both to planning for contingency purposes, as well as for operational aspects of the ongoing response. As a 2009 DPKO document points out, “It has become evident that mission sites will likely become a magnet for displaced persons seeking protection or assistance in the midst of conflict. This is an eventuality for which missions should develop contingency plans.”<sup>67</sup> Key to successful planning is

ensuring that scenarios reflect the realities on the ground – regardless of how uncomfortable they may be.

There is a sense among many humanitarians in South Sudan that too often, UNMISS planning is done on the basis of preferred scenario rather than the most likely scenario, or worst case scenario. One example of this relates to contingency planning in Juba. Three months after the renewed outbreak of fighting in July 2016, humanitarians and UNMISS once again reinitiated conversations about contingency areas in UNMISS bases. Humanitarians used a planning figure that matched the number of IDPs who had arrived into the base in July, but the space allocated by UNMISS was so small that even if total space per person was reduced to only 10m<sup>2</sup> (one third of the internationally recognized emergency standard), the site could still only hold half the number of people humanitarians were using as a contingency figure.<sup>68</sup> Humanitarians expressed concern that a larger influx would likely mean that IDPs would once again self-settle haphazardly within the base (as they had done in July) and that humanitarians would not be equipped to support them. Nevertheless, no additional space was allocated.

While planning for the preferred scenario may be easier and more politically acceptable, in the end, it is counterproductive for all parties involved. If contingency planning takes into account realistic eventualities, regardless of how unwelcome, the plans will be far more fit for purpose. Planning should always be done on the basis of the most-likely scenario, not the preferred scenario. A 2016 DPKO came to similar conclusions: “Worst-case scenarios, however unpalatable, should be considered.”<sup>69</sup>

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<sup>66</sup> UN Security Council, S/2016/951, *Special report of the Secretary-General on the review of the mandate of the United Nations Mission in South Sudan*, November 10, 2016, [http://www.un.org/ga/search/view\\_doc.asp?symbol=S/2016/951](http://www.un.org/ga/search/view_doc.asp?symbol=S/2016/951), 11.

<sup>67</sup> UN DPKO/DFS, *Learned Note on the Protection of Civilians in UN Peacekeeping Operations: Dilemmas, Emerging Practices and Lessons*, 2010, 18.

<sup>68</sup> South Sudan CCCM Cluster, *Juba Contingency Plan – UNMISS Tomping*, November 2016.

<sup>69</sup> UN DPKO, *Challenges, lessons learned and implications of the protection of civilians sites in South Sudan*, 8.

*If contingency planning takes into account realistic eventualities, regardless of how unwelcome, the plans will be far more fit for purpose. Planning should always be done on the basis of the most-likely scenario, not the preferred scenario.*

Similar lessons apply to planning for implementation of the ongoing humanitarian response. As described in previous sections, humanitarian partners were regularly told that the POC sites were “temporary” and that as such, more sustainable approaches would not be permitted. In reality, shortly after the arrival of IDPs into UNMISS bases in December 2013, it became clear to most humanitarians that the sites were there to stay. Honest reflection within UNMISS undoubtedly yielded the same conclusion, and yet despite this, humanitarians have still been required to use short term, emergency approaches to service provision. In Wau, for example, humanitarian partners are still required to truck water to the POC site every day rather than drill a borehole, an approach that cost tens of thousands of dollars more and is far more vulnerable to changes in the security environment. A senior humanitarian official explained that in refugee settings, “when you see that a camp is there for one or two years, you start looking at transitional shelters, etc., because after a certain point no one will invest.” The interviewee lamented that although it was clear early on that the POC sites were here to stay, humanitarians have nevertheless not been permitted to adapt the response accordingly, and predictably, funding is now starting to wane. By the time UNMISS concedes to using more sustainable materials, there may no longer be the funds available to do so.

Subsequent chapters look in greater detail at issues relating to pull factors, entrenchment, and long term options, but underlying all of these is the need for humanitarians and UN mission actors to have a more open and honest dialogue about capacities, constraints, and realistic options for the future.

## PRIORITIZE DECONFLICTION WHERE POSSIBLE

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Another element that came out strongly in discussions in South Sudan is the need for humanitarians in POC site contexts to maintain independence and distinction from the UN mission, despite the complexities of doing so within a POC site setting. Even more than in a traditional IDP camp, distinction in a POC site environment is paramount to the ability of humanitarians to effectively provide assistance and protection.

An initial risk of dependency noted by humanitarians in South Sudan was that becoming overly reliant on a UN mission opens space for leverage that can be counterproductive to independent humanitarian operations. In many of South Sudan’s POC sites, humanitarians lived inside the bases of the UN mission at the start of the crisis – to date, this is still the case in Bentiu and Malakal. While organizations have now become more self-sufficient, during the early days of the crisis, many humanitarian partners were still largely dependent on UNMISS resources. As one humanitarian official explained, “we would have a meeting with UNMISS about standards in the POC [site], and then when that was finished, we would go straight into another meeting about the amount of electricity being used by humanitarian partners.” He went on to say that although there was never an explicit connection drawn between the two conversations, there was an implied sense of “we’re doing you a favor by letting you stay here, so don’t make things difficult in the POC site.”

Similar sentiments were reported by humanitarians in relation to the use of UNMISS’ assets for programming purposes. One humanitarian pointed out that UNMISS was happy to let humanitarian organizations use their heavy equipment, but only for projects that were favored by the Mission. Regardless of whether this sense of leverage is deliberate or self-imposed by humanitarians who are uncomfortable with the blurred lines brought on by the POC site model, the perception that dependency creates leverage is in its own right problematic for upholding independent humanitarian operations.

A second element that makes distinction uniquely important in a POC site context is the heightened risks of being aligned with a UN mission if something occurs to make the mission seem less neutral in the eyes of a party to the conflict. While this is a risk in any peacekeeping context, the potential impacts are far greater in a POC setting where a significant portion of the humanitarian response is delivered to people seeking refuge inside UN bases. If the UN mission reaches a point where it is no longer perceived to be a neutral actor, humanitarians may have to walk a very delicate balance in order to continue providing services inside the sites, as well as to IDPs and conflict affected communities in other parts of the country who depend on humanitarian actors. These risks are discussed in greater detail in Chapter 7.

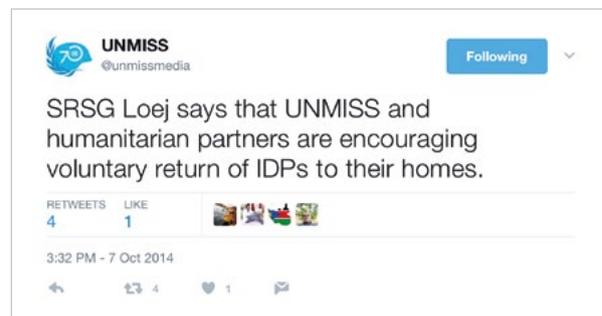
While humanitarians may have no choice but to use UN mission assets and stay on-site during the first phases of a crisis, humanitarians suggested during interviews that organizations should transition out of this as soon as possible. This is typically easier to do with a number of organizations working together, so partners may want to pool resources to maximize on economies of scale if there is a common need for equipment, assets, or security. Forming joint humanitarian hubs outside of UN bases or POC sites can be a good option for this.

## EXERCISE CAUTION WITH QUICK IMPACT PROJECTS (QIPS) AND PUBLIC MESSAGING

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Other elements that can have an impact on perceptions of independence and distinction are issues such as the approach to communications from the UN mission and the use of “quick impact projects” (QIPs) by troop contingents. In the case of the former, the fact that the POC sites are inside UN bases may give the UN mission the sense that they can speak to the humanitarian context, or speak on behalf of humanitarian actors. While this may seem innocuous, in contexts where social media is used widely (as is the case in South Sudan), these

types of communications from the UN mission can be detrimental to the public’s understanding of the distinct roles of different actors. Further, the UN mission and humanitarians may have differing perspectives on the humanitarian and security situation, and the existence of two diverging sets of messages can create confusion among the IDP population and general public.



In 2014, the South Sudan Humanitarian Country Team developed a “Dos and Don’ts” paper to guide the public information approaches of humanitarians and the UN mission. This initiative is commendable and is worth replicating in other POC site contexts. As with any such guidelines though, they require review at regular intervals to ensure all actors remain aware and committed to the guidelines. Humanitarians found that over time, compliance with the guidelines reduced. The Tweet above<sup>70</sup> is one example of the type of public communication from UNMISS that generated ire among humanitarians due to the perception that UNMISS and the SRSG were speaking on behalf of humanitarians (including NGOs who do not fall under the SRSG’s purview) on an issue that was highly sensitive and controversial, and about which there was not yet consensus among the humanitarian community.

<sup>70</sup> UNMISS Tweet, 6.32 AM, October 7, 2014, <https://twitter.com/unmissmedia/status/519480355397844992>.

Humanitarians were also particularly concerned about the provision of direct assistance by troop contingents and QIPs.<sup>71</sup> While the interest of the troop contingents to provide practical assistance is understood, there was a risk that such activities could lead to confusion about the different roles of humanitarians and peacekeepers. Humanitarians saw this to be particularly problematic in areas of active conflict where the role of UNMISS (and thereby perception of humanitarians) could become more contentious among the parties to the conflict.

To address these issues, the South Sudan Civil Military Advisory Group<sup>72</sup> developed a document outlining “limitation zones.” It was agreed that direct assistance and QIPs would only be used in locations that are not heavily affected by conflict or displacement, and that UNMISS and troop contingents would never duplicate services that could be provided by humanitarians. There have been fewer miscommunications between UNMISS and humanitarians thanks to this document, despite it not having been as effective in preventing direct assistance implemented by individual troop contingents independently from the UN Mission. This type of document could be a useful tool in future POC site contexts.

## AGREE ON CIVIL MILITARY COORDINATION STRUCTURES AND FOCAL POINTS

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Due to the overlapping operational spheres in POC site contexts, it is particularly important to have clear procedures and focal points for civil military coordination. Some of these mechanisms have already been mandated at the global level, but in contexts with POC sites, these will need to be articulated in much greater detail and include specific procedures relating to how coordination will be managed at site level.

In the case of South Sudan, RRP typically served as the UNMISS civilian focal point for operational issues relating to camp management within the POC sites, and the Protection of Civilians Unit served as intermediary on protection issues. Joint Operations Command (JOC) and J9 (Force Civil Military) served as the military focal points. JOC meetings were initially held on a daily basis, and then the frequency was reduced as the crisis became more protracted. RRP originally also hosted a “National POC Coordination” meeting, but these were eventually phased out in favor of prioritizing problem-solving at site level. On the humanitarian side, the Office for the Coordination of Humanitarian Affairs (OCHA) acted as the primary focal point on all issues relating to civil military coordination, and often worked closely with the protection cluster on issues relating to UNMISS’ protection of civilians mandate. Camp management agencies were typically the focal point for engagement with RRP.

While this system works well in principle, in practice there were numerous challenges. As discussed earlier in this chapter, RRP was at times not seen as an effective civilian interlocutor, as a result of their competing mandate to facilitate the departure of IDPs from the POC sites and to support UNMISS leadership. As a result, RRP was consequently at times bypassed by humanitarian actors. Coordination with military sections was seen to be stronger, though the JOC meetings reportedly became more useful for information sharing than coordination, which increasingly took place bilaterally. Many humanitarians voiced strong feelings in interviews that the absence of an apolitical advocate in the Mission was a hindrance to more effective coordination and responses. Some interviewees (both humanitarian and from the Mission) pointed out that the office of the DSRSG/HC/RC is intended to assist with this function, but that due to personalities, this mandate was not always fulfilled.

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<sup>71</sup> Humanitarians in UN mission contexts should be aware that there are two distinct forms of direct assistance and QIPs: 1) projects that are funded and monitored by the UN mission, and 2) direct assistance projects that are funded and implemented by individual troop contingents independently. In the case of the latter, there is often limited central oversight by the UN mission.

<sup>72</sup> Composed of humanitarians and representatives from UNMISS.

Humanitarian actors in South Sudan have at times also created confusion by delivering different messages in civil military coordination forums, and need to ensure better consistency in their engagement with the mission. In a JOC meeting in early 2017, the Protection Cluster representative reportedly indicated that the Inter-Cluster Working Group (ICWG) had requested information from UNMISS on their plans to move IDPs out of the Leer Temporary Protection Area. This issue had been very controversial in the ICWG, and no such request had been made. However, because this message was delivered in the JOC meeting (where only OCHA, the Protection Cluster, and the NGO Forum have seats on behalf of humanitarian actors), UNMISS took this to mean that humanitarian actors were on board with the relocation, and began initiating the planning process. These types of mistakes can have long-term impacts on the trust between actors and the effectiveness of civil military coordination structures.

## ESTABLISH A HIGH-LEVEL COORDINATION FORUM

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In POC site settings, it is particularly important that humanitarian and UN mission leadership can communicate openly and directly. While various forums of this nature may already exist prior to the establishment of the POC sites, it is critical that separate space either be dedicated to addressing POC site issues within the existing mechanisms, or a new forum be established that is solely devoted to discussing the humanitarian and POC site issues. Having such a forum at senior levels can ensure that priorities and constraints facing humanitarians and the mission are mutually understood, and that resolutions can be found to any ongoing issues in a timely and transparent manner.

In the case of South Sudan, a “mini-HCT” was established that included senior officials from the humanitarian community, select representatives from the donor and diplomatic community, the DSRSG/HC/RC, and the SRSG. These meetings generally took place on an ad hoc basis, and while they were seen by some a useful forum to address significant issues, others felt that these meetings

often lacked a two-way dialogue and were more commonly used as an opportunity for the SRSG to “lecture” humanitarians. Although personalities may have caused this particular forum to be less effective than could have otherwise been the case, it is nevertheless a worthwhile initiative to consider for future operations.

## MAINTAIN TRANSPARENCY

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Finally, one last aspect that is important in enabling coordination in POC site settings is for all actors to maintain openness and transparency. This relates not only to openness between humanitarian actors and the UN mission, but also towards external researchers and evaluators. While recognizing that there will be sensitive issues that cannot always be discussed, both humanitarians and the UN mission should make an effort to share information when possible and should not shy away from self-reflection or lessons learned.

During research for this publication, three senior level UNMISS officials independently expressed concern about the growing restrictions preventing UNMISS staff from speaking to visiting academics, researchers, and evaluators. Researchers are now required to gain written permission from the UNMISS Chief of Staff before speaking to any UNMISS personnel, and are at times required to submit their questions in advance. Visiting researchers from renowned human rights institutions have likewise been told that they cannot interview IDPs in the POC site without an UNMISS escort. These types of restrictions foster an environment of mistrust and suspicion rather than cultivating a positive relationship between actors. In the words of one senior UNMISS official, “we are trying to control [the narrative] in the same way the government tries to control it. It’s not good.” In UNMISS’ formal response to this publication they explained that this practice was to ensure that “the right experts speak on a particular issue so as to give the correct information,” however interviewees suggested that the policy appeared to be aimed at ensuring that staff only deliver the official talking points and do not share personal experiences which may contradict or call into question UNMISS’ official messages.

# 5

## HUMANITARIAN RESPONSES INSIDE AND OUTSIDE POC SITES

**When POC sites first emerge in a crisis, the protection and assistance needs can be overwhelming. UN mission bases are not designed to host displacement camps, and humanitarians may be faced with trying to build a site from scratch, while simultaneously addressing the immediate food, medical, and protection needs of the affected population both inside and outside the sites. All of this may occur while humanitarians are contending with their own security restrictions, evacuations, and other resource constraints.**

In this chaotic environment, the balance between supporting the POC sites and supporting vulnerable persons elsewhere can sometimes be momentarily lost – this is understandable. As time progresses, however, it is critical that humanitarians work to realign the assistance and protection provided to ensure that it is responsive to the areas of greatest need. Undoubtedly, POC sites will constitute a large part of this, but providing support to the POC sites should not prevent continued efforts to strengthen responses in other parts of the country.

Humanitarians working in POC sites may also be faced with new operational and infrastructure constraints that impact their ways of working. The approach to service provision in POC sites may be heavily influenced by the UN mission, and humanitarians may have to adapt their usual standards and guidelines to accommodate this unique context. This can be a difficult process for humanitarian actors who typically prioritize independence and adhere to global guidelines and standards.

The following chapter provides considerations for humanitarians when designing a strategy for humanitarian responses in a POC site setting.

Based on the experiences from South Sudan, the chapter focuses on effectively balancing and triaging responses inside and outside sites, but it also looks at the particularities associated with service delivery inside sites themselves.

### MAINTAIN EQUAL MONITORING OF NEEDS AND RISKS INSIDE AND OUTSIDE OF SITES

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A first lesson to emerge from South Sudan that applies equally to humanitarians and peacekeepers is the importance of maintaining equal monitoring of the needs and threats inside and outside POC sites. While it may be impossible to launch a response in every part of a crisis-affected country simultaneously, it is imperative that humanitarians and peacekeepers are at the very least aware of changes to the context so that responses can be triaged on the basis of objective analysis of the severity of need (humanitarian) and threat (peacekeepers) rather than on responding to what is easiest or most proximate. Particularly during the initial phase of a crisis when POC sites are just emerging, attention is likely to focus heavily on the situation inside the sites, at times at the

expense of understanding needs elsewhere. “In the first year of the crisis everyone wanted to be in the POC [site]s,” said one humanitarian official of the crisis in South Sudan. “That’s where donors wanted to visit, that’s where the TV cameras went.”

Although this is a predictable response given the highly visible nature of POC sites, it is important that humanitarians, the UN mission, and other international actors recognize that people who arrive at POC sites may not necessarily be the most vulnerable members of the population. Whole communities may be trapped in remote areas without access to effective protection remedies, and elderly people and persons with disabilities (even those living in proximity to a UN base) may struggle to flee with their family members. Understanding the situation of these types of individuals is far more difficult, and as a result is at times not factored into response planning.

While the needs of the people reaching the POC sites are likely to be substantial, it is crucial that humanitarians and peacekeepers continue to closely monitor the needs and threats elsewhere and adjust their responses accordingly. One humanitarian interviewed for this publication described how POC sites can quickly become a “comfort zone” for humanitarians and peacekeepers, an easy location where, for example, the Human Rights Division can conduct interviews without interference, and where humanitarians can set up services without worrying about attacks. These activities should of course be pursued, but it should not come at the expense of supporting people elsewhere if the greatest needs exist outside the sites.

Once this needs analysis has been completed, it is important for humanitarian actors and peacekeepers to develop clear strategies on how they will address acute needs and threats that arise in hard to reach locations. This will require an analysis on the types of blockages humanitarians and peacekeepers may face in responding in these areas. Access or political barriers may be key

impediments, for example, which could require a country-wide access strategy, or engagement from the HC or diplomatic community in negotiating unhindered passage. Humanitarians may need to consider creative approaches to providing assistance, such as mobile interventions or the use of multi-sector “survival kits.”<sup>73</sup>

## RATIONALIZE THE NUMBER OF HUMANITARIAN PARTNERS INSIDE POC SITES

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A second key lesson to emerge from South Sudan in regard to maintaining an effective humanitarian response is the importance of rationalizing the number of partners working inside and outside of POC sites. When the POC sites first emerge, there is often an influx of partners who are eager to respond in the sites. Visibility and media attention is high, new donor funding may be available, and organizations may face pressure from their headquarters to respond inside in order to maintain “organizational relevance.” Other organizations may feel that they have to be present due to their role as a Cluster Lead Agency or in order to be able to do advocacy on issues facing POC sites. As one former cluster focal point recalled during an interview, “at one point I had eight or nine organizations working inside, and zero working outside.”

While an initial surge of partners can help to quickly scale up a response, having too many actors operating in one site can be counterproductive. Not only are organizations unable to maximize economies of scale on a logistical level, but equally, actors may begin to implement services to different standards or specifications. This can cause discord among the displaced population who may question why they have not received the same assistance as their relative or friend. The proliferation of organizations and variance in delivery then increases the need for coordination, which creates the risk of burdensome coordination mechanisms that could be avoided if there were a more streamlined response.

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<sup>73</sup> Survival kits were used in South Sudan to deliver a one-off package of essential lifesaving materials to communities who, due to the presence of an immediate threat, could not benefit from a more sustained humanitarian intervention or repeated distributions. The kits typically included materials like fishing nets, water purification tablets, mosquito nets, and high energy biscuits.

### BOX 3: MYTH-BUSTING: PROPORTIONALITY OF THE HUMANITARIAN RESPONSE AND DIVERSION OF FUNDS

During the first phase of a crisis, humanitarian actors must dedicate a considerable amount of resources to the initial construction of a POC site. While some of these expenses will have to be repeated over time (particularly if, as discussed in the previous chapter, humanitarians are not allowed to use sustainable materials), they are by and large one-off costs. This investment can lead to the impression that humanitarian resources are being diverted from other locations, but while this may be true in some cases, in reality the construction of a new camp also typically comes with an increase in new funding. Consider the 2013 and 2014 budgets of the International Organization of Migration (IOM) for example: in 2013, IOM received 45.6 million USD for their operations in South Sudan. The following year, after taking on the responsibility for site works in two of the POC sites, IOM received 78.6 million USD.<sup>74</sup>

In South Sudan, it is nearly impossible to track the amount of funds that were dedicated to the POC sites compared to more rural locations given that organizational budgets are typically only disaggregated at the state or county level. If this data were available, however, there are few trends that could likely be observed:

→ First, during the initial stages of a crisis, the ratio of funds spent inside versus outside of POC sites would likely be disproportionately high in favor of the POC sites. A frequent critique during the early days of the South Sudan crisis was that over 30 percent of the humanitarian budget was spent on activities in the POC sites, but the sites housed only 14 percent of the IDP population.<sup>75</sup> While this statistic may be accurate, this spike in resource allocation can be expected during any initial camp startup (both POC site and traditional IDP camp) given the expensive nature of site works and of the installation of basic infrastructure.

→ Second, as the IOM example above shows, these initial expenses are also likely to be met by new influxes of funding, meaning that while more money overall may go into the POC sites, it is not necessarily being diverted from operations elsewhere. Undoubtedly, diversion will occur in some places, but in South Sudan this was typically described by interviewees as an outlier as opposed to the norm. Nevertheless, there is a risk that despite funding not being pulled from other locations, the attention and interest can be diverted and can have an impact on donor funding patterns during the next funding cycle.

→ Third, over time, total funding needs and commitments are likely to decrease, and the funds spent inside and outside are likely to become more proportional. One NGO Country Director described how, in the early stages of the crisis, approximately 60 percent of their operational budget was spent inside the POC sites, compared to closer to 20 percent today. “The needs in the beginning were huge,” he explained. “We had a caseload of three thousand unaccompanied and separated children. There were massive levels of sexual violence. Three years later, people are more sensitized, there’s less need for us to do the same types of awareness raising and activities that we did in the POC [site]s before.”

→ Fourth, at a certain point, the level of spending inside POC sites will likely stabilize and will be primarily spent on sustaining basic services as opposed to site development. Depending on the approach to service provision, the cost to beneficiary ratio is likely to continue to be higher inside a POC site than outside, but this has largely to do with the fact that as a result of limitations in freedom of movement, more blanket services are provided inside POC sites than is the case elsewhere. This will be discussed in greater detail later in this chapter.

<sup>74</sup> OCHA Financial Tracking System, <https://fts.unocha.org/countries/211/summary/2016>.

<sup>75</sup> Arenson, *If We Leave we are Killed*, 40.

Today, OCHA estimates that 79 percent of beneficiaries reached by humanitarian organizations in South Sudan are outside POC sites. While there is certainly a greater concentration of services for IDPs inside the sites than outside, the large number of people reached in remote locations demonstrates humanitarians' ongoing commitments to supporting people in hard to reach areas, and indicates that there are ongoing efforts to rationalize humanitarian presence.

In interviews for this publication, humanitarian actors emphasized the importance of "getting it right from the beginning," given that funding availability is likely to decrease as the crisis becomes more protracted, leaving fewer funds available to make improvements at a later stage. Many humanitarian actors felt strongly that if there are indicators that a POC site is likely to exist for a number of years, they should be permitted to use sustainable materials which will be much more cost-effective long term.

Equally, having a disproportionate number of actors working in POC sites may mean that there is a dearth of actors available to respond to needs elsewhere. Given that the POC site population is likely to only be one small portion of the total caseload in need of support, having too many actors working in the sites may prevent urgently needed protection and assistance from reaching people in other parts of the country.

In a POC site context there are also unique constraints that may not exist in normal IDP camps. During the initial phases of the crisis humanitarians are likely to stay within UN bases, and there will typically be a cap on the number of humanitarians that the UN mission is able to host. These limits may relate to space, resources such as the availability of water and electricity, and the security environment. Changes to any one of those variables may impact the number of staff permitted to stay at the base, meaning organizations and clusters need to think carefully about how to maximize the impact of individual staff members. Having an individual who can oversee multiple projects can ensure greater continuity of services during times where few staff are permitted to remain at the base or site.

When deciding which partners should work inside and outside of sites, it is important for the organization and cluster to think critically about the different capacities and comparative advantages. Where possible, and without excluding the need for some specialized actors, clusters and donors should prioritize partners who can deliver a multi-sector response. This can facilitate greater coordination, integration of services, and cost effectiveness. It is likewise crucial that organizations carefully consider their own risk tolerance thresholds, and that at cluster level, this is examined across the range of potential partners. One senior humanitarian official explained that in the case of his organization, a decision was made early in the crisis to focus on the POC sites. The organization fell under UN Department of Safety and Security (DSS) regulations, which at that time was heavily restricting movement outside of UNMISS bases. The organization knew that NGOs would be more nimble in responding to ongoing needs outside since they were not bound by the same DSS restrictions, and thus decided to focus their

own efforts inside the sites where they could provide a more predictable and efficient response. While some people may see this as a risk transfer to NGOs, it was also a practical decision in light of the need to maintain services both inside and outside the POC sites. Short of changing DSS' security management system, these types of uncomfortable, but practical considerations will need to continue to be accounted for in the future. DSS-bound agencies can also support remote responses through other means, for example by providing supplies from their pipelines to NGOs working in hard to reach areas.

Ultimately, maintaining an effective rationalization of partners inside POC sites will require close communication and cooperation between clusters, camp management, donors, and partners. Clusters are responsible for assessing the full spectrum of needs across the country, and providing a rough recommendation of how the response should be divided between organizations. Respecting cluster recommendations can be crucial in ensuring that response efforts are appropriately balanced. This is discussed in greater detail in Box 4.

## CONTEXTUALIZE AND AGREE ON TECHNICAL GUIDELINES AND STANDARDS FOR POC SITES

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Another lesson that should be learned from the South Sudan POC sites is the need to agree on contextualized standards for service provision. Although this type of agreement was never reached in South Sudan, it could have been instrumental in reducing tensions and delays long-term: rather than having to re-debate standards every time there was a new population influx or change in personnel, humanitarian partners and the UN Mission could have moved straight into problem solving. If there is a common understanding in future POC sites that each IDP should have 15m<sup>2</sup>, for example, humanitarians would not need to spend time negotiating to use the contingency space for decongestion, nor would there need to be

extensive discussions about whether the UN mission should request additional land from the authorities. Decisions would become more automated, which would enable a more timely and effective response.

In contextualizing the technical standards for a POC site context, there are three elements that need to be respected: first, humanitarians need to be willing to compromise. While diverging from Sphere Standards<sup>76</sup> is not anyone's preference, humanitarians must also be realistic about the unique challenges posed by a POC site environment, and be cognizant of the constraints facing the UN mission. Second, the UN mission needs to disclose in writing any issues or conditions that could have an impact on the humanitarian operation. This could include regulations such as a minimum space required for each UN troop, a political directive mandating that no permanent infrastructure will be erected, or security considerations that could impact the site layout or space available. Third, within the parameters provided by the mission, technical aspects of the humanitarian response should be left to humanitarians with the relevant expertise.

A primary source of frustration for many humanitarians in South Sudan was a sense of not understanding the parameters in which they were working. Partners would be informed by UNMISS that they could not drill a borehole, but the explanation given was often perceived to be incomplete or convoluted. Rather than having a frank conversation about the constraints in a particular site, many humanitarians felt they were often left to guess the rationale for the directives they had been given, which led to an environment of mistrust and speculation. This in turn sometimes drove humanitarians to bypass UNMISS altogether, further corroding the relationship between actors.

In one case in Malakal, the defection of a senior general led to an influx of IDPs into the UNMISS logistics base. As humanitarian partners prepared to install emergency water and sanitation facilities for the new arrivals, they were told that they were

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<sup>76</sup> Sphere outlines minimum requirements for standards such as space per person (30m<sup>2</sup>), number of latrines (one per 20 people), and daily water supply per person (15 liters).

#### BOX 4: THE ROLE OF DONORS IN PROMOTING NEEDS-BASED RESPONSES

Maintaining an appropriate balance of partners inside and outside POC sites requires close cooperation from clusters, camp management, donors, and individual organizations. While in a crisis environment there can at times be a temptation to bypass coordination mechanisms and move straight into a response, this can be detrimental to the quality of the response long-term.

When POC sites first emerge, clusters should work to outline the needs inside and outside sites, and provide a general endorsement for which partners will work where. This is done primarily through the Humanitarian Response Plan (HRP), but also on an ad hoc basis as the crisis evolves. The aim of this mechanism is not to “block” organizations from responding, but rather to avoid duplication and minimize gaps. In an ideal scenario, donors will then fund partners for the activities endorsed by the cluster.

In practice, organizations and donors sometimes bypass the cluster and negotiate funding bilaterally. At times, clusters only become aware of a planned intervention once the funding has already been received, and may be unable to prevent the project from moving forward. Camp management has the authority (working together with the UN mission) to prevent organizations from entering a

POC site, but in the case of South Sudan, the erosion of the traditional camp management model in favor of a hybrid cluster system at camp level, meant that there was sometimes confusion between cluster focal points and camp management about which partners had endorsement to work where.

To avoid this duplication inside POC sites, clusters need to be more assertive on the importance of gaining cluster endorsement prior to seeking funding for an activity in a POC site. But equally, donors need to commit to consulting clusters (or at minimum, the HRP) before funding a new partner to begin working inside a site.

Donors can also play an important role in promoting greater responsiveness by providing funding that is flexible or which supports mobile interventions. As one coordination official explained, “Donor flexibility in funding is key. Organizations that are most responsive are those with mobile funding. If you’re funded for static, you stay static. If you’re funded for mobile, you can be more reactive.” Providing funding that is tied exclusively to one geographic location can make it difficult for organizations and clusters to adapt responses to contextual changes and ensure that proportionality is maintained over time.

not allowed to construct any latrines – ostensibly because the population was supposed to leave imminently, and should not be encouraged to stay. The issue was escalated to Juba, but this appeared to only further aggravate the situation at Malakal level. Concerned about the potential for disease outbreak, the individual responsible for water and sanitation eventually commenced building latrines on a back road in the site. Shortly thereafter, the UN Department of Safety and Security was sent to find the individual responsible and investigate why the latrines had been built. Although everyone (including UNMISS) stood to benefit from an environment that was free from open defecation

and disease, a lack of common agreement on standards meant that this was turned into a divisive and protracted debate.

Other cases in South Sudan have seen much more positive outcomes. One humanitarian official explained that in Wau, “we asked [UNMISS] Force what they could protect, and then we built to that specification.” Although the total square meter per person was below the 30m<sup>2</sup> required by Sphere, the camp management agency felt that this was a worthwhile compromise if it meant UNMISS could provide better security for the camp population.

## BOX 5: THE IMPORTANCE OF FUN

In any IDP camp setting, two of the greatest risks are idleness and trauma. In the absence of livelihoods, freedom of movement, or other activities, individuals become far more likely to turn to negative coping mechanisms like alcohol or drugs. As the consumption of intoxicants increases, so too does violence, criminality, and gang activity. Men, particularly young men and ex-combatants, are often disproportionately affected by these risks, which can have long term effects on their families, communities, and the perception of the sites by those outside it.

Reducing idleness is one of the many reasons that humanitarians emphasize the importance of programs that focus on education and skills training. Any activity that keeps people occupied during the day can lessen their vulnerability to negative coping strategies. These types of programs also help to provide people with alternative skillsets so that when they leave the POC sites, returning to fighting is not their only option.

Equally important though, are activities whose sole purpose is recreational. Providing space for IDPs to play sports, listen to music, or dance can be essential in allowing IDPs to blow off steam. It is for this same reason that humanitarians may do everything possible to retain football pitches in the POC sites, even if this means leaving blocks minimally overcrowded. One camp management specialist explained, “Maintaining space for sports and recreation is an important tool in helping to minimize boredom, frustration and tension arising in the population – and ultimately therefore in maintaining safety and security in the sites.”

Having an open and transparent conversation between humanitarians and the UN mission is essential in developing appropriate standards, and is likewise crucial in the ability of actors to escalate issues and hold one another accountable. In order for the UN mission to be comfortable sharing these constraints, however, humanitarians must acknowledge that while they may not agree with or like all of the constraints outlined by the mission, they nevertheless need to be realistic about likely outcomes. This does not mean humanitarians cannot negotiate to try to find a compromise, but this needs to be done with respect for the fact that each TCC often has their own demands and caveats which, if not met, can have severe impacts of the resourcing of the mission and its ability to fulfill its mandate. Creating an environment of mutual trust and respect will be essential in finding an agreeable way forward.

Finally, in developing contextualized standards, humanitarians must be given the authority to determine the technical aspects of the response within POC sites, provided the standards comply with the parameters provided by and agreed with the UN mission. This includes all aspects of programming, from the types of materials used, to the design of the infrastructure, to how the services will be set up and implemented. Humanitarians must also have the space to work within their own timeline, unless there is a clearly explained reason why the timeline must be altered. Humanitarians should be as specific as possible when articulating the adapted standards so that there is no room for confusion or disagreement later. Likewise, although there are elements of humanitarian response which may seem inconsequential to the UN mission, peacekeepers must trust that after decades of delivering humanitarian services, NGOs and UN agencies have identified the types of issues and activities that need to be prioritized. For more discussion on this, see Box 5.



UN House POC site in Juba. November 2016. © NRC / Albert Gonzalez Farran

## DECIDING BETWEEN TARGETED AND BLANKET HUMANITARIAN ASSISTANCE

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One of the most contentious debates to emerge in South Sudan was related to the balance of services inside and outside POC sites. Populations in the POC sites depended almost exclusively on humanitarian assistance, which was provided on a “blanket” basis to all residents in the sites. This differs significantly from usual approaches to humanitarian service delivery, which dictate that assistance be targeted only to those persons most in need. The result is that services are much more concentrated in POC sites than in other parts of the country. Some humanitarians and peacekeepers argued that this blanket approach was inappropriate, while others suggested that even the existing level of support was inadequate.

In the case of South Sudan, arguments against blanket assistance related primarily to three areas: the risk of creating a pull factor, the potential for entrenchment, and the problem of undermining the responsibilities of the state. The pull factor and entrenchment debates are discussed in greater detail in Box 6, but in short, many officials (particularly staff of the UN Mission) felt that by providing such a high level of services, more people would be drawn to the POC sites, and those who are already there would be unlikely to leave. Although it is indisputable that access to services is higher in POC sites than in most places in South Sudan, data nevertheless shows that the vast majority of IDPs inside the sites came, and stayed, because of insecurity.<sup>77</sup>

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<sup>77</sup> Even UNMISS has made such observations in some instances. In a Tweet on September 4, 2016, UNMISS commented that “we have seen conditions people are living in [in Wau], nobody would live like this if they felt secure going home.” @UNMISSMedia tweet, 7.10 AM, September 4, 2016, <https://twitter.com/unmissmedia/status/772436766397693954>.

## BOX 6: THE PULL FACTOR AND ENTRENCHMENT DEBATES

One of the primary arguments against the provision of robust humanitarian services inside POC sites is that delivering a high level of assistance could draw more people to the sites, and could further entrench the population already living there. But while the statement that “POC sites create a pull factor” is a familiar refrain, is there evidence to support this assertion?

With over 200,000 people seeking refuge in South Sudan’s POC sites by the end of 2015, most of the sites far exceeded their original intended capacity, and there was limited ability to absorb new arrivals. Humanitarians called on UNMISS to seek permission for additional land from the government or allocate more existing space for decongestion, but UNMISS instead focused on reducing the number of new arrivals. UNMISS referred back to the policies outlining that POC sites were intended to be used exclusively to provide protection in *in extremis* situations, and were not designed to replace traditional IDP camps. The level of service provision, they argued, was central in pulling new people to the sites and preventing others from leaving.

Humanitarians launched a number of initiatives aimed at better understanding the intentions and motivations of the IDPs living in the POC sites. At the end of 2015, REACH conducted a series of intentions surveys across the POC sites in South Sudan, using standardized quantitative data collection methodologies and a representative sample size. The surveys found that 94 percent of respondents cited security as their primary reason for coming to the POC site, and 83 percent reported continued security concerns as the primary reason they had been unable to leave.<sup>78</sup>

In January 2016, the Office of the Deputy Humanitarian Coordinator released a report titled *Crisis Impacts on Households in Unity State* that reflected on movements to the POC sites. Research for the report used random sampling

methodologies of people in the Bentiu POC site and in areas of origin in Unity State, and achieved a representative sample size for 24 localities. The results found that “On average, the [households] that sent at least one person to the POC experienced more than three times the number of shocks than those [households] that did not send anyone to the POC.”<sup>79</sup> “Shocks” were defined to include 16 types of incidents, such as death of a family member, abduction, recruitment, or new displacement.

What can these two studies tell us? In regard to POC sites as a pull factor: with 94 percent of respondents in the REACH survey citing security as the primary reason they came to the sites, it is difficult to argue that services are the main pull factor. The *Crisis Impacts* report further suggests that humanitarians and peacekeepers may need to develop a more nuanced understanding of what drives individuals to seek refuge at POC sites. If families that sent at least one person to the POC site experienced three times more shocks than other members of their community, it is possible that the final tipping point could be related to food or medical care, but that this should not necessarily be misinterpreted to mean that accessing food and medical care are the root causes of their displacement. To the contrary, the data suggests that multiple incidents of insecurity (food being stolen, clinics being burned down) may be what drives families to a point in which going to a POC site becomes their only option.

Rather than viewing the POC sites as a *pull* factor, humanitarians and peacekeepers may want to instead consider viewing the absence of physical security (and thereby services) in areas of origin as a *push* factor. If families exhaust all their coping mechanisms prior to coming to a POC site, which the data suggests is the case, it is less a situation of them being drawn to the sites than it is of them being pushed out of their current locations. Reframing our perspective along these lines may enable a more holistic approach to understanding why people come to the POC sites. As one

<sup>78</sup> REACH, *South Sudan Intentions Study: Country Report*, March 2016, <http://goo.gl/Eh6DyG>.

<sup>79</sup> Office of the Deputy Humanitarian Coordinator for South Sudan, *Crisis Impacts on Households in Unity State, South Sudan, 2014-2015*, January 2016, <http://goo.gl/YowMcm>, 17.

humanitarian explained, “It’s not just that year on year the same needs arise, it’s compounding. People are going to get tired of running.”

With regard to the entrenchment debate, the data from REACH is again telling. 83 percent of survey respondents reported that continued security concerns were the primary factor preventing them from leaving, which matches closely with what humanitarians had expected: while there is undoubtedly a small population living in the sites who are there to access services, the vast majority of IDPs remain in the sites because of security. As one humanitarian pointed out, “The POC sites are by and large an awful living environment. Apart from knowing that you will get a monthly food ration, there are not many incentives to live in a POC site.”

On the basis of these two studies, there is little evidence to suggest that service provision in the POC sites creates a substantial pull factor or risk of entrenchment. There are also additional issues that call this conclusion into question, such as why, if all other factors are equal, the POC sites are ethnically homogenous. If people come to the POC sites predominantly for services, one could expect to see greater ethnic diversity than is presently the case. While there is plenty of scope for research to prove alternate intentions or motives, to date there has been no concrete substantiation or evidence to support the arguments that people come to, and stay in, POC sites because of services.

Other arguments against long term blanket assistance relate to the role of the government and the relationship that it sets between the displaced, the UN mission as their host and the state. Some humanitarian and peacekeeping officials argue that by providing long term protection and comprehensive assistance over an extended period in UN inviolable compounds, peacekeepers and humanitarians are essentially filling the role of the state, and are therein further allowing the government to abscond from its responsibilities to uphold the rights and needs of its citizens. “It creates huge barriers between the government and the people,” said one humanitarian official. Long term, they argued, this approach could make it more difficult to reestablish a link between the displaced and their government and could discourage the government from resuming its responsibilities for upholding the rights of their people. While this distancing of responsibilities is indeed a challenge, the current conflict dynamics also make it appear unlikely that the government would fulfill this mandate even if all assistance ceased.

Arguments in favor of a blanket approach to service provision relate to the lack of freedom of movement available to the population, and the inability or unwillingness of the government to provide support to IDPs inside the sites. Whereas in more remote areas, conflict affected populations still generally have some access to basic livelihoods and natural resources, those living in the POC sites have few such options. Some humanitarians highlighted that this was further compounded in South Sudan by UNMISS’ refusal to provide space for markets in the sites. Most IDPs arrived at the POC sites with very limited assets, and are unable to regularly leave to tend crops, fish, or undertake other income generating activities. Women sometimes leave to collect firewood or conduct basic trading in the market, but this is generally insufficient to sustain an entire family and dangerous for their safety and well-being. With this in mind, those in favor of blanket assistance argue that the situation for IDPs inside the sites is fundamentally different from those outside, and necessitates a higher level of service provision than would normally be the case.

Ultimately, the decision on the approach to service provision will need to be taken on a case-by-case



UN House POC site in Juba. August 2016. © NRC / Adriane Ohanesian

basis. In South Sudan, humanitarian organizations are now working to scale up the level of assistance in areas outside sites, both to ensure a more holistic approach to assistance as well as to offer IDPs greater choice in where they access services. This type of dual approach would ideally be preferable from the start of a crisis, though this would require humanitarian actors to develop a much more robust mechanism for screening potential beneficiaries, conducting registrations, and targeting assistance. While blanket assistance is possible inside a POC site, it cannot (and should not) be provided to all residents of a major city center.

## STREAMLINE HUMANITARIAN COORDINATION

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Despite the complexity of POC sites, it is imperative that humanitarian coordination mechanisms maintain a structure that is streamlined and fit for purpose. Coordination should exist to minimize gaps and duplication, but should not take away from programming or implementation. During interviews, many humanitarians stressed that while information sharing is key, the number of meetings and coordination forums should be as limited as possible to allow for a greater focus on the operational aspects of the response. Retaining a traditional camp management structure is one approach that can assist to this end.

Given the many uncertainties when the POC sites were first created in South Sudan, there was a larger influx of coordination staff than may have been the case in a traditional IDP camp setting. In part because of its mandate for civil military coordination and the location of the IDP camps inside UNMISS bases, OCHA played a particularly strong role. Although the Cluster System existed in South Sudan prior to the December 2013 crisis, the CCCM Cluster did not – there previously had not been any large IDP camps in the country. Many humanitarian actors were less familiar with the relationship between the Cluster System and traditional camp management approaches, and when OCHA reinforced their static presence in the state capitals (now POC sites), very quickly, two parallel systems began to emerge: one led by the newly appointed camp management agencies, and one led by OCHA that replicated the national level clusters.

In theory, the OCHA-led coordination structure was intended to cover the whole state, while the camp management meetings were designed to address issues at site level. In practice, however, the initial insecurity and fact that the POC sites emerged in state capitals meant that state level and site level coordination mechanisms significantly overlapped. The co-location of humanitarians (including OCHA and Cluster state focal points) inside the UNMISS bases meant that much of the state level discussion focused on what was occurring inside the POC sites. These meetings did not replace the site level meetings led by camp management, but rather led to increased duplication. One humanitarian recalled that, “camp management held a weekly partner coordination meeting, and OCHA held a weekly inter-cluster meeting, and most weeks, 90 percent of the people in the two meetings would be the same.” Even more frustrating to many humanitarians was the fact that the same issues would often be discussed in both meetings, leading to a sense that issues simply went around in circles rather than being decided and resolved.

This duplicate system also at times led to confusion of who was in charge – camp management, or OCHA. Both the camp manager and OCHA representative typically attended the morning synchronization meetings with UNMISS, however

UNMISS officials reported that at times it was unclear which actor had authority. Given that OCHA is a UN agency, some NGO officials reported that UNMISS sometimes appeared to defer to them rather than to the NGO camp manager, even though it is camp management who has ultimate responsibility for site level coordination.

As a result of this duplication and co-location, many of the clusters’ state focal points simply took on site-level coordination as well, instead of designating a separate site focal point. While in theory this could have led to a streamlined response, in practice, the magnitude of issues occurring at site level made it nearly impossible for state focal points to maintain visibility over what was happening in more remote parts of the state. The proliferation of meetings on issues occurring at site level often resulted in a dearth in focus on the needs in other areas.

To avoid this confusion in the future, it is suggested to develop very clear SOPs for humanitarian coordination at state and site level, and to separate out state and site level functions. Some individual clusters worked on this in South Sudan, but without a holistic approach or strict guidance from the global level or OCHA, progress between clusters was inconsistent. At site level, it is suggested to retain a traditional camp management structure as far as possible, with partners having primary accountability to the camp manager rather than the cluster focal point. This is not to say that site level cluster focal points should not be retained in some form (particularly if there are a multiplicity of actors working in the same sector), but rather that the camp management needs to be empowered and have the authority to manage partners and service provision. Separate state level coordination should continue to occur, but to ensure they are able to focus on responses in other parts of the state, these meetings should not be managed by the same individuals who oversee site-level coordination.

## BE AWARE OF CONFLICT DYNAMICS

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Finally, one last issue for humanitarians to consider is how their responses contribute to conflict dynamics, and how their activities are perceived by parties to the conflict. While humanitarians may be committed to upholding the principles of neutrality, impartiality, and independence, humanitarian assistance does not exist in a vacuum, and as such responders must continually be aware of how they fit into the broader context.

By 2015 in South Sudan, all of the POC sites were in areas controlled by the government, and the POC sites' residents were primarily civilians associated with the opposition. Given that the highest concentration of humanitarian services were within POC sites, it was easy for this to be misinterpreted to mean that humanitarians favored the opposition. Indeed, during the looting of the World Food Program warehouse in Juba in July 2016, one civilian remarked to the author "humanitarians always give food to the Nuer, not to the Dinka." He explained that in stealing the food, civilians were simply reinstating a better balance of assistance. Although humanitarians had consistently worked to deliver assistance on the basis of need alone, perceptions can be just as powerful as reality in determining the operating environment for humanitarians.

Indeed, in some cases, responding impartially to needs can actually lead to humanitarians being perceived as less neutral. This can create dilemmas for humanitarian actors in deciding how to target assistance. One humanitarian official in South Sudan recalled that her organization was responsible for distributions in a number of locations across the country, and typically prioritized the areas with greatest need first. When the organization came under criticism by the government for working disproportionately in opposition areas, they decided to do their next distribution in a government held location. The needs existed there, but were not as high as other locations waiting for assistance. "In trying to avoid looking politicized, we became politicized," she said. These types of trade offs are unfortunately very common for organizations that need to be able to work on both sides of a conflict, and can at times also be a practical measure to reduce threats to civilians. In

southern Unity State, actors often aimed to do simultaneous distributions in government and opposition held areas in order to reduce the likelihood of civilians in the opposition area being attacked after receiving food.

What can contribute to even greater dilemmas are situations in which delivering assistance impartially can mean potentially playing into a military or political strategy. Following the attack on the Malakal POC site in February 2016, thousands of Dinka individuals left the site and occupied homes in Malakal town. Prior to the outbreak of conflict, Malakal had been one of the most ethnically diverse cities in the country, but over subsequent years, efforts were made to homogenize the city and bring it under exclusively Dinka control – most notably through the 28 states declaration, which placed Malakal town under Dinka leadership. When the Dinka left the POC site for Malakal town, they undoubtedly had some level of humanitarian needs. However, these individuals were also being supported by the local army, and humanitarians worried that the level of need may not exceed the risk that by providing assistance, humanitarians could further entrench the ethnic redistribution of the city that had been initiated by the government. Ultimately humanitarians decided to provide a minimum level of assistance to the Dinka population in town, but aimed to limit it exclusively to the previous POC population, and only deliver the services that were most critical.

These types of dilemmas are unfortunately not uncommon in a POC site context, and the risks of "getting it wrong" are far more significant than in a traditional IDP camp setting. If humanitarians or peacekeepers are perceived to not be neutral, it can compromise not only the protection of IDPs in the sites, but also the ability of humanitarians and peacekeepers to fulfill their mandates elsewhere in the country.

# 6

## PROTECTING CIVILIANS IN POC SITE CONTEXTS

**Humanitarians are not the only actors to struggle with maintaining a balance of operations inside and outside of POC sites. For UN missions, POC sites can present overwhelming challenges, both in providing effective protection for the sites themselves, as well as for maintaining protective efforts elsewhere. Under-resourcing, lack of cooperation from the parties to the conflict, and ongoing hostilities all present serious constraints to the mission in their ability to fulfill their protection responsibilities. Many of these challenges may have existed even before the emergence of a POC site, so when the need to provide static protection to tens of thousands of people is added, these challenges can seem insurmountable.**

Nevertheless, experiences from historic protected sites (discussed in greater detail in Chapter 2) provide ample evidence of why “getting it right” with the protection of civilians is so crucial in POC site environments – arguably more so than in traditional IDP camp settings. When IDPs place their trust in peacekeepers, surrender their weapons, and forfeit their self-protection strategies, they become more vulnerable – their lives are quite literally in the hands of peacekeepers. Given that POC sites typically emerge spontaneously, UN missions may have no choice but to accept this role, even if they lack the resources necessary to do so. This can create a difficult environment for peacekeepers and conflict-affected populations alike.

The following chapter considers lessons from South Sudan in regard to protecting civilians in POC site contexts. While some of these elements may also be relevant in traditional IDP camp settings, the unique protective imperative and risks associated with the POC site model merits additional discussion of these issues here.

### MANDATE

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Historically, one of the greatest challenges facing missions in contexts with protected sites was having mandates that were not fit for purpose, or which were not updated quickly enough following changes in the context or the emergence of protected sites. In the absence of an appropriate mandate, no amount of understanding of the issues or desire to intervene will enable a mission to fulfill the necessary protective tasks. History suggests that to be successful, peacekeeping mandates in a POC site context must:

- 1 Work under Chapter VII authority
- 2 Have protection of civilians as the first priority, including being given priority in resource allocation and decision-making within the mission
- 3 Clarify that the protection of civilians responsibility applies “irrespective of the source of the threat” (namely, including when perpetrated by government actors)
- 4 Clearly articulate that protecting POC sites should entail one component of the protection mandate, but not its entirety – the protection of civilians mandate should apply to civilians across the country

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- 5 Not include any elements that could be seen to contradict the protection mandate, namely tasks relating to supporting the state or capacity building

As the following section will highlight, it is imperative that the Security Council act quickly to update mandates in light of contextual changes. In South Sudan, it took nearly six months for the mandate to be changed from its previous state-building focus, during which time the Mission continued to support government actors and institutions – even as this same government was committing egregious human rights violations against its own people. One interviewee recalled that months into the crisis, UNMISS was still providing transportation and logistical support for government officials.

As mentioned above, another crucial element for the UN Security Council to consider in the mandate is the scope of the protection of civilians mandate, and how this relates to POC sites. In South Sudan, there were differing perspectives about the relationship between the POC sites and the Mission’s protection of civilians mandate. The sites were at times likened to being the embodiment of the mandate, and at other times were described as being the biggest hindrance to it. There was likewise debate as to whether the existence of POC sites was a sign of successful protection, or to the contrary, whether the sites were the most visible indicator of UNMISS’ protection failures. In some cases, maintaining the sites appeared to be equated with the entirety of the mandate itself. To avoid a situation in which the POC sites exist indefinitely, the mission must continue to work towards improving conditions elsewhere and creating an environment that is conducive for people to leave. This should be clearly reflected in the mandate – as is the case with UNMISS’ mandate, despite the continued confusion on the ground.

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## REALIGN THE RELATIONSHIP WITH THE GOVERNMENT

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As highlighted above, a second area that is essential following the emergence of POC sites is for the mission to reassess its relationship with the government. While it is not necessarily the case that the government will be the driver of displacement into the sites, the fact that civilians have chosen to seek refuge with the UN instead of with the government is indicative of a situation in which the government is either unable or unwilling to protect its citizens, or in which civilians have lost confidence in the protective capacities of the state. As soon as possible after the outbreak of violence, the mission (ideally working together with humanitarians) should analyze the role of the government in the conflict and the reasons civilians are choosing to seek refuge with the UN. This analysis will assist the Security Council to appropriately revise the mandate, but equally importantly, the outcome of this analysis needs to then be translated into actions and changes in operational posturing.

Prior to the outbreak of conflict in December 2013, UNMISS worked extensively with the government and its forces. Even when the government perpetrated attacks against its civilians, the Mission’s mandate was first and foremost to support the state. A paper from early 2013 noted, “behind closed doors, Force Commander Moses Obi has supposedly sent a very clear message that his troops will not challenge the [Sudan People’s Liberation Army].”<sup>80</sup> The report goes on to quote another UNMISS official, who said, “we won’t step in if the army turns on communities.”<sup>81</sup>

With the emergence of conflict in South Sudan in December 2013, it became impossible for UNMISS or the Security Council to ignore the human rights abuses committed by the state. Even after the mandate was updated to prioritize protection of civilians from threats “irrespective of the source,”<sup>82</sup> however, UNMISS troops often struggled to reflect this shift in their day-to-day operations. UNMISS

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<sup>80</sup> Jort Hemmer, *We are laying the groundwork for our own failure – The UN Mission in South Sudan and its civilian protection strategy: an early assessment*, Clingendael Institute, January 2013, <https://goo.gl/T9c0HK>, 4.

<sup>81</sup> Hemmer, *We are laying the groundwork for our own failure*, 4.

<sup>82</sup> UN Security Council, S/Res/2155, “Resolution 2155 (2014),” May 27, 2014, <https://www.un.org/press/en/2014/sc11414.doc.htm>.

often avoided direct posturing against government forces, which lengthened response times and reduced the protection offered in and around the POC sites. An HCT statement in November 2014 vaguely concealed its frustration in this regard: “The HCT would welcome a realignment of UNMISS’ resources and deployment to reduce displacement in South Sudan. Among other things this will require the establishment of a presence or regular patrolling in opposition areas.”<sup>83</sup> The Mission’s capitulations to government demands were seen as inexcusable by many humanitarians.

## UPDATE RELEVANT STRATEGY DOCUMENTS

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The mandate is one crucial component of determining a mission’s approach, but equally important are the documents that guide day-to-day operations. Once a mandate has been updated and the relationship with the government reassessed, it is crucial that the mission review and revise the documents that guide operational implementation – particularly relating to the protection of civilians aspects of the mandate. A review of the Mission Concept is required following any major mandate change, but this should also include a revision of the mission-wide Protection of Civilians Strategy, as well as a timely review of other more general documents such as the Military and Police Concepts of Operations and Operational Plans and Orders.

Although this may initially appear a bureaucratic step, history has shown that missions sometimes face challenges in actualizing changes to the mandate – particularly when they involve a significant shift in focus or different relationship with a key actor. Incorporating these mandate revisions into the relevant operational documents can promote a swifter adaptation to the new context. As will be discussed later in this chapter, providing regular and robust training for different sections and contingents, including on the mandate, is also a key determinant of success.

## CONDUCT TRANSPARENT TROOP RATIONALIZATION EXERCISES

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The global DPKO Policy on Protection of Civilians makes clear that any mission with a protection mandate must give priority to the protection of civilians when considering deployments and resourcing. Given political constraints, troop caveats, and competing mission activities, however, the process of shifting troops can be challenging. Nevertheless, conducting open troop rationalization exercises that consider the threat environment, resource constraints, and capacities of individual contingents is essential.

In South Sudan, there was regular debate about the impact of POC sites on the Mission’s troop footprint. A frequently cited statistic was that “40 to 45 percent UNMISS troops tied up with POC [site]s. After adding protection of staff and logs bases, only 37 left for patrolling.”<sup>84</sup> Humanitarians often asked how many of this 40-45 percent would have been charged with protecting the bases even in the absence of a POC site, and why certain contingents were stationed in locations with seemingly little protection needs, but they never received a clear answer. As a result, many humanitarians began to feel that the POC sites were being used as a scapegoat for failing to provide protection elsewhere,<sup>85</sup> and that UNMISS leadership and troops simply did not want to take the risks that come with a forward-leaning approach to the protection of civilians. Having open and transparent conversations about troop rationalization can promote trust and understanding between actors, and avoid these types of situations.

Conducting inclusive troop rationalization exercises also help non-mission actors to advocate on the mission’s behalf for additional resources. Many humanitarian organizations conduct advocacy with the UN Security Council and troop contributing countries, and if they are convinced of the need for more troops, they can be an important ally in advocating to increase the resources available to the mission. Humanitarians are sometimes

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<sup>83</sup> South Sudan Humanitarian Country Team, *Protection of civilians inside UNMISS bases*, November 24, 2014, para. 10.

<sup>84</sup> UN DPKO, *Challenges, lessons learned and implications of the protection of civilians sites in South Sudan*, 3.

<sup>85</sup> For example, this sentiment is reflected on page 31 of Michael Arensen’s publication, *If We Leave we are Killed*: “the existence of the POC sites has become a convenient scapegoat for why UNMISS cannot successfully carry out its mandate outside its own perimeters.”

reluctant to engage in this advocacy without first being assured that the existing troops are utilized to maximum capacity.

## ENSURE ADEQUATE RESOURCING

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Once the mission has conducted a thorough troop rationalization exercise, it is imperative that the UN Security Council evaluate the capacity of the mission to protect the new sites within its existing troop capacity. In light of the significant protection demands of POC sites, it is unlikely that a mission will be able to effectively provide static protection to the sites while maintaining patrolling and projection elsewhere. As such, if the Security Council wants the mission to fulfill both aspects of this type of protection of civilians mandate, they will likely need to increase the troop ceiling and request troop contributing countries to assign additional personnel.

In addition to force strength, however, the Security Council will also need to ensure that the troops who are deployed are adequately trained, resourced, and willing to implement their mandates. Too often, troops arrive to a country without even the most basic supplies needed to sustain themselves – much less protect civilians. Ensuring troops have sufficient rations, weaponry, and other essential materials is crucial, and troop contributing countries that consistently deploy troops who are underequipped should be held accountable.

## HOLD TROOPS ACCOUNTABLE TO THE MANDATE

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Having adequate troop numbers is nevertheless insufficient to ensure effective protection of civilians if the troops are unwilling to implement their mandate. The events in Juba in July 2016 showed, once again, that there continue to be serious challenges in this regard. During the fighting in Juba, UNMISS troops abandoned their posts when fighting neared the POC sites, and

failed to respond to an attack on a humanitarian compound less than a mile from their base where over a dozen people would eventually be sexually and physically assaulted. Many of the recommendations from the *Independent Special Investigation into the violence which occurred in Juba in 2016 and the UNMISS response* will be relevant for future POC site contexts, particularly on the need for accountability when troops fail to protect.<sup>86</sup> One such recommendation was to have TCCs reaffirm (in writing) their willingness to implement the mandate and follow the rules of engagement. Another useful recommendation was that “Recognizing that failures by peacekeepers to act when civilians are attacked rises above the level of simple underperformance, the Secretariat should draw on the thorough and systematic follow-up procedures established to address allegations of sexual exploitation and abuse by peacekeepers.”<sup>87</sup>

Equally, the Security Council should encourage TCCs to ease their caveats.<sup>88</sup> Having troops who are unable to work on the front lines or who will not engage during combat is ultimately detrimental to the protection of civilians and the strength of the mission as a whole. These types of troops create an inflated sense of capacity and numbers, and prevent other troops from being received who could provide a more effective response. Likewise, the inability to disclose TCC caveats also placed a strain on trust between actors and on the ability of operational sections of the mission to develop a comprehensive response strategy. While recognizing that troop caveats are a highly political issue, it is also important that DPKO headquarters recognize the challenges created by failing to openly discuss them. In South Sudan, the Senior Protection of Civilians Advisor was largely responsible for drafting the Mission’s Protection of Civilians strategy, but even he did not have access to information on the troop caveats. It is impossible to develop an effective approach to protection of civilians if those in charge of the strategy do not even know the parameters in which they are working.

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<sup>86</sup> UN Independent Special Investigation Team, *Executive Summary of the Independent Special Investigation into the violence which occurred in Juba in 2016 and UNMISS response*, November 1, 2016, <http://goo.gl/Dhiwmx>.

<sup>87</sup> UN Independent Special Investigation Team, *Executive Summary*, 6.

<sup>88</sup> When joining a peacekeeping mission, each TCC outlines conditions of the deployment such as the locations to which their troops can be deployed, and the types of activities they can undertake. While some TCCs impose very few restrictions, others heavily control the way their troops can be asked to engage.



IDPs in Malakal POC site relocate after attack in February 2016. © IOM / Muse Mohammed

## HOLD HOST GOVERNMENTS ACCOUNTABLE FOR SOFA VIOLATIONS

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While it is imperative for the Security Council to hold the mission accountable for fulfilling its mandate, there also needs to be accountability for violations of the Status of Forces Agreement. When SOFA violations go unaddressed, it severely hinders the capacity of a peacekeeping mission to fulfill its mandate. In South Sudan, the Mission was repeatedly blocked from traveling to violence-affected areas, and at times prevented from leaving its bases at all. Such infringements represent clear SOFA violations, and yet the failure of the Security Council to impose punitive measures meant that these types of actions by the parties to the conflict went largely unaddressed and as a result continue even at the time of writing.

## INVEST IN ANALYSIS AND MAINTAINING ADEQUATE NUMBERS OF PROTECTION OF CIVILIANS ADVISORS

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In an environment as difficult as the POC sites, the UN needs to adequately resource and empower sections like the Protection of Civilians Unit whose purpose it is to consider how, despite the many challenges, the mission can provide better protection to civilians. Strong and empowered protection of civilians advisors can help the mission to navigate the challenges such as limitations in the number of troops, and can also help provide critical analysis of the areas with the greatest protection needs.

At the time of writing, there are only four protection of civilians advisors in South Sudan. For a country the size of France in which the UN has

said there is a “potential for genocide,”<sup>89</sup> having only four protection of civilian advisors is vastly insufficient. At minimum, there should be one protection of civilians advisor in each major UNMISS base, and they should work closely with the local UN commanders and humanitarian protection actors to design and rehearse strategies for protecting civilians should they come under threat.

Equally important is creating the space for a mission and humanitarians to fully maximize analytical capacities to support effective interventions. While it is well recognized that there are sensitivities in information sharing between humanitarians and peacekeepers, experiences in South Sudan show that there were at times also blockages in internal information sharing within the mission. For example, although the Joint Mission Analysis Center often had critical information about political or conflict developments, their information did not always reach Force or the Protection of Civilians unit who attempted to develop response plans that could have benefitted from such information.

## DEVELOP LOCALIZED PROTECTION OF CIVILIANS RESPONSE PLANS

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Linked to the above, protection of civilians advisors can play a crucial role in developing localized response plans. While most peacekeeping missions with a protection of civilians mandate should have an overarching protection strategy, developing tailored, context-specific plans for the POC sites and field locations where the UN mission has a static presence can be crucial. Doing this ensures that the threats in each location are well understood, and that the UN troops are aware of the likely scenarios and their response options. These types of plans can help mitigate the impacts of under-resourcing that can potentially accompany the presence of a POC site, and can also help to avoid situations in which the mission is caught off guard by threats that could have been easily predicted. Engaging with troop contingents about responses to likely scenarios can also help mission

leadership at state or national level to anticipate likely blockages, such as a contingent being required to gain permission from their capital prior to engaging with an armed element.

Protection of civilians response plans are most effective when developed jointly with actors who have different perspectives and understandings of the threat environment. Ideally, a protection of civilians advisor should work with the Protection Cluster to develop the plan. The Protection Cluster representative should then be responsible for engaging with other protection actors and the affected community. This type of joint process also helps to create buy-in from the relevant actors. The UNMISS Protection of Civilians unit and Protection Cluster worked together closely on a number of such plans, which was generally agreed to be a good practice.

One lesson from this experience, however, was that it is crucial to inform and train troop contingents on the localized plans every time there is a troop rotation. In one instance in South Sudan, a thorough protection of civilians response plan had been developed for an area, but when violence broke out shortly after a troop rotation, the new contingent completely failed to uphold their responsibilities in the plan and instead bunkered down in their base. This could have been avoided had there been more regular discussions and trainings of the troop contingents.

Linked to the above, another useful tool can be the development of protection “hotspot” matrices. These matrices have been used by humanitarians in a number of countries to help inform peacekeeping missions on areas where humanitarians perceive there to be the greatest threats to civilians. The matrices can then be used to guide patrolling.

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<sup>89</sup> Adama Dieng, UN Special Advisor on the Prevention of Genocide, *Statement to the Security Council*, New York, November 17, 2016, <https://goo.gl/D6ydlW>.

## ENSURE ROBUST TRAINING AND REHEARSING FOR TROOPS

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A lesson that repeatedly emerged in South Sudan was the need for more robust training of troops. For all the reasons already outlined in this paper, civilians in POC sites are far more heavily dependent on peacekeepers than they would be in traditional IDP camps. In such a situation, the UN has a tremendous responsibility to ensure that its troops are able to uphold their protection responsibilities. Some of this may be beyond the control of the mission at country level (for example, the total number of troops or the mandate), but other aspects can be improved through regular engagement and capacity building by mission leadership in the field.

Following the attack on the Malakal POC site in February 2016, DPKO and various NGOs launched inquiries into UNMISS' responses. A finding that was shared across many of these reports, was the need for more specific and scenario-based trainings. According to the Center for Civilians in Conflict (CIVIC), "Despite trainings on the Mission's rules of engagement (ROEs), some peacekeepers still seemed to misunderstand the Chapter 7 protection of civilians mandate, as a unit from at least one troop contributing country (TCC) asked for written confirmation they could use lethal force in response to this attack."<sup>90</sup> This inaction from troops during the Malakal attack had serious negative impacts for the civilian population and the reputation of the UN Mission, and could have been avoided through better training and engagement with the TCC.

## BE AWARE OF CONFLICT DYNAMICS WHEN CONSIDERING THE BALANCE OF THE RESPONSE

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A final element when considering how to provide effective protection responses in POC site settings relates to conflict sensitivity. Even more than in a traditional IDP camp setting, conflict sensitivity in contexts with POC sites is crucial to the safety of IDPs and the ability of humanitarians and peacekeepers to fulfill their mandates. Depending on the geographic positioning of the POC sites, their demographic composition, and the role of peacekeepers elsewhere in the country, providing static protection to a large population may create tension with the authorities. The government may believe that the mission is trying to create a state within a state, and undermine the sovereignty of the central government.

In South Sudan at the end of 2016, UNMISS did not have a single base in opposition-held areas. These types of imbalances can lead to perceptions that the UN mission lacks neutrality – the government may argue that the UN mission favors the opposition as it is only offering static protection to "opposition sympathizers" within their bases, while members of the opposition may make the case that the UN mission favors the government by only setting up bases in government-held areas, and not protecting civilians from new government attacks in opposition-held locations. While neither of these accusations is objectively true, perceptions can be just as damaging as facts. Peacekeeping missions will need to continually monitor the context and local dynamics, and consider perceptions when designing their intervention strategies. The next chapter will look in greater detail at the risks associated with perceptions of a loss of neutrality.

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<sup>90</sup> Center for Civilians in Conflict (CIVIC), *A Refuge in Flames: The February 17-18 Violence in Malakal POC*, 2016, <http://goo.gl/lYyWDy>, 6.

# 7

## MAINTAINING THE CIVILIAN CHARACTER OF POC SITES

**Maintaining the civilian character of IDP and refugee camps has been a challenge ever since displacement camps first emerged. Refugee camps along the Thai-Cambodian border were notoriously saturated with armed actors in the late 1970s and 1980s, as were the refugee camps in eastern Democratic Republic of Congo following the Rwandan genocide in 1994. Over time, humanitarians and peacekeepers have become more aware of the potential for militarization in refugee and IDP camps, but despite the best efforts of peacekeepers and humanitarians, it is nevertheless not always possible to prevent armed actors and weapons from entering into sites.**

In considering the issue of militarization of POC sites, their location in UN bases presents both opportunities and challenges. Being housed in UN premises alone does not prevent militarization, and arguably, the potential negative impacts of militarization can be more far-reaching. Proactive measures must be put in place to prevent combatants and weapons from entering the sites, to screen and demobilize individuals who surrender at the gates, and to manage weapons that have been confiscated or seized. While the resources available to do this are greater in POC site settings than might be the case in traditional IDP camps, this is nevertheless a complex issue and can place a strain on UN missions that are already overstretched.

The UN Mission in South Sudan has made considerable efforts to develop strategies and approaches to maintaining the civilian character of the POC sites, and approaches have evolved and been refined in the three years since the sites first emerged. While challenges still persist, there are many positive examples to draw from. The following chapter reflects on the lessons from these efforts, with the hope that this can help to inform demilitarization efforts in future POC site settings.

### THE IMPORTANCE OF MAINTAINING THE CIVILIAN CHARACTER OF POC SITES

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Prior to considering approaches to maintaining the civilian character of POC sites, it is worthwhile to first consider why this issue is uniquely important in POC site settings compared to traditional IDP camps. There are two broad categories of risks in this regard: those risks that are common to militarization of any displacement camp, and those risks that are unique or exacerbated in POC site settings. This section will look at both types of risks, but will spend less time on the former given that these are already well known from other humanitarian contexts.

Arguably the greatest risk of militarization in any displacement camp is that with a real or perceived loss of civilian character, a camp can become a target of attack. If parties to a conflict have reason to believe that combatants are hiding among civilians, they may argue that the military imperative outweighs the protection to civilians offered under international humanitarian law. Such a scenario can prove devastating to the civilian population, and there may be limited legal remedy available if parties to the conflict can effectively

make the case that the camp has become a legitimate military target.<sup>91</sup>

Another common risk of militarization in displacement camps is the potential for an increase in weapons to lead to greater criminality and violence inside the sites. It is well recognized that idleness, frustrations over displacement, and increased consumption of alcohol and intoxicants can create an environment that is ripe for violence. Adding weapons into this context can further enable violence and criminality inside the sites, both between members of the community as well as within households.

A third common risk is that combatants may use displacement sites as “R&R destinations,” and may visit the sites when they need to restock on supplies, rest, or recruit additional personnel. In such a situation, the camps (and assistance provided therein) can inadvertently become complicit in fueling the conflict. The diversion of assistance is a highly sensitive issue, particularly given that resources are becoming increasingly limited and donors are imposing stronger requirements to account for how assistance is used. If there is proof that funds or resources have been diverted, donors may withdraw funding for assistance in the future. The recruitment of civilians to join the conflict is equally problematic, particularly as too often, forced recruitment includes both adults and children. Not only does this further undermine the civilian character of the site, but it also has damaging long-term impacts on the ability of families and communities to recover.

In addition to these common risks, however, there are additional concerns that are unique to POC site settings. First and foremost, should a POC site come under attack as a result of a perceived loss of civilian character, the impacts for the displaced population can be far more damaging. As discussed in previous chapters, the housing of POC sites inside UN bases can create a false sense of security among IDPs and can raise expectations among the civilian population that they will be protected in incidents of violence. Given the

frequent limitations on peacekeepers’ ability or willingness to provide protection, this assumption can have dangerous consequences. If a normal IDP camp came under attack as a result of being perceived to be a legitimate target, IDPs would undoubtedly flee as early as possible. In a POC site, IDPs may be more likely to remain in their shelters, both because it is likely more difficult to escape, as well as because they expect peacekeepers to protect them. If this assumption proves wrong, the results can be devastating.

A second distinct aspect of militarization in POC site contexts is the impact it can have on the perception of the UN. If combatants and weapons are seen to enter a site, parties to the conflict may believe that the UN is deliberately permitting the site to be used as an R&R destination. This type of assumption can have a detrimental impact to the perceived neutrality of the UN as a whole, and as mentioned briefly in the previous chapter, the perceived loss of neutrality of the UN mission can have an impact on their ability to fulfill other aspects of their mandate – be it protecting civilians in other parts of the country, working with the parties to the conflict on finding a political resolution to the crisis, or supporting peacebuilding activities. If there are issues of the humanitarian being conflated with the UN mission in the eyes of the parties to the conflict or the general population, this can also jeopardize the provision of humanitarian assistance and protection.

Finally, a third and underestimated risk of militarization in POC sites is the potential impact it can have on the trust and relationship between the UN mission and humanitarian actors. During interviews for this publication, three senior humanitarian officials in South Sudan independently expressed the view that UNMISS was deliberately permitting the militarization of the sites in order to further justify the need to close sites down. “It was UNMISS that started this by allowing the weapons to come in, and then they used it as a tool to argue that [the POC sites are] a militarized zone. They want the POC sites gone, and this was one way of making a case for it,” said one senior

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<sup>91</sup> Rule 10 of the ICRC Customary International Humanitarian Law database states that “Civilian objects are protected against attack, *unless and for such time as they are military objectives*” (emphasis added). For more information, see [https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1\\_rul\\_rule10](https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul_rule10).

humanitarian official. While research for this publication found no evidence that UNMISS was deliberately permitting militarization, the fact that this is the perception of numerous senior humanitarian officials speaks to the potential for militarization to corrode relations between the mission and humanitarian actors.

## ASSESS THE LEVEL OF MILITARIZATION

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In designing a strategy to maintain the civilian character of POC sites, a first important step is to assess the existing level of militarization. If a camp is entirely saturated by armed actors, this will require a fundamentally different type of intervention than in sites where there is a presence of only a few former combatants. The UN mission will need to consider the multiple factors, ranging from the flow of weapons, presence of active combatants, and levels of recruitment.

When conducting these assessments, it can benefit the UN mission to draw on individuals and entities with existing expertise in this issue. In the case of South Sudan, humanitarians at times felt that because UN missions were not accustomed to administering displacement camps, they were perhaps not as familiar with the issue as humanitarian actors who had worked in IDP and refugee camps around the world and encountered this issue repeatedly elsewhere. In the words of one senior humanitarian official, “The Mission is not used to IDP camps...They see some weapons, and think that that’s representative of the entire population. But if you throw a net over any part of society, you will have spoilers within it, you will have criminals within that.” The official went on to explain that the presence of a few weapons should not necessarily be interpreted to mean that the camp had completely lost its civilian character, and that the specific contextual details require closer examination before coming to such a conclusion.

Other humanitarians emphasized that drawing on individuals with expertise in the local conflict dynamics can be useful in understanding cultural norms relating to military activity and likely patterns of where and how militarization might occur. One humanitarian official pointed out, for example, that by 2015 most of the POC sites in South Sudan were far from the front lines of the conflict, and would not be a logical place for combatants to use as an R&R destination. “There is no evidence that you can launch military operations from the POC sites,” he said, “they are not near to any active armed activities.” Political mobilization, on the other hand, could be much more likely, as could the potential for there to be “inactive” personnel living in the camps who could be called upon if conflict nears (though in contexts like South Sudan, this could essentially be any male of fighting age). He explained that the specific geographic location of POC sites in relation to parties to the conflict will largely determine the type of militarization that may occur, and thus needs to be carefully considered.

Another crucial factor in this assessment is to understand *why* militarization is occurring (if it indeed is). People may be hiding weapons because they lack trust in the UN, or because they are simply waiting for the right time to attack. These two motivations require vastly different types of responses and interventions. It can be useful to remember that POC sites are often a small microcosm of the broader context, and dynamics outside may be replicated within the POC site. In South Sudan, small arms proliferated even among civilian communities (often for self-protection or protection of cattle), and interviewees highlighted that the presence of a weapon should not necessarily be equated to military affiliation.

If the UN mission, humanitarians, and conflict analysts are able to work together closely in assessing the characteristics and causes of militarization in a site, this can greatly improve the likelihood of developing a strategy that will result in effective outcomes.<sup>92</sup> To do this however, the actors have to be able to trust one another and

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<sup>92</sup> In UNMISS’ official response to this publication they contest that humanitarians should be involved in the process of assessing the causes of militarization in POC sites, and cite the November 2016 Special Report of the Secretary General (S/2016/951) which recommended that UNMISS be responsible for ensuring external security of the sites.

openly share information. Public messaging about militarization can be detrimental to this process, and will be discussed in greater detail at the end of this chapter. In South Sudan, some humanitarians felt that the UN Mission jumped to conclusions prematurely and created risks by broadcasting their concerns about militarization. As a result, “Many of us hid information from UNMISS because we didn’t want to fuel their perception and narrative that the camps were militarized,” said one humanitarian official. The resultant breakdown in information sharing can be highly damaging.

## DEVELOP AND AGREE ON ROBUST SCREENING PROCEDURES AND DDR PROCESSES

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Once the level of militarization has been determined, UN mission and camp management can move forward with developing a strategy to maintain or reinstate the civilian character of the site. If a POC site has only recently formed, humanitarian and peacekeeping officials in POC site settings should assume that militarization is (or will be) a concern regardless of existing evidence. With this in mind, it is important that robust screening and DDR procedures be agreed between camp management and mission officials as early as possible in the crisis.<sup>93</sup>

In some cases, the initial screening process may be fairly straightforward. During the eruptions of violence in South Sudan in both 2013 and 2016, “VIPs” and senior ex-combatants identified and separated themselves during the influx of IDPs into the UNMISS bases. VIPs in particular may feel that they deserve a different standard of treatment than the general IDP population, and will often make their presence known to the UN mission or humanitarians. In other cases, uniformed men may surrender themselves at the gates of POC sites, making it easy to identify them for DDR processes.

Far more complicated, however, are cases of uniformed men whose affiliation with armed actors is unknown. The high potential to receive these types of cases necessitates a robust screening process – one that is designed and implemented by DDR specialists and by actors who have a strong contextual knowledge. In some locations, cultural expectations of men to defend their homes may create difficulties in differentiating between career combatants and individuals who were simply forced by circumstance to take up arms. This is discussed in greater detail in Box 7.

An added complication is a situation in which the government or controlling party demands that combatants be handed over to authorities. In South Sudan in July 2016, the government gave the UN Mission a list of names of VIPs and persons affiliated with the opposition who were known to be in the POC site, and demanded that they be remanded to the government for questioning. In this particular case, the individuals left the site before the UN Mission was forced to make a decision on how the situation would be managed, but this type of problem should be anticipated in future POC site contexts and can be particularly difficult to resolve.

Linked to the above, it is crucial that the UN mission and humanitarians agree on SOPs for how cases of VIPs and former combatants are managed. It is far easier to rebuff demands to hand over ex-combatants and rebuke accusations that camps are militarized if the UN mission is able to demonstrate that former combatants have undergone a robust DDR process and are civilians in the true sense of the word.

There are many different modalities for how DDR programs can be implemented. Below are some questions that can help to think through the various options:

- ➔ Will ex-combatants be separated into a different site or area, or integrated with the general IDP population? If separated, for how long and where?

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<sup>93</sup> UNMISS rightfully pointed out in their official response to this publication that the initial screening of individuals for weapons is a process led by the UN mission, while the DDR process can be far more complex (and may involve both mission officials and humanitarian actors). It is precisely because these two processes are so complex and involve different sets of actors that close coordination is essential – without prejudice to the fact that the UN mission retains overall responsibility for maintaining the civilian character of POC sites.

- Will there be any restrictions on the ability of ex-combatants to leave the sites? If so, how will this be monitored?
- If the presence of a VIP or high profile ex-combatant jeopardizes the security of a POC site, how will this be managed? Will they be placed in a separate site?
- Who will provide the DDR program, the UN mission or a humanitarian actor? Is there an organization that can provide individual case management for ex-combatants and VIPs?

Humanitarian actors and the UN mission should be aware that the question of whether ex-combatants and VIPs should be separated is particularly difficult. While their presence can indeed create risks for the general IDP population, ex-combatants also have rights and needs themselves, which must be respected. This dilemma is discussed in greater detail in Box 8.

#### BOX 7: CULTURAL UNDERSTANDINGS OF COMBATANTS

In considering the level of militarization in a displacement site, it is important that humanitarians and peacekeepers are aware of their own cultural bias in understanding what constitutes a combatant. Due to comparatively strong security and justice mechanisms in many western states, and the decline of armed community defense forces over the past century, individuals originating from western countries may perceive anyone who takes up arms to be a combatant. While this is understandable given the paradigm from which they originate, the identity of an armed individual in other countries cannot always be defined as linearly.

In many countries, serving in the defense of your community is not exclusively a profession, but may be an expectation of any male of a certain age. There may be an implied or explicit requirement that during times of violence, any able-bodied man will take up arms. Joining an armed group may also serve as a self-protection strategy, particularly in situations where there is a threat of consequences for anyone who does not join. It can likewise act as a survival mechanism and sense of community for young or orphaned boys who have no other functioning support systems. In such contexts, “combatants” cannot be seen as a uniform category. While an individual may meet the legal definition, the risks and needs of a career combatant can be very different from someone who has been forced to take up arms by circumstances.

When discussing the specific circumstances in South Sudan, one analyst explained “Like so many things in South Sudan the definition of a combatant is complicated by decades of war, and cultural expectations around the role of men.” He explained that because men (including boys) are expected to fight in defense of their communities, they are then often perceived to be potential future combatants even if they have not yet taken up arms. While the issue of “future combatants” may be less relevant from a disarmament, demobilization, and reintegration (DDR) perspective, the equating of men and fighters in the eyes of the parties to the conflict may have significant implications on perceptions of the neutrality of POC sites.

In considering combatants from a DDR perspective, humanitarians and peacekeepers will also need to be careful to differentiate combatants from people who merely share a political ideology with one of the parties to the conflict. “People don’t lose their political ideology when they flee from conflict,” said one humanitarian official. Basing our understanding of whether someone is a combatant based on whether they support the ideals of a political party can lead to a flawed interpretation. These types of distinctions have an important bearing on our understanding of the composition of POC sites. While a site might predominantly host supporters of an opposition party that does not necessarily mean that the site is itself composed of opposition forces.

**BOX 8: AN ETHICAL DILEMMA: THE SEPARATION OF VIPs AND EX-COMBATANTS FROM THE GENERAL IDP POPULATION**

When ex-combatants or VIPs enter a POC site, the risks to the general IDP population, UN, and ex-combatants themselves are significant. Authorities often track the movements of “high-value individuals,” and may be aware that they are being housed in the UN base. Such a situation can pose substantial challenges: the UN mission may be accused of sheltering criminals or picking sides in the conflict, the general IDP population could be threatened, and the ex-combatants themselves could be placed at greater risk of attack or abduction if they are known to seek refuge in a confined, easily breached site.

In such a situation, humanitarians and peacekeepers will have to carefully decide whether to separate VIPs and ex-combatants into a different location, or whether to integrate them within the general IDP community. Arguments in favor of integration are based primarily on ex-combatants’ rights under international humanitarian law. If an individual surrenders their weapon and uniform, and signals their intention to withdraw from armed activity, they are legally considered a civilian and have the same rights as any other member of the IDP population. Integrating them directly with the general IDP community is the most egalitarian approach to dealing with this sensitive issue, and also decreases the risks to the ex-combatants.

This is indeed the approach that was ultimately taken in South Sudan. An UNMISS guidance note directed that, “As the default option, all ex-combatants admitted to the POC site will be granted the same level of protection, no more and no less, than other civilians within the POC site. This must be clearly indicated to the individuals before their admission, that is, at the same time it is explained that their uniforms and weapons will not be returned if they choose to seek entry.”<sup>94</sup>

Arguments against integration relate primarily to the concerns described in the first paragraph above: high-profile individuals may draw further

threats to the general IDP population, to the UN mission, and may contribute to increased recruitment and weaponization in the camp. Some individuals feel strongly that the risks to the (ex) combatants should not be prioritized over the risks to the general IDP population. To take this to the hyperbolic extreme, they argue that integrating ex-combatants and VIPs so as to reduce risks to them could arguably be equated to using the other IDPs as a human shield.

Separating out ex-combatants is standard practice in refugee settings, where the risks of doing so are much lower. Typically, ex-combatants are placed in a different site until they can undergo a comprehensive DDR process. While this would be ideal in POC site settings as well, circumstances in POC sites make this far more complicated. Not only is there risk of attack to ex-combatants in IDP (including POC) site settings, but the space constraints imposed by being within a UN base may make separating out VIPs and ex-combatants physically impossible.

Ultimately, the approach will need to be based on a thorough risk assessment to all parties concerned (the general IDPs, UN, and ex-combatants), and the results of the assessment will need to be weighed against the rights of each party. Humanitarians and peacekeepers may also want to discuss the dilemma with the communities themselves – often, members of the affected community will have ideas and solutions that had previously not been considered by the international personnel.

<sup>94</sup> UNMISS, *Supplemental Guidance No. 3 to the UNMISS Guidelines on Civilians Seeking Protection at UNMISS Bases* (2013), 2015, <http://goo.gl/KG8h0t>.

## INSTITUTE A WEAPONS-FREE ZONE

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One approach to maintaining the civilian character of sites that was supported almost unanimously by interviewees was the establishment of a weapons-free zone around the POC sites. Although the formation of these zones came very late in the evolution of the crisis in South Sudan (nearly three years after the sites were first created), they are today being recognized as an important tool that should be replicated elsewhere.

In South Sudan, the weapons-free zone constitutes a 200-meter perimeter around the outside of POC sites which is cleared of vegetation and in which weapons are prohibited. The clearing of vegetation from these areas has given UNMISS greater visibility from watch towers, and has led to more effective patrolling around the POC sites. SOPs outlining the prohibited actions and expectations from UNMISS were endorsed in late 2016, which may serve as a useful starting point for future missions.

There are a few potential risks with weapons-free zones that have been noted by community members, and which should be taken into consideration in future responses. First, by clearing the vegetation surrounding the sites, women will likely have to walk further in search of firewood. Changes in the number of GBV cases should be carefully monitored by humanitarian protection actors to assess whether there is an increase in the number of incidents following the clearing of vegetation, and if so, humanitarians and peacekeepers will have to work together to find solutions (whether it is firewood patrols or helping women access alternative sources of fuel). A second issue highlighted by one community member is the question of what will happen with the weapons free zone in case of a security deterioration. “[The weapons free zone] is going well for now,” he said, “it’s good that they can see what is happening outside. But the question is, if there is fighting, will they still patrol? What will happen to us?” He went on to express concern that in such a scenario, the lack of vegetation will leave the POC site even more

exposed. While this has less to do with militarization and more to do with the general security of the POC site, it is nevertheless an important consideration when planning for potential weapons free zones.

## REINFORCE PERIMETER SECURITY AND SCREENINGS

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Another element that received widespread support during interviews was the need for better perimeter security and gate screenings at POC sites. Although all POC sites in South Sudan have some form of fencing and berm, these barriers are notoriously porous, and in some cases constitute only a chain link fence. One of the major critiques of the UN Mission after the attack and burning down of the Malakal POC site had to do with the failure to repair a known hole in the fence, which ultimately was used by the attackers to gain entry. In a report released shortly after the attack, a researcher observed six different holes in the perimeter fencing which had yet to be repaired (even some weeks after the original incident occurred).<sup>95</sup>

Two separate UN publications in 2016 emphasized the importance of strengthening perimeter security. In the Special Report of the Secretary General, the author notes “To be effective, [screening] measures must be supplemented by improved perimeter protection in order to keep out combatants who might seek to circumvent screening.”<sup>96</sup> A DPKO lessons learned note further expanded that “practical measures such as the construction of more and better observation towers and lighting, and improved technology – such as electronic fencing and day/night CCTV cameras – may increase the effectiveness of and alleviate, to an extent, the scale of the protection forces committed.”<sup>97</sup>

Strengthening the perimeter security also enhances trust between IDPs and the UN mission. Following the attacks on the Malakal and Juba POC sites in February and July 2016 respectively, UNMISS worked to reinforce the perimeter of the

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<sup>95</sup> CIVIC, *A Refuge in Flames: The February 17-18 Violence in Malakal POC*, 2016, 26.

<sup>96</sup> UN Security Council, S/2016/951, *Special report of the Secretary-General on the review of the mandate of the United Nations Mission in South Sudan*, November 10, 2016, [http://www.un.org/ga/search/view\\_doc.asp?symbol=S/2016/951](http://www.un.org/ga/search/view_doc.asp?symbol=S/2016/951), 11.

<sup>97</sup> UN DPKO, *Challenges, lessons learned and implications of the protection of civilians sites in South Sudan*, 4.

UNMISS compound area (the section that separates the IDPs from UNMISS personnel), but did not make similar improvements to the perimeter around the POC sites. This imbalance did not go unnoticed by the IDPs. “You’ve seen the wall they built around their base – they only fence themselves inside, they don’t worry about protecting us,” said an IDP in Juba. This sentiment was further reinforced during the special investigation into the events of July 2016, which found that “lack of preparedness, ineffective command and control and a risk-averse or ‘inward-looking’ posture resulted in a loss of trust and confidence – particularly by the local population and humanitarian agencies – in the will and skill of UNMISS.”<sup>98</sup>

Enhancing perimeter security can avoid weapons being snuck into the sites through holes in the fencing, but in addition to this, it is also important to ensure that there are robust weapons searches at the gates to the sites. In South Sudan, screenings at the gates are done by a local private contractor, and both UNMISS and humanitarian staff expressed concern during interviews that the searches at times lacked the necessary level of rigor. UNMISS has recently started to take steps to correct this, including by requesting the United Nations Mine Action Service (UNMAS) canine presence when large deliveries of charcoal and supplies go into the sites, but ensuring effective individual searches at gates remains a challenge.

## DEVELOP A CLEAR POLICY FOR CONFISCATED WEAPONS

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Another lesson to come from South Sudan was that if weapons are surrendered by ex-combatants at the gates, found during patrols in the weapons free zone, or confiscated during searches inside the sites, there needs to be a clear SOP on how the weapons will be dealt with. At a minimum, the weapons need to be documented, recorded in a database, and placed in a secure holding facility

until a decision is reached as to what will happen with them long-term.

In South Sudan, this initial phase of the process is well established. Weapons that have been surrendered or confiscated are placed into the custody of a Formed Police Unit (FPU), who maintain a Weapons and Ammunition Management (WAM) unit where the materials are stored. An UNPOL Assessment Team investigates the circumstances around the weapon (whether it was used in any incidents, where the weapon came from, etc.) and consolidates any evidence that might be relevant for future prosecution or holding.

The process of what happens to weapons after this stage becomes far less clear. There appear to be three main options: first, the weapons can be held indefinitely in the WAM units; second, the weapons can be destroyed; or third, the weapons can be returned to the government or another controlling authority. In some cases, the decision of which option is pursued has been clearly articulated by the Mission. The SOP on the Weapons Free Zone says, for example, “Violators of the [weapons free zone] detained for serious prohibited activities (possession of weapons, assault, rape, robbery, etc.) will be handed over to local authorities as soon as is possible.”<sup>99</sup> Both the violator and the weapon are given to the authorities in such a scenario.

In other cases, it is less clear how the determination is made of which option to pursue – particularly if a weapon is found on its own without its owner being present. Initial guidance indicated that “UNMISS should pass collected weapons to the relevant authorities rather than take them into storage itself,”<sup>100</sup> and indeed there have been documented incidents in which weapons were handed back to local commanders,<sup>101</sup> but reportedly this practice was ordered to come to an end on January 23, 2014 when DPKO headquarters sent a code cable to then SRSG Hilde Johnson ordering the Mission to either destroy the weapons or hold them indefinitely.<sup>102</sup> Nevertheless, the practice of

<sup>98</sup> UN Independent Special Investigation Team, *Executive Summary*, 5.

<sup>99</sup> UNMISS, *Standard Operating Procedures: Weapons Free Zones*, 2016, article 6.3.

<sup>100</sup> UNMISS, *Additional Guidance: Supplement to ‘Guidelines on Civilians Seeking Protection at UNMISS Bases*, December 29, 2013, <http://goo.gl/54TbtI>, para. 9.

<sup>101</sup> Small Arms Survey, *A State of Disunity: Conflict Dynamics in Unity State*, 2013-2015, December 2016, [goo.gl/Sdv8sX](http://goo.gl/Sdv8sX), 45.

<sup>102</sup> Small Arms Survey, *A State of Disunity: Conflict Dynamics in Unity State*, 45.

handing over weapons appears to have continued. In a Joint Operations Center (JOC) meeting on August 24, 2016, representatives from JOC and FPU announced that weapons that belonged to the government were returned to them. This news came as a surprise to multiple representatives from UNMISS civilian sections in attendance, as well as to the humanitarian actors in the room. Subsequent interviews for this publication reaffirmed that when weapons are determined to be government property, the weapons are transferred back to the army.

What no one was able to clarify during this research was how it was verified whether the weapons were indeed government assets. “Typically weapons aren’t marked or registered here, so we can’t trace ownership,” said one weapons expert. “There was an attempt to do marking and registration years ago but it failed,” they explained. As such, while the UNPOL Assessment Team can investigate the likelihood of a weapon belonging to the government, it is not possible to verify whether this is indeed the case.

In looking at how this issue could be dealt with in the future, there are a few areas a mission or DPKO may want to consider:

First, the UN Human Rights Due Diligence Policy (HRDDP) stipulates that “United Nations support cannot be provided where there are substantial grounds for believing there is a real risk of the receiving entities committing grave violations of international humanitarian, human rights or refugee law and where the relevant authorities fail to take the necessary corrective or mitigating measures.”<sup>103</sup> The HRDDP applies regardless of a mission’s mandate or the identity of the armed actor, and should be carefully considered when designing an approach to managing confiscated weapons. While it could be argued that merely “returning” weapons does not constitute “support,” without a proper means for verification, it is impossible to determine whether the weapons are indeed the property of one particular group. Even if this verification could indeed take place,

however, providing weapons to an armed group who is known to commit violations of international law goes against the spirit of the HRDDP. DPKO headquarters may want to consider articulating a policy for such situations.

Second, any SOP on surrendered weapons should apply equally in all areas of a country, and to all parties to the conflict. Handing over weapons to one party to a conflict but not to another can lead the UN mission to seem not neutral. As has been discussed previously, the perceived or real loss of neutrality can have severe impact on the safety of IDPs and the ability of the UN mission to fulfill its mandate.

Third, in the absence of a clear verification mechanism, the mission may want to consider a policy of exclusively destroying the weapons. Holding them indefinitely (or until such time as the conflict has ceased) may also be an option, but this should only be pursued if the mission is confident that the weapons can be safely secured and stored over an extended period until the conflict has come to an end.

## EMPLOY A CONFLICT-SENSITIVE APPROACH TO COMMUNICATIONS ABOUT MILITARIZATION

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A final important component when considering issues around militarization of POC sites is how communications about weapons will be managed. As has been discussed above, any action that lends the perception that POC sites are militarized can reinforce the argument that the sites are legitimate targets for attack. Publicizing the presence of ex-combatants, weapons, or high-level personnel in the site can all contribute to this outcome.

UN missions will need to carefully consider these issues when designing their public information strategies. In South Sudan, one of the areas where this issue became most sensitive was in showcasing the results of the Mission’s weapons searches

<sup>103</sup> UN General Assembly and Security Council A/67/775-S/2013/110, *Human rights due diligence policy on United Nations support to non-United Nations security forces*, March 5, 2013, <http://goo.gl/mUu9cF>.



Image: UNMISS Tweet 9.26 PM, October 25, 2015  
<https://goo.gl/Vm1S1l>.

inside the POC sites. On various occasions, UNMISS posted pictures of confiscated weapons on their Flickr and Twitter accounts, ostensibly to show the good work being done by the Mission. Humanitarians repeatedly expressed concern about this during interviews, particularly given that the government had made regular accusations that the camps were militarized and hinted at potential attacks.<sup>104</sup> Posting photos of confiscated weapons only further reinforced this narrative, and increased the potential risks to IDPs. In the words of one senior humanitarian official, “They are generating all kinds of risks. In a context where social media has been known to be used for hate speech and for incitement of hate crimes, [publicly discussing confiscated weapons] is just dangerous.”

While it is normal for the mission to want to publicize the good work it is doing, this needs to be managed in a very careful and conflict-sensitive manner, particularly on issues relating to militarization of sites. It may be preferable for the UN mission to adopt a policy of not publicly sharing images or updates on activities relating to weapons or ex-combatants inside the sites.

<sup>104</sup> Radio Tamazuj, *PoC Juba residents deny having weapons amid incitement fears*, October 14, 2016, <https://goo.gl/Yf024t>.

**BOX 9: FOR CONSIDERATION: COULD BETTER PHYSICAL PROTECTION BY PEACEKEEPERS LEAD TO LESS MILITARIZATION?**

While most humanitarians and peacekeepers would argue that there is no excuse for bringing weapons into a civilian displacement camp, it may nevertheless be useful to consider whether there is a link between perceptions of safety and security, and the level of weaponization of a POC site. “Of course they want to keep their weapons,” said one humanitarian in South Sudan, “they have seen the UN fail to protect them over and over again.” Despite the fact that IDPs in South Sudan have tacitly accepted “Ground Rules” set out by UNMISS and have therein agreed to refrain from bringing weapons into the sites, there is nevertheless a concern that IDPs sometimes stash weapons because, *inter alia*, they feel unsafe relying exclusively on the UN for protection – particularly given that each of the POC sites are surrounded by communities that are hostile to the POC site inhabitants. In such a situation, it is worth asking: could increased protection by peacekeepers lead to fewer weapons entering the sites?

# 8

## LAW, JUSTICE, AND SECURITY INSIDE POC SITES

**POC sites represent a cross-section of the local population. While there can be a temptation to view IDPs as “innocent victims,” in reality, there are criminals and offenders inside POC sites just as there are in any other community. The stress and trauma of displacement can likewise contribute to an increase in negative coping mechanisms, which can further compound risks to other members of the displaced population. In such a situation, having an effective security and justice system is crucial.**

Maintaining internal security in any IDP camp is an exceedingly challenging undertaking, even in the best of circumstances. In traditional IDP sites, this responsibility falls first and foremost to the local authorities. Due to the inviolable status of UN bases, however, the responsibility for security in POC sites is likely to sit with the UN mission – including preventing and responding to criminality, domestic or gang violence, and other serious offenses that would normally be managed by the national police. But how should this be done? To date, there are still no global guidelines to help missions navigate the unique legal or operational context of POC sites.

The following chapter provides an overview of the security and justice mechanisms used in the South Sudan POC sites. The conversation about approaches to justice is still evolving in South Sudan, and while an ideal solution has yet to be reached, the UN Mission in South Sudan has continued to adapt over the past three years and has made noteworthy progress. This chapter looks at the pros and cons of the justice and rule of law methods tested thus far, and provides considerations for future operations that may be faced with this issue.

### LEGAL STATUS AND JURISDICTION INSIDE POC SITES

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Prior to looking at the specific approaches to security inside POC sites, it is useful to first quickly review the jurisdictional considerations. This is discussed in greater detail in Chapter 3, but in short, UN missions typically sign a Status of Forces Agreement (SOFA) when entering a country, and this SOFA generally grants UN bases inviolable status. While the land under the base remains the territory of the host country, the inviolable nature of the base means that national jurisdiction within the site is to a certain degree suspended. Authorities can still exercise jurisdiction, but only if the UN mission grants them permission to enter the base and to exercise their powers.

The impacts of this legal limbo are less acute when the UN base exclusively houses UN personnel, but when a UN base also hosts a POC site, the implications of this jurisdictional vacuum become far more significant. In the case of the UN Mission South Sudan (and indeed the vast majority of UN missions), the UN does not have an executive mandate, and as such cannot formally adopt the functions of a state. While the SOFA grants permission for the UN to police its bases, it cannot exercise any form of judicial mandate. As a result, UNMISS can investigate “threats” to peace and security inside their bases, but it cannot investigate “crimes” as this requires a threat to be assessed against a body of laws.

**UN Police:** used to maintain general peace and security and provide a deterrent to criminality

**Community Watch Groups:** community-based mechanism used to alert UN police to incidents that could affect peace and security

**Informal Mitigation and Dispute Resolution Mechanism (IMDRM):** used to mediate non-threatening incidents and disputes

**Traditional courts:** unauthorized courts that follow similar structures to informal courts in rural areas of South Sudan

**Holding facilities:** used to temporarily detain individuals who are assessed to be a threat to the peace and security of the POC

The most significant challenge of this jurisdictional vacuum is the impact on due process. The assessment of whether a POC site resident poses a threat to peace and security in the site is made by UNMISS alone. There is no trial, jury, or judge, and the accused is not offered legal representation or the opportunity to formally launch a defense. These challenges are well recognized by UNMISS and they have taken a cautious approach to dealing with alleged perpetrators as a result, but this is nevertheless an inherent struggle of having IDPs living in an inviolable site where the UN does not have an executive mandate and the authorities cannot be relied upon for judicial support. “We try to avoid arresting people,” said one UNMISS official, “being put in the holding facilities violates their human rights. But we do it if someone poses a serious threat to the POC [site].” The impacts of this complex system are discussed in greater detail below.

## OVERVIEW OF JUSTICE AND SECURITY MECHANISMS IN SOUTH SUDAN'S POC SITES

Given the uniqueness and complexities involved with security and rule of law in POC sites, it is difficult to draw out lessons without first having a clear overview of the types of justice and security mechanisms that may exist. With this in mind, the first section below provides an overview of the mechanisms used to maintain security inside the POC sites in South Sudan. After considering these structures, the second half of the chapter goes on to consider lessons for the future.

## UN POLICE

In South Sudan, UN police (UNPOL) individual police officers and formed police units (FPU) maintain a 24/7 presence in the POC sites, including static presence at gates and at sentry posts, as well as patrolling inside the sites. UNPOL officers are the primary focal points for any disturbances, and they may request support from FPU depending on the nature and severity of the incident.

Prior to the renewed outbreak of fighting in December 2013, UNPOL's primary mandate in South Sudan was to support capacity building of the host state police. With the emergence of POC sites, UNMISS' mandate changed and UNPOL became increasingly focused on the maintenance of peace and security inside the POC sites.

Compared to UNMISS troops, UNPOL officers and FPUs have historically been more constrained by the boundaries of the POC sites. If a disturbance occurs outside the POC site perimeter, UNPOL and FPU typically must wait for UNMISS troops to respond. This has led to instances in which women have reportedly been abducted and assaulted within earshot of a POC site gate, but the police stationed there have failed to respond.<sup>105</sup> Incidents such as these erode the trust between IDPs and the UN mission, and can also lead to tensions with humanitarian actors who can become frustrated with a perceived lack of commitment to protecting civilians.

<sup>105</sup> CIVIC, *Under Fire: The July 2016 Violence in Juba and UN Response*.

## COMMUNITY WATCH GROUPS

A second security mechanism inside POC sites are the Community Watch Groups (CWGs). CWGs were established to act as a deterrent to criminal activity and increase the community's involvement in their own security. While UNPOL personnel retain a full-time presence, given the size and population of the sites, it is impossible for UNMISS alone to provide the robust coverage needed to prevent criminal activity or violence – particularly at night when visibility is reduced and the potential for criminality increases. CWGs are intended to monitor the situations inside the sites and alert UNMISS police to any disturbances, as well as provide greater community ownership over security issues.

CWGs have assumed a large degree of authority inside the POC sites in South Sudan – arguably beyond what was originally envisioned or set out in their mandate. UNPOL provides training to the CWGs and members are required to sign a code of conduct, but they are nevertheless largely autonomous within the community. Despite being unarmed and not having the official power to detain individuals, CWGs have been regularly accused of abusing their positions and overstepping their mandate. UNMISS officials recalled during interviews that they had found evidence suggesting that members of the CWGs had set up illegal detention facilities inside the sites, and had at times recovered materials which had presumably been used by the CWGs to restrain people and impose corporal punishment.

The amount of training and oversight provided to the CWGs appeared to have a significant impact on their compliance with their mandate, as well as on the level of trust placed in the CWGs by the IDP community. One camp resident explained that there was a relatively high level of trust in the “older” CWG members (namely, those who had received training and mentorship by UNPOL over a longer period), but with CWG members who were newly recruited or integrated, there were greater issues. In one instance, a group of men in a

Juba POC site established an independent CWG called N4, which served more as a vigilante group than as a formal police organization. “They are not trained, and they are not accountable to anyone,” said one IDP, who also reported that N4 would frequently beat suspects before handing them over to the justice mechanisms. N4 was eventually disbanded and some of its members integrated into the formal CWG, but IDPs reported that the community still is less trusting of former N4 members than of their older CWG peers.

## INFORMAL MITIGATION AND DISPUTE RESOLUTION MECHANISM (IMDRM)

When the CWG or other camp leader identifies an individual who they believe poses a threat to peace and security in the site or who has allegedly committed a crime, the case is referred to UNMISS for follow-up. Depending on the severity of the alleged incident, UNMISS may pass the case to one of two main mechanisms: the Informal Mitigation and Dispute Resolution Mechanism (IMDRM), which deals with cases that “do not individually pose a substantial threat to public safety or order within the POC sites, but cannot be left unaddressed,”<sup>106</sup> or to the UNMISS “holding facilities,” for cases that involve violence, sexual assault, or other serious threats.

The IMDRM is designed to function as a mediation tool to resolve minor disputes. Because of the jurisdictional issues discussed above, the IMDRM does not have adjudicatory powers and cannot assess whether a crime has been committed or impose punitive measures – it can merely help affected parties to come to a mutually agreeable solution. The IMDRM guidelines outline that the following actors may participate in IMDRMs: community leaders, members of the CWGs, the accused IDP, and the aggrieved IDP or their representatives. UNMISS and humanitarian actors may be “involved in the process in an advisory capacity,” but do not have an official function.<sup>107</sup> Any resolution must be in line with international law, and can include compensation, community service, and counseling.

<sup>106</sup> UNMISS, *Guidelines on Informal Mitigation and Dispute Resolution Mechanism in Protection of Civilians Sites*, August 2015, 1.

<sup>107</sup> UNMISS, *Guidelines on IMDRM*, 2.

In practice, almost no one interviewed for this publication had heard of the IMDRM, with the exception of those individuals who were directly involved in developing or implementing the mechanism. Even humanitarian and UN Mission officials who work in the POC sites on a daily basis on issues to do with security, justice, and administration were not familiar with the mechanism. Similar findings emerged during a study by Justice Africa on criminality inside the POC sites: “When questioned: ‘what are the different options available for dealing with disputes and crime in this PoC site?’ no single respondent mentioned IMDRM.” The paper went on to conclude “Contrasted with the primacy placed upon IMDRM as a key policy for addressing criminality and insecurity in the PoC sites by UNPOL, this finding [that POC site residents are largely unaware of the mechanism] is noteworthy.”<sup>108</sup>

Indeed, although IMDRM has promise as a potential future dispute resolution mechanism, it is difficult to say that it has had much of an impact thus far in South Sudan. The fora that both POC site residents and international personnel suggest is used much more frequently are the traditional justice mechanisms that have unofficially emerged inside the POC sites.

## TRADITIONAL JUSTICE

Although traditional courts have no official authority inside South Sudan’s POC sites, many humanitarians, UNMISS officials, and IDPs themselves suggest that it is these courts that serve as the primary dispute resolution mechanism inside the POC sites.

The exact structure and composition of the traditional courts varies from site to site in South Sudan, but typically the court is led by an elder or chief, and may include representatives from different counties of origin of the IDP communities. In some cases, the elders and chiefs acting as the judges inside the POC sites held similar leadership or judicial functions in their home counties pre-displacement, and as a result, they

may benefit from having pre-existing trust from members of the community. In sites where there are members of different ethnic groups, there are generally separate courts serving the different communities.

Due to the similar functions and composition of the traditional courts and the IMDRM, it can at times be difficult to differentiate between the two mechanisms. Indeed, multiple UNMISS officials suggested that IMDRM and the traditional courts are actually one and the same – IMDRM represents how the process is *supposed* to work, whereas the traditional courts represent what occurs *in practice*. The same individuals generally sit on the formal IMDRM panel and the informal traditional courts. There are two primary differences between the mechanisms: the types of cases heard, and the approach to punishments and restitution. First, while the official IMDRM is not intended to hear cases involving violence or substantial threats to peace and security, the traditional courts often do not make this distinction. Unlike the IMDRM, the traditional courts also hear cases on issues that are considered crimes locally, but which are not recognized as crimes by international law. These include cases such as adultery or having a child out of wedlock. The importance of recognizing local constructs and prioritizations of crimes cannot be overstated, and is discussed further in Box 10.

The second major distinction between the official mechanism (IMDRM) and the unofficial traditional courts is the approach to punishments and restitution. While the IMDRM is intended to use only small compensation, community service, or counseling, the traditional courts favor other measures that are often not supported by the UN or international law. This can include forcing survivors of sexual assault to marry their attackers, requiring the parents of a child born out of wedlock to marry and pay dowry, and using large numbers of cattle as compensation for serious crimes. In some cases where it is not possible for sufficient cattle or resources to be gathered while in the POC site, cases may be deferred until families return to their places of origin.<sup>109</sup>

<sup>108</sup> Justice Africa, *Justice displaced: field notes on criminality and insecurity in South Sudan's UN Protection of Civilians Sites*, 2016, <http://goo.gl/DLXOMo>, 27.

<sup>109</sup> Justice Africa, *Justice displaced*, 27.

## BOX 10: THE IMPORTANCE OF ADDRESSING LOCAL CONCEPTS OF CRIMES

When approaching justice and security issues inside POC sites, it is important that the UN mission and humanitarians recognize that their understanding of crimes and justice priorities may differ substantially from what the IDP community sees as priorities. Even if local concepts of crimes are inconsistent with international law or with the beliefs of international personnel, it is nevertheless essential that these issues are recognized and addressed by the UN mission and humanitarian actors.

One of the most common examples of the divergence between the priorities of the UN Mission in South Sudan and IDPs in the POC sites relates to the issue of adultery. Whereas UN justice and security mechanisms inside the POC sites do not address cases of adultery, incidents of adultery are one of the most common cases to appear before traditional courts in the POC sites. Justice Africa reported that, “From the viewpoint of the Camp Chairperson in Juba PoC site 1, UNPOL was apparently wasting their time detaining people

accused of rape, when they should instead be using the holding facilities to punish adulterers.”<sup>110</sup>

While it is understandable that UN missions would be reluctant to use IMDRM to address issues of a sensitive nature, there must also be recognition that failing to include these types of cases is likely to result in the proliferation of parallel, traditional justice systems in the POC sites. This does not necessarily mean that these sorts of cases should be included in the formal mechanisms, but rather that the UN mission needs to understand and acknowledge local concepts of crimes, and proactively engage on these issues. In the case of the quote above, it is evident that further awareness raising is needed with the camp chairperson to help him understand the severity of rape and the importance of preventing and responding to it. While there are differing opinions about whether it is appropriate for a UN mission to work to change concepts of adultery as a crime, if nothing else, it is well within the mandate of UN missions to ensure that any punishments used to address this perceived crime are at a minimum consistent with international law.

IDPs and UNMISS officials have a uniquely different perception of the level of influence of the traditional courts. While both actors informally acknowledge that the traditional courts exist, it is possible that UNMISS has not yet fully taken on board the extent of the courts’ authority in the community. This became particularly apparent when discussing procedures for serious offenses: whereas UNMISS officials typically believed that the decision on how a case is managed is made by UNMISS (with inputs from humanitarians and members of the IDP community), the IDPs appeared to view UNMISS’ engagement as merely a temporary intervention while the permanent decision is made by the traditional courts. While the reality is undoubtedly somewhere between the two, this shows the level of differences in perceptions of where justice decisions are made.

## HOLDING FACILITIES

One of the greatest challenges for UNPOL in South Sudan’s POC sites was managing cases of individuals who were believed to pose a significant threat to peace and security. Given the intended short duration of the POC sites, none of the original guidance or plans foresaw a scenario in which UNMISS would be responsible for administering internal justice over a sustained period. To the contrary, the limited pre-existing SOPs on detention<sup>111</sup> presumed an environment in which a detainee would be remanded to government custody within 48 hours – a situation which was made impossible by the role of the government in the conflict. Nevertheless, serious offenses did occur in the sites and required action from UNMISS to protect the other IDPs. In the first

<sup>110</sup> Justice Africa, *Justice displaced*, 24.

<sup>111</sup> For example, the UN’s *Interim Standard Operating Procedures: Detention in United Nations Peace Operations*, 2010.

months, incidents were dealt with on a case-by-case basis. Individuals were at times detained by UNMISS temporarily, but in the absence of a formal facility, UNMISS had to devise makeshift holding areas – including one instance where an individual was reportedly held temporarily in an UNMISS vehicle. In May 2014, UNMISS set up “holding facilities” in the POC sites to detain individuals who were deemed to pose a serious threat to the sites. Over the subsequent two and a half years, over 3,800 people have passed through the facilities.

Due to the wide variety of types of cases brought to the holding facilities, the duration of stay differs substantially. As one UNPOL officer explained, “There is no standard with regards to length of detention since IDPs are held based on an assessment of the extent to which they pose a threat to the security of the POC site.”<sup>112</sup> Being held in the holding facility is not a punitive measure, but is rather designed as a mechanism for maintaining the security of the site. Individuals are held until they are deemed to no longer pose a threat to the community, or until such time as they can be handed over to the national authorities or expelled. The majority of persons are released within a few days or weeks, but a smaller number of individuals are held for months or even years.

Conditions in the holding facilities were initially very problematic, with repeated cases of minors being held together with adults and standards of living inside the cells that bordered on being hazardous to the health of the detainees. Although there was improvement over time, many humanitarian and UNMISS officials expressed concern during interviews that even two and a half years after their initial inception, conditions remain far below acceptable international standards. “Conditions are barely ok for 72 hours, much less months or years,” said one UNMISS official. The holding facilities are constructed out of shipping containers with a few small windows cut into the sides, and while this allows for some minimal

ventilation, it does not prevent the containers from reaching upwards of 45 degrees Celsius. Detainees must be escorted from the containers each time they want to use the toilet, which has led to attacks on corrections staff as well as escapes. The perimeter around the holding facilities is weak and easily breachable, and has resulted in numerous escapes over the past three years – including 20 individuals in one month alone in 2014.

Perhaps the greatest concern for many humanitarian and UNMISS officials is the absence of due process for individuals in the holding facilities. In a DPKO lessons learned paper in 2016, the authors noted “There is perhaps no issue where the tension between Mission practice and normative standards is as clear as in the challenges surrounding detention.”<sup>113</sup> While cases are reviewed regularly during Case Review Conferences, accused parties do not have the opportunity to have representation or defend themselves. “Holdees do not have legal representation since there is no trial,” explained one UNPOL officer.<sup>114</sup> UNMISS makes a determination of whether the individual continues to pose a threat to the POC site, and if so, there are three options available: the individual can be handed over to the government (provided a risk assessment has concluded that they will not be subjected to persecution or cruel, inhuman, or degrading treatment), they can be expelled from the site, or they can continue to be detained.<sup>115</sup>

During the assessment of whether a person can be handed over to authorities, UNMISS considers not only the potential security risks to the individual, but also whether they would be granted livable conditions in a government jail, and whether they will have access to due process before the law. As one UNMISS official pointed out, however, there is irony that “We are not upholding the same standards [in UNMISS holding facilities] that we demand of the South Sudanese government.” He explained that if the UN were independently assessing the UNMISS holding facilities, the conditions in the containers and the lack of due

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<sup>112</sup> South Sudan Protection Cluster Meeting Minutes, July 14, 2015.

<sup>113</sup> UN DPKO, *Challenges, lessons learned and implications of the protection of civilians sites in South Sudan*, 5.

<sup>114</sup> South Sudan Protection Cluster Meeting Minutes, July 14, 2015.

<sup>115</sup> UNMISS, *Note of Guidance For UNMISS, Security of the IDP Population in the POC Sites*, 2014.

## BOX 11: WHICH RIGHT TO VIOLATE?

The legal and security context in South Sudan posed unique dilemmas with regard to the treatment of serious offenders. On the one hand, transferring individuals to government custody created a risk of persecution and ill-treatment, and could arguably constitute *refoulement*.<sup>116</sup> On the other hand, detaining individuals indefinitely without due process could be seen as unlawful detention. These dilemmas raised an uncomfortable question for humanitarians and UN Mission officials: if every approach to dealing with serious offenders results in the violation of a human right, which right should be violated?

In South Sudan, it was ultimately decided that in most cases, the risks associated with potential persecution at the hands of the government outweighed the risk of indefinite detention in the POC site. The decision was based largely on a practical risk assessment rather than a pre-defined, rights-based approach. It is possible, however, that at a certain point this balance may change. After years in a holding facility, the negative impact of detention without trial on a person's psyche may be greater than the potential physical risks that could come with being transferred to the government. At such a point, an individual's own prioritization of their rights may change.

process would not meet the minimum thresholds set out in international law. "When I first saw the holding facilities, I couldn't believe that these were sites run by the UN," he said.

In cases where handover or expulsion is deemed unviable, individuals may be detained indefinitely, despite never receiving a trial. In the Juba POC holding facility alone, there are two individuals who have been detained for over two years. These types of cases essentially mean the Mission is faced with the uncomfortable question of which right to violate: handing individuals over to

Another factor to be considered are the rights of the victim and the community. While every individual has the right to be protected from unlawful detention, survivors of serious offenses and potential future victims also have the right to be protected from individuals who are known to pose a potential threat. Indeed, the initial basis for UNMISS' use of detention was done under the protection of civilians element of its mandate. In this sense, considerations on approaches to managing serious offenders must consider not only the rights of the offender themselves, but also the rights of the community to be safe from harm.

There is no easy answer to any of these questions, and each case will likely have to be assessed on an individual basis – and will have to continue to be reevaluated over time. At the end of this chapter there is a discussion that considers options for alternatives that would improve the due process challenges, and which would ideally support greater respect for the rights of victims and offenders alike. Unfortunately, each of those potential alternatives also come with substantial risks, meaning further consideration of this issue will be needed before an acceptable approach can be reached.

authorities could constitute *refoulement* if the individual is subjected to persecution or ill-treatment, but holding them indefinitely without trial arguably constitutes unlawful detention. This is discussed further in Box 11.

When asking why conditions in the holding facilities have not been further improved, a number of potential reasons were offered by interviewees. First, some members of UNMISS' senior leadership reportedly expressed concerns that if conditions in the holding facilities were made too comfortable, people would deliberately attempt to

<sup>116</sup> The principle of *non-refoulement* under international law refers to the right of an individual to be protected from being returned or transferred to a territory or authority where there is credible reason to believe that they would be subjected to persecution or cruel, inhuman, or degrading treatment. It is most known for its application in refugee settings, but is also firmly grounded in International Human Rights Law.

be detained. Second, senior officials reportedly argued that with all of the funding needs in the POC sites, the Mission should not commit resources to improving conditions for “the troublemakers.” Third, some members of the senior leadership reportedly made statements arguing that “these are our camps, we can do what we want with them.” This last point was of particular concern to some humanitarians, who felt that it is precisely *because* it is a UN facility that conditions should meet international standards.

A final factor that appears to have prevented improvements is the continued belief that the holding facilities are temporary, and that UNMISS should not invest resources as cases should be handed over to the government. Unfortunately, after three years it is difficult to classify the holding facilities as temporary, and the attempts at handing over cases have thus far been largely unsuccessful: in one case, four serious offenders were transferred to the government for prosecution, but the individuals were released shortly thereafter. Anecdotal reports suggest that at least some of these individuals subsequently returned to the POC site. Transfers to the government have been suspended since this time, and the government is also now reluctant to accept cases without being provided financial or material support from the Mission.

## CONSIDERATIONS FOR THE FUTURE: DECIDING ON AN APPROACH TO JUSTICE AND SECURITY INSIDE POC SITES

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UN missions faced with the emergence of a POC site may have little choice but to accept a *de facto* role for maintaining peace and security within the site – as much for the security of IDPs as for their own. While there may be little alternative, it is nevertheless critical that this be discussed with the mission’s senior leadership and that an agreement is reached on an approach. To be effective, there needs to be commitment from the mission leadership and UN headquarters to not only take on a security and justice role, but to also meet relevant international standards when doing so. As one interviewee argued, “If the UN is going to take on

the responsibility for addressing criminality in the sites, they need to commit to investing the resources to do it properly.”

Most importantly, in the case of holding facilities this means ensuring sufficient resources and commitment to enable the mission to uphold the *Interim Standard Operating Procedures for Detention in United Nations Peace Operations* and the *Standard Minimum Rules for the Treatment of Prisoners*. In particular, under no circumstances should minors be detained with adults, or women with men. Food and other provisions must be provided in accordance with the minimum standards. In cases where these standards exceed what is provided in the remainder of the POC site, a discussion will need to be had between the UN mission and humanitarian actors to determine an appropriate balance. This is discussed in greater detail in Box 12.

Once an approach has been agreed by senior leadership, this needs to be clearly communicated to all segments of the mission. UNMISS officials recalled during interviews that the lack of understanding and awareness of the holding facilities had at times created challenges in gaining the necessary support from more operational sections within the Mission. For example, food for the detainees is normally provided by an external contractor, but when security prevented the contractor from being able to access the POC site, UNPOL and Corrections sought support from Mission Supply. Supply in turn told them that it is not their responsibility to provide meals for the holding facilities, which left Corrections to try to find a solution on their own. Such situations can be avoided if a mission-wide directive is issued to all sections explaining the holding facilities and need for collective support and engagement.

To assist field missions in navigating these discussions, it could be beneficial for DPKO at headquarters level to develop guidance on how to manage security and justice inside POC sites. The level of complexity involved in the jurisdictional and operational implications of providing security in POC sites cannot be underestimated, and mission staff may not have the bandwidth to be able to extensively deliberate these issues in the midst of a crisis. Likewise, there are aspects of these

## BOX 12: APPROPRIATE STANDARDS IN HOLDING FACILITIES

One of the dilemmas faced by UNMISS with regard to the holding facilities in South Sudan was the level and type of assistance that should be provided to the detainees. Given the basic conditions in the POC sites in South Sudan, meeting international standards of assistance in detention could mean providing detainees with a higher level of services than were available to the remainder of people in the POC sites – including the victim of the offense. This created an understandable level of discomfort for some in the UN Mission, who felt this would essentially be rewarding perpetrators and punishing victims.

While poor standards in POC sites should not be an excuse for bad conditions in holding facilities, actors will nevertheless need to discuss and agree on an appropriate balance. Whereas IDPs living in POC sites have the freedom to supplement the support available to them, to advocate for greater support, or to leave if they are unhappy with the conditions in the site, these same options are not available to people in the holding facilities. Arguably, this creates a higher duty of care to detainees than is the case for the general POC site population. Nevertheless, finding an appropriate balance is a delicate issue and needs to be considered carefully.

discussions (particularly relating to mandates and rule of law in inviolable bases) that require further deliberation and agreement at an international level. As one DPKO official said in a 2014 article though, “Between the Security Council’s capacity to create legal direction for peacekeepers on overarching questions and DPKO’s ability to provide policy guidance, establishing practical answers to these challenging questions is an achievable goal.”<sup>117</sup>

## ESTABLISH CLEAR SOPS ON HOW DIFFERENT TYPES OF CASES WILL BE MANAGED

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A second point that came out clearly during interviews was the importance of UN missions setting out clear SOPs for how different types of threats will be managed in POC sites. Although in South Sudan there is a cursory explanation of this in the UNMISS document *Implementation of the Note of Guidance to UNMISS on Security of the IDP population in the PoC sites*, this only differentiates between “serious offenses” and individuals who are “not a serious threat,” without explaining what types of incidents would fall into these two categories. The absence of a more detailed SOP has resulted in a large degree of ambiguity for UN police officers, who subsequently often fall back on the standards that would be applicable in their home countries when deciding whether to detain an individual. While a certain degree of flexibility is not a bad thing per se, there is a need for greater consistency and predictability for which cases will be brought to holding facilities, which cases will be sent to the IMDRM, and which cases will be left to the community or family to resolve. It may be difficult to predict every type of incident that could occur in a POC site, but the mission can nevertheless articulate approaches to broad categories of threats.

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<sup>117</sup> Ralph Mamiya, “Legal Challenges for UN Peacekeepers Protecting Civilians in South Sudan,” *American Society of International Law* 18, no. 26, 2014.



UNPOL in Bentiu POC site. February 2016. © IOM / Muse Mohammed

Likewise, many interviewees felt it would be useful to develop guidelines to assist in decision making about whether long-term detainees (or “holdees” as they are called in UNMISS) should be transferred, expelled, released, or continue to be detained. Some cases could be resolved in a more timely manner if there were clearer guidance – for example, it is unlikely that an individual who has reportedly committed a non-violent theft will need to be detained over an extended period, and having clear guidance could avoid them having to be held until the next case review conference. Humanitarians further emphasized during interviews that while the Case Review Conference is a beneficial initiative, it is important to examine options for increasing the representation of detainees. Ideally this would be an independent party, but it could equally be an UNMISS official who is mandated to act as an advocate for the detainees or an ombudsman.

One last area that can be useful is to establish a Memorandum of Understanding (MOU) with the government. An MOU can be a bridge towards eventually transferring cases back to the government, and can likewise ensure greater consistency and accountability. This was attempted in South Sudan, but the government ultimately rejected the draft – ostensibly because of provisions requiring the exclusion of the death penalty. Other missions have had some success in streamlining this process by including an annex to the SOFA which outlines key points and red lines for transfers (for example, the prohibition of torture or capital punishment), so that if and when it came time to hand someone over, much of the work was already done.

## COMMIT SUFFICIENT RESOURCING

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As mentioned above, if missions decide to take on a role in justice and security inside POC sites, they must commit to doing it effectively. An essential precursor to this is providing sufficient resources to enable the mission to meet relevant international standards (namely, the *Interim Standard Operating Procedures for Detention in United Nations Peace Operations*, and the *Standard Minimum Rules for the Treatment of Prisoners*). In South Sudan, the absence of sufficient funding has had an impact not only on the conditions and fulfillment of rights for detainees, but also in the ability of the Mission to maintain a safe and stable environment in the holding facilities. The exceedingly basic conditions made it difficult for UNMISS staff to compel good behavior through dynamic measures (for example, by granting or retracting privileges such as having extra time outside the holding cell). Instead, UNMISS staff were forced to withhold the limited provisions available to the individuals, further deteriorating their human rights. A shortage of handcuffs, riot gear, and individual holding spaces also makes it much more difficult for corrections staff to manage a detainee who poses a threat to themselves, other detainees, or the UNMISS staff.

Likewise, as mentioned above, not only are the security perimeters around the holding facilities weak in preventing detainees from escaping, they are also incapable of protecting detainees and staff from external threats. During the eruption of conflict in Juba in July 2016, bullets and mortars fell inside the POC sites, but there were no bunkers or HESCO barriers in the holding facility areas. If holding facilities are constructed in future POC sites, the mission should ensure adequate safety measures for detainees and staff.

## PRIORITIZE ROBUST TRAINING AND COMPLAINTS MECHANISMS

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Having SOPs for how cases should be managed is not enough if the persons responsible for implementing the strategy do not know what is expected of them. Training UNPOL officers and FPUs in this regard is an essential step. Particularly important is to train and rehearse responses to ongoing incidents – an initiative which is currently underway in South Sudan. This relates to common types of incidents within a site (riots, alcohol-induced fights, targeted violence, etc.) as well as incidents that could occur immediately outside perimeter gates (for example, abductions or sexual violence). Rehearsing responses can help to improve the quality and timeliness of interventions, and can also avoid peacekeepers resorting to controversial tactics such as the use of tear gas on women and children, as has been observed in South Sudan.<sup>118</sup> Likewise, as discussed in Chapter 4, it is critical that staff be trained on how to manage sensitive cases with respect for the confidentiality and dignity of the survivor.

A second important set of training initiatives relates to the Community Watch Groups. Experiences in South Sudan have shown that increased training has a direct correlation to the quality of the response provided by the CWGs. Likewise, ensuring that there is close supervision and a robust complaints management procedure can help to quickly identify any problematic issues or individuals and enable a timely intervention.

A third area for training is with the traditional justice mechanisms. Rather than pretending these courts do not exist, it would be far more productive for UNMISS and humanitarians to proactively engage with and monitor the courts to encourage them to adopt more sensitive approaches that respect the rights of the victims and the alleged perpetrators. Courts are often held in public, even when dealing with cases of sexual violence, and the resolutions imposed are at times highly detrimental to the victims. Working with the courts to raise awareness of rights and find alternatives could be a crucial intervention.

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<sup>118</sup> Justin Lynch, "UN peacekeepers fled, used tear gas on South Sudan civilians," *Associated Press*, October 5, 2014, <http://goo.gl/73dFHG>.

Finally, a fourth area for training is with the individuals involved in the holding facilities. While UNMISS developed an SOP on the Management of UNMISS Holding Facilities, these SOPs relate primarily to disturbances at the sites. Developing and training staff on guidelines for the day-to-day management of the sites, including the rights of holdees, is critical. Likewise, holdees need to have the opportunity to lodge complaints about their treatment in the facilities. Establishing a complaints mechanism or ombudsman for the holding facilities should be a priority for the UN Mission and promotes greater accountability and transparency.

## POTENTIAL ALTERNATIVES

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Despite the high level of commitment from some in UNMISS to strengthening the quality of security and justice measures provided by the Mission, the situation is far from resolved. In a paper by Justice Africa released in 2016, the author notes “The dominant narrative used by UNMISS regarding the management of criminality and insecurity in the PoC sites depicts a securitised, sanitised version of the reality; prisoners in their makeshift jails are known as “holdees” in “holding facilities,” crimes are called “security incidents,” adjudication is called “mitigation,” and so on. While this serves the defensible purpose of insulating the Mission from recrimination by the Government of South Sudan whilst remaining consistent with its mandate, it obscures the lived experiences of the displaced communities.”<sup>119</sup>

In this context, it is necessary to constantly reflect on whether there are alternatives that could possibly yield a better outcome. Given the jurisdictional issues inside the POC sites, such alternatives are unfortunately very limited. Nevertheless, below are a few options that could enable a more robust approach to due process.

## CONFER AN EXECUTIVE MANDATE TO THE UN MISSION INSIDE POC SITES

A first option would be to give UN missions an executive mandate inside their bases. While this may initially appear to be an extreme option, various forms of executive mandates have existed in other UN missions – ranging from full executive mandates in Kosovo and East Timor, to more limited “urgent temporary measures” in the Central African Republic. If the greatest hindrance to due process is the absence of a legal framework and authority inside the sites, applying some form of executive mandate could mitigate this issue – provided the mission has the support of the state to do so.

The biggest weakness to this approach is that not only would it require a tremendous resource investment, but it would also be highly unlikely that the host government would agree to such a mandate. The Stimson Center reflected “This quasi-executive mandate has proven useful in the context of the Central African Republic, where state security forces, including police, are extremely weak. However, core peacekeeping principles require that peacekeeping missions operate with the strategic consent of the main parties to the conflict, and the South Sudanese government is highly unlikely to consent to such a mandate, so there is little possibility for UNMISS to be granted greater law enforcement authority.”<sup>120</sup> Nevertheless, the dynamics of each POC site context will need to be assessed individually, and in some cases it could be possible for the mission to be granted a degree of executive powers. This would then carry its own challenges, however, as depending on the degree of authority provided by the mandate, the UN may have to grapple with issues of setting up courts, investigative teams, and prisons.

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<sup>119</sup> Justice Africa, *Justice displaced*, 4.

<sup>120</sup> Stimson Center, *Establishing Safety and Security at Protection of Civilians Site: Lessons from the United Nations Mission in South Sudan*, September 2015, <https://goo.gl/LRVp6x>, 11.

## **ESTABLISH A HYBRID COURT TO MANAGE CASES INSIDE POC SITES**

A second option would be to establish a hybrid court. It is likely that such a court would require the endorsement of both parties to the conflict and major ethnic groups, but the composition of the court could be adapted to ensure adequate representation. There are at least three potential compositions for such a court: first, it could include representatives of the government together with the UN mission; second, representatives of the government, IDP community, and UN mission; or third, representatives of the government and IDP community, without the presence of the UN.

There are three main challenges that could emerge with such an approach: first, it is likely that the government may oppose the creation of a separate court that sits outside of the existing judicial mechanisms. There may indeed be laws preventing parallel courts from existing, as is the case in South Sudan. Second, depending on the role of the government in the conflict, IDPs in the sites (and humanitarian actors) may strongly object to the inclusion of government representatives on a court panel. And third, even if the representation issues could be resolved, the UN mission is likely to struggle to gain agreement on which legal system will be used, the types of cases that will be heard, and the appropriate remedies.

## **EMPOWER TRADITIONAL JUSTICE MECHANISMS**

A third option would be to formally recognize and empower the traditional justice mechanisms that already exist within the camp, and confer upon them the authority to deal with serious threats. Given that these courts are already trusted by the IDP community, it is likely that there would be a high degree of acceptance for such an approach. In order for this to be a viable option, however, there would have to be much closer engagement between the traditional courts and the UN mission and humanitarians. An agreement would have to be reached on appropriate remedies and red lines – namely, compliance with international law. In the absence of the involvement of a government actor (such as would be included in the hybrid

court example above), the UN would have to take greater responsibility for ensuring compliance with these agreed standards, and may need to dedicate a full time international observer to be placed in the court to monitor compliance.

As in the case of a potential hybrid court, however, the government may be unlikely to authorize this approach as it would essentially constitute a parallel judicial system. Experiences from South Sudan also show that traditional justice mechanisms within the POC sites are particularly difficult to control and can become unwieldy even when clear guidelines are in place.

## **TRANSFERS TO GOVERNMENT WITH CLOSE CASE MANAGEMENT**

A fourth and final option is for the UN mission to transfer cases to the government, but maintain very close case management for each individual who is transferred. This would require daily visits to the government jails and courts to ensure that individuals are being treated fairly and are benefiting from due process. It would likewise require the UN mission to provide mentorship and capacity building to state institutions. While this may sound like a significant resource investment, it is likely to be less intensive than managing holding facilities in the sites themselves.

Although this is arguably the most viable option from the perspective of UN missions, this option also comes with the greatest risks – particularly in contexts where the government has perpetrated human rights violations, is an active party to a conflict, or has a weak judicial or penal system. If members of the IDP community do not trust that they will be treated fairly if handed over, this could create significant tensions in the POC sites between the IDPs and the UN mission. If transfers result in escapes, ill-treatment of prisoners, or other negative outcomes, it could also have a significant impact on the reputation of the UN and thus affect its ability to fulfill other aspects of its mandate.

# 9

## HUMANITARIAN PROTECTION IN POC SITE CONTEXTS

*This chapter was authored by Lisa Monaghan*

Humanitarians and peacekeepers have complementary, but distinct approaches to protection. Whereas “protection of civilians” in a peacekeeping context focuses heavily on physical security and is often connoted with a militarized or securitized approach, humanitarians emphasize the fulfillment of rights and ability to live in safety and dignity. POC site contexts require both types of protection interventions, but the short-term nature of POC sites may contrast with long-term protection approaches favored by humanitarians. As addressed in Chapter 3, while POC sites may be envisaged by UN missions to provide short-term respite from immediate violence, for communities, displacement can be a longer-term protection strategy. This can create tension between actors in understanding the functionality and longevity of a POC site. This can also lead to the adoption of an emphasis around the notion of “return,” “relocation,” and “durable solutions” to decongest or close POC sites that can create new harm dynamics for the civilian population.

The following chapter offers considerations on humanitarian approaches to protection in POC site contexts. It emphasizes the need for independent humanitarian analysis and a defined humanitarian protection strategy, to ensure that the humanitarian element of the protection response is upheld even within POC sites administered by a peacekeeping mission.

### **FINDING THE FRAME: PROVIDE AN APPROPRIATE PROTECTION ANALYSIS**

At the outset of any armed conflict or displacement, it is imperative that humanitarian protection actors and the broader international response architecture agree to the fundamental realities of the context: namely, the drivers of violence endangering civilians. For an operational protection response, having an accurate understanding of conflict at the regional, national, and local levels significantly increases the capacity of humanitarian actors to anticipate what will happen and intervene to address threats to civilians. This understanding will likewise be crucial in enabling actors to effectively triage and prioritize areas for responses. Compared to traditional IDP settings, however, humanitarians may face greater challenges in POC site contexts in being able to independently define the protection narrative, which can have direct operational implications and impacts on protection outcomes.

### **RECOGNIZE THE IMPACT OF OTHER ACTORS ON THE PROTECTION ANALYSIS AND NARRATIVE**

It is important to recognize that within the country structure, a peacekeeping mission is likely to be a dominant political actor and may set the tone and framing for the protection narrative. If humanitarian actors do not agree with the analysis or tone being struck, this can create a tension between these two sides of the international response. This is exacerbated where a) the peacekeeping mission is anticipated to have a role in facilitating a peace process should one be required or b) where the peacekeeping mission provides

security sector and state building support to the Government, if the Government and its armed forces represent a significant protection threat to the population in the POC sites. In such contexts, there may be a conflict in the role of the mission and a humanitarian response: the role of the former is to plan and support the optimal resolution of conflict and the peace-process, and the role of the latter is to plan for the worst-case scenario. Rather than complementary approaches, these are diametrically opposing worldviews of the operating environment.

In South Sudan, one former UNMISS staff member argued in an interview that “the SRSG [Hilde Johnson] was the international face to the response to South Sudan, and set the tone, but unfortunately what she said never matched reality.” This statement echoes a 2013 report from the Clingendael Institute in which an UNMISS staff member is quoted as saying “we are laying the groundwork for our own failure” by failing to develop a strategy that reflects the potential for there to be violence perpetrated by the Government. The paper goes on to express concern that the SRSG’s dealings with the Government of the Republic of South Sudan were perhaps too personalized, and that this may have jeopardized her impartiality. Within and outside of the Mission, some held the perception that the SRSG was not being critical enough with government officials.<sup>121</sup>

If a humanitarian emergency occurs within a development or state-building context (as was the case in the Central African Republic and South Sudan) it can fundamentally affect the lens through which the conflict is viewed, and impact the willingness and capacity of UN actors to respond. In South Sudan, the humanitarian community found itself grappling with the existence of a UN Mission with Chapter VII responsibilities that was established before the onset of the 2013 crisis. The Mission had an extensive political mandate, with leadership and resources firmly

allocated to the function of capacity building and state-building functions such as security sector reform, which at times appeared to come at the expense of apolitical approaches to civilian protection and interventions designed to prevent, deter, or mitigate harm. The Clingendael Institute has described the process engaged in by UNMISS as one of “protection through political process.”<sup>122</sup>

In the immediate outbreak of conflict, the pre-crisis political priorities continued to define the post-crisis narrative. This had an impact on two fronts: first, the continued proactive support for the Government and its security apparatus, even after the outset of the war, according to one former UNMISS staff member “confirmed the inability of UNMISS to play the role as neutral arbitrator between the parties to the conflict.” And second, this continued UNMISS support for the government appeared to result in a *de facto* acceptance of the Government’s position that the POC sites were obstacles to a peace process rather than sites of refuge for civilians feeling violence. Senior NGO representatives have shared hostile meetings where Government officials described people living in POC sites as traitors and rebels. “POC sites became a political problem to be fixed, demonstrable proof of the failure of the peace process. Government officials were furious,” said one senior humanitarian of meetings with the Government in 2014.

Despite the potential political environment of new POC site contexts, recognizing that protection analysis and response is a collective responsibility of the humanitarian community is the first step. This is clearly outlined in the Inter Agency Standing Committee (IASC) statement on The Centrality of Protection in Humanitarian Action<sup>123</sup> and the IASC Policy on Protection in Humanitarian Action.<sup>124</sup> In South Sudan, this collective responsibility was tested during conversations about the closure of POC sites, where it became clear that actors did not always share a common understanding of the context. There were

<sup>121</sup> Hemmer, *We are laying the groundwork for our own failure*.

<sup>122</sup> Hemmer, *We are laying the groundwork for our own failure*, 3.

<sup>123</sup> UN Inter-Agency Standing Committee (IASC), *The Centrality of Protection in Humanitarian Action*, December 17, 2013, <https://goo.gl/EMGQSL>.

<sup>124</sup> IASC, *Policy on Protection in Humanitarian Action*, October 14, 2016, <https://goo.gl/rJe3Qh>.

distinct strands of analysis, which varied from interpreting the outset of the war as a temporary blip in an otherwise straight trajectory of “South Sudan ever-better,” to those that saw it as a precursor to a larger conflict, along further and clearer ethnic splits.

With the Mission, leadership almost exclusively focused on the POC sites themselves, and perceived there to be an urgent need to “decongest” the bases. The onus was on humanitarians to prove the context was not safe enough for people to leave, rather than on UNMISS to demonstrate that there were not threats to the IDP population living inside the POC sites, and/or to create an environment for IDPs to leave. This required extraordinary efforts on the part of humanitarians to provide counter-factual arguments to UNMISS regarding context, IDP returns, and the reasons for IDPs staying in the sites. The Protection Cluster, REACH and IOM Displacement Tracking unit all worked to continually monitor these dynamics, which created a significant drain on limited humanitarian protection resources and went against the calls for shared responsibility for collective action in the face of obvious mass violence.

The challenge in South Sudan for humanitarian actors was not simply to articulate the protection threats as related to the POC sites or to advocate for more appropriate UNMISS responses to the dangers around the POC sites, but also to shift the focus to the wider context, away from viewing the POC sites as the locus of analysis. Humanitarian protection actors were expected to respond, scale up, and expand to new locations across the country, while they at the same time bore almost the sole responsibility to provide the proof for the need for these protection interventions.

## **RESOURCE HUMANITARIAN PROTECTION BASED ADVOCACY**

Once humanitarian actors have defined an independent protection analysis and narrative, the next step is to proactively advocate for actions to improve the protection environment. Targets for such advocacy may include the parties to the conflict themselves, the peacekeeping mission or other regional mechanisms, or international forums such as the UN Security Council.

Given the breadth and scale of protection threats that can precipitate the creation of POC sites, the humanitarian protection community will need to mobilize across organizational and coordination levels to appeal to multiple advocacy targets. Linking the context analysis to advocacy efforts that target decision makers is critical to resource mobilization and, in situations where the UN mission’s analysis is perceived to be flawed, will be essential in countering the direct access of the SRSG and mission leadership to senior decision makers. Humanitarian protection actors (particularly those outside the UN system) may struggle to gain the same level of access to high-level bodies.

NGOs in particular must recognize the need for swift and clear coordination and consolidation of resources in regard to advocacy on POC sites. In South Sudan, a significant challenge for promoting a humanitarian protection narrative in 2013-2014 was the asymmetry in resources between NGOs, UN agencies, and the peacekeeping mission. While there were some in-country protection and advocacy resources, these were far outpaced by the sophisticated system available to the UN – particularly through its infrastructure in New York. This disparity created an often-insurmountable discourse. In the future, NGOs should assess where to invest advocacy and analysis resources to support a consistent, clear, and public narrative, and should leverage access to member states in New York and capitals. Efforts in South Sudan were undermined by long periods of introspection on whether to counter the UNMISS narrative, and what the role of NGOs should be towards the UN – i.e. are NGOs there principally to support the UN and not undermine peacekeeping efforts, or are they there for accountability over international efforts within the country.

Aligning in-country, capital level, and UN head-quarter level advocacy is an imperative, but one donor frequently expressed frustration that NGOs were not engaged at the headquarter level. “This makes our job so much harder,” they said. “We are trying to tell head-office that there is a war, the SRSG is saying there is no war, and no NGOs are telling our bosses there is a war. Where are we supposed to find all this money?”

## **ARTICULATE COMMUNITY BASED CONTEXT PERSPECTIVES**

A clear added value of the perspective of humanitarian protection actors is their ability to gather information on community perspectives, articulate this, and program around it. Peacekeeping missions and development actors, as well as the diplomatic community, often (but not always) operate towards institutional reform. This creates a system bias towards working almost exclusively with authorities. One donor in South Sudan described this trend as “isomorphic mimicry: civil servants will seek out other civil servants.” Humanitarians have unique community access and understanding developed through daily programming at site-level, and can collect information that allows the international community to understand this at a more individual and community level.

## **UTILIZE THE SPECIAL PROCEDURES OF THE HUMAN RIGHTS COUNCIL**

Humanitarian protection actors, spearheaded by the Protection Cluster, should not underestimate the value of mobilizing the Special Procedures of the Human Rights Council, UN Security Council mechanisms, and engagement with DPKO in working to achieve a balanced narrative and advocating for accountable responses to mass violence. Special Procedures<sup>125</sup> are a useful recourse that are available to humanitarian protection actors, particularly where humanitarian actors may not have the expertise or seniority to access decision makers and conversations. South Sudan benefitted from a number of visits from Special Procedures, including the Special Rapporteur on the Human Rights of Internally Displaced Persons, who visited South Sudan in November 2013, the SRSG for Children and Armed Conflict in June 2014 and February 2016, the SRSG on Sexual Violence in October 2014, and the Special Adviser on the Prevention of Genocide May 2014 and November 2016. Each of these visits presented significant advocacy opportunities for protection issues.

## **REASSESS THE ROLE AND RELATIONSHIP WITH THE GOVERNMENT**

In new POC site contexts, humanitarian actors will need to adapt quickly to changes in relationship dynamics with state and non-state actors, and put in place clear steps to advocate for the reduction of protection threats. The need to redefine the relationship with state authorities, particularly where the state itself is the perpetrator of violence, has a severe impact on how the international community articulates the context, the solutions, and the operational framework to address needs. Chapter 6 discusses the challenges in this for peacekeeping missions that may have both a state building and a protection of civilians mandate, but UN agencies may also have similarly conflicting mandates in the case of a conflict, to provide emergency assistance while also providing support to states and state capacity.

In South Sudan, the role of the Government and its armed forces, the SPLA, in the conflict significantly challenged the humanitarian community and UNMISS alike to find suitable ways to assist and protect people living within the POC sites.

For humanitarians, a primary struggle came in reconfiguring the relationship with government ministries. Prior to the outbreak of conflict, the humanitarian operation paled in comparison to development initiatives that would support government capacity. One former cluster coordinator noted during an interview that the inability of UN agencies, in particular, to quickly orient themselves away from a business model that functioned around strengthening social protection mechanisms within the government and legislative reform, hindered the ability to find quick, community-oriented approaches to the displaced populations living inside the POC sites. Agencies such as the United Nations Children’s Fund (UNICEF) and the United Nations Population Fund (UNFPA) continued to work closely with the Ministry of Gender and Social Affairs far into 2014 as a primary partner in their response. These attempts to engage line ministries were

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<sup>125</sup> Special procedures are experts who report and advise on human rights issues. Some of these include the Special Advisor for the Prevention of Genocide, the SRSG for Children and Armed Conflict, and the SRSG on Sexual Violence in Conflict.



Eight year old girl in her shelter in UN House POC site in Juba. © NRC / Adriane Ohanesian

incongruous to the feelings of IDP populations towards the Government. Partners who have a community-based approach to programming were more rapidly able to adapt to the context.

Trying to reconcile the role of the Government in the displacement of the population into POC sites is a challenge that can be existentially difficult to operations, but also must be quickly surmounted. In the case of South Sudan, the egregious role of the SPLA created a fundamental obstacle to the modus operandi of response in the country to that point. In other contexts, humanitarians may find that rather than the state being the primary perpetrator, the state may not be able to provide safety and security, resulting in a security vacuum for affected populations. The analysis of the role (or lack thereof), of the state will be critical to determining the likely next steps of the affected population and the feasibility of them returning to their area of origin or to another onward location.

## ESTABLISH A COHERENT STRATEGY TO ADDRESS THE NEEDS INSIDE AND OUTSIDE THE POC SITES

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After having established the framework for clear humanitarian analysis, developing a strong humanitarian protection strategy is the next step to finding an appropriate operational framework of how to address the POC sites and how to anchor them within the larger response.

### CREATING AN OVERALL PROTECTION STRATEGY

The emergence of POC sites, or any significant operation that bring peacekeepers and humanitarians closely into each other's operational sphere, requires a strong, independent humanitarian strategy. There are two distinct differences within the strategies of humanitarian and peacekeeping

actors: a) UN missions operate as a single entity with different composite parts (civil affairs, political affairs, force, etc.), whereas humanitarian operational planning pulls together the approach of different entities into a single strategy; b) humanitarian strategies are external and public documents to guide a cohesive vision, compared to UN mission documents that are primarily for internal use and are often confidential.

As discussed in Chapter 6, peacekeeping missions and Protection of Civilians Advisors regularly update mission-wide Protection of Civilians Strategies, which should reflect the presence of POC sites within them where such sites exist. In South Sudan, these strategies were quickly updated in the aftermath of the outbreak of war. Humanitarians are required to both influence the POC strategies to ensure the most proactive and appropriate engagement of the peacekeeping resources, while also developing a strategy that defines the distinct humanitarian operating priorities and parameters for protection.

In South Sudan, the Humanitarian Country Team (HCT) Protection Strategy<sup>126</sup> was designed as the counterweight to the UNMISS strategy documents. The Emergency Directors visit to South Sudan in March 2014 recognized “the need for a new narrative on the humanitarian response in South Sudan. The extent and brutality of the violence and the scale and urgency of the humanitarian needs are not being adequately communicated internationally,” and the need for the response must be more clearly placed within a “protection framework.”<sup>127</sup> As part of the roll out of “Centrality of Protection,” this strategy was intended to be a bridge with the UNMISS strategy, and was designed to meet the need for a much wider protection strategy within the humanitarian response.

Unfortunately, the HCT Protection Strategy that materialized in South Sudan was arguably too conceptual in its approach – it did not lend itself to being operationally on par with the UNMISS Protection of Civilians strategy, and effectively did

not speak the same language. Despite the articulated need for practical guidance, the HCT strategy remained as a principles document, which was described by one interviewee as “the compilation of pre-existing mandates of UN agencies, not a vision for action.” Likewise, the strategy did not deal address practical challenges, and was unable to deal with the operations within the POC sites, including how to manage all the layers of coordination and bureaucracy in working with a mission. Ultimately, the strategy failed to provide a clear framing of operational protection priorities and approaches.

Protection actors, at the outset of a conflict or population movement, will need to quickly grapple with trying to define these interlinked yet conceptually different layers. An effective strategy should define the overall humanitarian view of the protection threats and issues, and offer a broad operational framework and a POC site specific framework that can address the priorities and distinction of humanitarian protection actors operating in a POC site. While there is a need to develop a strategy to create distinction with the mission, humanitarians internally require a clear and joint world view on how to approach issues, of which the relationship with the mission is only a component part. An HCT Protection Strategy should promote dialogue between the mandated agencies, maximize complementarity, and share resources to ensure the highest protection impact of humanitarian operations. It is important that a humanitarian strategy is a clearly actionable document that leans on issues that require the greatest concerted effort.

### **ENSURE A CLEAR DEMARCATION OF PROTECTION ROLES, RESPONSIBILITIES AND DECISION-MAKING SYSTEMS TO MAXIMIZE PROTECTION OUTCOMES**

Operating within a response dominated by the POC site model is likely to bring to the fore key questions about how the mandates of protection actors are to be implemented, coordinated, and where the locus of decision-making lies for the

<sup>126</sup> South Sudan Humanitarian Country Team, *Protection Strategy*, 2015, <http://goo.gl/AKjc2i>.

<sup>127</sup> UN Emergency Director's Group, *Mission to South Sudan, 19-21 March 2014, Summary Report*, 2014, <http://goo.gl/riUOYY>, 2.

humanitarian community. In any given humanitarian situation, the United Nations High Commissioner for Refugees (UNHCR), Areas of Responsibility Leads (UNICEF, UNMAS, UNFPA), and their direct NGO counterparts are likely to serve as the key actors through which protection response are developed, advocacy is coordinated, and priorities are defined. Further, the Humanitarian Coordinator has been tasked with leadership on Human Rights Up Front<sup>128</sup> and its implementation under the “One UN” model, which in situations like South Sudan involves a triple hatted role of being the Deputy SRSG. Yet, while there is a range of actors, the functioning of the cluster itself is designed in South Sudan as one of co-leadership (UN and NGO), with minimal staffing to facilitate and coordinate a wider response across a partnership structure. When positioned side by side, the peacekeeping mission is comparatively well resourced.

Converging protection actors in POC sites may experience a range of issues, which can include: having too many protection actors with similar mandates; UN institutional priorities that are mismatched to the context; insufficient resources to fulfill mandated obligations; gaps in mandated responsibilities; challenges in ensuring NGOs are active participants in discussions and not just “partners” to the UN; and space for independent humanitarian decision-making. In a 2016 report, the former HC Toby Lanzer noted, “my biggest frustration, perhaps, was that there really is such a horizontal situation in the following way. You’ve got a lot of different institutions, each which is arguably as equal as the other, and there is very difficult command and control in an environment where actually police officers or even civilian peacekeeping staff would be expecting command and control. For example, we could not tell an NGO you have to go do this, and an NGO could not tell a police officer, you have to go do this.”<sup>129</sup>

## RECOGNIZE THE CONFLICT IN SENIOR LEADERSHIP AND COORDINATION OF PROTECTION ISSUES

At the senior leadership level, representation and decision-making by the UN can be challenged as a result of the “Delivering as One” (or One-UN) system. In 2005, the UN policy was established which hoped to create a “more effective, efficient, coherent, coordinated and better performing United Nations country presence with a strengthened role of the senior resident official and a common management, programming and monitoring framework.”<sup>130</sup> While the One-UN framework was intended to promote stronger responses, it has proved problematic in settings where humanitarians need to be able to speak independently from the peacekeeping mission, including on issues of political significance that might contravene the position of the UN.

In South Sudan, the concerns about One-UN related predominantly to policy-level decision-making. Within the One-UN approach, the SRSG sets policy and the UN institutions (including the “blue UN,” also known as the humanitarian UN or the agencies, funds, and programs) follow. In a 2011 interview, then SRSG Hilde Johnson said:

*UNMISS will be a strong, integrated Mission. This means that the United Nations will be working as one in South Sudan. UNMISS will focus on the security and political mandates, and enabling conditions for development, while the UN Country Team will be concerned with the development and humanitarian side. All three pillars will come together in one integrated whole. ... As the SRSG, I will supervise and oversee these pillars, and the Country Team will work in tandem with us in an integrated way. I will also be the main interlocutor for the UN system in relation to institutional mechanisms, donors, actors and conferences, for example.<sup>131</sup>*

<sup>128</sup> The UN Secretary General's office explains that “Human Rights up Front is a Secretary-General initiative to strengthen prevention of serious concerns that cut across the UN's three pillars of peace and security, development, and human rights. The initiative seeks to bring the UN System together in a way that is mutually supportive, helps prevention, and prioritises human rights.” See more at: <https://www.un.org/sg/en/content/ban-ki-moon/human-rights-front-initiative>.

<sup>129</sup> Arensen, *If We Leave we are Killed*, 24.

<sup>130</sup> UN, “Delivering as One,” General Assembly of the United Nations, accessed April 21, 2017, <http://www.un.org/en/ga/deliveringasone/>.

<sup>131</sup> UNMISS, *Interview: Hilde F. Johnson – New mission, new approach*, July 27, 2011, <http://goo.gl/iJvhR8>.

This is difficult when UN Cluster Lead Agencies are expected to support policies set by the SRSG that are at odds with the wider analysis of the humanitarian community or the cluster they represent.

This became a significant concern in 2014 when UNHCR supported an UNMISS policy that went against the views of operational actors within the protection cluster. UNHCR reportedly took this decision based on the instruction of the SRSG in 2014 for UNHCR and IOM to support efforts to relocate people from the POC sites. Given this position was not held by the extended Protection Cluster, it compromised trust in and integrity of the cluster approach. Following this event, actors lost confidence in the Cluster Lead Agency as they felt they did not act as a good faith actor who could be trusted to represent the Protection Cluster in the relevant forums with UNMISS. Given the Cluster Lead Agency is supposed to represent the views and priorities of the Cluster partners, but under One-UN is also expected to follow the instruction of the SRSG as the senior UN official, it is important that protection partners immediately recognize this tension and its implications, and design a clear mechanism to ensure cluster priorities are accurately represented in relevant forums and are appropriately actioned.

### **NGOS SHOULD BE GRANTED PRESENCE IN COORDINATION AND REPRESENTATION**

NGOs can offer invaluable contributions to the strategic direction and approach of the humanitarian response, but only if they are granted entry into the fora where such issues are discussed. In South Sudan, NGOs provided a significant portion of the humanitarian protection services and response, and yet most of the UNMISS meeting platforms were exclusive to UN agencies. Exploring strategies for an independent NGO voice, while also using the protection cluster, is critical to close the gap in dialogue between the humanitarian and peacekeeping operational protection response.

There remain practical obstacles to the coordination in POC sites that are linked to the multitude of tiers of coordination. This includes the structures of national coordination, state level

coordination, site coordination and UN-UNMISS coordination all compressed into one location. One of the obstacles to developing an operationally focused protection strategy and coordination in this compressed environment lies at the heart of structural issues within the humanitarian sector itself. The platforms between humanitarians and UNMISS are, and remain, predominantly UN led, and often do not permit NGO participation. As a result, the degrees of separation between the UN Mission and operational cluster partners can be significant.

## **PROVIDE CLEAR OPERATIONAL TASKS AND SPACE FOR HUMANITARIAN PROTECTION**

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Operations within the POC sites raise an issue of the difference in worldview between the peace-keeping mission, UN agencies, and NGOs. While not inherently at odds with each other, there can be challenges in adjusting to different modalities of operations, which is required when working in such close proximity. When considering the issue of how to respond to the POC sites, the Protection Cluster and its partners will need to explore the immediate needs and response, including scale up capacity and mainstreaming of protection, and the provision of integrated and specialized services, where required. Resource mobilization for these efforts takes place in a competitive financial arena where other clusters are also delivering on immediate lifesaving needs.

Inside and outside the POC sites, it is critical to support interventions that enable communities to expand their decisions and reduce conflict. Clear prioritization of activities will be required of the Protection Cluster. In South Sudan there was considerable variation of activities between POC sites based in part on humanitarian access to the POC sites outside of Juba and living constraints in them (with humanitarians living on site, in ‘hubs’ in all POC sites outside of Juba) and the mandate of organizations willing to work in each area. Striking the balance between “softer” protection interventions and hard service provision was often a struggle. Focusing on attempting to fill hard gaps in a difficult operating context is imperative to

make sure that priority is given to programming that addresses critical gaps that affect the safety and security of IDPs and the functioning of the humanitarian operations.

While being able to draw on regular IDP programming, the reality is that the operating space for programming is much more constricted in POC sites, and interventions will have to be designed with the POC site specifically in mind, altering the shape from more conventional programming. Humanitarian actors need to be aware of how space limitation militates against implementing appropriate and targeted protection, especially to vulnerable populations, and a peacekeeping mission is an unfamiliar counterpart on many of these tasks. Below are some of the protection interventions humanitarian actors can consider that can be useful in a POC site environment.

## **PROTECTIVE PRESENCE**

Given the divergent analysis of the efficacy of the use of force and the need for militarized interventions, balancing discussions on who is best placed to provide protective presence in and around POC sites is critical. It should not be assumed that the UN Force is the only or even the most appropriate option. Humanitarian protection partners will need to decide if and how to engage on the issue of patrolling, who it feels is best placed to patrol, whether to input into patrol planning, and which mechanisms to use to do this. In South Sudan this was done through Civil-Military coordination mechanisms, via OCHA, and through the Protection Cluster. But, ensuring that humanitarian actors look beyond the ‘force’ components is also important of protection actors’ role. This includes promoting the engagement of civilian sections of a peacekeeping mission, as well as critically promoting the encouragement of alternatives where possible.

Based on an analysis of the risk posed to the community, and the feasibility of UNMISS action, humanitarian protection partners in South Sudan provided protective accompaniment services to assist women collecting firewood, going to markets and water points, and to bury their family members. This included “patrols” around

perimeter fencing and inside the POC site. Checkpoint monitoring of ad hoc and formal checkpoints around the POC sites also continues. Ultimately, in South Sudan, many of these activities have become too dangerous due to the sheer level of violence around the perimeter, but the unarmed civilian strategy provided much needed support and protection to populations at risk of violence in the interim, with force as the last rather than first resort.

## **ENABLE COMMUNICATIONS WITH THE COMMUNITIES**

Establishing robust communication with communities is crucial to the success of programming in POC sites. In South Sudan, the Protection Cluster worked with an organization that supported community based radio programming and assisted in the dissemination of information. This was critical given that UNMISS, CCCM and other humanitarians at times inadvertently created multiple and overlapping community “leadership” structures in an effort to try to understand what was going on and find a means of communication. As many of the initial displaced populations came from urban settings, community structures did not always exist in the same way as they would in remote or rural settings, and so the replication of engagement strategies humanitarians would pursue in a “normal” context did not work in the POC sites, and had the negative consequence of reinforcing local “elites” within the POC. Allowing people to more broadly access information significantly reduced tensions. Protection actors play a critical bridge between communities and humanitarians working within the POC sites and can alert actors on community tensions and potential conflict.

## **PROTECTION MAINSTREAMING**

Protection mainstreaming is a core principle of humanitarian responses, and protection actors have a crucial role to play in offering practical support to other humanitarian actors. Given the resource and space constraints of POC sites, close collaboration is needed between protection actors and other sectors to ensure that the needs of vulnerable populations are met inside the sites. In South Sudan, for example, one protection

organization worked closely with a sanitation organization on technical designs for latrines and ramps to allow for persons with disabilities to access toilet facilities. Protection actors should be aware that in the rush to prevent disease outbreak and erect shelters, other sectors face enormous pressures. A pragmatic and technical approach to mainstreaming, including supporting fundraising for resources that may be considered “non-critical” (such as the provision of latrine lights and alternative fuel strategies) can be the most effective way of improving the immediate protective environment. This form of practical assistance is significantly more effective to support protection mainstreaming than the “training and lecturing” approach that can at times be taken by protection actors.

### **DISTRIBUTION SUPPORT**

Distributions, though essential, can be a high-risk environment and may also require support from protection actors. In the POC sites in South Sudan, protection partners supported distributing organizations with the identification of vulnerable persons, design of conflict mitigation strategies, and support of post distribution monitoring. Within the POC sites, issues of crowd control had become a severe challenge at distributions. In mid-2014, due to crowd control issues, force protection was introduced to distributions in Juba. This risked enveloping the entire response in the POC sites into a hostile relationship between IDPs and humanitarian actors. The need to engage UNPOL and FPU to reduce tension around distributions has been critical to ensure that the use of force inside POC sites has not escalated.

### **ESTABLISHING COMMUNAL SPACES AND SERVICE POINTS**

Despite the space limitations in POC sites, it is critical that land be set aside for communal areas and service points. Given the highly limited area available, competition for space can occur even between the humanitarian actors themselves, not just IDPs. At the outset of large arrivals to POC sites in South Sudan, the clamor to provide services also meant there was limited space to include all facilities required to meet SPHERE standards. Protection partners should work closely with CCCM to identify appropriate allocations to

establish clinics and other spaces for community engagement, in particular GBV related activities and other sensitive programming.

### **PROTECTION MONITORING**

Establishing protection-monitoring networks within the POC sites and other concentric responses is critical to informing the context for the displaced population. In South Sudan, partners working inside the POC sites (particularly in the neighborhoods that people had been immediately displaced from and “areas of ancestral origin”) enabled an analysis of threats and capacities of displaced populations. This is strongly linked to discussions on feasibility of onward movement.

POC sites can be the sight of overwhelming protection threats to populations – a combination of internal protection threats as well as the external perimeter environment. Populations face risks moving to and from the POC sites, and within the POC sites. Given the protracted nature of the displacement into the POC sites, the population in the POC sites face threats common to IDP and refugee camps that arise from the congested living space.

### **PROTECTION ISSUES LINKED DIRECTLY TO THE POC SITES**

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Finally, humanitarians should be aware that in POC site settings, the increased space limitations and constraints imposed by the mission may impact the ability of humanitarian actors to mitigate risks of harm. Unlike informal settlements and camp-like settings, space cannot readily be expanded. In South Sudan, the risks associated with internal overcrowding are compounded by the physical, external pressure on POC sites, which keep the vast majority of the population contained inside. While the Government of South Sudan police and security forces are unable to enter the POC sites, they have consistently imposed checkpoints and other armed presence directly outside the POC site, creating an extreme pressure around the direct perimeter. To compound the compression of the POC sites, the sites have faced sustained violence in the immediate perimeter. In addition to the

notable attacks on Bor and Malakal POC sites, daily assaults on the POC sites have included, but are not limited to armed actors shooting into the sites, abducting people along the perimeter fence, harassing women entering and leaving the POC sites, and establishing checkpoints and barracks directly outside the POC site.

There have been reports of these checkpoints being manned by child soldiers – a direct affront to the peacekeepers directly inside. Because of these threats faced outside the POC site, and as part of communities' maladaptive attempts to self-protect, men rarely exit the POC sites, and severe restrictions have been placed by both the army and UNMISS on the ability of IDPs to move in and out of the sites themselves. The ethnic nature of the conflict, and desire of the opposing parties to the conflict to be punitive to the populations living inside the POC sites, places an enormous strain on the physical environment of the POC site. While movement restrictions can occur in other IDP settings, including camps, the likelihood is that in a future POC setting, populations will not feel that they can easily move in and out of the site itself to conduct their livelihoods. With this very limited population movement in and out of the POC sites, the discussions on durable solutions and longer-term strategies for the populations living inside the POC site are a challenge for the international community.

# 10

# EXIT STRATEGIES AND SOLUTIONS

**While POC sites can offer temporary protection when the needs are most acute, UN bases are not designed to host displaced communities indefinitely. To provide a safe and dignified quality of life for the IDPs, solutions need to be found that either enable IDPs to relocate elsewhere, or which make the sites more livable long-term. As discussed in Chapter 3, however, UN missions are likely to see POC sites as a “temporary” protective measure, and thus may be eager to see IDPs leave and reluctant to consider options such as the conversion of POC sites into long term settlements. Indeed, as POC sites become more protracted, it is likely that pressure will increase from the UN mission, authorities, and possibly even some humanitarian agencies to close the sites and find alternative solutions for the site residents.**

Finding exit strategies and solutions for IDPs in POC sites is no easy feat, however, particularly if the conflict is still ongoing. There is a risk that eagerness to move people out of the sites can result in people being forced to leave prematurely, and that instead of being provided with a meaningful alternative solution, the IDPs can simply be displaced to a secondary location. Nevertheless, humanitarians and UN mission staff alike must recognize the importance of continuing to assess options for supporting solutions for the displaced populations in POC sites.

The following chapter examines possible approaches to durable solutions and exit strategies in POC sites, and reflects on the lessons from South Sudan.

## UNDERSTANDING THE COMPLEXITIES OF RETURNS FOR IDPS

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While the UN mission may be eager to see IDPs leave POC sites, it is important that they recognize the complexities involved in doing so for IDPs. Even if fighting has come to a halt, there may be other extenuating factors that make it difficult for IDPs to return or resettle elsewhere. “We underestimate the profoundly difficult choices people face,” said one senior humanitarian official. Many of these complexities can be best illustrated through examples from the Malakal POC site.

A first challenge can relate to changes in the dynamics or demographics in people’s areas of origin or pre-displacement locations. Particularly in locations where displacement is protracted, people may find that their pre-displacement homes have become unrecognizable during the time they have been displaced. Prior to the outbreak of fighting in December 2013, for example, Malakal was one of the most diverse cities in South Sudan. Many of the inhabitants of the Malakal POC site (predominantly of the Shilluk ethnic group) had lived in Malakal town prior to their displacement, and it was viewed as an urban, cosmopolitan city. Today, Malakal town is almost entirely

homogenously Dinka (the ethnic group who has been pitted against the Shilluk during the war), and many Shilluk homes are occupied by Dinka soldiers and their families. IDPs in the POC site have voiced concern that they can no longer return to their homes in Malakal town – even aside from the fact that many of their homes have been occupied, the ethnic environment has now become essentially prohibitive. Many of these individuals may prefer to wait in the POC in the hopes that the dynamics may change rather than abandoning the possibility of ever returning to their homes by agreeing to settle elsewhere.

A second set of challenges relates to issues around suggesting that IDPs should relocate to their areas of ethnic origin. In Malakal, the UN Mission and some humanitarian organizations encouraged IDPs to leave the POC site and “return” to Wau Shilluk, the nearby county that is predominantly composed of communities from the Shilluk ethnic group. Many humanitarians expressed concerns about this suggestion, first, that it was not what the IDPs wanted, second, that it would contribute to ethnic redistribution of the country, and third, that this was a population being told to go to an area to which they had no personal connection. This suggestion appeared to demonstrate a fundamental lack of contextual understanding and a paternalistic interpretation of people’s ethnic identities. “It would be like telling a New Yorker that they should go back to Norway because that’s where their ancestors are from,” said one humanitarian official. While international personnel may not immediately understand the relationship between individuals and their areas of ethnic origin, it is important that this be carefully assessed before such suggestions are posed.

Another dynamic that came out of the Malakal example, as well as other POC sites, is the issue of urbanization. Prior to the outbreak of conflict, Malakal was the second largest city in the country, and for many IDPs, “returning” to Wau Shilluk would mean going to a predominantly rural area where they would not be able to exercise the same livelihoods as before the war. Equally, some IDPs may have become more urbanized as a result of their displacement. Many individuals have fled from rural areas to the POC sites, which are located in large cities. While freedom of

movement is not perfect, IDPs nevertheless have become more accustomed to city life, and may face difficulty returning to the rural way of life they inhabited before the war. “The urbanization dynamic cannot be underestimated,” said one humanitarian official.

While these challenges are not insurmountable, it is important to keep them in mind during conversations about returns, relocations, and the closure of POC sites. Violence may not be the only factor that inhibits people from leaving the site, and IDPs may prefer to continue living in poor conditions in a POC site rather than “accepting defeat” and giving up their pre-war home. Any attempt to find solutions for IDPs must take into consideration these and other site-specific issues that may create barriers for the IDP population.

## PRINCIPLES AND APPROACHES TO DURABLE SOLUTIONS AND EXIT STRATEGIES

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Before moving into the specific lessons from South Sudan, it can be useful to consider two issues: the principles underpinning approaches to solutions, and the broad types of solutions that can be anticipated or supported in POC site settings.

### PRINCIPLES

Looking first at the principles: for humanitarian actors, the principles that guide solutions interventions are set out in the *IASC Framework on Durable Solutions for IDPs*, and the *Guiding Principles on Internal Displacement*. These two documents emphasize the importance of solutions being voluntary, informed, safe, and dignified, regardless of whether they apply to the “traditional” durable solutions (return, local integration, or resettlement/relocation), or other transitional solutions (such as relocations between POC sites or to temporary external locations). The four principles are seen as an essential foundation for any solutions effort supported by humanitarian actors. On an operational level, the global Camp Coordination and Camp Management Cluster has developed *Camp Closure Guidelines* to assist field-level camp managers and coordinators to

“plan, organize, implement and coordinate camp closure as an integral part of the camp management lifecycle.”<sup>132</sup>

Given that historically, peacekeeping missions have not been involved in facilitating durable solutions for displaced individuals, set policies or principles in this regard have not yet been defined by DPKO. During interviews with UNMISS officials in Juba, it appeared that there was general agreement that the principles outlined above should apply to permanent or durable solutions, but there was less consensus about whether the principles should apply to transitional solutions. “Relocation from one site to another site is different from return from a site to a community,” said one senior UNMISS official. “The decision on where a person is protected should be left to the person giving protection.”

Humanitarians and UN mission officials should thus be aware that when considering solutions for IDPs in POC sites, it is possible that actors may have different principles guiding their work that can have a significant impact on approaches and tactics. DPKO headquarters may want to consider articulating a policy that outlines the principles UN missions should follow when dealing with returns or relocations in POC sites to help provide clarity and accountability in future operations.

## APPROACHES TO SOLUTIONS

Operational approaches to solutions and exit strategies in POC site settings can be grouped into four broad categories:

- Durable solutions – often in line with the “traditional” solutions mentioned above (return, integration, and resettlement/relocation)
- Transitional solutions, such as transferring IDPs to a transit site en route to a final settlement
- Relocations of IDPs within/between sites
- Site closures

Within these four categories, varying levels of support and engagement may be provided by humanitarian actors and peacekeepers. The *Camp Closure Guidelines* distinguishes between three broad types of movements:

- **Spontaneous:** Displaced population voluntarily returns to their home areas or integrate into the local community without assistance or persuasion from external agencies.
- **Assisted:** Logistical and/or financial assistance are provided by government and humanitarian agencies to allow people to return home or resettle in a different region.
- **Forced:** Camp population is dispersed and driven out of the camp by force by one or more of the parties involved in the conflict, landowners, or due to other external forces beyond their control.”<sup>133</sup>

In POC site contexts, “forced” movements as mentioned above are likely to be driven by the UN mission rather than authorities given that in such contexts the UN mission functions as the camp administration.

In addition, the guidelines highlight the potential for an “official closure” of a camp, which entails the “official removal of the status that recognises a particular area or site as a camp.”<sup>134</sup> Although the Guidelines note that “official closure” is often the final phase of one of the previous solutions mentioned above, in South Sudan, removal of official status was also discussed as a solution in and of itself. This is discussed in more detail below.

## PRACTICAL COMPLEXITIES AND ALTERNATIVE OPTIONS

In any displacement setting, the preferred solution is generally one that is pursued by the IDPs independently. It is not uncommon in normal IDP and refugee camps to see large spontaneous movements of people returning home or moving to settle in a second location. These types of

<sup>132</sup> Global CCCM Cluster, *Camp Closure Guidelines*, 2014, [http://www.globalcccmcluster.org/system/files/publications/Camp\\_Closure\\_Guidelines.pdf](http://www.globalcccmcluster.org/system/files/publications/Camp_Closure_Guidelines.pdf), 3.

<sup>133</sup> Global CCCM Cluster, *Camp Closure Guidelines*, 3.

<sup>134</sup> Global CCCM Cluster, *Camp Closure Guidelines*, 3.

movements generally require little support from humanitarian actors, and provided they are truly informed and voluntary, they can be an ideal outcome. One risk associated with this model, however, is that authorities or influential community members may be making promises to the IDPs that are inaccurate or which are not known to humanitarian actors – for example, assurances that IDPs will be registered and given rations in their pre-displacement location. Understanding any commitments made to the IDPs can be essential in determining if and how humanitarian engagement might be needed.

Another solutions option that was discussed periodically in South Sudan but never implemented, was for humanitarians or the UN Mission to assist IDPs to reach border crossings and seek refuge in neighboring countries. This was at times believed to be the best protection option available to the population, particularly given the level of threats to the POC sites. Ultimately this was never implemented for a number of reasons: first, taking an IDP to or across a border is essentially “creating” a refugee. This would require extensive discussions with the neighboring countries, and would also require reflection about whether in transferring IDPs even further away from their homes, humanitarians could be further extending their displacement and preventing durable solutions. A second, practical consideration, were the logistics of doing this: in a context of 200,000 IDPs in POC sites, how do you move all those people to the border? How do you ensure they stay safe along the way? A third concern was the potential for this to impact upon an individual’s ability to qualify for asylum – if, for example, a country of asylum argues that the individual did not “flee” their country due to fear of persecution so much as be delivered from it by the UN for reasons of material assistance. Although this would be a very literal reading of the Refugee Convention, increasing restrictions on asylum seekers mean that these types of extreme scenarios nevertheless must be considered.

Other interventions that have taken place in South Sudan were more directly aimed at reducing UNMISS’ responsibility over the sites or reclaiming UNMISS land. In 2014, UNMISS discussed the possibility of transferring the POC sites into humanitarian control, thus making them a “traditional” IDP camp rather than a POC site. This would constitute a form of “official closure” as described in the *Camp Closure Guidelines*, but would be seen as a “solution” in itself rather than the functioning as the final administrative step after solutions have been achieved. Such a change would mean that the sites would no longer benefit from having inviolable status or UNMISS protection within the gates, and the government or actor controlling the area would be able to enter the sites at their discretion. An internal UNMISS memo cautioned that “Changing the legal character of the UNMISS POC sites to ‘regular IDP sites’ effectively means stripping the current population of the safety and physical protection they currently have against the government authorities or other parties from whom they fled in December 2013.”<sup>135</sup> It went on to explain that, “it can be anticipated that all ex-combatants will be arrested once the Government has unimpeded access to the site.”<sup>136</sup>

A final option that has been pursued in South Sudan is the use of coercive measures, often as part of forced relocations or camp closures. It is worth noting that the use of force or deterrents is not consistent with the principles guiding solutions supported by humanitarians, and humanitarians generally have expressed serious concerns about these types of approaches. On a number of occasions, however, the UN Mission in South Sudan forcibly dismantled IDP shelters and relocated IDPs from one POC site to another, and in one instance, removed residents from a POC site and transferred them to a site in town despite vocal resistance from many humanitarian actors. These types of tactics are strongly discouraged and are discussed in greater detail below.

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<sup>135</sup> UNMISS, *Note to File: Legal ramifications related to designation of UNMISS PoC sites as IDP camps on non-UNMISS premises*, August 4, 2014 para. 12.

<sup>136</sup> UNMISS, *Note to File*, para. 12.

Despite being one of the three traditional durable solutions, to date integration has rarely been discussed in the context of South Sudan's POC sites. Arguably the discussion of transferring POC sites to humanitarian leadership was the closest thing to a conversation about integration, but the intention and timeframe of this was inconsistent with a genuine solutions intervention.

Increasingly, humanitarian actors are pushing for UNMISS to consider a conversation about a longer-term plan that recognizes the potential for POC sites to exist for a number of years to come, and potentially eventually transition into a normal settlement. As one camp management specialist said, "Camp closure isn't just about facilitating people to go home, but also can be about transition of a site for those who wish to remain into something more resembling an urban space."

## LESSONS FROM SOUTH SUDAN

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When the POC sites first emerged in South Sudan, the existing guidelines mandated that IDPs only be allowed to stay for 72 hours. It quickly became clear that IDPs would need refuge over a more extended period, but the UN Mission was nevertheless determined to reclaim their space and find alternatives for the IDPs as quickly as possible. The result was that from February 2014 onwards, there were nearly constant conversations and efforts to return and relocate populations, and to close POC sites. Box 13 shows a timeline of some of these initiatives.

Nevertheless, a focus on returns would permeate the humanitarian response throughout the duration of the crisis, and continues to this day. A beneficial outcome of these extensive discussions and interventions is that they have provided ample lessons for future operations. Below is an overview of some of the key lessons to emerge from South Sudan, with the hope that these can assist future missions and humanitarians as they consider solutions or exit strategies for IDPs in POC sites. The lessons below relate to all forms of solutions and exit strategies (durable, transitional, relocations between sites, and closures) unless specified as otherwise.

## CAREFULLY CONSIDER THE TIMING OF SOLUTIONS INITIATIVES

Supporting returns and relocations for IDPs in POC sites is a delicate exercise that must balance the rights of the displaced persons with the needs of the UN mission. While the eagerness to reclaim UN mission space and reduce risks associated with the sites is understandable, it is important that this desire for expediency does not compromise the quality of the intervention. Rushing to move IDPs or close a site is likely to create tensions with humanitarians, and to damage the relationship between IDPs and the mission long-term. Likewise, prematurely encouraging or forcing IDPs to leave sites while conflict persists can also place them in significant danger and may even contribute to fueling the conflict. One interviewee argued that "fear of failure to provide protection [in the POC sites] should not be the governing motivation [for pushing people out]...moving people to areas where they are equally or more at risk isn't a solution to anything but visibility."

Less than three days after the fighting stopped in Juba in July 2016, senior UNMISS officials were already pushing humanitarians to relocate the IDPs who had newly entered an UNMISS base. One email from a senior UNMISS official repeatedly emphasized that this needed to be done *immediately*, saying "We need to immediately relocate the IDPs in Topping to POC3. Numbers are swelling and the earlier we relocate them, the better... Kindly inform and support [the camp management organization] and other partners in UN House POC to immediately start planning for receiving about 3,000 IDPs immediately." This email and subsequent messages like it created considerable frustration among the humanitarian community, who not only did not have the capacity to relocate 3,000 people *immediately*, but who were also concerned that UNMISS did not seem to recognize that their own restrictions at UN House were preventing humanitarians from being able to construct appropriate shelters to accommodate the new caseload within a short period. Other basic services (including water and sanitation facilities) were likewise already overstretched, and 3,000 additional people could not be added without creating significant risks.

Having an open conversation between humanitarians and the UN missions about constraints each actor is facing can help reduce misunderstandings and enable actors to find an acceptable way forward. In the case above, it was rumored that one troop contingent was threatening to withdraw from UNMISS if the IDPs were not removed from their office and accommodation area. The Mission was likewise reportedly under pressure to identify new space for an incoming Regional Protection Force. While these pressures make the urgency expressed above more understandable, the failure to openly communicate these issues led to anger and frustration rather than collaborative search for solutions.

While the above example relates to relocations between sites, the importance of timing with regard to returns and relocations outside of sites is arguably even more acute. In early 2015, humanitarians planned to relocate a large group of IDPs from Bor POC site to Akobo and Leer. The movement was ultimately halted by the government, which while frustrating at the time, may have actually been positive in the long term. Shortly after the relocation was suspended, Leer was engulfed in a new wave of fighting which saw some of the worst human rights violations and ethnic cleansing of the entire conflict.<sup>137</sup> Likewise, if people are forced to move out of POC sites while the conflict is still ongoing and while the potential to return to pre-displacement livelihoods is still minimal, there is a greater risk that these individuals will be forced to turn to negative coping mechanisms and survival tactics. As one humanitarian pointed out, “If people go out of Bentiu now, they are going to have no choice but to put on a uniform. Already, the majority of soldiers in that area are young boys. Everyone will end up in the army.”

<sup>137</sup> For more on the Unity Offensive, see Human Rights Watch, *They Burned It All: Destruction of Villages, Killings, and Sexual Violence in Unity State, South Sudan*, July 2015, <https://goo.gl/evbggY>.



Male students outside of NRC school in UN House POC site, Juba. © NRC / Adriane Ohanesian

### **ENSURE THAT A FOCUS ON RETURNS AND RELOCATIONS DOES NOT DETRACT FROM OTHER PROTECTION ISSUES**

Discussions of durable solutions should be an ongoing process throughout the displacement lifecycle. The goal of every humanitarian and UN mission official should be to create an environment in which displaced persons can safely and voluntarily achieve a resolution to their displacement – whether it is through returning to their pre-displacement homes, relocating elsewhere, or integrating into the local community.

While the achievement of durable solutions is the ultimate protection goal, focusing on a preferred end state (often that IDPs leave the UN base) should not detract from addressing other more immediate protection concerns. To the contrary, addressing major protection risks is a fundamental precursor to the attainment of meaningful solutions for IDPs. Linked to the section above, there is a need to carefully consider the timing and context, and on this basis determine how protection efforts should be prioritized. Focusing on returning or relocating IDPs at the expense of addressing other significant protection issues can

cause tensions in the humanitarian community and can lead to questions about motives and contextual understanding.

*While the achievement of durable solutions is the ultimate protection goal, focusing on a preferred end state should not detract from addressing other more immediate protection concerns. To the contrary, addressing major protection risks is a fundamental precursor to the attainment of meaningful solutions for IDPs.*

One example of this challenge in South Sudan came in December 2016. Following the visits of the Special Advisor on the Prevention of Genocide and a delegation of the Human Rights Commission, there was extensive discussion about the “potential for genocide”<sup>138</sup> in South Sudan, and recognition that “there is already a steady process of ethnic cleansing underway in several areas of South Sudan.”<sup>139</sup> When the UNHCR Protection Cluster Coordinator prepared a first draft of a 2017 Protection Cluster Strategy, most cluster members assumed that the strategy would focus predominantly, or at least partly, on these overwhelming risks. Instead, the draft of the proposed strategy focused exclusively on supporting returns and relocations of IDPs from the POC sites, and failed to acknowledge (or even make any reference to) the ongoing discussions about ethnic cleansing or the risk of genocide. Members of the Protection Cluster and other coordination bodies expressed concern that this focus would not only lead to humanitarian actors dedicating the majority of their efforts to a very narrow area of work, but that this could also provide an excuse for the UN Mission to avoid addressing the most significant threats to communities’ safety and security.

In situations of active conflict, durable solutions should always be part of the discussion, but should not be the only discussion. In South Sudan, many actors described the frustration of seeing this conversation move in circles, often at times when the security environment was not perceived to be even remotely permissible for returns. “It’s taken

time and resources that we don’t have,” said one humanitarian. “Of course we need to look at [solutions] throughout, but focusing on that when Upper Nile [State] is ablaze, Unity [State] is ablaze, just seems a bit crazy. It’s a poor use of people’s time.” It is essential that protection actors carefully sequence and prioritize protection risks to ensure that efforts are focused on where the needs are greatest. Being free from major threats is a fundamental first step towards the achievement of solutions, and thus needs to be prioritized when considering long term exit strategies.

## **ENSURE A SOUND EVIDENCE BASE FOR ASSUMPTIONS RELATING TO SOLUTIONS**

In the eagerness to reclaim UN mission space and help IDPs achieve solutions, there is a risk that assumptions among the UN mission and humanitarians can proliferate without necessarily being verified. Some of the most common assumptions in South Sudan related to the safety of particular areas or viability of returns, but assumptions can also pertain to issues relating to IDPs’ motives for staying inside the sites, as well as security of the sites themselves. Both international personnel as well as members of the affected community may make assumptions, and as such, it is critical that these be identified and tested as soon as possible to enable informed decision-making on behalf of both communities.

The humanitarian sector is slowly becoming more rigorous in their approach to data collection, and today it is possible to collate concrete evidence and empirical data to assist in planning and decision-making. The use of intentions surveys, focus group discussions, and key informant interviews can help in understanding dynamics within sites, and independent assessments that incorporate security risk analysis combined with humanitarian protection assessments can assist in establishing a holistic understanding of the context outside the sites. It is likewise important to remember that the perception of international personnel about any given issue may differ substantially from the

<sup>138</sup> Adama Dieng, *Statement to the Security Council*.

<sup>139</sup> United Nations Office of the High Commissioner for Human Rights, *Media Advisory: UN human rights experts says international community has an obligation to prevent ethnic cleansing in South Sudan*, Juba, November 30, 2016, <http://goo.gl/lCj98X>.

perception of the affected community, and that regardless of the facts, perceptions often have a greater impact on outcomes than the objective reality on the ground. In situations where reality and perception differ substantially in the IDP community, humanitarians and the UN mission will need to consider how to support IDPs to have better access to information. Go-and-see visits and telephone connection programs can help in this.

When UN mission officials or humanitarians make unsubstantiated assumptions, it is imperative that other members of the community question this logic. In one case in South Sudan, a narrative emerged that “the POC sites are less protective than IDPs’ areas of ethnic origin.” While this would be very positive if it were indeed true, independent contextual analysis did not support this conclusion. Developing a solutions strategy based on these kinds of false assumptions can lead to a situation in which humanitarians are responsible for placing IDPs in greater danger, and should be avoided at all costs.

### **BE AWARE OF CONFLICT DYNAMICS WHEN DEVELOPING A SOLUTIONS STRATEGY**

Previous chapters have discussed the need for conflict sensitivity when designing general interventions in POC sites. Interventions that relate to supporting population movements in the form of returns or relocations are arguably even more sensitive as they are not only affected by the conflict dynamics, but also have the ability to contribute to them.

Earlier sections of this chapter discussed challenges for the Shilluk population in the Malakal POC site, and how they are often encouraged to “return” to Wau Shilluk (their area of ancestral ethnic origin) despite many of them having never lived outside of Malakal town. In addition to the challenges this poses from a livelihoods perspective, encouraging this movement also has the potential to unwittingly play into the political strategies of the parties to the conflict. The Dinka authorities at local and national level have demonstrated a clear interest in creating an ethnically homogenous Malakal town, and by assisting in moving all the Shilluk to a neighboring county, humanitarians

and the UN mission could arguably be seen to support attempts to ethnically cleanse the area.

The risk of supporting ethnic cleansing is one that emerges frequently in areas of conflict where attempts to homogenize an area are an aim of a party to a conflict, and humanitarians must continually monitor these tactics to ensure that humanitarian activities do not unknowingly contribute to such strategies. If an ethnic group chooses to leave an area as their preferred means of protecting themselves, then humanitarians can of course support this, but humanitarians and the UN mission should never independently encourage or drive a movement that contributes to ethnic redistribution of the country. Humanitarians will likewise need to be aware of the risk of contributing to ethnic redistribution as it relates to moving people into areas in order to further reinforce ethnic dominance in an area. In South Sudan, humanitarians were at times requested to support government-facilitated movements of Dinka families into Malakal town from other parts of the country, many of whom subsequently settled in Shilluk homes and made it increasingly difficult for the Shilluk to return.

### **EXERCISE CAUTION WITH “TRANSITIONAL SOLUTIONS”**

As mentioned in the introduction to this chapter, another risk that can come along with efforts to initiate IDP departures from POC sites is to focus on “transitional” solutions. These types of solutions may not offer permanent settlement options for the displaced person, but in theory should assist them to reach an intermediary point in which the realization of durable solutions would eventually become possible. This could include placing people in transit sites closer to their preferred areas of settlement, or helping them temporarily find refuge in other areas while their preferred location remains unstable.

While transitional solutions can be an important tool, the aim should be that they help people transition *to* a solution rather than transition *from* a POC site. If the primary focus is to remove IDPs from a site, then this can lead to less emphasis on the suitability of the proposed transitional solution of its appropriateness as an improved option. In

some cases in South Sudan, including for those IDPs in the Malakal POC site, it was suggested that IDPs should be placed in displacement camps in counties neighboring their preferred destinations, which some humanitarians felt was essentially proposing secondary displacement as a solution. The pros and cons of such efforts need to be carefully considered and discussed with the IDP population. “We use the term solutions, but what we’re really looking at are very short sighted options,” said one humanitarian. She continued that, “It might be an immediate solution to having people in camps that are right in front of us, but is this a solution for their life? For the future of South Sudan?” Secondary displacement can carry its own risks, which may surpass the benefits of relocating people.

*While transitional solutions can be an important tool, the aim should be that they help people transition to a solution rather than transition from a POC site.*

One underestimated step to support transitions and solutions is for IDPs to be able to travel to and from their intended post-displacement destinations. While there are understandable concerns about such movements (particularly a risk that these individuals could be seen as providing support to an armed group), this can nevertheless be essential in helping people rebuild their links with those areas long term. Visiting to assess the security situation, replant some crops, or check on homes can be a first step in helping people to leave. Taking actions that force people to choose between either staying in the POC or leaving, or which make it difficult to do so freely, only further prevent solutions from eventually being achieved.

### **COMMIT TO UPHOLDING ETHICAL TACTICS WHEN SUPPORTING SOLUTIONS**

When developing strategies to support returns or relocations of IDPs, it is important to agree on the types of tactics that will be used. For humanitarian organizations, there is basic agreement that all returns and relocations should be voluntary, informed, safe, and dignified. As discussed earlier

in this chapter, however, these same principles may not be supported by the UN mission. Where this is not the case and the UN mission does not believe returns and relocations from the POC sites must be voluntary, it is important that humanitarians are aware of this information so that they can plan accordingly.

In South Sudan, the greatest test of adherence to ethical standards and approaches came during relocations of IDPs between POC sites.

Humanitarians felt strongly that even internal relocations must still uphold these same ethical standards and principles, and that the IDPs should be treated with dignity and humanity. UNMISS, on the other hand, took the position that when IDPs were occupying UNMISS land, they lost the right to exercise control over their movements. In September 2015 when UNMISS decided to close POC 2 site in Juba, they withheld water and medical services from the IDPs as a means forcing the remaining residents to relocate to other POC sites or move to Juba town. In July 2016 during another relocation, UNMISS proposed a strategy of “assisted/forced relocations” to POC 3, which used a series of “incentives and deterrents” such as “allowing registration for food assistance and communal shelters in POC 3 while progressively applying targeted operations in Topping to reduce on the operating space of the IDPs.” Through these types of tactics, UNMISS said that “by the time UNMISS considers forcing relocation, numbers may have significantly reduced hence making it easy to relocate the remaining IDPs.”<sup>140</sup> Both of these incidents alarmed humanitarians as they felt it went directly against the principles of using safe and dignified solutions.

While recognizing that at times, IDPs may need to be relocated from one area of a UN base to another, the UN mission and humanitarians should commit to exhausting all possible alternatives prior to considering the use of “deterrents” or other tactics aimed at forcing the relocation. Equally, forcing IDPs to leave a POC site while a threat of persecution still remains could arguably constitute *refoulement*. Having open and transparent discussions with all actors (including both

<sup>140</sup> UNMISS, *Note to PMM on Assisted/Forced Relocation of IDPs from Topping to POC 3*, August 14, 2016.

humanitarians and the affected communities themselves) can avoid negative outcomes that create dangers for the IDPs and raise tension between actors.

### **PUT ALL OPTIONS ON THE TABLE – INCLUDING INTEGRATION**

In order to have a meaningful conversation about solutions, it is necessary to put all options on the table – including integration. Many individuals in the UN mission and humanitarian sector in South Sudan have already individually come to the conclusion that the POC sites will continue to exist for years if not decades, and yet, supporting this formally as a solution has never been meaningfully discussed. In reflecting on the POC sites in Juba, one humanitarian official said, “The POC [sites] will become the slums of Juba. What is sad is that there is no dialogue about it. If we start this discussion and look long term, we could do much better. We could be building two story buildings if it’s a question of space.” A recent Special Report of the Secretary General came to a similar conclusion:

*The United Nations presence in South Sudan must accept that civilians will continue to seek refuge in the protection of civilians sites until there is a significant improvement in the situation and should therefore turn its energies to improving its holistic approach to the management of the sites. Utilizing their comparative advantages, UNMISS and humanitarian actors should ...plan for medium- to long-term programme engagement in the sites.<sup>141</sup>*

Humanitarians and the UN mission need to be able to have open conversations about the possibility that IDPs may want to stay in the sites long-term – whether it is because insecurity persists, or because their pre-displacement homes have changed so fundamentally that returning is no longer an option. One humanitarian suggested that “If I were the SRSG I would try to set out a one year, five year, ten year, and 20 year plan. I

would involve all the relevant stakeholders and say, if this is our timeline, what we do.” Another humanitarian said, “we need to make staying a feasible option,” and explained that if there could be an open dialogue about this, we could undoubtedly find practical ways of managing integration that could reduce the strain on the mission.

Exit strategies and solutions require creative thinking. Should POC sites emerge in future crises, it is important that conversations about solutions be inclusive, forward-looking, and not rule out any options without first having a thorough conversation about its potential effectiveness.

### **ENSURE AN INCLUSIVE APPROACH TO PLANNING AND IMPLEMENTING SOLUTIONS INITIATIVES**

As mentioned above, one of the best means to promote strong solutions mechanisms is to prioritize inclusivity during the planning and implementation stages. Humanitarian and UN mission actors have different networks and strengths, and by having open discussions between the relevant actors, it is possible to share ideas and information that will enable more effective support for the displaced population.

One of the common weaknesses observed in South Sudan was that while solutions initiatives may start inclusively, they would at times fail to maintain communications as the initiative continued. In some instances, this resulted in communications breakdowns at the moments when collaboration was most essential. One such case occurred during the POC 2 relocation mentioned above. UNMISS had consulted NGOs during the initial discussions about the relocation, but failed to continue to do so as the process went forward. Despite NGOs having warned that some of the camp residents would likely be unwilling to move, the UN Mission refused to discuss contingency measures, and ultimately forcibly relocated the remaining residents without informing camp management or other NGOs operating in the POC site. This incident resulted in a high level of frustration in

<sup>141</sup> UN Security Council, S/2016/951, *Special report of the Secretary-General on the review of the mandate of the United Nations Mission in South Sudan*, November 10, 2016, [http://www.un.org/ga/search/view\\_doc.asp?symbol=S/2016/951](http://www.un.org/ga/search/view_doc.asp?symbol=S/2016/951).

the NGO community, who felt that many of the challenges and negative outcomes could have been avoided if NGOs had been consulted in advance.

During future solutions initiatives, it is imperative that actors pursuing any type of solutions programming ensure that there is robust discussion and transparency with all actors that may be affected or have insights into local dynamics. Importantly, this includes working closely with organizations in all locations affected by the intervention – those in the areas of displacement, the areas of intended relocation, and the areas in transit along the way. One of the most common causes of discontent during solutions conversations in 2015 and 2016 was a perception that organizations would sometimes work unilaterally and exclude or fail to consult other actors whose support would be needed at some stage in the process. If IDPs are likely to need food, shelter assistance, or other support to integrate locally in their intended destination, organizations working in those areas need to be closely involved in the planning. “There needs to be a more ‘start to finish’ approach,” said one humanitarian, “the end point is not when they have left the POC [sites].”

### **PRIORITIZE ROBUST COMMUNICATION WITH IDPS AND AFFECTED COMMUNITIES**

Finally, as with any intervention relating to POC sites, robust communication with the IDP community is essential. Not only do the UN mission and humanitarians have a duty of care to ensure that IDPs are informed of the situation and options available to them, but equally, consulting with IDPs and affected communities can help in the design and implementation of effective solutions support mechanisms. Ideally, all durable solutions initiatives should be led by the displaced persons themselves, and while internal relocations may offer less choice, consulting the IDPs can nevertheless enable the planners to develop approaches that limit harm as far as possible.

Humanitarians in South Sudan are slowly coming to the realization that they need to rethink approaches to communicating with communities. “People in South Sudan trust word of mouth... We need to accept that the most innovative channels or most effective channels for humanitarians are

not the ones that South Sudanese trust,” said one humanitarian. Communication approaches need to be in line with what is most trusted and accessible to the community, not what is most convenient for humanitarians or the UN mission.

An important group to consult during this process are the local communities in intended destination areas. While the IDPs may indicate that they would like to go to a certain location, humanitarians may need to reconsider supporting this movement if it is likely to lead to tensions and further exacerbate existing problems. Issues of land ownership, local absorption capacity, and inter-ethnic dynamics all need to be carefully assessed.

An uncomfortable component of deciding when to support solutions interventions is recognizing when it is *not* possible to assist, even when it is the preference of the IDP community. In each case, humanitarian actors will need to assess the priority of supporting the returns and relocations against the other needs across the country. Although supporting durable solutions is a priority, it should not come at the expense of other lifesaving interventions. In such situations, this will need to be discussed openly with the IDP community so that they can make informed choices about whether to independently seek solutions without the support of humanitarian actors.

**BOX 13: TIMELINE OF RETURNS, RELOCATIONS, AND SITE CLOSURES IN SOUTH SUDAN**

**April 2013:** UNMISS releases *Guidelines on Civilians Seeking Protection at UNMISS Bases* which imposes a 72 hour maximum duration for any civilian refuge

**December 2013:** Conflict breaks out. Within one week, 30,000 people seek refuge within UNMISS bases

**February 2014:** UNMISS releases *Options paper for durable and/or transitional solutions for IDPs in UNMISS PoC sites during the rainy season* which presents five options: 1) voluntary return to place of last residence, 2) voluntary settlement elsewhere in South Sudan, 3) ensuring access to asylum for IDPs who want to leave the country, 4) relocation to “alternative POC Sites,” and 5) upgrade of existing POC sites

**April 2014:** Paper drafted on *Civilians Seeking Refuge at UNMISS Bases: Creating Conditions for Voluntary Returns*

**June 2014:** UNMISS and humanitarians begin voluntary relocation of IDPs at Tomping POC site

**August 2014:** UNMISS proposes to re-designate POC sites as IDP camps on non-UN premises

**September 2014:** UNMISS forcibly dismantles shelters and relocates remaining IDPs at Tomping POC site

**September 2014:** DSRSG/HC/RC recommends the establishment of a UN Steering Committee and a Technical Working Group on Durable Solutions

**October 2014:** UN releases *Draft UN Governance Structure Towards the Achievement of Durable Solutions*

**February 2015:** Humanitarians launch plan to relocate IDPs from Bor POC site to Akobo and Leer. Plan halted at last minute by government

**July 2015:** UNMISS decides to close POC 2 (protected site for foreign nationals) in Juba. Foreign nationals given option of moving to Juba

town and applying for refugee status or moving to Makpando refugee camp

**September 2015:** UNMISS begins withholding water and medical care from remaining residents of POC 2 in effort to incentivize them to leave the site. POC 2 residents eventually transferred to temporary site in Juba town

**October 2015:** Meeting held between UNMISS, UN Agencies, the Protection Cluster, and REACH to discuss intentions and solutions for IDPs. Decided to establish standing Solutions Working Group (first draft TOR shared December 15, 2015)

**November 2015:** Relief Organization for South Sudan (ROSS, SPLA-In Opposition) releases *South Sudan Resettlement Strategy*

**November 2015:** Conversations begin about relocation of UN House POC 1 Ext. 2

**December 2015:** UNMISS forcibly relocates IDPs from Malakal POC sites 3 and 4

**April 2016:** Meeting is held in Nairobi on solutions, and draft is prepared of a *Framework for Supporting Durable Solutions for Displaced Persons in South Sudan*. Framework is never endorsed by HCT

**April 2016:** ICWG endorses and shares *Note on IDP Return Movements*

**June 2016:** ICWG endorses and shares *Interim Operational Guidance on Returns and Relocations*

**July 2017:** New violence drives 4,000 people into UNMISS base in Tomping. UNMISS demands they be immediately relocated to UN House. Relocation commences July 28

**August 2016:** *Note to PMM on Assisted/Forced Relocation of IDPs from Tomping to POC 3* which discusses an “incentive and deterrent” model

**December 2016:** UNHCR Protection Cluster Coordinator unilaterally drafts 2017 Protection Strategy focused on returns. Cluster members express concern and strategy is subsequently broadened to include other protection issues

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Aerial view of Bentiu POC site after extensive site works. © IOM / Muse Mohammed





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