

JUSTICE DISPLACED

FIELD NOTES ON CRIMINALITY AND INSECURITY IN SOUTH SUDAN'S UN
PROTECTION OF CIVILIAN SITES



A REPORT BY JUSTICE AFRICA

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Justice  Africa

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Acknowledgements

Above all, Justice Africa would like to extend immense gratitude towards the participants in this research, from the displaced community members, to the UNMISS employees and NGO representatives. The researcher would especially like to express a profound appreciation for those displaced persons who volunteered one of the very few resources that this current crisis has left them with: time, and who warmly welcomed the researcher into their homes and day-to-day lives without reservation or expectation. Justice Africa would also like to thank the organisations who facilitated or assisted in the conducting of this field research, including Community Empowerment for Progress Organisation, ACTED, Nonviolent Peaceforce, IOM and the Danish Refugee Council, as well as members of UNMISS in Juba, Bor and Bentiu.

This research, under the Rolling Research component of Justice Africa's Citizens Peace Project, was made possible a grant from Humanity United.

About Justice Africa

Justice Africa is an international non-governmental organisation founded in 1999 as an advocacy organisation and research institute. We serve as a platform to amplify the voices of Africa's citizens and civic activists, and to foster solidarity between them. We seek to use innovative approaches to engage critically with and formulate practical solutions to the challenges of governance, peace and human rights faced across the continent.

Justice Africa is registered in the UK, with a coordination office in Nairobi, Kenya and a country office in Juba, South Sudan.

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Terms and Abbreviations

CPA – Comprehensive Peace Agreement

CWG – Community Watch Group

DPKO – Department for Peacekeeping Operations

FGD – Focus Group Discussion

FPU – Formed Police Unit

IDP – Internally Displaced Person

IMDRM – Informal Mitigation and Dispute Resolution Mechanism

[I]NGO – [International] Non-Governmental Organisation

PoC – Protection of Civilians

SGBV – Sexual and Gender-Based Violence

SOFA – Status of Forces Agreement

SPLA – IO – Sudan People’s Liberation Army - In Opposition

SPLA/M – Sudan People’s Liberation Army/Movement

SRSR – Special Representative of the Secretary General (of the United Nations)

TCC – Troop Contributing Country

UN – United Nations

UNAMID – United Nations African Union Mission in Darfur

UNMISS – United Nations Mission in South Sudan

UNPOL – United Nations Police

UNSC[R] – UN Security Council [Resolution]

Payam – Administrative unit below the level of the county

Tukul – traditional style of housing found in rural South Sudan

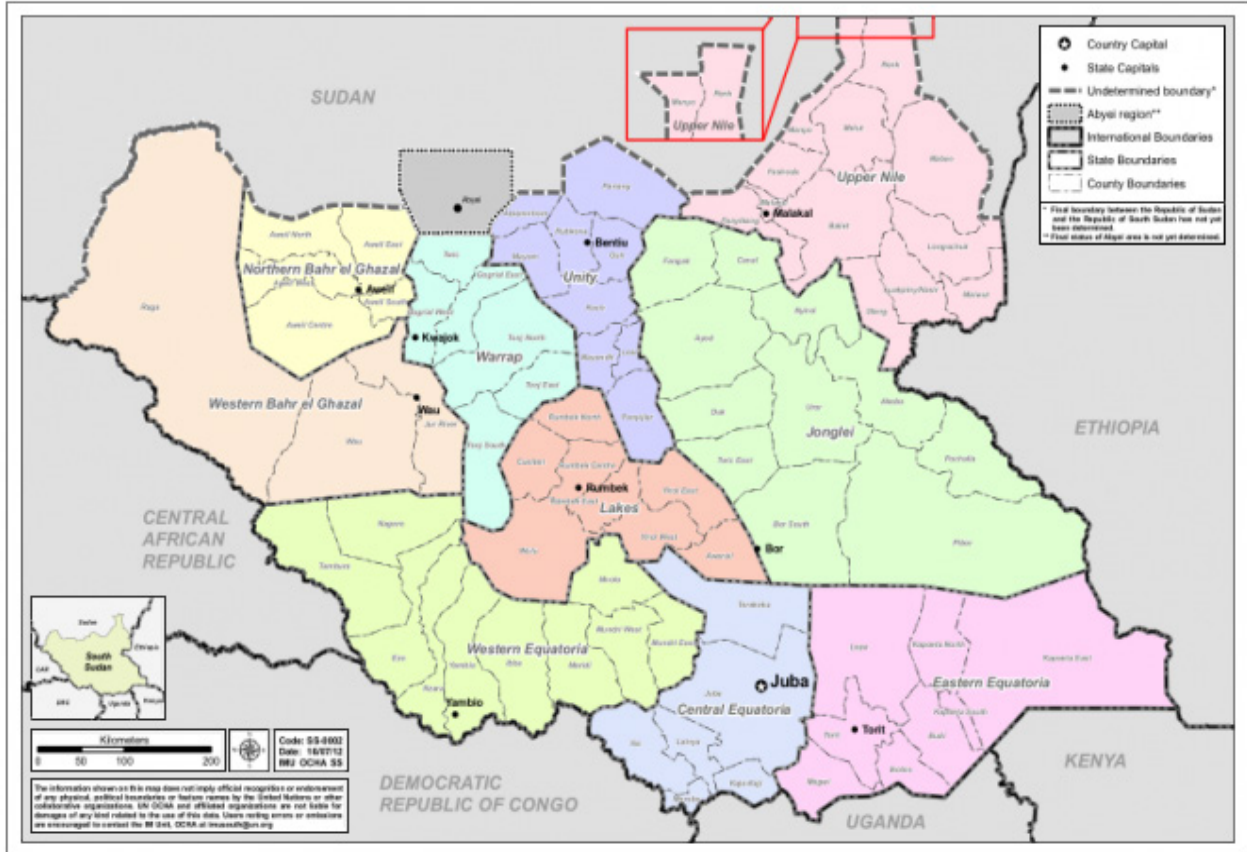


Figure 1: Map of South Sudan (UNOCHA) ¹

1 The field research for this report was conducted prior to the steps taken by the Government of South Sudan to create 28 states in South Sudan beginning in late 2015, and as such this map reflects the ten states featured in discussions with respondents.

EXECUTIVE SUMMARY

With the outbreak of fighting between SPLA forces loyal to the President and those supporting the former-Vice President in December 2013, the bases of the UN Mission in South Sudan (UNMISS) were some of the first places that civilians fled, running from violence more abrupt and extreme than many people could have predicted. As the war continued, their gates have remained open and UNMISS has effectively become the primary custodian of some 200,000 people who continue to live in its premises. The legal and practical status of these settlements differs from typical displaced persons' camps, hence they have been labelled Protection of Civilian (PoC) sites. However, whilst their inhabitants are under the direct guardianship of UNMISS, in lacking an executive mandate, the Mission is unable to formally govern.

At the outset of the conflict, a practical inertia within UNMISS' leadership, coupled with legal constraints imposed by the mandate, the Status of Forces Agreement and the South Sudanese government, heavily shaped and restricted the Mission's ability to address the crisis. Inevitably, given the sheer size and turbulent circumstances of the populations within the PoC sites, internal insecurity and criminality rapidly emerged as an exigent threat. The policy responses to this problem sought to reconcile several competing demands: maintaining the collective security of the displaced communities, whilst upholding individual human rights for the site's residents, and protecting the Mission's own status and premises against military or political recrimination by the warring parties. 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.

Using qualitative anthropological methods across three different PoC sites in South Sudan – in Juba, Bor and Bentiu – this research examined the channels by which the affected communities have pursued security, justice and governance in this unique and unprecedented environment, exerting their own means of authority and agency.

UNMISS has designated four internal bodies to deal with issues of justice and security: the UN police service (UNPOL), Community Watch Groups (CWGs), holding facilities and the quasi-judicial Informal Mitigation and Dispute Resolution Mechanism (IMDRM). The research findings demonstrate that displaced communities view each of these in markedly different ways than those ascribed to them by the Mission, and, moreover, these bodies constitute just a fraction of the total number of forums and actors that act in the pursuit of justice and security. Traditional courts and leadership structures have arisen organically in the sites without UNMISS' formal acknowledgement or oversight, and yet they carry a large share of the burden of delivering justice and security, governing through both empowering and abusive means. Additionally, community members in the sites indicated that elements of the Mission not officially designated to partake in the management of internal crime and insecurity, specifically the UNMISS Human Rights department and military peacekeeping battalions, play crucial roles, albeit with varying degrees of success.

The research found that incidents of crime and insecurity in the PoC sites are related to one or a combination of the following issues: (i) the provision of humanitarian resources and services; (ii) gender and sexual relationships; (iii) internal and external political dynamics; (iv) psychosocial trauma; and (v) youth gangs. Applying these five lenses to crime and insecurity in the PoC sites, the research draws out a range of important insights, including that:

- Crime, inter-communal violence and personal safety are treated as “protection” issues by UNPOL and humanitarian partners, however, the delivery of humanitarian services – including the physical arrangement of the sites themselves, the shortage of food, water, firewood and other sought-after goods – is a major factor in the prevalence of such problems. Yet the provision of these basic resources is treated as distinctly different humanitarian responsibility from protection services, creating uncoordinated responses.
- The association between gender relations and criminality and insecurity runs far deeper than the common “rape as a weapon of war” narrative, pointing to profound and entrenched socioeconomic and cultural imbalances that have been laid bare by the current circumstances. At the same time, for a small number of people, the PoC site environment has permitted opportunities to renegotiate such dynamics. This is visible through the growing number of non-marital male-female relationships running counter to customary norms around marriage and bridewealth, and the adoption of female leadership roles, encouraged by human rights education in the sites. Meanwhile, quotas for the inclusion of women stipulated by UNMISS, for instance in IMDRM panels and community committees, can serve to disguise the fact that those woman often do not enjoy equal standing with men in practice.
- The use of international legal definitions for civilians (and combatants) when assessing who is eligible for entry to the PoC sites, coupled with porous boundaries, has permitted many thousands entry, who fall into the grey area of this binary definition. This resulted in the presence of militarisation and contraband weapons, encouraging armed violence and criminality as major security threats.
- Armed attacks in the PoC sites certainly make clear the need for more robust protection from internal and external violence, however such incidents do not concern every household, and, importantly, are not a direct mirror of the wider civil war. Rather, internal power struggles among community leadership were found to be a key trigger for violence and mass inter-communal disputes. Nonetheless, persistent *perceptions* of militarisation and politicisation of the PoC site populations by outsiders renders them vulnerable to threats from external forces.
- Psychosocial trauma is highly prevalent and is frequently a factor in crime and violence; each reinforces the other. UNMISS’ only means for dealing with such cases is to temporarily detain individuals in holding facilities and later release them back into the community. Psychosocial support is extremely limited and treated largely as a “women’s issue,” even though it is men who more frequently exhibit their feelings through violence against others, as well as towards themselves through self-harm and suicide.
- Young people in the PoC sites lack educational, occupational and recreational resources. Within this disempowering environment, they seek to establish their position, agency and identity both individually and collectively, sometimes manifested through acts of criminality or violence. Social, economic and cultural divergence between youth groups and the leaders that seek to govern them generates friction and permits criminality and violent disputes. There is a marked failure by UNMISS to recognise the multi-dimensional and collective nature of such youth activities, inhibiting their ability to address or deter crime and violence.

These findings have given rise to a number of policy recommendations or highlighted areas which require enhanced critical thinking by policymakers, practitioners and other relevant parties, at the national and international level, which can be found at the end of this report. Specifically, these pertain to IDP returnees in light of the transitional period during the implementation of the Compromise Peace Agreement and the proposed federal 28 state system. Gender, mental health and youth programming are also of key relevance, the latter encompassing educational, occupational and disarmament components. For the UN, the recommendations refer to a need to reinterpret the application of international human rights and humanitarian laws within the PoC site context, and call for a reconfiguration of the UN police force and peacekeeping battalion components.

INTRODUCTION

In the Spring of 2014, in a compound of the United Nations Mission in South Sudan (UNMISS) in the capital city Juba, a man was bludgeoned to death in his sleep. The killer was a wheelchair bound woman believed to be a former soldier who had sought refuge in the UNMISS compound, fleeing the spree of violence that had killed her husband and her son. Her disability is said to be the result of a failed attempt to hang herself, leaving her alive but with irreparable injuries. She is also thought to have mental health problems. The woman confessed to her actions, whilst alleging that the man she had killed had tried to rape her. Lacking any viable options with which to deal with this woman, the UNMISS authorities have been forced to detain her in their premises indefinitely in a makeshift jail.² So many of the tragedies, contradictions and struggles that South Sudan now confronts are distilled within the story of this woman; it is an extreme, but not unique illustration of the traumatised, violent, internally conflicted state of the country today, within and beyond the walls of the UNMISS compounds.

Since South Sudan's most recent civil war erupted during the night on 15 December 2013 in Juba, the SPLA government forces loyal to President Kiir, and the SPLA-In Opposition (SPLA-IO) led by Riek Machar, have precipitated a severe humanitarian crisis in a contest over power that has instrumentalised the ethnic constituencies of the warring leaders, killing over 50,000 people and displacing a further 2 million.³ On the first night when the fighting began, a trickle of people began arriving at the gates of the city's two UNMISS compounds. As the fighting between supporters of the former-vice president Riek Machar and those of President Salva Kiir tore through the country to outlying regions, the trickle of internally displaced persons (IDPs) arriving at the UNMISS gates - carrying with them their families and belongings - soon became a flood. By midday on December 16th, there were around 5000 IDPs seeking refuge at the Tong Ping UNMISS compound, with similar numbers approaching the other five UNMISS premises around the country as the fighting spread over the following days.⁴

In what has since been described as a watershed move by UN officials - whom no doubt were acutely aware of the criticisms of inaction the UN faced in Rwanda - UNMISS opened its gates and offered temporary sanctuary to these arrivals. The precise course of events in these early hours is contested:

the international media has lauded the proactive decision-making by head of the Mission, Special Representative to the Secretary General (SRSG) Hilde Johnson, as heroic⁵, whereas privately an UNPOL officer described rather different situation, wherein the UNMISS security guards forcibly held off the IDPs from gaining entry, but were overwhelmed within a few hours and were left with no choice but to open the gates⁶.

2 Interview with UNPOL Senior Officer, Juba, January 2015.

3 International Crisis Group (2014) *50,000 and Not Counting: South Sudan's War Dead*. <http://reliefweb.int/report/south-sudan/50000-and-not-counting-south-sudans-war-dead>.

4 *Ibid.*

5 New York Times (2014) *In South Sudan, Some Lessons of Rwanda Learned, Others Revisited*. 16th January: http://www.nytimes.com/2014/01/17/world/africa/in-south-sudan-some-lessons-of-rwanda-learned-others-revisited.html?_r=0.

6 Correspondence with UNPOL Officer, Juba, July 2015.

Nonetheless, the gates remained open, and after one month of fighting, the total population of IDPs in UNMISS compounds in Juba, Bentiu, Malakal, Bor, Melut, Nassir and Wau had swollen to over 65,000.⁷

The UNMISS premises had been designed to house “peace consolidation”⁸ activities and the UN Police Force (UNPOL) along with the many other arms of UNMISS were grappling with an entirely unprecedented situation. The UN has never before found itself as a primary custodian, bearing *direct* responsibility for such a vast influx of IDPs. Whilst initially the Mission found itself playing host to an unexpected flurry of houseguests, overnight the situation mutated into one in which the UN became the *de facto* authority over a number of new cities, or rather more accurately, new quasi-city-states, constructed from a flimsy mass of tarpaulin. The new settlements were quickly labelled Protection of Civilian (PoC) sites, to distinguish them from typical IDP camps.

It was around March 2014 that UNPOL officers report that they first became aware of the crime problems emerging in the PoC sites. As one senior UNPOL officer described the situation: “at first, these people were just happy to be alive. After a while though, the PoC [sites] evolved into societies, with functioning economic systems...and along with that arose petty street crime, and then more serious crimes”⁹. The island of relative security and order that the PoC sites had provided so far was rapidly eroding, and the Mission had little idea of what to do about it. In one early incident, UNPOL needed to detain a man accused of committing a crime, but in lacking any form of detention facility, were forced to lock the man in one of their cars until they worked out what to do next, feeding him sandwiches purchased from the staff canteen in the meantime.¹⁰

As we move past the second anniversary of the conflict, almost 200,000 IDPs continue to reside across the UNMISS PoC sites.¹¹ In the intervening period, the circumstances and systems within the PoC sites have shifted and evolved in unforeseen ways, not least with regard to the existence and management of crime and insecurity.

These sites have been shaped and re-shaped by the hands of international law and policy-makers located in New York and Juba, alongside national-level and localised forms of law and public authority, in a state of continual renegotiation.

7 UNMISS Spokesperson speaking on Radio Miraya, 15 January 2014: <http://reliefweb.int/report/south-sudan-republic/un-will-protect-all-south-sudanese-spokesperson-says>

8 UN Security Council Resolution 1996 (2011) on the UNMISS mandate: [http://www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/1996\(2011\)](http://www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/1996(2011)).

9 Interview with UNPOL Senior Officer, Juba, January 2015.

10 Meeting with UNPOL Officer, Juba, July 2015.

11 Update on the UNMISS Protection of Civilian Sites, 19 October 2015. This figure is the combined number of IDPs residing in the PoC sites in Juba, Bentiu, Malakal, Bor, Melut and Wau. It is important to note that this is just 10% of the total number of people estimated to have been displaced by the current war.

METHODS

Preliminary research for this project was carried out in January and July 2015, while the majority of data collection took place over a six-week period between September-October 2015. This project relied primarily on qualitative field research; the researcher conducted in-depth interviews and focus group discussions (FGDs) with 52 displaced persons across three research sites, as well as with 17 key informants belonging to UNPOL and other areas of UNMISS, and other relevant policy experts and stakeholders. This research also draws heavily on extensive participant observation within the PoC sites, as well as meetings and alongside the operations of UNMISS, protection INGOs and other actors. This report contains minimal statistics or quantitative data, rather it captures vignettes of displaced communities' day-to-day experiences in to illustrate life in the PoC sites and humanise the people who live there.

The nature of continuing conflict in South Sudan during the time that this research took place created some limitations to the project, particularly in terms of the sites that could be visited and the hesitancy that some respondents exhibited in openly expressing their feelings and opinions. For example, as South Sudan's second largest and most ethnically diverse PoC site, Malakal would have been an ideal site to include in this research. Unfortunately, heaving shelling of Malakal airport and the nearby area during the research period made the security risk excessively high. Travel to Bentiu was possible, albeit very difficult, as the area surrounding the PoC site (and to some extent within) remains insecure. A deeply embedded sense of loyalty to one's ethnic group and associated warring parties in all of the sites at times discouraged IDP respondents from sharing their opinions, and likewise the fragility of UNMISS' relationship with the Government of South Sudan inhibited the disclosure of certain types of information. In order to mitigate such concerns, the researcher has not used the names of any respondents in this report, and where necessary has substantiated incomplete information using media reports and policy documents.

During the main field research period – September to October 2015 – the PoC sites visited were in territory under Government control, and thus the inhabitants of the PoC sites were largely not government supporters; this is reflected in the ethnic composition and political views expressed by respondents.

Juba: Three PoC sites were created in Juba: one in the UNMISS base in Juba's Tong Ping neighbourhood, known as PoC site 2, and two more adjacent sites within the grounds of UNMISS' country headquarters, UN House, known as PoC sites 1 and 3. In 2014, the population of Tong Ping's PoC site 2 closed and its residents relocated to PoC sites 1 and 3. As of September 2015, PoC sites 1 and 3 were home to 28,663 IDPs in total, constituting the third largest combined population of IDPs of all of the seven sites. At the centre of UNMISS' operations, these premises also house a large number of the Mission's leading policy decision-makers.

Bor: Bor is located in Jonglei State and has been considered politically significant by successive generations of warring South Sudanese leaders. Since the outbreak of the current crisis, Bor has been subjected to several attacks by the warring parties and is currently under the control of the SPLA. The PoC site in Bor is comparatively small – though not the country's smallest - housing 2,289 IDPs as of September 2015.

Bentiu: Areas containing oil fields have become the prime battlegrounds for much of the fighting in South Sudan's current crisis, placing the civilians in Bentiu, Unity State, at the heart of this war. Accordingly, Bentiu is home to the country's largest UNMISS PoC site. Figures fluctuate, but in September 2015, 121,194 IDPs were recorded as living in the site.

UNMISS IN SOUTH SUDAN

On July 8th 2011, the day before South Sudan won its independence, the UN Security Council issued Resolution 1996¹², which set out the establishment of UNMISS. Decades of civil war waged between the Sudanese government in Khartoum and a conglomeration of Southern militia who came to group themselves under the umbrella of the Sudan People's Liberation Army/Movement (SPLA/M), preceded this event, culminating a referendum that allowed the people of Southern Sudan to vote on whether to remain a unified state with Sudan, or to secede. With a landslide vote in favour of secession, the victorious SPLA/M stepped into the role of governing of the world's youngest country. The spoils of war included roughly one third of Sudan's territory, around two thirds of its oil fields, and the patronage of the international community.

The mandate of UNMISS contained two key elements: the Mission was authorised to “strengthen the capacity of the Government of South Sudan”¹³ and to protect civilians. This mandate was disproportionately weighted towards the former, both on paper and in reality. A member of the UNMISS Protection of Civilians unit explained: “We had a PoC mandate from the first day. The last SRSG [Hilde Johnson] just didn't like it, and so we prioritised capacity building and ignored the rest.”¹⁴ A preoccupation with supporting the Government of South Sudan appears to have blinded the Mission's leadership to clear warning signs of the impending outbreak of political violence. In July 2013 the SRSG described President Salva Kiir's abrupt and apparently unilateral dissolution of his cabinet as an “encouraging development”, and just a few weeks before the December 2013 outbreak of violence, expressed that the Mission was “cautiously optimistic” about the trajectory of the fledgling state.¹⁵ UNMISS' neglect of the protection of civilians aspect of its mandate was manifested through a reluctance to engage critically with political developments and to speak out against contentious issues, including egregious human rights abuses and violence against civilians by the government.¹⁶

When Juba was torn apart by fighting within the army and then between the army and civilians in December 2013, the SRSG publicly conceded, “No, we did not see this coming”¹⁷.

In fact, this event was not the first time that civilians had sought refuge at UNMISS compounds. During a violent political dispute in Western Bahr El-Ghazal state in December 2012, UNMISS sheltered 5,000 over the course of three days, and several times in 2012 and 2013 the Mission admitted thousands to its bases in Pibor County. Following these incidents, UNMISS developed guidelines for its responsibilities in such situations, stipulating that the provision of protection on UNMISS premises was to be temporary and a last resort.¹⁸

12 UNSCR 1996, July 8th 2011: http://www.un.org/en/peacekeeping/missions/past/unmis/documents/sres1996_2011.pdf

13 Ibid.

14 Interview with member of UNMISS Protection of Civilians Unit, Juba, October 2015.

15 ICG Report (2014) *South Sudan: A Civil War by Any Other Name*: <http://www.crisisgroup.org/~media/Files/africa/horn-of-africa/south%20sudan/217-south-sudan-a-civil-war-by-any-other-name.pdf>

16 Ibid.

17 “Near verbatim transcript, including questions and answers: Press Conference on the Situation in South Sudan.” Hilde F. Johnson, 26 December 2013: http://www.un.org/en/peacekeeping/missions/unmiss/documents/SRSG_PRESS_CONFERENCE_26%20December_2013.pdf.

18 Jenna Stern (2015) *Establishing Safety and Security at Protection of Civilian Sites: Lessons from the United Nations Peacekeeping Mission in South Sudan*. Stimpson Centre.

The arrival of tens of thousands of people fleeing violence by Government forces in December 2013 at the UNMISS gates forced the Mission overnight to shoulder the full burden of its mandate to protect civilians. On the ground, this led to situations where, for example, a lone unarmed Dutch UNPOL officer found herself standing in the gateway to the Tong Ping UNMISS compound, confronted by a squadron of armed SPLA soldiers trying to force entry, simply telling them that they could not come in. Acts such as this have proved more than just isolated knee-jerk responses; they have produced a new doctrine of international peacekeeping policy regarding the protection of civilians. As the UNMISS Protection of Civilians advisor commented: "We've never done this before... we've *made law* along the way. I'm not sure we've made great law...but we've arguably kept a few hundred thousand people alive."¹⁹

The UNMISS legal framework for the Protection of Civilians sites

Some commentators have likened the PoC sites to the UN Safe Havens established in the former Yugoslavia, Iraq and Rwanda in the 1990s, which sought to create zones of safety for refugees and IDPs. The Safe Havens housed many hundreds of thousands of people and, unlike the improvised creation of the PoC sites, they were pre-designated and pre-planned. However the legal and practical constraints upon their establishment, internal demilitarisation and protection from external attack proved too great and thus today they are widely held to have been a disastrous means for civilian protection.²⁰ Another comparable crisis to that faced by UNMISS in South Sudan is Sudan's Darfur region. Missions of the UN Department of Peacekeeping (DPKO) in any country require the consent of the host government; the establishment of UNAMID²¹ in 2007 by the UN Security Council, to stabilise Darfur and protect civilians within it, achieved the consent of the Sudanese government only under duress, following immense pressure from the international community. The consent from Khartoum however was never matched by adequate cooperation on the ground.²² As a result, the UNAMID peacekeeping battalions patrolling the vast IDP settlements were only authorised to use force to protect them if belligerent forces physically attacked the settlements, but not if they tried to enter non-violently.

Even where attackers did attack, the UNAMID peacekeepers reportedly lacked the will or capacity to prevent them, and instead "just stood there watching."²³

19 Interview with member of UNMISS Protection of Civilians Unit, Juba, October 2015.

20 Damien Lilley (2014) *Protection of Civilian Sites: A New Type of Displacement Settlement?* Humanitarian Practice Network at the Overseas Development Institute: <http://odihpn.org/magazine/protection-of-civilians-sites-a-new-type-of-displacement-settlement/>

21 UNAMID was a joint operation between the UN and the African Union, established to replace the African Union deployed in 2006.

22 Ralph Mamiya (2014) *Legal Challenges for UN Peacekeepers Protecting Civilians in South Sudan*, American Journal for International Law, Vol. 18, Issue 26: https://www.asil.org/insights/volume/18/issue/26/legal-challenges-un-peacekeepers-protecting-civilians-south-sudan#_edn23. Accessed July 2015.

23 Colum Lynch (2014) *Special Report into the Darfur Genocide, Part I: They Just Stood Watching*, Foreign Policy: http://www.foreignpolicy.com/articles/2014/04/07/special_report_darfur_united_nations_peacekeeping_investigation.

Accessed July 2015.

By contrast, within the UNMISS premises in South Sudan, the Status of Forces Agreement (SOFA),²⁴ signed by the Mission and the Government of South Sudan in 2011, has been used to the Mission's favour in the current crisis. SOFAs exist for all UN peacekeeping operations globally, and tend to contain uniform 'small print', including a key stipulation that the UN reserves the right of admission to *all* whom wish to enter its premises. According to the Mission therefore, "the law of South Sudan is binding on UNMISS premises, except that it can only be enforced if we *allow* the authorities to come in...it's that legal line."²⁵

It is this piece of 'small print' in the SOFA that legally provides the civilians housed in the PoC sites within the UNMISS premises safety from encroachment of any kind by the Government, the police, the army or anybody else whom the Mission deems a threat to the safety and security of the site; a level of authority which IDP settlements in Darfur and elsewhere have crucially lacked.

Moreover, if an armed group physically attacks the PoC sites, UNMISS holds the authority to invoke Chapter VII of the UN Charter, which allows for the use of "all means necessary," including force, to protect the civilians within.²⁶

It is important to note, however, that although UNMISS holds greater legal authority over the PoC sites than it would a typical IDP settlement such as Darfur, the Mission does not have an executive mandate, nor will it ever.²⁷ This means that the PoC sites are technically still under the administration and jurisdiction of the Government of South Sudan, and the Mission is therefore not authorised to use executive powers or behave like a parallel form of government, including fulfilling the requirements of a criminal justice system.

Any society will have to confront problems around crime and threats to its internal security; given that the UNMISS PoC sites house tens or even hundreds of thousands of people, living in a congested, under-resourced and turbulent environment, such challenges are an inevitability. In this context, criminality and insecurity become almost synonymous terms; a theft may give rise to mass intercommunal conflict, whilst the presence of contraband weapons has paved the way for gun crime. In this light, another element of UN SOFAs which can be found globally but takes on a special significance in South Sudan is the DPKO standard operating procedure regarding the handover of criminals by the UN to a host government.

Generally, where a criminal incident – for example if an individual was caught stealing UN property – occurs on UN premises, the security staff designated by the SRSG hold the right to detain suspects for up to 48 hours, before handing them over to the host government.²⁸ In order to complete the handover though, the Mission must carry out a Human Rights Assessment to determine the risk that the detainee could be subject to human rights abuses, including capital punishment. If there is a degree of risk, the UN can seek a Declaration of Assurance from the host government that this will not be the case.

24 Status of Forces Agreement between the United Nations and the Government of the Republic of South Sudan concerning the United Nations Mission in South Sudan, August 2011: http://www.un.org/en/peacekeeping/missions/unmiss/documents/unmiss_sofa_08082011.pdf.

25 Interview with UNMISS Advisor on the Protection of Civilians, UN House Juba, October 2015.

26 Ralph Mamiya (2014) *Legal Challenges for UN Peacekeepers Protecting Civilians in South Sudan*, American Journal for International Law, Vol. 18, Issue 26: https://www.asil.org/insights/volume/18/issue/26/legal-challenges-un-peacekeepers-protecting-civilians-south-sudan#_edn23. Accessed July 2015.

27 This applies across most UN Missions, with the exception of Kosovo and Timor Leste, where the DPKO and other staff were charged with the responsibility of administering the territory.

28 Article 44, Status of Forces Agreement between the United Nations and the Government of the Republic of South Sudan concerning the United Nations Mission in South Sudan, August 2011: http://www.un.org/en/peacekeeping/missions/unmiss/documents/unmiss_sofa_08082011.pdf.

However, if the risk is deemed too high or no satisfactory Declaration of Assurance is issued, the UN cannot hand over the detainee to the host government, and will be forced to release him or her.²⁹

Even in peace time, South Sudan's criminal justice system was under-resourced, politicised, militarised and used the death penalty.³⁰ Now, in a state of war, where those living in the PoC sites are there expressly because they have fled from the Government fearing attack based on political or ethnic grounds, the likelihood that a criminal handed over from the UNMISS PoC site to the Government will face mistreatment or even death becomes a very real danger.^{31,32} This being the case, the principle in international law of *non-refoulement* – usually applied to refugees to prevent the rendering of somebody who has fled persecution back to their place of persecution – becomes applicable to the IDPs in the PoC sites.³³

Nonetheless, in the early days of the conflict, when incidents of criminality began to emerge in the PoC sites in Juba, twelve IDPs were handed over to the Government of South Sudan,³⁴ ostensibly under the procedure outlined in the SOFA. This action taken by the Mission was highly problematic given the threats against the human rights and physical safety of the IDPs handed over and was met with criticism from international observers.³⁵ The Declaration of Assurance obtained for the handover process was flawed, containing only a signature of a police officer, which does not hold the requisite binding authority over all relevant government ministries.³⁶ Moreover, UNMISS reportedly failed to carry out the Human Rights Assessment stipulated by the SOFA.³⁷ Although, as the UNMISS Protection of Civilians Senior Advisor went on to explain, “Fortunately – maybe that’s the wrong word – the paperwork was so bad, that when it got from the police to the Prosecutor, they said ‘This is not a case’”, and therefore the detainees were later released.

In cases where individuals have deserted the SPLA and seek refuge in the PoC sites, the Mission is placed in a particularly difficult position. Being in the process of desertion, or *hors de combat*, it is legally ambiguous as to whether the individual qualifies as a civilian and is therefore entitled to seek UNMISS’ protection.

However, under the SPLA Act 2009, soldiers accused of “cowardice” can be subject to the death penalty, and therefore the principle of *non-refoulement* is key in such cases.³⁸

Indeed, shortly after the handover occurred, the Prosecutor General abruptly decreed that UNMISS was no longer permitted to hand over criminal suspects from their premises to the statutory justice system, purportedly on the grounds that the Mission’s crime assessment criteria did not align with that of the statutory system.³⁹ In fact, this shift in position is thought to be driven by a sentiment within the Government of South Sudan that, as the IDPs have sought refuge with UNMISS, they have rejected

29 Interview with member of UNMISS Protection of Civilians unit, Juba, October 2015.

30 Justice Africa (2015) *Justice in Practice: South Sudan*.

31 Generally this is the case in the PoC site, with a few exceptions, for instance in Malakal where the PoC site houses sections of government supporters.

32 Interview with UNPOL Senior Officer, Juba, January 2015.

33 Comments by UNPOL Officer, Protection Cluster Meeting at UNHCR, Juba, July 2015.

34 Ibid.

35 Human Rights Watch (2014) *South Sudan’s New War: Abuse by Government and Opposition Forces*: <https://www.hrw.org/report/2014/08/07/south-sudans-new-war/abuses-government-and-opposition-forces>

36 Interview with UNMISS Advisor on the Protection of Civilians, UN House Juba, October 2015.

37 Ibid.

38 Ibid.

39 Interview with UNPOL Senior Officer, Juba, January 2015.

the Government and therefore the IDPs are “not their problem.”⁴⁰ Additionally, members of the state judiciary have viewed the Mission’s refusal to permit them to use the death penalty as an assault on their “sovereignty”.⁴¹

A Legal Vacuum

As described above, UNMISS cannot establish any form of government, including a criminal justice system within its premises, because its mandate and the SOFA do not allow it. Equally, or perhaps of greater significance, the Government of South Sudan has expressed that it will not allow for the creation of any form of parallel government administered by either the Mission or the predominantly Nuer population of IDPs within the sites.⁴² At the same time, national law, including the criminal justice system of South Sudan, cannot function within the PoC sites either; the institutions required of a criminal justice system such as the police and judiciary are physically not permitted to enter and operate within the UNMISS premises. The apparently deeply felt sentiment among the IDPs within the sites, whom have ‘voted with their feet’ to reject the laws and authorities of the South Sudanese government, further compound this problem.⁴³ Furthermore, given the deficit in South Sudan’s criminal justice system’s abilities to uphold human rights standards regardless of the ongoing hostilities, UNMISS’s own commitments towards international human rights standards mean that it cannot permit any systems or activities within its premises that would violate those standards.⁴⁴

Beyond the national-level criminal justice system instituted by the Government of South Sudan, customary or traditional justice systems operate at the subnational and local levels. Indeed, for the majority of the largely rural population, these traditional systems are the primary route through which citizens seek and obtain justice.⁴⁵

Though derived from the informal “customs, traditions, norms and ethics of the populations residing in their jurisdiction,” the traditional courts and associated authorities were officially brought under the oversight of the statutory legal system by the Local Government Act of 2009, designated to handle civil offenses.⁴⁶ Due to traditional justice systems’ formal association with the statutory system, in the eyes of the Mission they are similarly barred from operating in the PoC sites.

40 Comments by UNPOL Officer, Protection Cluster Meeting at UNHCR, Juba, July 2015.

41 Interview with member of the UNMISS Protection of Civilians Unit, Juba, October 2015.

42 Ibid

43 Comments by UNPOL Officer, Protection Cluster Meeting at UNHCR, Juba, July 2015.

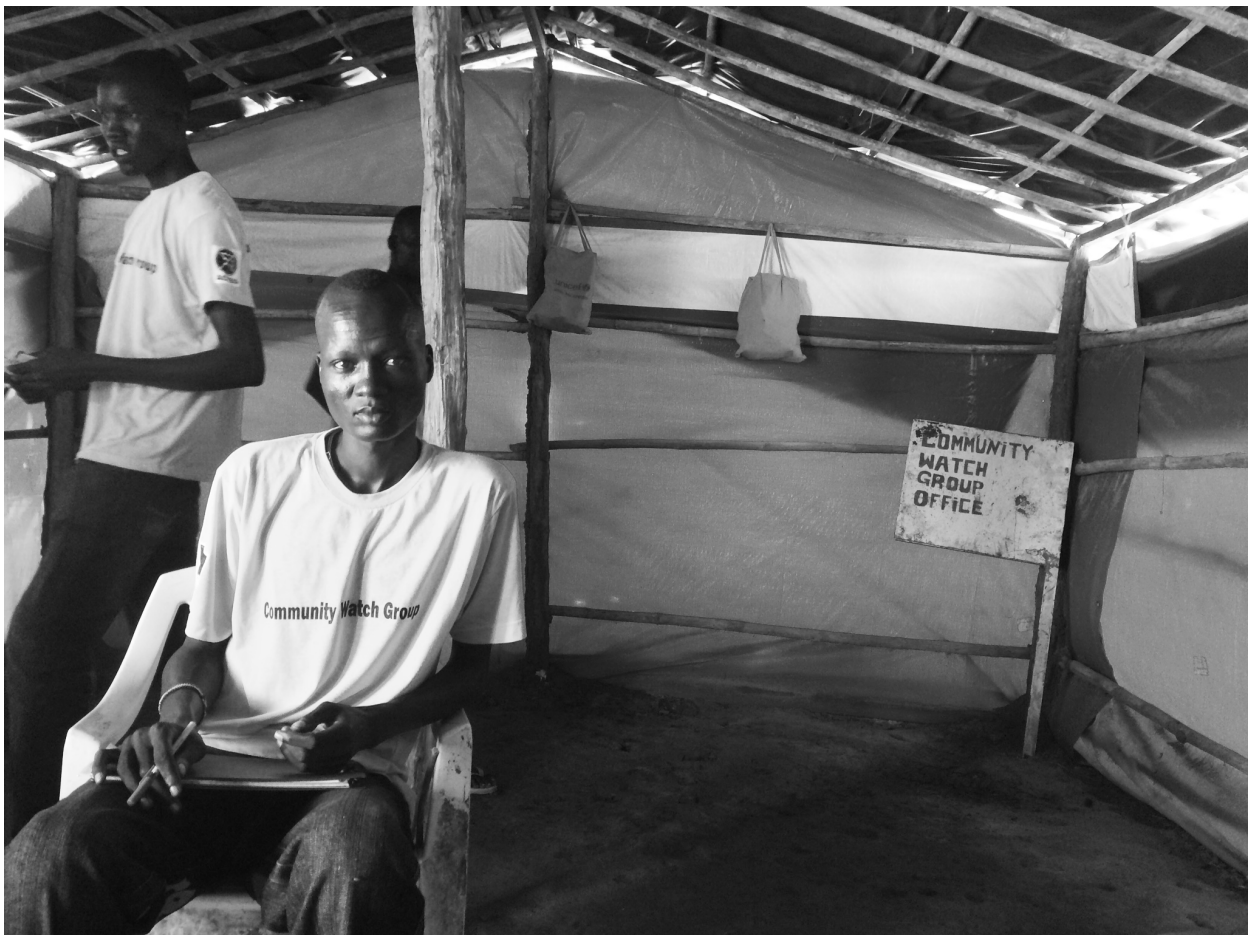
44 Justice Africa (2015) *Justice in Practice: South Sudan*.

45 David Deng (2013) *Challenges of Accountability: an Assessment of Dispute Resolution Processes in Rural South Sudan*. South Sudan Law Society.

46 Ibid.

By the same token also, the broad tendency of traditional courts and authorities to fail to meet international human rights standards, for instance through practices which are discriminatory towards women,⁴⁷ means they cannot be sanctioned by the Mission.

In early 2014, UNMISS hence found itself in a situation where it had effectively become the *de facto* government over the tens of thousands of people living in its PoC sites, but in lacking an executive mandate, was unable to formally *act* like a government. Meanwhile the South Sudanese government could not and would not fulfil the functions of a criminal justice system with regard to the PoC sites. Even the ubiquitous traditional authorities were not permitted to enact their own forms of justice. Trapped in a legal vacuum and constrained by their own laws as well as the laws of South Sudan, whilst facing a rising tide of instability, violence and threats to the safety, UNMISS scrambled to make sense of and devise systems with which to resolve the problem.



47 Alicia Luedke (2015) *Violence Begetting Violence: Justice and Accountability for Sexual and Gender-Based Offenses in South Sudan*. Justice Africa.

DEVELOPING NEW POLICY

UNPOL

Following the outbreak of conflict, and as the result of increasingly strained relations between UNMISS and the Government of South Sudan, the UN Security Council was forced to revise the UNMISS mandate and UNSC Resolution 2155 was issued in May 2014.⁴⁸ The Mission's response to the problems of criminality and insecurity was premised on one sentence of the new resolution: Article a) 4 IV, which states: "[The Security Council]...*authorizes* UNMISS to use all necessary means to perform the following tasks: to maintain public safety and security within and of the UNMISS Protection of Civilians sites."⁴⁹ Whilst the safety and security *of* the PoC sites fell to the armed battalions of UN peacekeepers stationed around the perimeter of the sites, the safety and security *within* the PoC sites became the responsibility of UNPOL.⁵⁰ Unlike the military peacekeepers, however, UNPOL officers are not armed.⁵¹ UNPOL officers have patrolled the PoC sites periodically throughout the day and night since the PoC sites were first created, but as the populations in the sites grew and became more established, it soon became apparent that their inability to use physical force when faced with criminal or violent incidents meant that there was little they could do to intervene, and thus UNPOL's presence in itself increasingly failed to have a significant deterrent effect among the IDPs.^{52 53}

In designing policies to respond to the absence of formal authority, UNPOL and the Protection of Civilians Unit were instructed by personnel from elsewhere in the UN: "You can address *security* incidents, but you can't address *crime*."⁵⁴ This distinction may seem like an issue of semantics, but for UNMISS the terminology used was of utmost importance if they were to simultaneously adhere to their mandate while avoiding further admonishment or alienation from the South Sudanese government, who could have taken issue with any suggestion of a parallel justice system. A new field of rhetoric for the management of criminality and insecurity within the PoC sites was thus constructed, which deliberately avoided using any terms directly associated with the criminal justice system. Accordingly, the policies designed in response to the problem were consistent with this narrative; the act of arrest was referred to as "stop and detain," prisoners in the makeshift jails became known as "holdees" in "holding facilities," crimes were called "security incidents," investigations became "assessments," adjudication was called "mitigation," and so on.⁵⁵ The quasi-judicial policies designed by UNPOL and their UNMISS partners comprised of four key components: holding facilities, Community Watch Groups, an Informal Mitigation and Dispute Resolution Mechanism, and as a last resort, the permanent expulsion of an IDP from the sites.

48 According to the Interim Report of the Panel of Experts on South Sudan, August 2015, since March 2014, UNMISS has experienced over 400 SOFA violations, of which 90% were by the South Sudanese government.

49 UNSCR 2155, 27 May 2014: <http://www.un.org/press/en/2014/sc11414.doc.htm>

50 Prior to December 2013, UNPOL played a central role in the Mission's state capacity building mandate, through training the South Sudan National Police Service (SSNPS). At the outbreak of conflict, UNPOL officers were abruptly forced to disengage entirely from the SSNPS, instead focusing primarily on patrolling and attempting to manage security and stability within the PoC sites.

51 Interview with UNPOL officer, Juba, September 2015.

52 Interview with member of the UNMISS Protection of Civilians unit, Juba, October 2015.

53 In addition, alongside individual UNPOL officers, Formed Police Units (FPUs) were deployed at the request of UNSCR 2155, that are "armed and mandated to act like riot police", tasked with protection the safety of UNPOL officers and other UNMISS personnel and secondarily with quelling mass violent uprisings in the sites.

54 Interview with member of the UNMISS Protection of Civilians unit, Juba, October 2015.

55 Comments by UNPOL Officer, Protection Cluster Meeting at UNHCR, Juba, July 2015.

Holding Facilities

When handover to the South Sudanese Government ceased to be an option for dealing with criminal suspects UNPOL, in consultation with other relevant departments, devised a means to handle such cases internally. Using disused shipping containers, they created holding facilities in the PoC sites in Juba, Bor, Malakal and Bentiu.⁵⁶

For the Mission, the holding facilities seek to balance the competing demands of protecting the safety of the individual in question (for instance, if they have been involved in an incident which would risk reprisal attacks by the community), the wider PoC site population, and UNMISS personnel and property. In doing so, however, the facilities fail to uphold international human rights standards regarding detention without trial and indefinite detention,⁵⁷ as well as universal prison standards set out by the UN.⁵⁸ As the UNMISS Protection of Civilians advisor phrased it: “No matter which way we went, we were violating some aspect of international law, clearly.”⁵⁹ The holding facilities were therefore initially met with criticism and resistance from the UNMISS Human Rights department and partner organisations working on protection.⁶⁰ After a period of tension between the relevant parties, a degree of compromise was reached whereby the conditions inside the facilities were improved – for example, windows and internal wooden panels were fitted to keep the containers cool – in order to bring them closer to the universal prison standards.⁶¹ Moreover, it appears that UNMISS Human Rights and the protection INGOs soon came to recognise that the holding facilities were in fact making the best of a bad situation.⁶²

In many cases, the alternative to the solution that had been devised would be *refoulement*, leading one Human Rights Officer to comment, “We have no option.”⁶³

Security incidents in the PoC sites became subject to a Security Risk Assessment in order to determine whether those involved should be detained. The assumption when the holding facilities were first built was that no holdee would remain in custody for longer than 48 hours. In reality, with no available criminal justice system to process cases and no means or authorisation to punish the holdees, many have been held in the facilities for much longer periods, including a small minority of cases pending over six months.

Every 21 days, as well as on an *ad hoc* basis, Case Conferences are held between UNPOL, UN Legal Affairs, UN Human Rights and protection INGOs in order to review the need for continued detention of each holdee.⁶⁴

56 The holding facilities are managed by the UNMISS Corrections department, which after the issuing of UNSCR 2155, was transferred from the UNMISS Rule of Law unit to UNPOL

57 Universal Declaration of Human Rights (1948): http://www.ohchr.org/EN/UDHR/Documents/UDHR_Translations/eng.pdf

58 Standard Minimum Rules for the Treatment of Prisoners (1955): <http://www.ohchr.org/EN/ProfessionalInterest/Pages/TreatmentOfPrisoners.aspx>

59 Interview with member of UNMISS Protection of Civilians unit, Juba, October 2015; Comments by Protection Cluster member, Protection Cluster Meeting at UNHCR, Juba, July 2015.

60 Interview with UNPOL Senior Officer, Juba, January 2015.

61 Interview with UN Corrections Officer, Bor, October 2015.

62 Protection partners include INGOs such as International Rescue Committee, Nonviolent Peaceforce and Handicap International.

63 Interview with UNMISS Human Rights Officer, Bor, October 2015.

64 Comments by UNPOL Officer, Protection Cluster Meeting at UNHCR, Juba, July 2015.

The resemblance of these facilities to a typical prison or jail is obvious, though UNPOL stresses that individuals are detained in the holding facility exclusively on the basis of the threat that is posed by the incident in question, whilst the issue of whether it is a crime within South Sudanese law is irrelevant. In keeping with the official public rhetoric, UNPOL representatives in Juba emphasised, “We do not enforce any laws here... These are not criminal cases. The only factor is the threat that they pose.”⁶⁵ Similarly a UNPOL Corrections Officer in Bor stated that the holding facilities are for “protection, not punishment.”⁶⁶

Community Watch Groups

Recognising a need to address the cultural and practical disconnect between the UNPOL officers and the communities in the PoC sites, UNPOL and their partners in the Mission drew up a set of guidelines for the establishment of Community Watch Groups (CWGs) that would be comprised of unarmed members of the community, preferably with a background in the police or security service pre-displacement. The CWGs would act as the ‘eyes and ears’ on the ground for UNPOL whilst assisting in the management of security incidents by stopping and detaining those involved for referral onto the relevant pathways.⁶⁷ The CWGs’ work in the community is incentivised by the provision of items such as wellington boots, rain coats and clothing.

UNPOL apparently informed the communities, “We won’t establish these. We’re going to put up the guidelines... you can set these things up yourself, but you cannot go outside these red lines.”⁶⁸ Their avoidance of partaking more actively in the establishment of the CWGs was, according to the UNMISS Protection of Civilians adviser, because “we couldn’t be seen at that point as *establishing* anything in our sites” – in other words, the Mission did not want the South Sudanese government to perceive that they were setting up a police service as part of a parallel government system or so-called “Nuer fifth column.”⁶⁹

65 Ibid.

66 Interview with UN Corrections Officer, Bor, October 2015.

67 Jenna Stern (2015) *Establishing Safety and Security at Protection of Civilian Sites: Lessons from the United Nations Peacekeeping Mission in South Sudan*. Stimpson Centre.

68 Interview with member of UNMISS Protection of Civilians unit, Juba, October 2015.

69 Ibid.

Informal Mitigation and Dispute Resolution Mechanism

The sheer volume and variety of criminal and security incidents occurring in the PoC sites could not be dealt with by simply detaining those involved in the holding facilities, and so the Mission sought to design a “restorative” community-based system that could deal with petty or community-oriented cases.⁷⁰ In Spring 2014, UNPOL officers contacted the UN headquarters in New York to request authorisation for the establishment of what came to be called Informal Mitigation and Dispute Resolution Mechanism (IMDRM). IMDRM was to be grounded in the Mission’s understanding of South Sudan’s traditional justice systems, which are understood to utilise respected community members in a committee system that would mediate between parties in minor cases, handing out “soft” sentences such as small fines and victim compensation, house (tent) arrest or community service for various crimes.⁷¹ Training of IMDRM committee members was initially undertaken by the UNMISS Judicial Advisory Team, but after UNSCR 2155, this task was transferred to national NGOs.⁷² Like the CWGs, IMDRM committee members are not paid in cash by UNPOL for their services, but are occasionally incentivised with non-food items. A quota system determines the inclusion and participation of women in the IMDRM committee.

As in the case of the CWGs, the Mission wrote the guidelines for the establishment of the IMDRM committees but adopted a deliberately “hands off” role in the set up of the committees.⁷³ In the same vein, UNPOL officers have stressed that the IMDRM should not be equated with the traditional justice systems in the rest of the country, as designated under statutory law by the Local Government Act 2009, stating, “this may look and feel like a traditional justice process but it is not. It is for mitigation. It is voluntary and does not entail punishment.”⁷⁴ IMDRM is the only community-based system of this nature authorised in the PoC sites, and as such, as far as the Mission is concerned, no other forms of community or customary justice can exist on their premises.⁷⁵

Expulsion

The final option available to UNPOL is the permanent expulsion of anybody causing instability, committing serious crimes or engaging in acts of violence from all of the PoC sites. However, such action could be interpreted as a violation of the international legal principle of *non-refoulement*, and therefore expulsion has only been used in a handful of cases as an absolute last resort. In cases where all other options have been exhausted, the deliberation process for expulsion requires that UNMISS’ Human Rights department carries out an Environmental Risk Assessment to gauge the risks to that individual outside the PoC site,

70 Comments by UNPOL Officer, Protection Cluster Meeting at UNHCR, Juba, July 2015.

71 Interview with UNPOL Senior Officer, Juba, January 2015.

72 Interview with PACT, Juba, July 2015.

73 Interview with member of UNMISS Protection of Civilians Unit, Juba, October 2015.

74 Comments by UNPOL Officer, Protection Cluster Meeting at UNHCR, Juba, July 2015.

75 Ibid.

after which their recommendations as well as those of the State Level Working Group – comprising the State Coordinator, UNPOL and Corrections, UNMISS Civil Affairs, UNMISS RRP and UN DSS – are forwarded to the Principle Management Meeting at the UN House in Juba, whose recommendations may then be forwarded on to the UN headquarters in New York, where the ultimate decision on whether to authorise the expulsion will occur.⁷⁶ That being said, for cases of severe sexual violence, this process can apparently be expedited.⁷⁷



The Court of Elders at the Bor PoC site, with the men seated in an inner circle and woman seated in an outer circle and making tea (JA/Flora McCrone)

76 Interview with senior member of UNMISS Bentiu, October 2015.

77 Interview with UNMISS Human Rights Officer, Bor, October 2015.

POLICY VERSUS REALITY

The previous section details the ways in which UNMISS, most notably UNPOL and others working on the protection of civilians, have worked hard to develop creative policy responses to what are indisputably difficult and seemingly intractable circumstances. Their efforts to address very real and serious challenges in protection should be commended. The discourse that is used to present the management of criminality and insecurity by members of UNMISS in the PoC sites, however, depicts a particular, sanitised version of reality, shaped by and constructed upon the peculiarities of international policy and national law when applied to the South Sudanese context. Certainly, UNMISS's use of this policy narrative, carefully purged of all terminological associations to governance and justice, serves a defensible and worthwhile purpose, insulating the Mission from further backlash by the Government of South Sudan whilst remaining consistent with its mandate. However in doing so, the reality of everyday experiences of crime, (in) security and (in)justice for the displaced communities residing in the PoC sites is obscured from view for those outside the perimeter fences.

Whilst members of UNPOL and the rest of the Mission will admit that their policies are imperfect, frequently citing incidents that challenge their policy narrative as outlying deviations or dysfunctions of their dominant system, this research indicates that for the communities themselves, such incidents in fact *are the system*, or at least serve integral functions within it. Though there exists a degree of awareness within parts of the Mission of this alternative reality, the full extent of agency and authority exerted at the individual and communal level and the profusion of forums that exist for displaced communities in the PoC sites seeking protection, security and justice – of which UNPOL, the holding facilities, the CWGS and IMDRM constitute just a fraction – remain under-examined. The following section will therefore revisit UNPOL, the holding facilities, the CWGs and IMDRM, but viewed through the lens of the displaced communities living in the PoC sites, before moving on to examine the multitude of alternative means for seeking security and justice utilised by the IDPs.

UNPOL

Across all PoC sites visited, general opinion held by the displaced communities towards UNPOL and the work they carry out in the sites was exceedingly high, with one IDP interviewed commenting that they are “doing a great job, because at night many people are sleeping... you sleep, you don't know what is going on. But [UNPOL] are not sleeping.”⁷⁸ Another individual similarly remarked, “if not for UNPOL then this PoC can be destroyed by drunkard people and criminals.”⁷⁹

Reservations conveyed by some IDPs interviewed regarding certain aspects of UNPOL's capabilities or actions did not detract from the broadly high levels of appreciation for their presence or the sentiment that “UNPOL are effective.”⁸⁰

78 FGD with five women, Juba PoC site 3, October 2015.

79 Interview with female Deputy Block Leader, Bor PoC site, October 2015.

80 FGD with five women, Juba PoC site 3, October 2015

Accordingly, incidents where UNPOL officers have been attacked or threatened by the community are apparently uncommon.⁸¹

It was evident that community members had a fair degree of understanding of the specific role of UNPOL in criminality and security-related issues within the context of the wider Mission. The researcher observed that dialogue and practical engagement between UNPOL and the displaced communities was frequent and appeared productive, with regular meetings taking place between UNPOL officers and different community authorities.⁸² Interviewees noted that UNPOL “are working hand in hand with the community leadership,”⁸³ and the CWG leader in Bor PoC site described how “the way that they are sharing with us, it is good because if you call, somebody will come immediately and we will solve that case very soon.”⁸⁴ The greatest level of engagement and receptivity was generally observed among residents in the smaller PoC sites such as Juba PoC site 1, and in particular the Bor PoC site, most likely because of the comparatively high ratio of UNPOL officers to IDPs (See Figure 1). Close associations were visible between UNPOL and certain community members and the relationships were often described in personal terms - for instance, members of the CWG in the Bentiu PoC site listed their favourite UNPOL officers by first name and described some female officers as “our generous mothers... they always be here with us here, they are helping us.”⁸⁵ The desire by community members seeking authority themselves to demonstrate familiarity with UNPOL may suggest that such associations confer a perception of public legitimacy upon the community members.

Figure 1: Distribution of UNPOL Officers per PoC site.

UNMISS PoC Site	No. of UNPOL Officers per PoC site as of 6 September 2015¹	No. of IDPs per PoC site as of 6 September 2015²	Ratio of UNPOL Officers to IDPs per PoC site
Juba (1&3)	95	28,663	1 : 302
Bor	52	2,289	1 : 44
Bentiu	76	121,194	1 : 1,595
Malakal	70	46,531	1 : 665

81 One incident was reported wherein an officer tried to intervene in a fight between a group of women in a Juba PoC site, and they turned on him and bit him repeatedly, and in Bentiu where UNPOL officers have been attacked on occasion, but such events are not commonplace.

82 For example, the researcher attended a meeting between UNPOL, the Camp Chairperson, community elders and the CWG leadership, as well as other protection partners, to discuss the possibility of expelling 21 repeat offenders from Bor PoC site in October 2015.

83 The phrase “hand in hand” was applied to UNPOL frequently, including an interview with male Block Leader, Bor PoC site, October 2015.

84 Interview with CWG leader, Bor PoC site, October 2015.

85 Interview with CWG leadership, Bentiu PoC site, October 2015.

Reservations towards UNPOL were also expressed by some respondents. Most frequently, this was in regard to UNPOL's refusal to use or permit the use of punitive measures against community members accused of disturbing the community, in keeping with the Mission's commitments to human rights standards.

During a meeting with UNPOL, for example, a community elder in the Bor PoC site complained, "now if someone commits a crime, you UNPOL will say 'no, he is free,'" whilst the Camp Chairperson explained that the traditional system of lashing a criminal was more effective at deterring crime than UNPOL's methods.⁸⁶ This sentiment was echoed across the different PoC sites, particularly among older men.

A particular point of contention between UNPOL and communities observed in all research sites was UNPOL's refusal to treat adultery as a crime, an approach which is directly at odds with Nuer traditional law as well as South Sudanese statutory law.⁸⁷ According to customary norms, when a wife is caught cheating on her husband, the woman and her boyfriend should be punished, frequently with corporal punishment. In the eyes of the Mission, it would be the *punisher* who would then be in the wrong. The discord arising from these contrasting perspectives was considerable, and the cause of much of the ill sentiment held towards UNPOL by the IDPs.⁸⁸ As a result, IDPs have become reluctant to refer community disputes arising from adultery to UNPOL, even where they become violent, stating that in such cases, "They don't accept those of UN. Only the community elders. The issue of pregnant girls and adultery, we don't take them to the UN, we settle them by ourselves."⁸⁹ Problematically, this trend has limited UNPOL's ability to oversee the dispute resolution process in such cases.⁹⁰

Another concern voiced by some respondents related to UNPOL's inability to maintain security. In the Bentiu PoC site in particular, respondents noted that whilst UNPOL is "working hard" to ensure that the site is a munitions free zone by carrying out regular searches,⁹¹ they have struggled to quell gun crime; weapons are easily smuggled in by IDPs through the site's porous perimeters and are hidden by being buried underneath people's *tukuls*.⁹² Respondents in all PoC sites visited complained that UNPOL has been unable to fully secure the sites' perimeters and the area just beyond from encroachment by the SPLA; in fact, according to their mandate, this is the responsibility of the military peacekeeping battalions, but respondents tended to conflate the two arms of the DPKO when discussing this issue⁹³, with one IDP stressing that "[UNPOL] need more force inside and outside [the PoC site]."⁹⁴

86 UNPOL, Camp Chairperson, elders, CWG, protection partners meeting, Bor PoC site, October 2015.

87 Small Arms Survey (2012) *Women's Security and the Law in South Sudan*: <http://www.smallarmssurveysudan.org/fileadmin/docs/facts-figures/south-sudan/womens-security/HSBA-women-security-law.pdf>

88 Interview with male Camp Chairperson, Juba PoC site; comments by Camp Chairperson during meeting with UNPOL, Bor PoC site; interview with male elder, Bor PoC site, October 2015.

89 FGD with five women in Juba PoC site 3, October 2015.

90 For example, although the South Sudan Penal Code 2008 stipulates that adultery is illegal for both men and women, in reality it is only the women who are punished.

91 "Between January 2014 and July 2015, UNPOL recovered more than 800 spears and 230 calibre weapons in Bentiu PoC". CIVIC (2015) *Within and Beyond the Gates: The Protection of Civilians by the UN Mission in South Sudan*.

92 FGD with members of the CWG leadership in Bentiu PoC site, October 2015.

93 Certain respondents, namely members of the CWGs, demonstrated a more in depth understanding of the roles and duties of UNPOL, the peacekeeping battalions and other arms of the Mission, probably as a result of their close working engagement with UNPOL.

94 Interview with male community member, Juba PoC site 1, October 2015.

The problematic delimiting of UNPOL's authority to within the perimeters of the PoC sites was highlighted by a number of cases mentioned by respondents. For example, an interviewee in Bentiu detailed a case in which a group of IDPs decided to leave the PoC site and travel north towards the Sudanese border, fearing their safety in the Bentiu site. A fellow site resident, hearing of their plan and that they would be carrying money with them, followed them out of the PoC site gate and ambushed them some way up the road, killing one man and stealing from the other members of the group. The incident forced the travelling group to return to the site, as did their attacker. The group reported the attack to UNPOL, but UNPOL apparently refused to detain the attacker because, even though he himself remained resident in the PoC site, his crime had taken place outside and therefore was not under UNPOL's jurisdiction. The attacker remained at large in the Bentiu PoC site.⁹⁵

UNPOL officers are drawn from the national police forces of 38 UN member states, and therefore the composition of any UNPOL force can be nationally and culturally diverse.⁹⁶ Inevitably, this leads to different working approaches to the management of criminal and security incidents, regardless of UNPOL's official policy. For example, in Bor and Bentiu PoC site a general observation was expressed by interviewees that UNPOL officers from African countries tended to be more tolerant of beatings carried out by the CWGs and other community members within the sites as a method of punishment. Regional political dynamics surrounding the South Sudan crisis were also perceived by a small number of respondents as rendering the conduct of some UNPOL officers as partisan. For example in Bentiu a member of the CWG was concerned that reporting incidents to Kenyan UNPOL officers was problematic because the Kenyan government has supported the Government of South Sudan during the IGAD-led peace negotiations.^{97 98}

Holding Facilities

One noteworthy similarity between the majority of IDPs interviewed was that they called the holding facilities a "jail." This is problematic for UNMISS given the semantic association of this term to a criminal justice system. Beyond this one particular reference, no single or dominant opinion was evident among the respondents, and in fact, striking differences in attitudes were notable between respondents from the different PoC sites.

Whilst many of the IDPs voiced tentatively positive opinions towards the facilities, considerable range could be seen in their understanding of the facilities' conditions, purpose and value.

95 Interview with male High Committee member, Bentiu PoC site, October 2015.

96 Ibid.

97 Interview with CWG member, Bentiu PoC site, October 2015.

98 Regarding the FPU's deployed after UNSCR 2155 was issued, very little awareness of their existence or role within the PoC sites, and in fact, even UNPOL officers described the FPU's lacking the capacity or force to quell mass violence in the PoC sites

Whilst several respondents in Bentiu and Bor explained that the containers needed to be larger, for some this was due to a concern that the cramped conditions constituted a human rights violation against the individuals being detained; “Ah, the container is not good for the human being!”⁹⁹ Others were more simply concerned that they needed to be able to fit more criminals in the containers at once. Several respondents criticised the congestion, overheating

and flooding within the containers, but noted that the conditions had been improved in recent months.¹⁰⁰ Incidentally, anecdotal evidence would suggest a feeling among some IDPs in Juba and Bentiu – and UNMISS personnel – that the conditions within the containers are in fact better than those of the normal *tukuls*.¹⁰¹

Among respondents that played a role in the management of criminality and insecurity, for instance the Camp Chairpersons, CWGs and elders, no respondent wished that the holding facilities did not exist at all, but rather felt that they were not being utilised correctly. In Bor, for example, the use of the holding facility was popular for a variety of reasons, frequently at odds with the intended purpose. For cases of drunk and disorderly behaviour, which were particularly common in the Bor PoC site, UNPOL would allow the detention of those involved for 24 to 48 hours to allow them to sober up, whilst community members would prefer their detention to be significantly prolonged, as a punitive measure.¹⁰² Similarly, disagreements about the treatment of those suspected of adultery between UNPOL and the communities became particularly intense in relation to the use of the holding facilities.¹⁰³ Community leaders called for adulterers to be detained for several months, in addition to receiving corporal punishment in this particular location. 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.¹⁰⁴ Community leaders including the Elders appeared enthusiastic about having people detained in the Bor PoC site – or at least being threatened with detention – as means of asserting their authority over the community.¹⁰⁵

The failure of the holding facilities to have a deterrent effect on holdees was referred to by respondents in each PoC site visited;¹⁰⁶ in the words of the Bor Camp Chairperson as he addressed UNPOL: “If a person is caught fighting, disturbing people, he will be caught and put in the detention centre, but next day, tomorrow, what will you do? You will say ‘Don’t do it’ and he will say ‘Yes I won’t do it,’ and then he will commit the same problem again. A lot of mess will appear in the community.”¹⁰⁷

99 Ibid.

100 Interview with male Block Leader, Bor PoC site, October 2015.

101 Detainees in Bentiu PoC are fed 3 meals per day from the UNMISS staff canteen, as told by the UNMISS Human Rights Officer in Bentiu, October 2015. Incidentally, a rumour also circulated Juba that during the rains when the PoC sites flooded, IDPs deliberately caused disturbances in order to be detained and escape their flooded *tukuls*, though this is unsubstantiated.

102 FDG with six elders, Bor PoC site, October 2015.

103 Participant observation during Case Conference in Bor PoC site, October 2015.

104 Interview with male Camp Chairperson, Juba PoC site 1, October 2015.

105 Observed during ongoing participant observation in Bor PoC site by the researcher, as well as INGO staff.

106 A similar sentiment was observed among elders in Malakal PoC site. Interview with Research Director, South Sudan Law Society, Nairobi, September 2015.

107 Comments by Camp Chairperson during meeting with UNPOL, CWG, Elders, Bor PoC site, October 2015.

Community Watch Groups

The remarks made by UNMISS staff and community members about the role of CWGs in the IDP camps were notably disparate. Several members of UNMISS across all PoC sites deplored the CWGs for their reported use of unauthorised force, including beating, lashing and even biting community members in Juba and Bentiu,¹⁰⁸ charging IDPs a re-entry tax at the gates of the Juba PoC sites,¹⁰⁹ and fining the inhabitants for offences or charging them a fee to have their case heard by the IMDRM panel in Bentiu.¹¹⁰ In Bor, CWG members were criticised by UNPOL for trying to manipulate the outcome of Security Risk Assessments involving their friends by misrepresenting evidence in cases.¹¹¹ In Bentiu, a Nonviolent Peaceforce representative raised incidents of the abuse of power by the CWG.¹¹²

This kind of ill-sentiment was not reflected in the views of the CWGs held by the displaced communities themselves. Indeed, the broad degree of public legitimacy of the CWGs' work was remarkable, with respondents commenting that "they are doing good work,"¹¹³ and that the CWG "is our form of security... it's the one handling the problems here," and "we respect [the CWG]. Even those of the UN, they go to the CWG."¹¹⁴ The representative composition of the CWGs, comprising members from every county residing in each PoC site, was praised several respondents. When questioned on whether they had ever heard of the CWGs abusing their authority as members of UNMISS had described, many respondents replied that they had never heard of such issues, whilst the few that acknowledged the problems described them as outlying incidents in the past, stating that the perpetrators had been sacked from the CWG.¹¹⁵ Only one respondent, from Juba PoC site 1, shared the Mission's concerns about the CWG's misuse of authority.¹¹⁶

Despite occupying a socially liminal space of authority, positioned between the displaced communities and UNPOL, the CWG members appear to have avoided becoming distanced or alienated from their fellow IDPs. This could be attributed to their unarmed and non-uniformed state (though they have requested uniforms from UNPOL in Bentiu and wear special T-shirts in Bor),¹¹⁷ as well as physical proximity to the communities whom they serve, which has ensured that they are perceived as being closer to the community than to the Mission.¹¹⁸

108 Interview with UNMISS Human Rights Officer, Bentiu; Interview with Senior Advisor on the Protection of Civilians and Chief of the Protection of Civilians Unit, UNMISS, UN House Juba, October 2015.

109 Interview with Amnesty International Campaigner, Nairobi, September 2015.

110 Interview with UNHCR Protection Officer, Bentiu, October 2015.

111 Interview with UNPOL Corrections Officer, Bor, October 2015.

112 Comments by member of Nonviolent Peaceforce, March 2016.

113 FGD with eight members of the Women Community Leaders group, Bor PoC site, October 2015.

114 FGD with six female community members, Juba PoC site 3, October 2015.

115 Ibid; and Interview with female Deputy Block Leader, Bor PoC site, October 2015.

116 Interview with male community member, Juba PoC site 1, and comments by UNPOL officers that the Camp Chairperson used the CWG as a "personal militia" to assert his power in Juba PoC site 1.

117 Participant observation and FGD with CWG leadership in Bentiu PoC site, October 2015.

118 This resonates with research findings pre-dating the current conflict, where the legitimacy of so-called "community policemen" within their communities was contingent on the public perception that they were closer to "home" than "hakuma" (the government). See Naomi Pendle (2015) *They Are Now Community Police: Negotiating the Boundaries and Nature of the Government in South Sudan through the Identity of Militarised Cattle-keepers*. <http://booksandjournals.brillonline.com/content/journals/10.1163/15718115-02203006?crawler=true&mime-type=application/pdf>

On the other hand, the CWGs embedded position within the communities has at times been problematic, as explained by the leader of the CWG in Bor: “the problem we face with community fights... because we belong to the community. If you go to separate the people, they will go and target you. They will say ‘you cannot come here because you belong to the community’, so it’s a challenge.”¹¹⁹

In the Bentiu PoC site, where gang-related crime is rife, the CWG acts as the principle means through which UNPOL gathers intelligence, including the locations of concealed weapons. This action puts CWG members in a precarious position whereby they risk recrimination from the gang members, some of whom are their peers or even relatives.¹²⁰

The CWGs have apparently largely avoided tension with the older members of the community. The CWG leader in Bor described his group’s developing relationship with former army generals and majors in the site, who apparently told the CWG: “‘We know better than you’, but we say ‘No, what you know from that time that we were outside, it is not the same as the time we are in now’. They ignored us [but] now they come on our side and they say ‘The work that you in the CWG are running, it is good’”¹²¹. Likewise in the other PoC sites, no obvious tension between the different age sets was relayed to or witnessed by the researcher.¹²²

Members of the CWGs exhibited considerable levels of pride and commitment to their work in the community. In their own words, “The Watch Group is very serious every day,” and indeed the researcher observed a genuine commitment to their responsibilities, whether liaising between the community and UNPOL, dispatching CWG officers to deal with disputes, or carefully documenting their activities. In the course of just one morning in the Bentiu PoC site, the researcher observed

the CWG deal with three different cases. The first case addressed a large community dispute that involved fighting with

spears between an estimated 60 community members belonging to two different counties, for which the CWG dispatched a team of their officers to separate the fighting groups. The second case involved a young woman who approached the CWG after having had her entire bottom lip bitten off by her young female neighbour during a fight over some clothes. The CWG sent the woman to the clinic and then documented the case for future proceedings. The third case addressed a report that reached the CWG of eight women being taken by the SPLA from the area between the PoC site and nearby Rubkona whilst collecting firewood. The CWG immediately contacted UNPOL to handle this.¹²³

The CWG members were keen to emphasise to the researcher their familiarity with the Mission, their understanding of the wider political dynamics in the country, as well as their experiences outside

of South Sudan and knowledge of global affairs, stating, “We are not simple boys!”¹²⁴ Moreover they criticised certain types of behaviour, including drinking alcohol or smoking marijuana, stressing that any CWG members caught partaking in such activities would be sacked immediately.¹²⁵

119 Interview with leader of the CWG, Bor PoC site, October 2015.

120 Ibid; Interview with senior member of UNMISS Bentiu, October 2015.

121 Ibid.

122 Naomi Pendle (see above) similarly notes in her article that the perceived tension between different age-sets in South Sudan is often overstated.

123 Participant observation with the CWG in Bentiu PoC site and CWG tukul in Bor PoC site, October 2015.

124 Ibid.

125 Ibid.

That being said, though positive views towards to the CWG were relayed to the researcher by IDPs in Bentiu, protection partners have suggested that if a wider sample of respondents had been used, a range of problems or negative perceptions of the CWG's work would have likely emerged from the interviews.¹²⁶

Informal Mitigation and Dispute Resolution Mechanism

Opinions held towards IMDRM by the IDPs interviewed were striking in their absence. When questioned: "What are the different options available for dealing with disputes and crime in this PoC site?" no single respondent mentioned IMDRM. Moreover, when specifically asked, "What do you think about IMDRM?" the only respondents that had any opinion on the mechanism at all were three individuals who worked with it in some capacity; the majority across all sites visited replied that they had never heard of it.¹²⁷ One of the respondents from Juba PoC 3 who was aware of IMDRM through his work as a community paralegal, acknowledged that IMDRM was not the only or even the dominant forum of community dispute resolution.¹²⁸ Contrasted with the primacy placed upon IMDRM as a key policy for addressing criminality and insecurity in the PoC sites by UNPOL, this finding is noteworthy. That is not to say that the IMDRM panels as set out by the Mission do not exist at all, or have never existed, but at the very least, we can infer that the panels are not the primary forum for addressing criminality and insecurity within the communities that they are envisaged to be. Plausibly, training by UNPOL and its protection partners of IMDRM panel members did indeed occur and is ongoing,¹²⁹ but as the months pass and the populations within the sites remain fluid, those systems and the individuals instated may become absorbed back into traditional community structures. It is also possible that IDPs have encountered IMDRM proceedings, but presumed them to be or have conflated them with (banned) traditional courts, due to similarities between these two structures.

The researcher's only direct encounter with IMDRM took place in the Bentiu PoC site. Here, the IMDRM panel was housed in a *tukul* alongside that of the Community High Committee and the CWG headquarters, in an area near the centre of the expansive PoC site. A member of the High Committee explained that IMDRM is under the authority of the High Committee, with representatives for the IMDRM Committee attending High Committee meetings. One respondent noted that some cases involving individuals, such as instances of elopement, theft and adultery, were referred to IMDRM, and described the mechanism as "effective" in handling such cases."¹³⁰ The respondent further reported that cases involving groups or communities are referred to the elders or county leaders.

126 Comments from representative of Nonviolent Peaceforce, March 2016.

127 One paralegal trained by PACT was involved with IMDRM in Juba PoC site 3, and in the Bentiu PoC site IMDRM was only mentioned by a member of the Community High Committee and the CWG leadership, whose offices are located next to the IMDRM *tukul*.

128 Ibid. This viewpoint was echoed by non-UNMISS protection partners and researchers who had visited the PoC sites.

129 Interview with male community paralegal with PACT, Juba PoC site 3, July 2015.

130 Interview with male Community High Committee member, Bentiu PoC site, October 2015.

Collaborating this statement, the researcher observed that indeed, the IMDRM panel dealt exclusively with non-violent cases involving individuals and their families.¹³¹ Though the IMDRM panel heard several cases per day, in the context of over 100,000 IDPs residing in Bentiu PoC site, this small caseload may indicate that it is not a popular choice for community members.

In one case observed by the researcher, the family of a pregnant unmarried 16 year old girl had brought a case against the family of the girl's boyfriend. Of the 20 or so people in the room, only three were women and were made to sit on the floor whilst the men all sat on a bench or chairs. After a period of dialogue between the panel and the two families (spoken in Nuer), the boy's father handed over 5500 South Sudanese Pounds (SSP) – the cash equivalent of three cows – to a member of the IMDRM panel, with the view that it would be passed on to the girl's family. It was ruled by the panel that the girl would be sent to the clinic for a pregnancy test, and if it was confirmed, she and the boy would have to be married. Both families appeared satisfied with the ruling.¹³² Several deviations from the official policy guidelines set out by UNMISS for IMDRM can be seen here: the representation of women was extremely limited, the cash given to the girl's family exceeded the 200 SSP limit set for fines,¹³³ and the girl was facing marriage, despite being under the age stipulated by international human rights law and national law of 18 years old.

Expulsion

Of the PoC sites in Juba, Bor and Bentiu, at the time of the research visit, 12 IDPs had reportedly been expelled from the Juba site. This was reportedly related to the relative degree of threat or security that expelled IDPs would face outside the camps. UNMISS explained that while Juba was relatively stable, Bentiu remained a highly active conflict zone, and Bor, to a lesser extent, remained an unsafe environment for Nuer or (perceived) affiliates of SPLA-IO.

Accordingly, in the latter two sites, expelled IDPs would face an unacceptably high risk of death. IDP respondents in Bentiu contradicted the report from UNMISS, claiming that four people had been expelled from the Bentiu PoC site.

This was subsequently corroborated by an INGO representative, though members of UNMISS never mentioned these cases.¹³⁴ IDPs that were questioned regarding their thoughts on expulsion provided diverse responses, related at least in part to the ethnic composition of the PoC site in question. In the PoC sites in Juba, where there is a relatively high degree of ethnic heterogeneity, respondents expressed that if an individual chooses to commit crimes and is henceforth expelled, "it is his own fault."¹³⁵

131 Participant observation of IMDRM meetings, Bentiu PoC site, October 2015.

132 Ibid.

133 In fact, a member of UNMISS Bentiu told the researcher that the IMDRM panel did not use fines at all. However the practice of excessive or unauthorised fining by the IMDRM was corroborated by UNHCR in Bentiu, who described the practice by the IMDRM panel as "quite systematic".

134 Interview with CWG leadership, Bentiu PoC site, October 2015; Comments from representative of Nonviolent Peaceforce, March 2016.

135 Interview with male community member, Juba PoC site 3, October 2015.

The common opinion appeared to be that it was ‘every man for himself.’ In Bor sentiments were quite different. The majority of IDPs respondents in Bor were against expulsion in principle, arguing, “whoever has caused a crime here, we cannot expel him or her outside, because we are here because we have a common enemy, we are here because we are under threat from government people.”¹³⁶ Other IDPs in Bor similarly commented, “it is better if they stay here with us, even if he is doing a crime.”¹³⁷ That being said, the researcher attended a meeting between UNPOL, the CWG and the Camp Chairperson in Bor PoC site, where the CWG and Chairperson were calling for the expulsion of several repeat offenders from the PoC site, though this was not reflected by the site’s residents outside of the leadership. The sense of solidarity and resistance to expulsion in Bor PoC site appears to be related to the ethnic homogeneity of the site’s population, giving rise to the collective sense that all residents are “brothers and sisters.” Of the handful of the IDPs in Bor who are not Nuer, respondents seemed willing to allow their expulsion; for instance, in the case of a Dinka man who had violently sexually assaulted his Nuer girlfriend, expulsion was supported.¹³⁸ In Bentiu, the high degree of ethnic homogeneity, as well as the exigent threat from the hostilities in the area surrounding the PoC site, are key factors determining the shared opinion expressed all respondents that expulsion was not an acceptable option for criminal suspects, barring some exceptions. It has been suggested by a protection partner that among some respondents, such as High Committee members, the reluctance to expel criminals from Bentiu could be attributed to a fear of reprisal from the expelled person’s family members.¹³⁹

Arguably in testament to the perceived effectiveness or legitimacy of UNPOL, the CWGs and the holding facilities, respondents across each site visited explained that regardless of the severity of crimes committed or the identity of the criminal, expulsion was simply not necessary, because of the range of internal methods for dealing with crimes and disputes that exist in the PoC sites.¹⁴⁰

Traditional Courts

This research revealed that in the UNMISS PoC sites, traditional courts categorically do exist. Their emergence in the sites, soon after the arrival of the IDPs, occurred organically, with neither UNMISS nor the South Sudanese government playing a role in their establishment. Even though such systems and authorities do not ‘officially’ exist in the premises of the Mission, some members of UNMISS operating in these PoC sites will discretely acknowledge their existence – “We know it happens all the time, but we cannot condone it.”¹⁴¹ The traditional courts’ existence in the PoC sites today is evidently not a continuation of the traditional system as set out by the Local Government Act 2009, but neither can they be described as part of a parallel system of government by UNMISS given that UNMISS refuses to officially recognise them.

136 Interview with female Deputy Block Leader, Bor PoC site, October 2015.

137 Interviews with elderly male community member and young female community member in Bor PoC site, October 2015.

138 FDG with six male elders; FDG with eight Women Community Leaders, Bor PoC site, October 2015.

139 Comments from representative of Nonviolent Peaceforce, March 2016

140 For example: interview with male community member, Juba PoC site 1; interview with young female community member, Bor PoC site. October 2015.

141 Interview with two UNPOL officers, Juba, October 2015.

Within each PoC site visited, traditional justice processes were both explicitly discussed by respondents and clearly visible to the researcher. Although referred to using a range of different and often interchangeable terms including “customary leader,” “chief,” “elder,” “local court,” and “traditional court,” all of these figures are related in the sense that their authority and legitimacy among IDPs living in the PoC sites has not been endowed upon them by UNMISS or an INGO the way that the IMDRM panel or block leaders were, but is rather founded upon customary beliefs related to ethnicity and home. In being predominantly Nuer, the laws and norms that these traditional authorities applied were largely consistent across the sites visited, however the exact configuration and activities of traditional courts and their relations to other authorities varied between the different PoC sites. In the Juba and Bentiu sites for instance, it was explained to the researcher that traditional chiefs sit on a court panel that operates in parallel to county elders who also hold traditional authority and play a role in the delivery of justice. In Bor, the panel of the traditional court was described invariably as the “Court of Elders,” and thus the two terms appear to have become synonymous in that particular context.

Although the authority of the chiefs and elders in the PoC sites was to some extent a continuation of their status prior to their displacement, with a respondent in Bor stating that “the elders who are here are the same elders who have experience of judging people before”¹⁴², that is not to say that the traditional courts of the home communities were directly transplanted into the PoC sites.

For example, in Bentiu the researcher met with a group of elderly men whom had sat together as the panel of chiefs for a ‘B’ Court at the *payam*¹⁴³ level in their home county of Guit, Unity State, but which had ceased to function upon arrival in the PoC site.¹⁴⁴

Respondents explained that every county that the IDPs in the PoC sites came from was represented by a county elder, and every traditional court panel contained a chief (or elder) from each county.

The PoC sites in Bor and Bentiu are largely ethnically homogenous, whereas in Juba, although the Nuer are the majority, there are considerable numbers of Anuak and Shilluk.

Respondents in Juba explained that minority tribal groups would hold their own traditional court proceedings for minor crimes and disputes, whilst more serious cases would be handed to the higher level (Nuer) court, which apparently had more capacity to address such cases.¹⁴⁵

As described in previous sections, the systems established by UNMISS to address criminality and insecurity left the displaced communities in the sites invariably feeling dissatisfied with regard to their approach to cases of adultery, elopement and pregnancy out of wedlock. It is the traditional courts therefore that process the vast majority of these cases within the sites, given the seemingly irreconcilable stances of the communities versus the Mission with regard to the “criminal” nature of such issues. In the words of one man in Juba PoC site 3, “if there is someone who commits adultery, the chiefs and the community elders, they call themselves together to solve this case. Not UNPOL!”¹⁴⁶

142 Interview with female Deputy Block Leader, Bor PoC site, October 2015.

143 Administrative unit below the level of the county.

144 Participant observation with former chiefs of ‘B’ Court, Bentiu PoC site, October 2015.

145 Interview with Chairperson, Juba PoC site 1, October 2015.

146 Interview with male community member, Juba PoC site 3, October 2015.

In all of the sites visited, the researcher was informed that according to Nuer custom, a man caught committing adultery with another man's wife must give the married man's family seven cows as compensation. However, as there are no cows in the PoC sites, the cash equivalent must be paid instead.¹⁴⁷

Although some cash is available in the sites, largely through employment of some IDPs by INGOs, there is rarely enough to cover the full amount, in which case the family members will gather as much money as possible, but if the family is unable to cover the full amount then, "whenever God opens the way for us to come back home, then he will go home and pay."¹⁴⁸

The practice of traditional leaders ruling that a case should be deferred until the communities have been able to return home was common across all sites, with respondents listing this as a means used to address a range of cases including the sexual assault of a teenage girl,¹⁴⁹ the accidental fracture of a young child's arm by another child, and the accusation of witchcraft by one woman against another.¹⁵⁰ In such cases, the researcher was told that the details are documented by a traditional court secretary and will be passed onto the relevant community leader upon the IDPs' return home for execution of the ruling. When questioned on whether they felt that it was appropriate for justice to be delayed in this way, the majority of respondents explained that given there was no satisfactory alternative, "we just tell the relatives to keep quiet, no fighting. Later, we deliver."¹⁵¹ Respondents seemed confident that the rulings would not be forgotten and would indeed be executed eventually.

It was often difficult to discern whether an individual or group existed in the realm of traditional authority or a more formalised (in the eyes of the Mission) public authority, rendering some figures or groups of ambiguous regarding the legal framework of the sites. As described in the previous section, sometime in the Bentiu PoC site IMDRM behaved more like a traditional court, for example by charging large fines, than it did a mediation mechanism.¹⁵²

Among the IDPs surveyed in Bor, the predominant means for resolving disputes and addressing crime in the community was to take cases "to the Community Court, which is the Elders, and they settle the case."¹⁵³ This ambiguity, and the visible public legitimacy that the elders were endowed with would perhaps explain why in Bor, UNPOL officers were willing to actively engage with them as the principle means for managing cases

of criminality and insecurity, as witnessed in UNPOL's meetings with the Court of Elders, alongside the Camp Chairperson and CWG to discuss the problem of repeat offenders in the site¹⁵⁴, as well as training the Elders in human rights and mediation methods.¹⁵⁵ As a result, the Court of Elders in the Bor PoC site took on the status and responsibilities mandated of IMDRM, whilst retaining its traditional character and abiding by Nuer customary norms.¹⁵⁶

147 Different figures were given to the researcher as the cash equivalent of seven cows, ranging from 3000SSP to 7000SSP.

148 Participant observation of Court of Elders meeting, Bor PoC site, October 2015.

149 Interview with male community paralegal for PACT, Juba PoC site 3, July 2015.

150 Participant observation of Court of Elders meeting, Bor PoC site, October 2015.

151 Interview with female community member, Bor PoC site, October 2015.

152 Participant observation of IMDRM meetings, Bentiu PoC site, October 2015.

153 Interview with female Deputy Block Leader, Bor PoC site, October 2015.

154 Participant observation of UNPOL, Camp Chairperson, elders, CWG, protection partners meeting, Bor PoC site, October 2015.

155 Interview with UNMISS Human Rights Officer, Bor PoC site, October 2015.

156 Participant observation of Court of Elders meeting, Bor PoC site, October 2015.

Discriminatory practices against women within traditional courts in South Sudan have been widely documented.¹⁵⁷ In line with these findings, in the PoC sites the researcher observed that women were

often excluded from participating in traditional courts, and were not included in the deliberation of rulings. For instance, the courts were often exclusively male and when women were present, they were very few in number and usually sat behind the male members or on the floor and were tasked with making tea and given little opportunity to play a decisive or vocal role in the proceedings.¹⁵⁸ Moreover, the rulings observed by the researcher were in keeping with the broader tendency within elements of traditional law in South Sudan to value women only insofar as their potential bridewealth – usually in the form of cattle – whilst failing to respect their agency and individual rights.¹⁵⁹ This observation is corroborated by wider Justice Arica research.¹⁶⁰ Notably, the researcher observed that traditional courts were biased against women both in terms of the types of cases that *reached* the court, as well as the procedures during the court hearings. For example, respondents did not mention a single case where a husband was committed adultery against his wife lead to a court hearing in the PoC sites; only cases where the wife was the accused adulterer were heard. This discrepancy may be a product of the traditional acceptance of polygamy, despite adultery being illegal under the South Sudan 2009 Penal Code. When questioned on whether they felt adequately represented and fairly treated however, female IDPs broadly responded affirmatively.¹⁶¹ One respondent in Bor, for example, commented that she would prefer that there were more women in the Court of Elders, but only because so many of the crimes committed in the PoC site were apparently by women. She disagreed with the notion that the male elders discriminated against women in their rulings.

Administrative Leaders

Community-based administrative structures exist in the PoC sites and, unlike the traditional authorities, are officially recognised by UNMISS, are designated to act as a liaison between the Mission, the INGOs operating in the sites, and the displaced communities in residence. Every PoC site is divided into blocks, each housing at least 100 IDPs. For every block there exists a block leader and a deputy block leader. In Bor, the block leaders report to the Camp Chairperson. In Juba and Bentiu, where the sites are much larger, the blocks are then grouped into zones, with each zone having its own leader, who in turn reports to the Camp Chairperson. According to the Camp Chairperson in Juba PoC site 1, he presides with the assistance of a board, comprising four members, representing each of the key areas from which the IDPs in that site originate – Bentiu, Fangak, Nassir and Akobo.¹⁶²

157 See: David Deng (2013) *Challenges of Accountability: an Assessment of Dispute Resolution Processes in Rural South Sudan*. South Sudan Law Society; Alicia Luedke (2015) *Violence Begetting Violence: Justice and Accountability for Sexual and Gender-Based Offenses in South Sudan*. Justice Africa.

158 Participant observation in Bor and Bentiu PoC sites, October 2015.

159 Participant observation across all research sites, October 2015.

160 Alicia Luedke (2015) *Violence Begetting Violence: Justice and Accountability for Sexual and Gender-Based Offenses in South Sudan*. Justice Africa.

161 Interviews and FDGs with female community members in Bor PoC site and Juba PoC site 3, October 2015.

162 Interview with male Camp Chairperson, Juba PoC site 1, October 2015.

Meanwhile in Bentiu, above the level of the block and zone leaders presides the High Committee, incorporating 19 members, described by one member as having “two members from each county, but we are having gender also, we have three women,” and headed by the Chairperson.¹⁶³

The members of this administrative “humanitarian system” are nominated by members of the community through a voting process that, while closed, has a measure of oversight by the Mission.¹⁶⁴

It is worth noting that residents of each block are not grouped according to their home county or ethnic group, but rather assigned to their block at random, meaning each block leader is not necessarily from the same home community as his or her ‘constituents;’ and yet these leaders appear to enjoy a high degree of public legitimacy among the displaced communities. A community paralegal from Juba PoC site 3 described cases in which community members would approach both the administrative authorities as well as the CWG and traditional authorities successively or move back and forth,¹⁶⁵ which appears to be an exercise in forum shopping, as the parties in question sought resolution or justice for their case from a range of authorities until they felt satisfied with the outcome. Ostensibly, the figures comprising these lines of authority occupy a separate space from those (officially or unofficially) involved in the management of criminality and security in the sites. However in practice, to varying degrees these figures of authority were also described by respondents as having a role in dispute resolution and dealing with incidents of criminality and insecurity. A block leader in Bor commented that “in our role as block leader, we have to make sure people don’t fight,”¹⁶⁶ and the Bor Camp Chairperson similarly explained, “I will advise somebody who commits problems” - to which a member of UNMISS present at the time responded: “It is not [your job] to *advise*, it is to *inform*.”¹⁶⁷ Other members of the community corroborated this role, describing how, if a dispute or crime occurred in their block, they would report it to the block leader. Depending on his assessment of the severity of the case, the block leader would try to resolve it or call the CWG.¹⁶⁸

In Juba PoC site 3, respondents elucidated that if there is a case between two people within a block, their block leader will solve it, while if the case is between residents of two different blocks, the zone leader will handle it, and if the case is between different zones, it will be referred to the Camp Chairperson.¹⁶⁹

The administrative leaders share a somewhat ambiguous relationship with the community authorities directly managing criminality and insecurity, including the CWGs, IMDRM, traditional courts and elders. The two systems were described as operating in parallel and appeared to work alongside each other relatively smoothly, and at times overlapping, with no noteworthy conflicts reported to or observed by the researcher in any of the sites visited. In a number of cases described by respondents, both forms of leadership worked together to manage a dispute.

Administrative leaders are also able to play a role in influencing the management of criminality and security through other means: in Bentiu, the IMDRM panel is answerable to the High Committee for its rulings, whilst in Bor the Camp Chairperson spoke to UNPOL on behalf of the CWG and Court of Elders

163 Interview with High Committee member, Bentiu PoC site, October 2015.

164 Interview with male community member, Juba PoC site 3, October 2015.

165 Interview with community paralegal for PACT, Juba PoC site 3, July 2015.

166 Interview with male Block Leader, Bor PoC site, October 2015.

167 Participant observation of UNPOL, Camp Chairperson, elders CWG, meeting, Bor PoC site, October 2015.

168 Interview with female Deputy Block Leader, Bor PoC site, October 2015.

169 Interview with male community member; FGD with six female community members, Juba PoC site 3, October 2015.

during a meeting regarding the possible expulsion of repeat offenders from the site.

In an extreme case, in Juba PoC site 1, the Camp Chairperson was described by UNPOL as using the CWG as a “private militia” to intimidate or threaten community members whom he saw as opposing his authority, and even created his own personal holding facility where he would detain community members without food or water.¹⁷⁰

Community members also tacitly intimated to the researcher that this was indeed the case.¹⁷¹ The higher echelons of administrative authority in particular have at times become highly contested, sparking violent disputes between the candidates’ respective supporters,¹⁷² suggesting the desirability of such authoritative roles within the PoC sites and rendering such authorities both a remedy and a source of insecurity at times.

Handover

When asked their opinion regarding the handover of individuals whom had committed serious crimes or community disturbances to the external criminal justice system, the general sentiment held by the IDPs surveyed was that it is not acceptable. In fact, among all IDPs questioned, a unanimous resistance to handover was expressed.

In Bor, handover was opposed particularly strongly, with respondents stating, “if you are going to hand me over to the government, it means you are handing me over to be killed,” citing an unacceptably high risk being posed within the government jails in particular.¹⁷³ In Juba and Bentiu, similar concerns were voiced, explaining that it is “not good for safety,”¹⁷⁴ and rather they should be detained in the holding facilities until peacetime. In Bentiu, respondents suggested, “the people in here are the people of Riek Machar, so you can keep them here and then when he comes to Bentiu you take them to him and say ‘Riek Machar, these are your bad people!’”¹⁷⁵

Some respondents offered a few caveats to their opposition to handover. In Juba PoC site 1, one community member elaborated that if there was an appropriate follow up process and human rights protection guarantees, then handover to the criminal justice system could be a viable option, whilst another respondent posed that if handover was to become an option, it would act as an effective deterrent for further crime in the site.¹⁷⁶

170 Interview with two UNPOL officers, Juba, October 2015.

171 Interview with Camp Chairperson; interview with male community member, Juba PoC site 1, October 2015.

172 Interview with male community member, Juba PoC site 1. Comments from INGOs in Bor. October 2015.

173 Interview with elderly male community member; interview with female Deputy Block Leader; interview with female community member; comments in Court of Elders meeting. Bor PoC site, October 2015.

174 FGD with six female community members, Juba PoC site 3, October 2015.

175 Identity withheld, Bentiu PoC site, October 2015.

176 Interviews with two community members in Juba PoC site 1, October 2015.

It is important to note that during the research period, around early October 2015, four IDPs were handed over from one of the Juba PoC sites to the external authorities following a long period in which no handovers occurred from any of the PoC sites. The precise circumstances under which this occurred were not clear, though it was said to have been authorised under the provisions of the existing SOFA, rather than through the reaching of a memorandum of understanding between UNMISS and the Government of South Sudan, which had previously been proposed by the Mission but refused by the Government.¹⁷⁷

None of the IDP respondents mentioned this development to the researcher – and given the sensitivity of the issue, the researcher decided not to raise it – indicating that the handover was not widely known among the displaced communities at that time.

Peacekeepers

According to the UNMISS mandate, the battalions of military peacekeepers are designated to secure the safety and security of the PoC sites – in other words, the perimeter – and thus on paper their role should not be of great relevance to the management of criminality and insecurity *inside* the sites. In reality, the conduct and capabilities of the UNMISS peacekeepers bears important implications for safety and security within the sites, and moreover, there is a keenly felt expectation among the IDPs in residence that the peacekeepers should be “working hard” to ensure their safety within.

When questioned on what they felt the greatest threat to their personal safety was within in the PoC sites, respondents cited again and again the lack of security of and immediately outside the perimeter of the UNMISS premises. Specifically, women leaving the PoC sites to search for firewood in the area surround the site face an extant threat of sexual assault, abduction or even death by the SPLA and belligerent groups, to the extent that in Bor and Bentiu, many women (and men) had stopped leaving the sites altogether. A woman in Bor PoC site told the researcher: “When we heard that there was some peace, we went outside to look for firewood. Those who raid cattle, those Dinka, they killed one person...Now women are not going outside to collect firewood, they remain here in the PoC but there is no charcoal here.”¹⁷⁸ Whilst the researcher was visiting Bentiu in early October 2015, eight women were reported missing from just outside the perimeter of the PoC site whilst collecting firewood, apparently abducted by the SPLA.¹⁷⁹ UNMISS in Bentiu has stated that the peacekeepers were conducting patrols around the perimeter to secure the area for firewood collections,¹⁸⁰ however none of the IDPs surveyed in this research corroborated this claim, noting only that the INGO Nonviolent Peaceforce (NP) conducted firewood patrols: “Only NP is going out to the bush to protect the lives of the civilians... there are no UN involved.”¹⁸¹

177 Interview with two UNPOL officers; interview with UNMISS Spokesperson; Juba, October 2015.

178 FGD with eight members of the Women Community Leaders group, Bor PoC site, October 2015.

179 Participant observation with CWG, Bentiu PoC site, October 2015.

180 CIVIC (2015) *Within and Beyond the Gates: The Protection of Civilians by the UN Mission in South Sudan*: http://civiliansinconflict.org/uploads/files/publications/SouthSudanReport_Web.pdf

181 Participant observation with CWG, Bentiu PoC site, October 2015.

The presence and conduct of military peacekeepers around the PoC sites also has the ability to influence the prevalence of certain forms of criminality and insecurity within the sites. The PoC sites are delineated by berms and ditches and some wire fencing, and are not lit around the full perimeter at night, rendering them highly permeable to encroachment by armed actors. Peacekeepers are only stationed at the key entrances and points around the site, but at night it is relatively easy for individuals to enter unchecked. In the Juba PoC sites, respondents complained at the lack of vigilance of peacekeepers to prevent this.

In the words of a Bentiu PoC site CWG officer: “between GhanBatt and MonBatt there will be open space there. There is no guarding there at night time, people are passing through those places... they are from the SPLA side, they came and shoot for the robbery, and came and shoot for hatred.”¹⁸²

Particular incidents of violent crime indicate that the peacekeeping battalions need to engage more seriously with the issues of criminality and insecurity on both sides of the perimeter. For example, a respondent in Juba PoC 1 described how a “Dinka, one of the government, he entered at the main gate... there is not any question [from the peacekeepers]... we don’t accept anyone of the government to enter, that is the enemy. And that man, they [the IDPs] beat him up and after one hour he passed [died].

The government gets the information because he is one of them. In a matter of two hours, eight people were killed at the main gate, people from inside here, who were coming back from market and were ambushed on the road.”¹⁸³ Other respondents in both Juba sites raised similar cases of SPLA encroachments. In a particularly grave example, the capabilities of the peacekeepers were demonstrably inadequate when faced with an armed attack on Bor PoC site by armed Dinka youth, SPLA and SSNPS in April 2014. During the attack UNMISS reported that 57 IDPs were killed. Those who witnessed the attack deplored some of the peacekeeping battalions’ slow and incompetent responses.¹⁸⁴ In another incident described by a member of UNHCR in Bentiu, the SPLA entered the PoC site and kidnapped two IDPs by force. Although the UNMISS PoC Advisor has argued that the PoC sites should, by nature, prevent such occurrences, these and other incidences seem to contradict the capability of peacekeepers to effectively protect inhabitants.^{185 186} As one respondent succinctly described her view of the peacekeeper’s activities: “Why do they keep quiet, if our enemies are attacking us?”¹⁸⁷

The IDPs’ frustration with the peacekeeping battalions was shared by some UNPOL officers, who remarked that the relationship between the two arms of the DPKO “isn’t particularly helpful,” the way it is structured, specifically in terms of the peacekeepers’ failure to share information with UNPOL, such as when they see holes being cut in the perimeter fences, and

more generally because the respective battalions act at the behest of their respective troop contributing country (TCC), prioritising this over the Mission.¹⁸⁸ The researcher observed a visible diversity in the levels of constructive engagement between battalions of different nationalities and the central Mission across all sites, which can be partially attributed to language barriers but more so to the misalignment between the priorities of the TCC and UNMISS.

182 Ibid.

183 Interview with male community member, Juba PoC site 1, October 2015.

184 FGD with eight members of the Women Community Leaders group, Bor PoC site; interview with male Block Leader, Bor PoC site October 2015; comments by member of UNMISS Bor, December 2015.

185 Interview with member of UNHCR, Bentiu, October 2015.

186 Interview with member of UNMISS Protect of Civilians Unit, Juba, October 2015.

187 FGD with six female community members, Juba PoC site 3, October 2015.

188 Interview with two UNPOL officers, Juba, October 2015.

UNMISS Human Rights

Many of the IDPs surveyed pointed to the UNMISS Human Rights department as a key actor during discussions around crime and security within the PoC sites. Interestingly, the UNMISS Human Rights department was often conflated with human rights as a body of law and a general concept, with the terms being used interchangeably during discussions. As such, when questioned on their views on human rights (as a concept), respondents often spoke of the specific workings of the UNMISS Human Rights department, and vice versa.

As a concept, 'human rights' was broadly perceived as chiefly pertaining to issues of gender and women's protection in the camps, with respondents commenting, "The role of human rights is to see that the women cannot be mistreated."¹⁸⁹ Diverse views were expressed, and often conflicted, in terms of perceptions of the value of human rights, both as an UNMISS department and as a broader concept, with no clear distinction between the views of men and women. In a discussion with the Women Community Leaders in the Bor PoC site about a case where a man attacked his girlfriend in the site, causing her to have a miscarriage, the women approached an UNMISS Human Rights officer in Bor, with the problem because they viewed the department as a forum for seeking protection or redress from sexual violence.¹⁹⁰ A female Deputy Block Leader in the Bor PoC site told the researcher during an interview however that "the human rights people say that the lady has right to get a new man. That human right of the lady is not good... to let the lady go free to any man she likes, that is not good."¹⁹¹ On the other hand, the same female respondent in Bor also commented, "What I select from the human rights is only the right of the woman to go to school, the right of the woman to participate in meetings, that is the good things that come up with the human rights" lauding the efforts towards increasing female participation as positive achievement of human rights work in the sites.

UNMISS' Human Rights department's approach towards dealing criminal suspects was particularly contentious among IDPs. For the most part, respondents criticised the limits placed upon their authority to punish criminals by the UNMISS Human Rights department.

For example, the Camp Chairperson in Juba PoC site 1 stated, "the Human Rights of the UN, it is causing us a lot of problems,"¹⁹² an attitude echoed across the sites visited. Conversely, in Juba PoC site 3, one respondent praised UNMISS' refusal to hand over criminal suspects to the external justice system as a positive example of human rights protection, explaining, "The people in here now who are taking things, sometimes they might be taken and handed to the police, but the UN will say: 'No, this person belongs to the UN, not the government prison.' If it is not a matter of human rights, you would be taken to that court, taken away. But now, we are OK."¹⁹³

189 Interview with male community member, Juba PoC 3, October 2015.

190 FGD with eight members of the Women Community Leaders group, Bor PoC site, October 2015.

191 Interview with female Deputy Block Leader, Bor PoC site, October 2015.

192 Interview with male Camp Chairperson, Juba PoC site 1, October 2015.

193 Interview with male community member, Juba PoC site 1, October 2015.

Factors of Crime and Insecurity

Having uncovered the multitude of forums and actors that exist in South Sudan's PoC sites for those seeking justice and security, we now move on to examine the nature of particular forms of criminality and insecurity, viewed through a range of vantage points, beginning with the provision of humanitarian supplies and services. Thereafter, the prevalence of crime and insecurity are analysed through the lenses of gender, politics, psychosocial trauma and youth gang activity.



A woman washing clothes under IOM tarpaulin in Bor PoC site (JA/Flora McCrone)

HUMANITARIAN SERVICES AND RESOURCE PROVISION

The physical humanitarian space within which the displaced communities reside has been a key factor in the prevalence of criminality and insecurity in the PoC sites. At the beginning of South Sudan's crisis, when the influx of IDPs first became encamped in the sites, their distribution was extremely haphazard and the land upon which they built their tukuls ill-prepared. Dense, congested, labyrinthine clusters of homes were erected on uneven, swampy and flood-prone ground. In this environment, crime and disputes proliferated as communities scrambled for space and limited humanitarian supplies. Meanwhile, patrols by UNPOL were heavily impeded, allowing criminality to continue unchecked. As the months passed, UNMISS came to recognise that the crisis was not temporary, and provisions were made for the redesign of the sites and redistribution of the IDPs within to improve physical access for UNPOL and humanitarian service providers, prevent flooding and make the sites safer. In Bentiu for example, which was widely deplored for its dire living conditions, the PoC site was extended and Dutch engineers were commissioned to irrigate it, with wide roads being flanked by deep ditches, delineating a neat grid system of large blocks.

The CWG in Bentiu noted, "when the camp was relocated here, there is not so much personal fighting," explaining how this has drastically mitigated crime and large community disputes, by increasing the ease of access for UNPOL vehicle and foot patrols, as well as increasing visibility for peacekeepers stationed in watchtowers.¹⁹⁴ Moreover the block system with its dividing trenches forded by narrow footbridges, served to contain the outbreak of mass intercommunal disputes by physically hindering the movement of fighters – "You cannot get out from Block 6 to Block 7 to go and fight."¹⁹⁵ A member of UNMISS Bentiu similarly commented that the many of IDPs whom had chosen to remain in the old sector of the PoC site were involved in gang activity and associated crime, presumably to evade the watch of UNPOL.¹⁹⁶

IDPs are allocated to their blocks at random, as opposed to being in accordance with their home county or ethnic group.

According to community members, this has fostered greater degree of intercommunal cohesion and allayed pre-existing cleavages.¹⁹⁷ In the words of Bentiu's CWG leadership, "Here there is punishment and learning. It is a punishment being kept here as a prisoner, but you learn something when you see a new person as your neighbour. You stay with different people from different counties, you know each other, you respect each other."¹⁹⁸

Respondents across all PoC sites frequently cited an insufficient provision of certain humanitarian resources as a dominant cause of crime and threat to human security. In Bentiu, this concern was expressed particularly keenly; interviewees suggested that the scarcity of basic resources, namely food, was experienced as a protection threat equal to or even greater than that of armed attack.

194 Interview with CWG, Bentiu PoC site, October 2015.

195 Ibid.

196 Interview with member of UNMISS Bentiu [identity withheld], October 2015.

197 This research does not demonstrate that the block system has allowed complete intercommunal cohesion however, and indeed certain cleavages between counties or other constituencies have persisted, as will be elucidated in the section: Political Dynamics..

198 Interview with CWG, Bentiu PoC site, October 2015.

A member of the CWG leadership explained the motivation of some IDPs to leave the Bentiu site to travel north to Sudan as related to “the fear of shooting, the fear of no food.” Another CWG member corroborated this claim, stating, “there is every day shooting, every day no food.”¹⁹⁹ Another respondent, speaking of the UNMISS State Coordinator, remarked, “Why’s she so worried about fucking guns? Why can’t she just worry about this generation dying? Motherfuckers’ hungry!”²⁰⁰ This sentiment has led a number of respondents in Bentiu to go as far as to interpret UNMISS and the humanitarian INGO’s apparent neglect of the needs of the IDPs as being demonstrative of their support of the enemy SPLA. One interviewee informed the researcher, “So I’m like, ‘what fucking side are you on? Government side or UN side over here?!’”²⁰¹ Another stated, “We are between life and death. The humanitarians are from the government side”²⁰² Though this concern was only cited by a minority of interviewees, it should be treated seriously, because an increasing hostility of IDPs towards UNMISS and INGOs and perception that they are not adhering to their neutral or impartial principles places them at risk, as well as other civilians.

Beyond its impact as a threat to security in itself, the shortage of certain goods and resources in the PoC sites has bred specific types of criminality and violence, particularly among women. In Juba’s PoC sites for instance, all respondents cited the scarcity of water as a particular cause of violent clashes between women in the sites. During a focus group, female respondents commented, “Here the water is not enough. Women normally fight because of the water.”²⁰³ A male community member in the same site similarly explained how “Women congest in one water point, and then somebody puts a jerry can down [in the queue] and another person comes and takes their place and then the fighting can start, just like that, and the majority will join.”²⁰⁴ Indeed the rapid escalation of violent disputes related to shortages of some goods is common. For instance in the Bentiu PoC site incident referred to earlier in this report, where the researcher met a young woman whom just had her entire lip bitten off by her young female neighbour, who likewise bore a large bloody bite mark in her forearm, during a fight over some clothing.²⁰⁵

Similarly in Bor, the researcher observed numerous small scale fights between women in the PoC site during the distribution of firewood.²⁰⁶

In Bor, all respondents cited the brewing of alcohol and associated behaviour as a key factor in the prevalence of criminal and violent activity in the site. According to an UNPOL Corrections Officer, drunk and disorderly behaviour was the second most common reason for detaining IDPs in the holding facilities after physical assault, though the two are interrelated.²⁰⁷ The husbands and male family members of many of the women living in the PoC sites are fighting with opposition forces or in some cases have been killed, leaving the women as head of their households. In order to generate cash income in the absence of other livelihood strategies, many women use their monthly sorghum ration to brew alcohol. During a discussion with Bor’s Women Community Leaders group, the women explained, “Most of the women they are suffering a lot because they have no husband here, that is why they’re brewing alcohol, because they don’t have any means to buy milk and sugar.”²⁰⁸

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- 199 Interviews with CWG members, Bentiu PoC site, October 2015.
 200 Interview with male community member, Bentiu PoC site, October 2015.
 201 Ibid.
 202 Interviews with CWG members, Bentiu PoC site, October 2015.
 203 FGD with six female community members, Juba PoC site 3, October 2015.
 204 Interview with male community member, Juba PoC site 3, October 2015.
 205 Participant observation with CWG, Bentiu PoC site, October 2015.
 206 Participant observation, Bor PoC site, October 2015.
 207 Interview with UNPOL Corrections Officer, Bor PoC site, October 2015.
 208 FGD with eight women community leaders, Bor PoC site, October 2015.

This activity in itself is illegal under the UNMISS PoC site ground rules, whilst also giving rise to drunken and disruptive behaviour among both men and women, some of whom go on to commit domestic violence, community disputes or other crimes.²⁰⁹

Insufficient food rations have also encouraged some community members to steal from their neighbours. In Bor, a young woman explained, “Everything we have [to eat] here is not enough. If there is no food to eat, you can go and steal,”²¹⁰ whilst in Juba PoC site 3, a woman observed that some IDPs in the site “break and enter and find some good clothes, or money, and just go and sell them. Even the sorghum. Because of their starvation they are suffering.”²¹¹ In some cases, theft of humanitarian supplies from the service providers themselves occurs. For example, while visiting Bentiu, the researcher learned that 19 armed IDPs from the PoC site had broken into the premises of the INGO Care during the night and stolen their supply of nutritional supplement ‘Plumpy Nut.’²¹²



Members of USB Generation listening to music in their tukul in Bentiu's PoC site (JA/Flora McCrone).

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- 209 IDPs entering the PoC site are requested to comply with a list of ground rules.
 210 Interview with female community youth leader, Bor PoC site, October 2015.
 211 FGD with eight women community leaders, Bor PoC site, October 2015.
 212 Participant observation of Humanitarian Cluster Coordination Meeting, Bentiu PoC site, October 2015.

GENDER, SEX AND RELATIONSHIPS

Sexual and gender-based violence (SGBV) at the hands of South Sudan's civil war has become a dominant theme within policy discourse and media reporting, and has echoed the common wartime trope of rape as a weapon of war.²¹³ All sides of the current conflict have been accused of perpetrating egregious sexual violence against women and girls, and to a lesser extent men and boys, during the course of the conflict, by human rights bodies including UNMISS. Extreme cases have included the broadcasting of "rape speech" over the radio by SPLA-IO, and the use of "rape camps" by the SPLA and allied militia.²¹⁴

The rape and physical assault of women by the enemy forces was reported openly and frequently to the researcher at each PoC site by both IDPs and UNPOL officers, with respondents with reference to the threat faced by women in the area surrounding the perimeter of the PoC sites. At times, this form of gender-based violence can be described as survival sex where women will have sex with combatants in exchange safe passage and food, likely as a result of indiscipline and opportunism among soldiers rather than a strategic civilian terror tactic by the warring parties.²¹⁵ When questioned on the prevalence of SGBV *within* the PoC sites, however, both male and female respondents were noticeably less vocal. Prior research by Justice Africa as well as other organisations has noted the problem of sexual harassment of women and girls, particularly by gangs of young men, around the latrines and shower facilities in the PoC sites.²¹⁶ Within this research however, the term "rape" was rarely volunteered during interviews, and when questioned on the occurrence of incidents of rape and SGBV, interviewees most commonly replied that they had never heard of rape occurring within their PoC site, and where it had, it was either an anomaly or had taken place in the distant past. One female IDP in Bor remarked, "Outside there is a lot [of rape], but inside there is nothing,"²¹⁷ whilst a man in Juba PoC site 1 said, "things like raping, people talk of it but I've never seen it."²¹⁸

An UNMISS Human Rights Officer in Bor suggested this 'apparent' absence of rape is the product of a range of factors, most particularly that in the Bor site at least, rape is genuinely uncommon, linked to the fact that the vast majority of the residents are Nuer and therefore there exists a sense of common solidarity – "they consider themselves as a family."²¹⁹ Indeed, this sentiment was echoed by a number of IDPs in Bor. The second reason that the UNMISS Human Rights Officer stated was that, as has been observed throughout South Sudan, the fear of social stigmatisation inhibits survivors of SGBV from reporting rape, particularly in light of the customary practices of forcing rape victims to marry their attacker and for married women to be divorced by their husbands.²²⁰

213 Alicia Luedke (2015) *Violence Begetting Violence: Justice and Accountability for Sexual and Gender-Based Offences in South Sudan*.

214 Ibid. Also see Al Jazeera *Reliving the rape camps of South Sudan's civil war*, 29 September 2015: <http://www.aljazeera.com/indepth/features/2015/09/reliving-rape-camps-south-sudan-civil-war-150929121909936.html>

215 Ibid.

216 Ibid.

217 FGD with Women Community Leaders in Bor PoC site, October 2015.

218 Interview with male community member, Juba PoC site 1, October 2015.

219 Interview with UNMISS Human Rights Officer, Bor, October 2015.

220 Ibid. Also see: Alicia Luedke (2015) *Violence Begetting Violence: Justice and Accountability for Sexual and Gender-Based Offences in South Sudan*. Justice Africa

Under the South Sudan 2008 Penal Code, as well as traditional law, rape within marriage is legal, which also helps to explain why rape as a criminal incident is “grossly underreported”²²¹ within the PoC sites. Previous Justice Africa research has shown that fear of retaliatory violence further compounds the reluctance of women to report rape.²²² As the UNMISS Human Rights Officer explained, “...the women, even though they feel it, they know it’s happening to them, they don’t see it as a human rights violation or a criminal offence.” This view apparently extends to all male-female relationships according to the Camp Chairperson of Juba PoC site 1, who stated that “in our culture, when you have a girlfriend, you can use her by force, but we don’t consider it rape.”²²³ It is important to note that this view was not reflected by all male respondents, with many citing the introduction of human rights education by UNMISS and protection INGOs as beneficial prevention tools to such abuse.

Husbands beating their wives was raised by some female interviewees as a problem faced by women in the Bor PoC site.²²⁴ The UNMISS Human Rights Officer there explained that domestic violence was indeed

“This is why we control our women, so that if she is conceiving, she has to be married. We don’t want any second hand women”

Camp Chairperson, Juba PoC site 1.

relatively common and linked to the prevalence of alcohol consumption, psychosocial trauma and disempowerment experienced by men in the sites, whilst noting that women were generally more willing to view such incidents as crimes and report them to UNPOL, perhaps because it does not invite social opprobrium to the same extent as rape.²²⁵

Elsewhere, Justice Africa research has provided indications that there is generally a level of tolerance for domestic violence by men against their wives, in keeping with customary norms that position women as the “property” of their husbands.²²⁶ Meanwhile, UNMISS’ official policy is to treat incidents of rape and SGBV extremely seriously, with offenders apparently facing almost immediate expulsion.²²⁷

While in reality expulsion remains very rare and offenders are infrequently detained by UNPOL, the policy of taking incidences of rape seriously, is at least partially reflected in the fact that the majority of the holdees in the holding facilities who have been held for periods exceeding six months have been accused rapists.²²⁸ In cases of SGBV where the victim claims not to want to detain the offender for fear of social stigma or recrimination, UNPOL may override the victim and proceed with detention nonetheless.²²⁹

221 Interview with two UNPOL Officers, Juba, October 2015.

222 Alicia Luedke (2015) *Violence Begetting Violence: Justice and Accountability for Sexual and Gender-Based Offences in South Sudan*. Justice Africa.

223 Interview with male Camp Chairperson, Juba PoC site 1, October 2015.

224 FGD with Women Community Leaders, Bor PoC site, October 2015.

225 Interview with UNMISS Human Rights Officer, Bor, October 2015.

226 Alicia Luedke (2015) *Violence Begetting Violence: Justice and Accountability for Sexual and Gender-Based Offences in South Sudan*. Justice Africa.

227 Ibid.

228 Interview with male Camp Chairperson, Juba PoC site 1; Interview with CWG leadership, Bentiu PoC site; October 2015.

229 Comments by UNPOL Officer, Protection Cluster Meeting, Juba, July 2015.

Adultery and pre-marital sex are common in the PoC sites due to a range of factors. Firstly, there are generally many more women living in the sites than men, and many women unaccompanied by husbands, who have been killed or are “in the bush” fighting. As one elder in Bor described the situation, “We have fewer men here and those men are playing with the women.”²³⁰ In some cases in IDP settlements elsewhere, such circumstances create space for the empowerment of women as decision-makers and heads of their households, and may permit a degree of sexual emancipation.²³¹ Indeed, researcher Cherry Leonardi found that as a result of encampment in IDP and refugee settlements in South Sudan’s previous civil wars, many women have become successful arguing for divorce due to their exposure to concepts of international human rights and women’s rights.²³² In this light, the desire to have a new “boyfriend” among women in South Sudan’s PoC sites, as was observed in this research, is neither surprising nor inappropriate in many people’s eyes, but remains a criminal offense in the view of many community members – particularly males and the traditional courts. As previously noted, while adultery by both married men and women is an offence under South Sudanese statutory law, it is invariably women who are branded adulterers and punished. Meanwhile, for adultery committed by a man, a blind eye is turned and at times it is celebrated because, at odds with the illegality of adultery under the 2009 Penal Code, polygamy in South Sudan is “prevalent, legal and widely accepted.”²³³ Adultery by married men therefore is only considered an offense if he refuses to marry his girlfriend or if she becomes pregnant.²³⁴ This trend is visible within the PoC sites.

The elopement of couples without the consent of their families was frequently raised by respondents as an example of criminality in the PoC sites, and one reflecting a behavioural shift away from traditional norms among some members of the community. Many young couples who have eloped – or “run away together” – are forced by their respective families to get married, but the bridewealth paid may be lowered because the woman is no longer “pure,” resulting in censure by the woman’s family.²³⁵

The pregnancy of young unmarried girls also appeared common in the IDP camps, and in many cases was described as consensual, even when it involved teenage girls (minors). In the eyes of UNMISS, this qualifies as a human rights violation in most cases. Conversely, in the eyes of many community members, is only illegal insofar as the boy or man refuses to marry the pregnant girl. In the words of Juba PoC site 1’s Camp Chairperson, “This is why we control our women, so that if she is conceiving, she has to be married. We don’t want any second hand women.”²³⁶ A member of the CWG in Bentiu complained at the promiscuity of women in the PoC site, and their reliance on having unwanted pregnancies aborted, commenting that “the uncontrolled girls... their husbands are from the SPLA-IO side, they get into the PoC here, they get boyfriends, they get [pregnant] and then they think ‘if my husband comes back he will make a problem,’ so she goes to the clinic and remove that child, we even find the foetus in the rubbish.”²³⁷ That being said, a number of abortions may be the outcome of rape cases rather than consensual sex.

230 Interview with male community member, Bor PoC site, October 2015.

231 H Durham, T Gurd (2005) *Listening to the Silences: Women and War*. Martinus Nijhoff Publishers.

232 David Deng (2013) *Challenges of Accountability: an assessment of dispute resolution mechanisms in rural South Sudan*. SSLs. Also see: Alicia Luedke (2015) *Violence Begetting Violence: Justice and Accountability for Sexual and Gender-Based Offences in South Sudan*. Justice Africa.

233 Orly Stern (2011) “This is How Marriage Happens Sometimes”, in (eds) F. Bubenzer and O. Stern: *Hope, Pain and Patience: The Lives of Women in South Sudan*. Jacana Media.

234 Ibid.

235 Alicia Luedke (2015) *Violence Begetting Violence: Justice and Accountability for Sexual and Gender-Based Offences in South Sudan*. Justice Africa.

236 Interview with male Camp Chairperson, Juba PoC site 1, October 2015.

237 FGD with CWG Leadership, Bentiu PoC site, October 2015.

Sexual transgressions such as adultery, elopement, and the “defilement” of unmarried women that create ‘social problems’ may be treated as distinct from acts of SGBV, including domestic violence, sexual assault and rape. In reality, the two types of sexual act will frequently overlap, particularly where the former entails sexual coercion, for instance where a man forces a woman into sexual intercourse in order to marry her in order to lower her bridewealth.²³⁸ All such acts are, to varying extents, considered criminal acts in themselves in the PoC sites, depending on whom you ask. Moreover the dominant theme across interviews and discussions held during this research in all sites was the ability of such incidents or activities to cause interfamilial or intercommunal disputes, frequently violent and often involving dozens or even hundreds of individuals. Numerous events of this nature were narrated to the researcher by IDPs and other respondents, invariably involving a married woman being suspected of having an affair with a man, or a young woman or girl caught having pre-marital sex. In the cases of adultery, the family of the husband will generally start a fight with the family of the boyfriend, whilst in cases of pre-marital sex, the family of the girl will fight the family of the boy, particularly if the girl falls pregnant. As a woman explained in Juba PoC site 3, “if a girl becomes pregnant and the person who did it will not be able to pay the dowry [in order to marry to girl], the parents will be very annoyed including the brothers. And the brother might be having height and power and it will become a very big problem and very hard to control.” The woman went on to say, “Her family will be fighting his family and even some other families are interfering, because now if you see your brother has been beaten and he is innocent, you will be annoyed.”²³⁹ These interfamilial fights will rapidly escalate in the level of violence used and in scale. In Bor, for example, a dispute over a case of adultery resulted in over 100 IDPs fighting each other with sticks and stones, forcing an UNPOL FPU to intervene. In a case in Juba PoC site 3 in July 2015, a young boy and girl were caught having apparently consensual sex. The boy and girl’s families did not approve and began fighting, soon joined by members from their respective counties. The result was “three days of mass disorder in the PoC site, with between 600 and 800 people fighting with machetes, sticks, stones, bows and arrows,” forcing an FPU to step in with limited success.²⁴⁰ According to UNPOL, there were widespread casualties, and an IDP respondent claimed there had even been fatalities.

The sense of solidarity with one’s home county, rather than home state, age-set, religion or even ethnic group, was paramount within the PoC sites, and therefore even the smallest disputes of this nature consistently made recourse to these fault lines as they mushroomed. In one case recounted to the researcher by a community paralegal in Juba PoC site 3, during a dispute that arose when a young man was caught having sex with a teenage girl, a range of different actors including the community paralegal, a traditional court and the CWG attempted unsuccessfully to mediate between the two warring families. Eventually it was the young man’s county leader who curtailed the fighting, by instructing the man “not to make problems for his county.”²⁴¹

Incidentally, it is in such cases the incomplete process of social cohesion fostered by the distribution of IDPs in the block system becomes visible. Demonstrably, acts perceived as being “criminal” or a cause of community instability relating to the role of gender and sexual relationships are all, at their core, founded on the belief that women in South Sudan are a commodity. Put simply by one interviewee: “Our culture is that if you have a daughter, she will bring you cows.”²⁴²

238 Alicia Luedke (2015) *Violence Begetting Violence: Justice and Accountability for Sexual and Gender-Based Offences in South Sudan*. Justice Africa.

239 FGD with six female community members, Juba PoC site 3, October 2015.

240 Interview with two UNPOL Officers, Juba, October 2015.

241 Interview with community paralegal for Pact, Juba PoC site 3, July 2015.

242 Interview with male community member, Juba PoC site 3, October 2015.

POLITICAL DYNAMICS

As has been noted in previous sections, there has been a general trend observed across all of the PoC sites visited of intercommunal clashes and violent disputes reducing over time, as a result of the intermixing of different communities or county groups, the encouragement of UNMISS and the stabilising efforts of the various community authorities. Additionally, the residents in each site share a common enemy, which we can assume would foster a sense of common solidarity. Nevertheless, large-scale violent disputes persist, of which some can be linked to the political dynamics playing out in the national conflict, in spite of the PoC sites' official status as a "safe haven" for civilians against the conflict and turmoil gripping the country, bounded by fences, berms and battalions of peacekeepers.

A general problem afflicting all of the PoC sites is the difficulty faced by UNMISS in retaining the civilian character of the sites, seeking to insulate them from the infiltration of combatants and arms belonging to the warring parties. The sites exist to protect *civilians*, and as such those seeking refuge must be classified as civilians. Problematically, in the post-Cold War era, as wars in the global South become increasingly internalised and waged by non-state actors – militia groups comprised of fighters who did not wear a uniform or belong to a formal army - it has become ever more difficult to determine who is a combatant as envisaged under the Geneva Conventions and who is not.²⁴³ Nowhere is this more true than in South Sudan, whose current conflict as well as its previous two civil wars have been fought by an amorphous conglomeration of armed cattle-keepers, teenagers and children, and guerrilla fighters who have spent their whole lives "in the bush". Given the half century-long period of civil war that South Sudan has witnessed, punctuated only by a few short years of fragile peace, it is commonly held that at some point in their lives, the vast majority of South Sudanese men have been a combatant - according to anthropologist Naomi Pendle, "in South Sudan there is no clear distinction between civilian and combatant, nor government and non-government."²⁴⁴ This being the case, whilst UNMISS has faced dilemmas in which groups of uniformed armed men who claim to be deserting from the warring parties and seeking protection in the PoC sites, the far more pervasive problem is the thousands of non-uniformed men who do not appear to be carrying arms who seek and gain entry to the sites every single day.²⁴⁵ The UN applies a policy that "in cases of doubt of whether that person should be considered a civilian, that person shall be considered a civilian" – in other words, giving them the benefit of the doubt²⁴⁶.

Whilst many of these individuals have genuinely deserted the conflict and merit being treated as a civilian, others may in some way persist in behaving as a combatant belonging to the warring parties, using the PoC sites as an R&R (rest and relaxation) facility in between bouts of fighting, smuggling in and using arms, or using the sites to access resources and recruit fighters. President Salva Kiir has made numerous public statements expressing antipathy towards the UNMISS PoC sites, in which he conflates the civilian populations within the sites with the "rebels" of SPLA-IO²⁴⁷, whilst both the SPLA and SPLA-IO have been found by human rights researchers to have recruited soldiers, including children and at times forcibly,

243 Mary Kaldor (2012) *New and Old Wars: Organised Violence in a Global Era*. Polity Press

244 Naomi Pendle (2015) *They Are Now Community Police: Negotiating the Nature and Boundaries of Government in South Sudan Through the Identity of Militarized Cattle-Keeper*s. <http://booksandjournals.brillonline.com/content/journals/10.1163/15718115-02203006?crawler=true&mimetype=application/pdf>

245 Interview with UNMISS Senior Protection of Civilians Advisor, Juba, October 2015.

246 Ibid.

247 Salva Kiir: "I cannot bring peace alone". Speaking on Al Jazeera, 1 November 2014: <http://www.aljazeera.com/programmes/talktojazeera/2014/10/salva-kiir-i-cannot-bring-peace-alone-20141031161725478957.html>

from the PoC sites.²⁴⁸ However, claims of this nature, particularly when stated by representatives of the warring parties, should not be taken at face value given their propensity towards using propaganda to discredit UNMISS, or to justify the targeting of civilians and violations of the SOFA²⁴⁹. Moreover during the course of this research respondents insisted repeatedly that they had come to identify with one another primarily as civilians and IDPs, as opposed to affiliated of an ethno-political party. Nonetheless, the apparent politicisation and militarisation among some residents of the PoC sites, or at least the *perception* of this by outsiders, renders the entire populations within the sites vulnerable to particular forms of insecurity and criminality.

The porous boundaries and shortfalls in the reach of the peacekeeping battalions has allowed the inflow of arms into the PoC sites, leading to gun crime. In spite of the peacekeepers' efforts to confiscate weapons at the gates, and UNPOL's searches within the sites, the Bentiu PoC site has become an unintended arms cache of sorts. Weapons are often hidden or buried underground and are primarily used for the perpetration of armed robberies of IDPs possessions and humanitarian supplies as well as during some interpersonal disputes. Observers have noted spikes in the presence and use of arms coinciding with military offensives in territory nearby the PoC sites. For example, a member of UNHCR linked a dramatic increase in gun crime in the sites with an SPLA military offensive in southern Unity State in the counties of Rubkona, Koch and Guit in May 2015,²⁵⁰ during which "many SPLA-IO strongholds were dismantled" and the IO soldiers fled with their weapons to Bentiu PoC site.²⁵¹

Political upheaval or violent offensives in the wider conflict have also generated inter-communal tension and even mass violent disorder in the PoC sites. Regarding the aforementioned case in which a girl and boy were caught having pre-marital sex in Juba PoC site 3 in July 2015, spawning clashes involving up to 800 IDPs, the incident coincided with the increased military support, including committing atrocities, in Unity State by the South Sudan Liberation Army (SSLA), largely comprised of Bul Nuer (a sub-section of the Nuer from Mayom county, Unity State) to the SPLA.²⁵²

The events in Unity generated hostility among Nuer IDPs residing in the Juba PoC sites against those who hailed from Mayom (regardless of their geographical or political distance from the events in Unity State). When the small dispute regarding the young boy and girl arose, of which one party originated from Mayom, the simultaneous broader political turmoil caused the fighting in the site to erupt with aggressive magnitude and resulted in a several hundred IDPs from Mayom to leave Juba PoC site 3 and move to a government-protected settlement in Mangaten, a neighbourhood of Juba.²⁵³ In the Bentiu PoC site, a similar dynamic existed between IDPs from Mayom and those of other counties.

248 South Sudan Protection Cluster: Protect Trends Paper no. 4. May 2015: <http://cpwg.net/wp-content/uploads/sites/2/2015/07/Protection-Trends-Paper-No.-4-May-2015-final.pdf>

249 See, for example, Radio Tamazuj (2015) *South Sudan govt says UN unable to run protection sites*. 12 May 2015. <https://radiotamazuj.org/en/article/south-sudan-govt-says-un-unable-run-protection-sites>

250 Human Rights Watch (2015) *They Burned it All: Destruction of Villages, Killings and Sexual Violence in Unity State South Sudan*. 21 July 2015: <https://www.hrw.org/report/2015/07/22/they-burned-it-all/destruction-villages-killings-and-sexual-violence-unity-state>

251 Interview with member of UNHCR Bentiu, October 2015.

252 John Young (2015) *A Fractious Rebellion: Inside the SPLA-IO*. Human Security Baseline Assessment, Small Arms Survey: <http://www.smallarmssurveysudan.org/fileadmin/docs/working-papers/HSBA-WP39-SPLM-IO.pdf>

253 This followed media reports that in May 2015, fighting between Bul Nuer, the Dok Nuer and the Haak Nuer residing in Juba's PoC sites sparked by a "domestic dispute" escalated to the point that an estimated 3500 Bul Nuer left the PoC sites and moved to Mangaten and nearby Mia Saba.

Several respondents in Bentiu claimed that although some IDPs privately distrusted their neighbours from Mayom, they would never violently clash with them, explaining that “it is just people saying that people of Mayom, it is those who are burning villages, *tukuls*, looting their cows...people are saying that but there is no fighting.”²⁵⁴ Conversely, Bentiu’s CWG expressed a more active ill-will towards those of Mayom, arguing that “it is the dangerous county that depends on the SPLA side. We don’t need them to marry our daughters and sisters! They are our disease.”²⁵⁵ Whilst members of the CWG acknowledged that not every IDP from Mayom supported the SPLA, they also attributed the majority of the inter-communal confrontations within the PoC as involving fighters from Mayom, although this may have been an exaggeration or oversimplification according to one protection partner.²⁵⁶ In Malakal PoC site the playing out of external dynamics within the site became visible when militia leader Johnson Olony, a member of the Shilluk tribe, shifted allegiance from the SPLA to the SPLA-IO and thereafter Shilluk in the PoC site also transferred their allegiance and a group of Shilluk youths attacked their Dinka neighbours.²⁵⁷ Such incidents reiterate that although an overall trend towards social cohesion and inclusion through cohabitation has evolved in the sites, this process is neither linear nor absolute, revealing distinct and enduring pockets of exclusion. From a policy perspective, the existence of such fault lines and grievances that are related to but equally removed from the elite-level political conflict, should demonstrate that with regard to transitional justice initiatives - be they criminal accountability or reconciliation - the emphasis should be broadened beyond just the actors based in Juba.

Not every external political shift is manifested within the PoC sites in this way however. For instance in July 2015, when SPLA-IO leader Riek Machar sacked the deputy military commander Peter Gadet, onlookers and NGO workers in the PoC sites expected that the move would generate hostility between IDPs supporting Gadet and those supporting Machar²⁵⁸. However upon visiting the Juba PoC sites the following day, the researcher observed and was not aware of any confrontations among IDPs.²⁵⁹ In fact, the infiltration of external political conflicts and associated threats to safety into the PoC sites was, in comparison to other causes of crime and insecurity – namely resource scarcity, gender-related disputes, psychosocial trauma and gang activity – perceived by IDPs as being relatively minor.

The majority of respondents across all sites, when questioned on whether they were aware of events in which external political shifts or fighting had affected community relations within the PoC sites, answered that they were not aware of this or that it only occurred occasionally. One interviewee in Bor replied: “*No, if there is fighting outside we have not got problems here in the PoC.*”²⁶⁰ The seeming absence of political engagement by communities in the PoC sites may partially be linked to the information environment in the sites – whilst certain community members, particularly men occupying leadership roles, were well informed of the external political developments, including the IGAD-led peace negotiations and UN Security Council activities, the majority interviewed had limited or outdated knowledge of what was occurring beyond the walls of their site. This can be explained by practical limitations such as the lack of telephone, TV or internet access, coupled with the low levels of literacy prevalent throughout South Sudan, particularly among women.

254 Interview with member of Community High Committee, Bentiu PoC site, October 2015

255 Interview with members of CWG leadership, Bentiu PoC site, October 2015.

256 Participant observation with CWG, Bentiu PoC site, October 2015; comments by representative from Non-violent Peaceforce, March 2016.

257 Interview with member of Amnesty International, Nairobi, September 2015.

258 According to one protection partner, this could be partly explained by the fact that Gadet is a Bul Nuer and therefore lacks a strong constituency in the Juba PoC site at the time.

259 Participant observation, Juba PoC site 3, July 2015.

260 FGD with eight Women Community Leaders, Bor PoC site, October 2015.

Even the women whose husbands were fighting with the SPLA-IO have little or no knowledge of the opposition group's movements because they do not have satellite phones so have been unable to speak to their husbands since their displacement.²⁶¹

Indeed, assumptions made by many commentators that violent clashes within the PoC sites demonstrate that they serve as a microcosm of the wider conflict or a mirror of its dynamics, may be overstating the influence that external politics are able to exert. Rather, a significant number of so-called "political clashes" in the sites are in fact the product of *internal* power struggles, occurring independently of the national conflict. In Bor, an interviewee mentioned a large inter-communal dispute between two groups within the PoC site in March 2015, during the run up to the election of the Camp Chairperson, between supporters of two different candidates which grew violent and forced UNPOL and a group of peacekeepers to intervene.²⁶² During a meeting between UNPOL, the CWG and the Camp Chairperson in Bor, the Chairperson used to opportunity to pontificate on his own role and discretely warn others not to challenge him, stating that "Some people want to show their strength to others, some are exercising politics even though they were not politicians when we were outside...they want to incite people to fight, fight for the leadership here."²⁶³ In Juba PoC site 1, according to UNPOL officers the notorious Camp Chairperson apparently uses the CWG as his "henchmen" who "violently resist any challenge to his leadership", including incarcerating people in his own makeshift holding facility²⁶⁴.

An IDP in PoC site 1 diplomatically described the incumbent Chairperson's ascent to power as "not smooth" and he has been in power longer than the six month period prescribed in the other PoC sites²⁶⁵. When the researcher asked if the current Chairperson was supported by communities in the site the respondent quietly answered, "It is yes and no, you know..." The Chairperson himself claimed that he was not only the leader of PoC site 1, but "also the people of [Juba] PoC 3 see me as their Chairman"²⁶⁶. Incidentally, no interviewees in Juba PoC site 3 mentioned this. An UNPOL officer raised concern at a plan in development by UNMISS to consider amalgamating the two adjacent Juba PoC sites, and the seemingly inevitable power struggle that that would cause between the two sites' leadership.²⁶⁷

There were suggestions made by some respondents that Juba PoC site 1's Chairperson held political influence externally with the SPLA-IO; the man himself, in his mid-60s and leaning on a walking stick, told the researcher that he was formerly an MP in Akobo county, a guerrilla in the Anyanya 1 and Anyanya 2 rebel movements in the 1970s and 80s, and subsequently the SPLA. He stated that "In Africa, if you don't have a gun, people humiliate you...It is better to be a politician with a gun and a uniform."²⁶⁸ His long history of armed engagement and an explicit desire to remain militarily or politically significant notwithstanding, the extent to which this Chairperson was directly connected to the SPLA-IO, or held a political constituency outside the PoC site was unclear, highlighting that political relations within the PoC sites remain nebulous and claims of this nature in any direction should not be taken as self-evident.

261 Ibid.

262 Interview with male Block Leader, Bor PoC site, October 2015.

263 Participant observation, meeting with UNPOL, CWG, Camp Chairperson, Elders, Bor PoC site, October 2015.

264 Interview with two UNPOL officers, Juba, October 2015.

265 Interview with male community member, Juba PoC site 1, October 2015.

266 Interview with male Camp Chairperson, Juba PoC site 1, October 2015.

267 Interview with two UNPOL officers, Juba, October 2015.

268 Interview with male Camp Chairperson, Juba PoC site 1, October 2015.

At the same time, the empowerment that such individuals within the PoC sites should be considered carefully upon their eventual leaving the sites.

As new figures of authority with a supporting constituency - and in some cases a tendency to exert their authority through violence – such actors should be treated with caution with regard to arrangements for national and subnational government.



The Holding Facilities at Bor's PoC Site (JA/Flora McCrone)

TRAUMA

The majority of respondents reported psychosocial trauma among displaced persons in each of the PoC sites visited as being highly prevalent. One interviewee, a Pastor in the Bor site, explained, “many people are traumatised, stressed and depressed.”²⁶⁹ Respondents commonly attributed this to the loss of close family members in the course of the conflict. This is reflected in the findings of a survey by the South Sudan Law Society, which found that 40% of IDPs suffered from post-traumatic stress disorder (PTSD) – a figure comparable to those found in post-genocide Rwanda and Cambodia.²⁷⁰ Several IDPs reported that suicide

“When we came in, some people want to show their strength to the others. Some of them are exercising politics... And those who want to exercise the politics in here, to incite people to fight, fighting for the leadership”

Camp Chairperson, Bor PoC site.

within the PoC sites was common; for instance, in Juba it was said that “if your wife or children were killed, you are thinking too much. At the end of your thinking you decide to hang yourself.”²⁷¹ In previous Justice Africa research it was noted that suicide is more common among men and may in part be because the already limited degree of psychosocial support provided within the sites is largely directed at women and children.²⁷² Numerous respondents explained that it was not only the events that forced their displacement, but also the duration and nature of their displacement that was traumatic. Perhaps surprisingly, it was being forced to remain in one place, as opposed to their being forced to move from their homes, that was raised by respondents most frequently as difficult to deal with. A youth leader in Bor explained that “the people, they are always in one place, so they can hate themselves.”²⁷³ Individual and collective trauma is a protection problem in itself for those engaged with the IDPs in

the PoC sites, whilst bearing specific implications for the prevalence of criminality and insecurity within the communities.

Respondents in each of the sites frequently made direct links between individuals experiencing trauma and their propensity to start fights within the community. One interviewee in Bentiu commented, “people who are living here are traumatised by war... maybe you can quarrel with someone, you can harm him.”²⁷⁴ More commonly raised still was the tendency for traumatised individuals to drink alcohol and behave disruptively. In Juba PoC site 3 a woman mentioned “we also have some of those who are traumatised, taking alcohol at the gate.”²⁷⁵

269 Interview with male Pastor, Bor PoC site, October 2015.

270 SSLS (2015) *Search for a New Beginning: Perceptions of Truth, Justice, Reconciliation and Healing in South Sudan*. June 2015.

271 Interview with male community member, Juba PoC site 3, October 2015.

272 Alicia Luedke (2015) *Violence Begetting Violence: Justice and Accountability for Sexual and Gender-Based Offences in South Sudan*. Justice Africa.

273 Interview with female Community Youth Leader, Bor PoC site, October 2015.

274 Interview with male Community High Committee member, Bentiu PoC site, October 2015.

275 FGD with six female community members, Juba PoC site 3, October 2015.

A Pastor in Bor explained the key sign of trauma was when somebody drank too much, and an elderly man described how “people, when they don’t hear about their relatives, whether they are dead or alive... that’s why people use alcohol, too much alcohol.”²⁷⁶ Several interviewees noted that the prevalence of trauma had increased alcohol abuse among women in the PoC sites in particular. A member of a protection INGO in Juba also suggested that the trauma experienced by displaced persons in the PoC sites had led to an increase in violence against women and children by their male family members.²⁷⁷ While IDP respondents did not raise sexual violence as a product of trauma, an increase in domestic violence was mentioned in the Juba and Bor sites. These findings echo other recent Justice Africa research findings on SGBV among displaced communities in South Sudan.²⁷⁸

Members of UNPOL indicated that cases of criminality involving individuals with mental health illness, including illnesses that are consequences of trauma, are difficult to deal with, specifically in terms of whether to detain offenders in holding facilities.²⁷⁹ Policies on this appeared inconsistent between the different PoC sites. At the time of research, no special pathway existed for the Mission to address such cases, leaving detention of such individuals as the only option, with psychosocial support for holdees provided by protection INGOs in Juba such as Handicap International.²⁸⁰ In Bentiu, an UNPOL representative told the researcher that their policy was not to detain people with mental health problems at all, but would rather refer them to MSF for treatment and then release them. In Juba, Case Conferences for ongoing holdee cases were described by UNPOL as involving INGO protection partners with expertise in psychosocial trauma;²⁸¹ however a representative from Handicap International stated that in reality Case Conferences will tend to include 12 to 15 members of UNMISS with only one representative from a protection INGO.²⁸² Some research participants raised the church as a venue for mitigating cases that arise from criminality or disputes where at least one party is affected by trauma, though its role should not be overstated. According to a member of Bentiu’s CWG, “[the church] is encouraging the people who are missing their family, they go and pray in their *tukul*.”²⁸³ In the Bor PoC site, a Pastor described his own role as a “counsellor” who “encourages them, prays for them.” The terms “healing” and “reconciliation” through prayer and counselling were used most commonly with regard to the church’s role in dealing with cases of criminality or community disputes, whilst the burden of delivering “justice” and “security” remained squarely upon the traditional leaders, administrative community leaders, UNPOL and the wider Mission.

The majority of IDPs surveyed expressed that detention of individuals with psychosocial difficulties who have become disruptive was a favourable option. The leader of Bor’s CWG remarked, “Sometimes we them [to the holding facilities] and leave them there, to cool their mind.”²⁸⁴ An elderly man in Bor told the researcher that in “Nuer customary law, whenever somebody has a mental problem we put him or her in jail until he becomes normal again.”²⁸⁵

276 Interview with male community member, Bor PoC site, October 2015.

277 Interview with representative of Handicap International, Juba, July 2015.

278 Alicia Luedke (2015) *Violence Begetting Violence: Justice and Accountability for Sexual and Gender-Based Offences in South Sudan*. Justice Africa

279 Comments by UNPOL officers during Protection Cluster meeting, Juba, July 2015.

280 Interview with representative of Handicap International, Juba, July 2015.

281 Comments by UNPOL officers during Protection Cluster meeting, Juba, July 2015.

282 Interview with representative of Handicap International, Juba, July 2015.

283 Interview with CWG leadership, Bentiu PoC site, October 2015.

284 Interview with CWG Leader, Bor PoC site, October 2015.

285 Interview with male community member, Bor PoC site, October 2015.

This viewpoint that detention as a *remedy* for individuals with psychosocial difficulties is not shared by protection INGOs or the Mission, and yet in some cases they feel there is no alternative outcome. In the case of the disabled woman with mental health problems who had murdered a man – the story that opened this report – UNPOL officers conceded, “bizarrely, she’s probably in the best place she could be. Her physical health is the best it has been, she can walk. Her psychological health has improved because she’s receiving treatment, which she wouldn’t have in the external community. She’s fed, she gets visitors...but there still seems to be no clear end plan for this lady.”^{286 287}

The term ‘gang’ in the context of the PoC sites refers to a diverse range of groups and actors. At times, the term gang was used loosely to describe young men who worked together to steal from their fellow IDPs and humanitarian service providers, or who partook in other types of disruptive behaviour such as drinking alcohol or taking drugs. The word gang was used interchangeably with the term ‘niggers’,²⁸⁸ referring to groups of youths who dress, speak and behave in a manner associated with black American hip hop culture. The two versions of gangs referred to by respondents certainly overlap, but as this research would suggest – contrary to the perceptions of many commentators – they are by no means synonymous. Not all of the ‘niggers’ are criminals, and not all of the criminals are ‘niggers.’

Respondents in all research sites frequently mentioned the former type of gang. In Bentiu, where there are an estimated 14 gangs present, a member of the CWG stated, “the most crimes here are the gangs, the gang robbers.”²⁸⁹ In Juba PoC site 1, one man said of the gangs that they “are just stealing... breaking things, taking any assets they can carry.”²⁹⁰ In Bor the Court of Elders described a particular gang in their site as “a group of people here who steal sorghum, plastic sheets, they sell it outside the gates. That group they take alcohol and smoke marijuana and disturb people at night. They fight.”²⁹¹ The prevalence of such activities was attributed by interviewees by three key factors: psychosocial trauma, the distancing of youths from their family and familial obligations as a result of their displacement, and the lack of employment within the PoC sites. UNPOL officers in each site corroborated that gang activity does indeed take place in the manner described by IDPs. In some instances, mainly in Bentiu’s PoC site, gang activities involved firearms and other weapons thanks to the permeability of the sites to such contraband items. A representative of UNHCR in Bentiu noted a link between this internal violence and the conflict going on outside the camp, suggesting that the spike in armed gang robberies was linked to the aforementioned offensives by the SPLA in the surrounding counties, forcing opposition fighters along with their arms into the PoC site and increasing the circulation of weapons within those communities.²⁹²

Gangs referred to as ‘niggers’ have existed in South Sudan since the 2005 CPA period, comprising returnees whom had been displaced by the previous civil war to East Africa, Egypt, America and Australia. With the heralding of peace in South Sudan, these individuals brought home with them the urban modernity, moral values and language that they had been exposed to during their refugeehood, specifically in the form of black American rap or hip hop culture.

286 Interview with two UNPOL officers, Juba, October 2015.

287 It is important to bear in mind that psychosocial support is extremely limited countrywide: there are only two fully trained psychiatrists in the whole country and it is common to deal with people with mental health problems by imprisoning them in jail cells with criminals.

288 The use of the term ‘niggers’ in this context is apparently devoid of the negative racist connotations. ‘Niggers’ may be spelt elsewhere as ‘niggaz’ or ‘niggerz’.

289 Interview with CWG leadership, Bentiu PoC site, October 2015.

290 Interview with male community member, Juba PoC site 1, October 2015.

291 Participant observation with Court of Elders, Bor PoC site, October 2015.

292 Interview with member of UNHCR, Bentiu, October 2015.

As such, they embody and abide by values, dress codes, a language and interests alien to the country's largely rural population, whose formal education was limited and whom were bound by the customs of their tribe. Youths who had remained in-country have also joined the groups of 'nigger' returnees. The self-titled 'niggers' were met with suspicion and even hostility by South Sudanese authorities, both statutory and traditional. Broadly, 'niggers' by their very existence came to be considered as "increasingly sinister and criminal" in South Sudan, particularly by local government, irrespective of their specific criminal acts.²⁹³

In 2013, for example, the Mayor of Wau issued a ban on their "indecent dress" which "becomes a security threat."²⁹⁴

'Niggers' featured most prominently during discussions, and were most visible, in the Bentiu site, although reports from Malakal's PoC site highlighted the 'niggers' prevalence there too.²⁹⁵ They seem less present in Juba PoC sites 1 and 3, and not at all in Bor. In Bentiu, 'nigger' groups were generally not referred to as gangs, but rather "teams." A member of the CWG in the Bentiu PoC site explained, "They are seeing the stars of America, 50 Cent, those New York niggers...they see the beautifulness of the world! But the beautifulness is not coming to them, so they want to pretend."²⁹⁶ A member of the CWG introduced the researcher to one such team, who call themselves 'USB Generation.' The leader stressed to the researcher that USB Generation was a *team*, not a gang, and clearly resented the connotation of criminality associated with the label of gang. The leader told the researcher he was a former child soldier, who was sent to Kakuma refugee camp in Kenya in the early 1990s, before being resettled in the USA, where he lived for 19 years.²⁹⁷ He dressed in the attire of a basketball player, used the word "motherfucker" liberally, and spoke frequently of his love of famous American rappers. He referred to the members of his group as his "little brothers," who unlike him, appeared in the main to have lived in Unity State their whole lives, and yet they dressed like him, shared his love of music and spoke a combination of English, Nuer and Juba Arabic, punctuated with the word "motherfucker."

The researcher visited the *tukul* of several young men from USB Generation, who lived there together rather than with their families.²⁹⁸ The sense that these team members belonged to a community distinct from those displaced communities that surrounded them was palpable. Indeed, even their team name USB Generation, standing for Unity State Bentiu, is significant in that it unites them

according to their *state*, not their county - noteworthy in a context in which one's home county is the paramount defining feature and the primary fault line during intercommunal conflicts. Members of USB Generation frequently and emphatically vocalised that they were not violent, did not commit crimes, and were advocates of peace within the PoC site. The leader called for a basketball court to be created "so that these little brothers can play basketball, and love one another, instead of fucking violence and shit,"

293 C Leonardi, L N Moro, M Santschi, D Isser (2010) *Local Justice in Southern Sudan*. USIP and RVI.

294 Eye Radio (2013) *Mayor of Wau issues local dress code order to prevent niggers' activities*. <http://eyeradio.org/mayor-wau-issues-local-dress-code-order-prevent-niggers-activities/>

295 Correspondence with researcher at Amnesty International, Nairobi, September 2015.

296 Interview with CWG leadership, Bentiu PoC site, October 2015.

297 Interview with leader of USB Generation, Bentiu PoC site, October 2015.

298 Participant observation with members of USB Generation, Bentiu PoC site, October 2015.

YOUTH AND GANGS

while another member told the researcher that USB Generation was “formed purposefully to promote cultural peace through music, activities, sport... because youth are committing crimes.”²⁹⁹

Though crime and violence were not the defining features of the ‘niggers’ of Bentiu PoC site, as one might expect, respondents did cite many of the groups as key sources of criminality and insecurity. During the research visit to Bentiu, a robbery of the INGO Care’s clinic took place. Nineteen young men armed with AK47s and spears broke in during the night, stealing 18 cartons of Plumpy’Nut – a supplement for malnourished children – and other humanitarian supplies.³⁰⁰ The following day, the researcher was taken to a number of the haunts frequented by young team members – not only USB Generation – including a large *tukul* which remarkably housed a widescreen TV on which dozens of them were watching an international football match. The floor of the *tukul* was thickly carpeted with fresh Plumpy’Nut wrappers.³⁰¹

“They are seeing the stars of America, 50 Cent, those New York niggers...they see the beautifulness of the world! But the beautiful-ness is not coming to them, so they want to pretend”

CWG Leadership, Bentiu PoC site.

Beyond acts such as armed robbery, other forms of violence were apparently habitual among ‘nigger’ teams – most commonly, infighting over girls. When questioned on whether USB Generation contained “little sisters” as well as “little brothers,” the group’s members claimed it did, though in the several days of interaction with the group the researcher only encountered one woman, who was serving them tea (and Plumpy’Nut). Observers of the PoC sites have noted that the environment has permitted a degree of sexual emancipation for young women, visible in the number of fights over “girlfriends” – not “wives” – among gang members, although it did not appear as though young women were fully incorporated into the gangs themselves, still retaining a proximity to their families.

Though the customary norms around marriage and marital sex were apparently less important to ‘nigger’ team members, the tendency towards treating women as a commodity prevailed, as their girlfriends were passed from team member to team member, generating disputes among the young men concerned.³⁰²

Likewise, disputes with the wider community were commonplace because the teams played their music extremely loudly on enormous speakers that had been smuggled into the site, disturbing their neighbours – one incident of which the researcher witnessed first-hand. Some of these disputes resulted in serious injury and even death.³⁰³

299 Ibid.

300 Participant observation in Humanitarian Coordination Meeting, Bentiu, October 2015.

301 That being said, Plumpy’Nut could be seen on market stalls and in the homes of community members throughout the PoC site, which the CWG attributed not only to gang robberies, but to the PoC site residents who are employed by humanitarian INGOs to distribute goods such as Plumpy’Nut to individuals or households in need, but who actually sell the goods at the market.

302 Ibid. Also participant observation with members of USB Generation, Bentiu PoC site, October 2015.

303 Interview with member of UNHCR, Bentiu, October 2015.

Within the PoC sites the statutory laws of the South Sudanese government are not applicable, and therefore those which criminalise ‘nigger’ behaviour are rendered obsolete. The traditional authorities within the sites seemingly continue to hold that the ‘nigger’ groups and gangs more broadly are inherently both illegal and illegitimate.³⁰⁴ However, unlike other members of the displaced communities for whom the traditional courts bear enormous significance and their rulings great weight, for the ‘nigger’ groups who have conspicuously distanced themselves from the customary norms that govern these communities,

the rulings and authority of the traditional courts and other leaders bears far less gravity in their eyes. Instead, members of ‘nigger’ groups such as USB Generation view their team’s leader as the highest moral authority, which was highly visible in the group’s deferential, even reverent, interactions with their leader.³⁰⁵

Dealings between UNMISS, humanitarian partners and gangs are complex, at times opaque, and inconsistent. UNPOL apparently handles the issue of gang-based criminality on a crime-by-crime and individual-by-individual basis, usually by confiscating weapons, detaining suspects in the holding facilities and then referring them onto IMDRM.³⁰⁶ Problematically, this somewhat narrow approach struggles to grapple with the organised and collective nature of such activity and fails to take a holistic perspective of the factors that encourage the prevalence of gang-based crime. UNPOL utilises the CWGs as an “intelligence service”³⁰⁷ to identify and notify them of gang criminality, which they claim is very effective, but the researcher observed potential pitfalls, such as where CWG members are friends with or related to gang members, or where they feel under threat from reprisal from gang members.³⁰⁸ Finally, because they belong to the same age group and live in close proximity, the nature of the relationships between some gang members and the CWGs was ambiguous.

In spite of the broad perception of their habitual criminality, the familiarity with Western culture and the English language among many ‘nigger’ groups places them in some ways at an advantage within the UNMISS environment. Returnee members in particular, who have most likely had contact with the UN and INGOs during previous displacement experiences and more broadly during their time outside of South Sudan, have become conversant in the language and systems used by UNMISS and the international community.

References to human rights, international conventions and global bodies arose frequently during discussions, and this understanding – however incomplete – leads some individuals to use human rights as a safety net against corporal punishment by traditional community authorities, to mitigate the threat of expulsion from the PoC sites, and to protest the indefinite detention of gang members in the holding facilities. Members of USB Generation informed the researcher that they were “working with their friends in UNPOL” to devise systems whereby they could provide support and counselling for holdees from other gangs, though admitted that officers in the Corrections department were resistant.³⁰⁹ The researcher also observed that with INGOs such as Nonviolent Peaceforce in Bentiu, members of USB Generation had developed a familiarity and rapport with its employees, which one can assume would encourage a broader interface with the protection partners, moving beyond just being viewed through the lens of criminality, taking note of the role of opportunities for employment, recreation and education (or lack thereof). \\\

304 Participant observation with former ‘B’ Court Elders, Bentiu PoC site, October 2015.

305 Participant observation with members of USB Generation, Bentiu PoC site, October 2015.

306 Interview with member of UNHCR; interview with member of UNPOL. Bentiu, October 215.

307 Ibid.

308 Participant observation with members of USB Generation, Bentiu PoC site, October 2015.

309 Ibid.

CONCLUSION AND RECOMMENDATIONS

Departments of UNMISS, with particular reference to UNPOL as well as members of the Protection of Civilians department and Human Rights department, amongst other departments and organisations working on civilian protection, continue to carry out commendable work in what are indisputable extremely difficult circumstances. However, as with IDP and refugee crises the world over, for those standing outside of the PoC sites, in South Sudan and internationally, the image projected is one of victimisation, dehumanisation, suffering and violence. For those a little closer to the situation, there are statements and official documents released by UNMISS and its partners which detail something more of the goings-on in the PoC sites, but from a perspective which frequently neglects the actual experiences of those most affected. The intention of this report is to move beyond the more singular outlook, to highlight the undeniable resilience and agency exerted by individuals and communities grappling with problems of crime and insecurity.

The insights included in this research refract into policy fields and affect actors and agencies far beyond just those working and living within the perimeters of the PoC sites. The treatment of the PoC sites in the coming months could have ripple effects far into to the country's future. Indeed as the months of fighting have stretched into years, UNMISS has struggled to establish anything more than temporary measures to manage PoC site populations and develop sustainable solutions to the displacement crisis. Whilst on the one hand, there exists an international discourse – encouraged by UNMISS itself – that lauds the life-saving action taken by the Mission in creating the PoC sites and paints the PoC sites as a positive innovation in the global civilian protection model, representatives within the Mission simultaneously vocalise that they never want to find themselves in this position again.

These conflicting narratives make it unclear what UNMISS is actually planning to do with the sites and their residents in the future, or whether they are doing much long term planning at all. The Mission's apparent reluctance to openly make lasting commitments to these populations appears to be mirrored by the South Sudan government and other regional and international partners, evident in the IGAD-mediated Compromise Peace Agreement,³¹⁰ which contains no explicit mention of the PoC sites and pays very little attention in general to sustainable solutions for mass displacement and the humanitarian crisis. The recommendations included at the beginning of this report therefore have not offered specific technical recommendations for protection actors with which to solve the immediate challenges in the PoC sites, but rather have drawn attention to the medium to long-term policy implications of the current situation, for programming at governance at the national level as well as the international UN system.

310 Agreement on the Resolution of the Conflict in the Republic of South Sudan, August 2015: http://www.sudantribune.com/IMG/pdf/final_proposed_compromise_agreement_for_south_sudan_conflict.pdf

National programming and governance:

- I. Action around IDP returns and reintegration, or the reconfiguration of the PoC sites should take careful account of the newly empowered community authorities and leadership structures, given the present fragile transitional period, and proposed 28 state system, as displaced communities and authorities could disrupt the ongoing negotiation of power.
- II. Gender-related policymaking should take into account the breadth of gender-related issues associated with this conflict and consider gender relations between men and women within households and communities as well as those abuses associated directly with the warring parties, particularly with regard to proposed transitional justice mechanisms. Meanwhile, developments identified by the communities themselves as being positive aspects of gender empowerment in the PoC sites should be encouraged.
- III. Robust and broad-based measures to address psychosocial trauma in a culturally appropriate manner should be taken in the immediate and medium term, in order to mitigate the associated violence and instability among communities as well as to encourage healing at the individual, communal and national level. Transitional justice mechanisms in particular should take account of this need.
- IV. Youth within the PoC sites, as well as those elsewhere in the country, represent a generation in crisis, and their concerns should be addressed from several different angles – namely national education and employment policies, as well as civilian disarmament – which recognise the elements of armed violence within youth groups, whilst avoiding broadly labelling them as simply perpetrators or criminal entities.

UN global operations:

- I. Ensuring collective security and protecting individual human rights are at times irreconcilable in the PoC sites, forcing a situation of constant negotiation and contradiction between the relevant parties. The UN should use more realistic and responsive approach to human rights, based on a nuanced understanding of dynamic social norms, whilst recognising the essential protection that certain human rights laws afford vulnerable IDPs.
- II. The UN Department for Peacekeeping Operations (DPKO) should consider developing mission-specific definitions of the civilian (versus the combatant), taking account of the respective socio-cultural, political and military contexts, in order to minimise the legal ‘grey area’ and prevent the erosion of the civilian character of its peacekeeping and protection operations.
- III. With reference to the division of responsibilities between UNPOL and military peacekeepers, the UN DPKO should recognise the disproportional burden placed upon UNPOL and the corresponding ineffectiveness of military peacekeepers, restructure their respective arrangements and reallocate resources accordingly.
- IV. Claims that the PoC sites are a positive innovation of the UN civilian protection model should not be taken at face value when considering civilian protection and peacekeeping operations elsewhere in the world and in future.

“We would not stay [here] in one place if there is peace but we don’t want to hear peace, we want to see peace for our own eyes.”

Member of Women Community Leaders group, Bor PoC site.

