



Accountability System for the Protection of Civilians

CASE STUDY South Sudan

The UN Mission in South Sudan (UNMISS) has saved thousands of lives by hosting civilians fleeing clashes in its compounds, and then in its “protection of civilians sites” across the country. However, the mission is also known for having blatantly failed to protect civilians in the immediate vicinity of its bases, including in Malakal on February 17, 2016, and Juba in July 2016. These cases reveal strikingly similar shortcomings, demonstrating an inability to quickly integrate lessons learned and address systemic issues with POC performance.¹



Malakal, Upper Nile, February 2016

The Incident

On February 17, 2016, violence broke out in the UNMISS POC site in Malakal in the Upper Nile region of South Sudan. The POC site hosted about 47,000 internally displaced persons (IDPs) from three ethnic groups: the Dinka, Nuer, and Shilluk. Several reports highlighted the intercommunal tensions in the camp, which mirrored national political divides, with a loose alliance between the Nuer and Shilluk, who tended to support the armed opposition and the Dinka, who tended to support the government. South Sudanese government forces also entered the camp through a breach in the fencing and “took an active part in fighting and in burning the camp.”² Thirty civilians within the POC site were killed and more than 120 were injured, and one-third of the camp was burned.³

UNMISS was criticized for not properly responding during the two days of attacks in the camp it was overseeing. During the first night, UNMISS positioned a formed police unit and a quick-reaction force to prevent movement between Sectors 1 and 2, the Shilluk and Dinka areas of the camp. However, the heart of the fighting ended up being between Dinka and Nuer within Sector 2. UNMISS responded to a fire and used tear gas, but this did not prevent youth from joining the fighting. UN troops reportedly refused to enter the area where fighting was active and abandoned their position. On the second night, one contingent was impossible to reach.⁴ Eventually, after government forces and allied youth fired on UN armored personnel carriers, UNMISS troops returned fire, pushing the attackers out of the base.

Subsequent investigations and external reports demonstrated that UNMISS had purposefully chosen not to engage the fighters, fearing collateral damage to IDPs. Several external challenges complicated the mission’s response, including the fact that some of the attackers were themselves civilians or in civilian attire, the configuration of

¹ The attack in Malakal was also similar to an attack in Bor in April 2014. A board of inquiry (BOI) investigating the events in Bor has not been made public.

² This summary is based on the comprehensive analysis of the Malakal incidents conducted by the Center for Civilians in Conflict (CIVIC), “A Refuge in Flames: The February 17–18 Violence in Malakal POC,” 2016.

³ UN Secretary-General, “Note to Correspondents—Board of Inquiry Report on Malakal,” August 5, 2016.

⁴ CIVIC, “A Refuge in Flames.”

the crowded camp that allowed the attackers to hide behind shelters, and the confusion resulting from civilians trying to flee the camp while attackers were breaching the perimeter.⁵

However, there were other internal shortcomings that could have been avoided. The Center for Civilians in Conflict (CIVIC) reported that some peacekeepers seemed to lack an understanding of their POC mandate, with one unit asking for written confirmation that it could use lethal force. More generally, it seems that the mission “could have better positioned [its] assets” to distinguish combatants from civilians and deter and stop the violence.⁶ As stated by CIVIC, “Although U.N. peacekeepers ultimately pushed the attackers out of the camp, the Mission’s response was slow and ineffective throughout much of the incident; quicker and more robust action likely would have saved lives and reduced harm to civilians.”⁷

The case of Malakal highlights how a failure to protect civilians can result from a wide range of shortcomings attributable to all mission components. Beyond the military component, the mission’s civilian leadership was criticized for ignoring early warning signs, declining to put together a risk-mitigation plan as the protection cluster had requested, and convening a crisis-management team only sixteen hours after the violence had erupted. Partial responsibility could also be assigned to the director of mission support for not allocating the necessary resources to ensure the camp’s security and the Indian engineering company in charge of building and repairs. No buffer zone had been established around the camp, and the breaches in the camp’s fence through which state forces entered had long been in need of repair.⁸ In addition, the decision of the UN Department of Safety and Security to contract a South Sudanese company to provide security for the gate to the camp, made on financial grounds, had been opposed by several UNMISS officials and was widely criticized.⁹

The Accountability Process

The incident in Malakal provoked a public outcry, and the UN Security Council released a press statement on February 19, 2016.¹⁰ Several tools were activated to investigate the incident, including an internal review, an investigation by the mission’s human rights division, a board of inquiry (BOI), and a special investigation from UN headquarters. The BOI and special investigation, in particular, helped establish facts and responsibility and recommend corrective actions.

On March 11, 2016, the UN announced that it would convene a high-level BOI to “conduct an in-depth investigation into how the UN responded” to violence in Malakal.¹¹ The BOI found that the mission “failed to manage the crisis effectively” at all levels. It

⁵ Ibid.

⁶ Ibid.

⁷ Ibid.

⁸ There was a deliberate choice not to repair the fence to let IDPs flee. Ibid.

⁹ Ibid.

¹⁰ United Nations, “Security Council Press Statement on Malakal, South Sudan,” UN Doc. SC/12252- AFR/3325-PKO/564, February 19, 2016.

¹¹ “South Sudan: UN Announces Independent High-Level Probe into Malakal Events,” UN News, March 11, 2016.

blamed the inability to translate early warning into timely action on the reluctant attitude of some troop contingents, the lack of capacity of UN police, and the “inaction on the part of several components at the Field office.” It recommended that “the [force commander] and [police commissioner], in consultation with the [special representative of the secretary-general], should immediately take action in cases where units show a lack of knowledge of [rules of engagement] or demonstrate a lack of will to use force beyond self-defense.” It also recommended that “each case of underperformance of troops and police be thoroughly investigated and the results reported to the [UN headquarters] and the Permanent Missions of the involved [troop- or police-contributing countries]” and that “decisive action be taken to hold the TCC contingents accountable, up to repatriating Commanders and/or Units.”¹²

The independent special investigation was launched to determine the external factors that led to the violence in the Malakal POC site. It differed from the BOI in that it did not directly evaluate UNMISS's performance and response to the incident.

Although a BOI and a special investigation were activated, the lack of public reporting raises concerns about transparency and the UN's level of accountability for its shortcomings in Malakal. While the main recommendations of the BOI report were shared confidentially with the Security Council, the executive summary was not released publicly until August 5th—a month after the Juba incidents—despite having been completed in June. The findings of the independent special investigation were only shared confidentially with the Security Council and were not made public, with only a brief summary of findings issued as a “note to correspondents” on June 21st.¹³ In addition, the Department of Peacekeeping Operations (DPKO) submitted a confidential report on the POC sites to the Security Council in mid-June, which the council discussed in closed consultations on June 22nd.¹⁴

The investigations had few concrete outcomes. In June 2016, DPKO's spokesman signaled that the UN was “currently engaging directly with the concerned [troop-contributing countries] to address the underperformance of certain UNMISS personnel, and that includes training and preparedness.” He also said that the UN would repatriate peacekeepers and commanders who did not respond to the attack appropriately.¹⁵ In his June 2016 report on South Sudan, the secretary-general mentioned the improvements made in response to the recommendations, including in terms of camp security, more proactive patrols, and deployments:

UNMISS worked to improve the security of the site at Malakal following the security incidents on 17 and 18 February, through contingency planning in conjunction with humanitarian actors

¹² Recommendations also included the need to review the concept of POC sites, develop a public information campaign, ensure that roles and responsibilities between all components are made clear, and conduct more proactive patrols. UN Secretary-General, “Note to Correspondents—Board of Inquiry Report on Malakal.”

¹³ Security Council Report, “South Sudan Consultations: Protection of Civilians Sites,” June 21, 2016; UN Secretary-General, “Note to Correspondents on the Special Investigation and UNHQ Board of Inquiry into the Violence in the UNMISS Protection of Civilians Site in February 2016,” June 21, 2016.

¹⁴ Security Council Report, “South Sudan Consultations: Protection of Civilians Sites.”

¹⁵ John Tanza, “UN Peacekeepers Accept Responsibility for Massacre at Malakal,” Voice of America, June 24, 2016.

and community leaders. Site rehabilitation also continued, including repairs and fortification of the physical security infrastructure. The Mission and humanitarian partners also assisted the relocation of the 22,000 remaining internally displaced Shilluk and Nuer from the UNMISS logistics base back to the site." "Beyond the protection sites, the UNMISS military component has increased its outreach into conflict-affected areas, primarily through sector-based patrolling from permanent and temporary operating bases. In addition, it is using early-warning indicators to plan patrols to potential flashpoint areas. It has also established a forward operating base in Malakal town to improve security for civilians.¹⁶

While investigating the Juba incidents a few months later, General Patrick Cammaert also documented the implementation of the special investigation's recommendations in Malakal and mentioned that perimeter security and patrols had been reinforced.¹⁷

CIVIC reported that only the Rwandan battalion commander was repatriated.¹⁸ The Indian battalion commander had not yet been repatriated, and this was only expected to occur when the Indian contingent rotated out. CIVIC also reported that several UNMISS officials believed that the entire Ethiopian contingent in Malakal would be repatriated, but accountability for Ethiopian contingents was overtaken by geopolitical considerations, with UN headquarters reportedly obstructing action.¹⁹ The similarity of the incidents and shortcomings in Malakal and Juba demonstrated that many of the recommendations and lessons learned from Malakal were not applied adequately.



Juba, July 2016

The Incident

Intense fighting between government and opposition forces began in the evening of July 8, 2016, around the presidential palace in Juba. Shootings picked up on July 10th and 11th near the UN House and POC sites where civilians and UN staff were present.²⁰ Both parties engaged in indiscriminate violence so widespread that "UN staff were in the line of fire" at the UN House. Two POC sites (POC1 and POC3) with predominantly Nuer populations were also heavily bombarded by artillery fire. Widespread sexual violence was reported in and around the POC sites for weeks after the fighting.²¹ As a result of the fighting, twenty IDPs died, dozens were injured, and thousands fled from the POC sites to the UN House seeking protection.

International civilian staff were also targeted. Civilians near UNMISS's Tomping base were reportedly blocked by the government armed forces from accessing safe spaces and

¹⁶ UN Security Council, *Report of the Secretary-General on South Sudan (Covering the Period from 1 April to 3 June 2016)*, UN Doc. S/2016/552, June 20, 2016.

¹⁷ Ibid.

¹⁸ This contradicts a media report that two commanders were repatriated. "Malakal: L'ONU affirme avoir pris des mesures," Radio France Internationale, July 8, 2016.

¹⁹ This summary is based on the comprehensive analysis conducted by CIVIC. "Under Fire: The July 2016 Violence in Juba and UN Response," 2016.

²⁰ The fighting was concentrated in areas where UNMISS was located in Juba, primarily the UN House in Jebel and Tomping.

²¹ UN Security Council, *Letter Dated 1 November 2016 from the Secretary-General Addressed to the President of the Security Council*, UN Doc. S/2016/924, November 1, 2016.

were threatened and attacked. On July 11th, government soldiers reportedly entered Terrain Camp—a private compound where UN personnel, aid workers, and local staff were living, located 1.2 kilometers from the UN House—and began looting and robbing, beating, raping, and killing civilians.²² Two Chinese peacekeepers were killed; 182 buildings on the UN House compound were struck by bullets, mortars, and rocket-propelled grenades; and \$29 million worth of food, equipment, and supplies were looted over the course of more than three weeks.²³

UNMISS's response was widely criticized, as it appeared that more could have been done to prevent and mitigate the violence.²⁴ When fighting began on July 8th, the special representative of the secretary-general (SRSG) and two deputy SRSGs were in meetings outside the UN House and had a difficult time returning, which delayed UNMISS's response. The special investigation found that “a lack of leadership on the part of key senior Mission personnel had culminated in a chaotic and ineffective response to the violence.” In addition, the mission tended to operate in silos, with poor coordination.²⁵

The military component failed to respond coherently, with “multiple and sometimes conflicting orders to the four contingents from China, Ethiopia, India, and Nepal.” This resulted in the mission “underusing the more than 1,800 infantry troops at UN House.”²⁶ The force commander appointed the Chinese battalion commander as the incident commander to command all forces at the UN House, which added to the confusion and resulted in “poor performance among the military and police contingents at the UN House.” In at least two incidents, the Chinese battalion reportedly abandoned its posts at POC sites. As Terrain camp was attacked, the joint operations center made many requests for a quick-reaction force, but all UNMISS contingents turned down the request, indicating that their troops were “fully committed.”²⁷

The Accountability Process

In the aftermath of the violence in Juba, UNMISS initiated after-action reviews led by several parts of the mission to look critically at the response and examine what changes should be made.²⁸ On August 23rd, the secretary-general also called for an independent special investigation to review the actions of UNMISS in response to sexual violence and violence against civilians in Juba from July 8th to 25th within or in the vicinity of UNMISS headquarters and the POC sites and, separately, in the Terrain camp. The scope of the investigation included determining whether the mission and its contingents responded appropriately; assessing UN security plans and procedures and the mission's role in them;

²² CIVIC, “Under Fire.”

²³ The executive summary of the independent special investigation into the violence in Juba in 2016 and the response by UNMISS can be found in UN Doc. S/2016/924.

²⁴ According to CIVIC, the UN House's proximity to an opposition base drew heavy criticism, as cantonment sites needed to be 25 kilometers outside the city of Juba. Other indications of imminent violence due to escalating political tensions between President Salva Kiir and opposition leader Riek Machar's forces in the several weeks preceding the violence were also not taken into consideration in a timely manner. CIVIC, “Under Fire.”

²⁵ The joint operations center and the security information operations center were not collocated, as required by UN policy, which resulted in a fragmented security response. *Ibid.*

²⁶ UN Doc. S/2016/924.

²⁷ *Ibid.*

²⁸ CIVIC, “Under Fire.”

and identifying the perpetrators (in the case of the attack on the Terrain camp). Remedial actions with regards to the underperformance of UNMISS personnel were also allowed to be considered as part of the investigation. The investigation was led by Major General Patrick Cammaert, and its findings were shared with the Security Council and released publicly on November 1st. The summary of the report provides details on the errors and confusion during the crisis and names the troop-contributing countries (TCCs) that were involved in the response and their shortcomings—a rare practice in public reports on peacekeeping performance.

This report of the special investigation is one of the most transparent calls for accountability for POC in peacekeeping operations. It publicly called on DPKO, the Department of Field Support (DFS), and the Executive Office of the Secretary-General to promptly investigate inaction and hold peacekeepers, commanders, and relevant TCCs accountable for failures to protect. The report noted that a lack of leadership by UNMISS culminated in a “chaotic and ineffective response.”²⁹ It recommended that the UN engage in discussions with troop- and police-contributing countries to establish clear expectations on all sides and outline key actions to restore the credibility of the UN and of UNMISS. As described by Evan Cinq-Mars, “There is compelling evidence to suggest that the transparent release of the executive summary created space and momentum for reform at the mission-level and at UN headquarters.”³⁰ The secretary-general may also have been under pressure due to the lack of transparency and accountability for the incidents in Malakal a few months before.³¹

These investigations led to what are among the most visible sanctions undertaken in response to a failure to properly implement a POC mandate (see Box 1). The secretary-general's report explicitly referred to the findings of the special investigation and committed to taking action.³² On November 2nd, a day after the release of the executive summary of the Cammaert report, the force commander of UNMISS, Lieutenant-General Johnson Mogoia Kimani Ondieki of Kenya, was sacked by UN Secretary-General Ban Ki-moon.³³

This decision provoked diplomatic turmoil. Criticizing the secretary-general for failing to address structural dysfunction and “unfairly” blaming shortcomings on one individual, Kenya withdrew all its troops from UNMISS.³⁴ This demonstrates the sensitive and political nature of accountability measures and the delicate line the Secretariat needs to walk. Secretary-General António Guterres had to “reconcile” with Kenya, publicly praising Kenya as a TCC and offering it the command of the African Union–UN Hybrid Operation

²⁹ Ben Quinn, “South Sudan Peacekeeping Commander Sacked over ‘Serious Shortcomings,’” *The Guardian*, November 2, 2016.

³⁰ Evan Cinq-Mars, “Special Investigations into Peacekeeping Performance in Protecting Civilians: Enhancing Transparency and Accountability,” *IPI Global Observatory*, 2019.

³¹ The findings of the BOI investigating the attacks in Malakal were released to the public after the Juba crisis, and assessments of the situation in Malakal were integrated into many of the reports on the incidents in Juba.

³² UN Security Council, *Letter Dated 17 April 2017 from the Secretary-General Addressed to the President of the Security Council*, UN Doc. S/2017/328, April 17, 2017.

³³ Quinn, “South Sudan Peacekeeping Commander Sacked over ‘Serious Shortcomings.’”

³⁴ “Kenya Angry at Sacking of South Sudan Peacekeeping Chief,” BBC, November 2, 2016.

in Darfur (UNAMID) in January 2017 as one of the first actions of his tenure.³⁵ These repercussions also highlight the need to make sure accountability is not perceived as selective.

The aftermath of the Cammaert report profoundly marked the practice of accountability for POC in the years that followed. It seems that the Secretariat is now avoiding such extreme measures to sanction underperformance. Many interlocutors mentioned that the sacking of individuals like the force commander of UNMISS or the SRSG of the UN mission in the Central African Republic (MINUSCA) following sexual exploitation and abuse scandals were ineffective and overly politicized.

Box 1. Measures undertaken following the Cammaert report

On December 23, 2016, the secretary-general sent a letter to the Security Council detailing the implementation of the recommendations from the Cammaert report. The assistant-secretary-general for peacekeeping operations also briefed the council during consultations on South Sudan on February 23, 2017.³⁶ An independent follow-up mission led by Cammaert visited Juba in March 2017 to assess the progress made on implementing the UNMISS-specific recommendations.

As detailed in the secretary-general's letter, the UN used a two-track approach to take forward recommendations:

1. A headquarters task force was established to implement the recommendations on systemic and strategic issues under the chairmanship of the assistant secretary-general for peacekeeping operations; and
2. An action plan was devised by UNMISS to implement the mission-specific recommendations, with regular updates to the task force.

In the mission, "a series of Force Commander directives and orders were issued to military contingents" in August 2016, requiring them to regularly conduct scenario-based training and rehearsals, improve troops' posture and mindset, and ensure regular training for all infantry battalions.³⁷ The mission established a 200-meter

³⁵ Secretary-General Guterres said that he had "full confidence in Kenya's military. As a sign of our confidence in the Kenya Defense Forces, and in the Kenyan government, the UN would like to offer Kenya the Darfur command." Andrew Wasike, "Kenya to Return Peacekeeping Force to South Sudan," Anadolu Agency, January 29, 2017.

³⁶ UN Doc. S/2017/328.

³⁷ These included exercises on mandate implementation, use of rules of engagement, and directives on the use of force; dynamic and robust patrolling aimed at preventing human rights violations and the abuse of civilians; integrated contingency planning, including evacuation and extraction exercises with key actors to facilitate preparedness for worst-case and the most dangerous scenarios; and division of responsibilities between military, police, and security personnel. Force headquarters also issued monthly orders on freedom of movement, requiring all commanders to assert their rights to unrestricted movement. All scenarios are based on actual incidents that have taken place in a given area of operation and are intended to clearly establish troop responsibilities. Formed police units have also rehearsed their security plans for UN compounds and POC sites. Security contingency plans were updated and rehearsed during three tabletop exercises and three field training exercises conducted between October 2016 and January 2017. Similarly, since February 2017, nine tabletop exercises were conducted to validate contingency plans in the field offices, and a training plan for the rest of the year is in place. UN Doc. S/2017/328.

weapons-free zone around POC sites and the UN House in Juba and reinforced observation posts. Integrated operations centers were established, and integrated patrols, including long-duration patrols, as well as dismounted patrols and cordon-and-search operations in POC sites, enabled the mission to extend its footprint and decrease the number of incidents. The mission also revised its mission concept and strategy following a strategic assessment of the situation in South Sudan.

The headquarters task force focused on performance accountability and circulated the recommendations of the independent special investigation to all sixteen peacekeeping operations to get their feedback on systemic challenges identified in the recommendations. Based on the feedback, the task force formulated concrete action points. According to the report, DPKO “undertook a comprehensive mapping of existing policies and best practices on performance and accountability for both civilian and uniformed personnel.” DPKO worked on an accountability framework, leading to the adoption of an annex to its Policy on POC outlining roles and responsibilities for POC.³⁸ DPKO also reviewed and strengthened guidance on POC to senior mission leaders.³⁹ The Secretariat conducted a training needs assessment on POC and developed new training modules on comprehensive POC. DPKO’s Office of Military Affairs also strengthened provisions in statements of unit requirements and memoranda of understanding to strengthen accountability, with specific requirements related to operational capabilities and expected tasks.

Furthermore, “all T/PCCs were requested to confirm in writing the willingness of their personnel to conduct dismounted patrols, including standing patrols by day and by night outside the perimeter of UN compounds and POC sites.” General Cammaert reported that “almost all of the infantry troop-contributing countries have responded in the affirmative.” DPKO indicated that it would continue to engage in dialogue with member states to ensure that performance standards for all peacekeepers deploying to UNMISS are upheld and develop a “strategy to institutionalize and standardize the approach to POC through the deployment of mobile training teams to the Mission to deliver context-specific training for uniformed and civilian personnel.”

In addition, “all peacekeeping operations [were] request[ed] to share their integrated crisis response contingency plans for validation by [UN headquarters]” and to conduct “regular scenario-based exercises to validate, refine and rehearse those plans, including the command and control of their implementation.”⁴⁰

³⁸ According to the report, DPKO “undertook a comprehensive mapping of existing policies and best practices on performance and accountability for both civilian and uniformed personnel” and is developing a framework of accountability for performance in implementing POC mandates. The framework “seeks to consolidate and clarify existing policies and mechanisms.”

³⁹ A POC crisis management tabletop exercise for civilian HOMs was developed and piloted in January 2017, and included in all mission leadership induction programs. A similar exercise for FCs and Deputy FCs was also developed. OMA reviewed guidance given to incoming Force Commanders, with mission-specific guidance in induction programs.

⁴⁰ UN Doc. S/2017/328.

In addition to the independent investigation, the Secretariat conducted a strategic assessment of the situation in South Sudan, which it released on November 10, 2016, pursuant of Security Council Resolution 2304 (2016). The assessment highlighted the limited capacities of UNMISS to protect civilians. It also warned that “while the Secretariat will continue to make every effort to implement the mandated task of protecting civilians through the use of “all necessary means,” it must be clearly understood that United Nations peacekeeping operations do not have the appropriate reach, manpower or capabilities to stop mass atrocities.”⁴¹

On its side, the Security Council authorized the deployment of an additional 4,000 peacekeepers for a regional protection force on August 12, 2016. This signaled the council's willingness to provide additional resources and to encourage a more robust posture in South Sudan, in a similar vein as the deployment of the Force Intervention Brigade in the Democratic Republic of the Congo after the mission there (MONUSCO) failed to intervene against the M23 rebel group.⁴² However, the regional protection force failed to materialize as envisaged, with significant delays to its full deployment.⁴³

⁴¹ UN Security Council, *Special Report of the Secretary-General on the Review of the Mandate of the United Nations Mission in South Sudan*, UN Doc. S/2016/951, November 10, 2016.

⁴² Grégoire Pourtier, “Soudan du Sud: L’ONU autorise l’envoi de 4 000 casques bleus supplémentaires,” Radio France Internationale, August 13, 2016.

⁴³ Only about 870 troops had been deployed in February 2018. Gift Friday, “More Regional Protection Forces Arrive in South Sudan’s Juba,” Voice of America, February 14, 2018.