

Between a rock and a hard place

The UN and the protection of civilians in South Sudan

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Summary

Following the outbreak of civil war in South Sudan at the end of 2013, the UN Security Council passed a resolution that substantially restructured the form and function of the UN mission in South Sudan (UNMISS). This signalled a departure from its previous state-building activities to prioritise the protection of civilians. Despite the restructuring of its mandate, UNMISS finds itself between a rock and a hard place. There is no way to extricate the mission without compromising the safety of both UN personnel and civilians. This paper argues that the current mandate and operations are vulnerable to challenge by spoilers. It recommends robust UN engagement towards a peace agreement that commits the transitional government to a comprehensive process of disarmament, demobilisation and reintegration of combatants. This should also lead to a comprehensive reform of the security sector.

DESPITE THE ONGOING SUPPORT of a large United Nations (UN) peacebuilding mission, the fledgling state of South Sudan descended into civil war in December 2013. By late September 2014, South Sudan was facing a dire humanitarian emergency. Close to 2 million people had been uprooted, including more than 1,4 million internally displaced people and 400 000 refugees. More than 10 000 people had died in the conflict, and over 97 000 depended on protection from the UN. The onset of the rainy season raised concerns that water-borne diseases such as cholera and typhoid would break out in UN camps. The rain made access difficult for humanitarian workers, and food insecurity became critical as the conflict prevented people from planting crops.¹

Although the proximate causes of the conflict may lie in leadership divisions within the Sudan People's Liberation Movement (SPLM) and the splitting of the SPLM and its army – the Sudan People's Liberation Army (SPLA) – last December was due to issues that had remained largely unaddressed from since the independence war (also known as Sudan's second civil war).² Sudan's second civil war started in 1983,³ following the breakdown of the 1972 Addis Ababa agreement Agreement. For more than two decades, the Khartoum government and the Sudan SPLM/SPLA fought over resources, power, the role of religion in the state, and self-determination. Over two million people died, four million were uprooted and some 600 000 people fled the country as refugees.⁴

When the Security Council adopted Resolution 2155 on 27 May 2014, it substantially changed the form and function of the UN mission in South Sudan (UNMISS). The UN departed from its previous mandate, primarily state-building activities, and chose to prioritise the task of protecting civilians. Although each UN peacekeeping operation is different from any other, changing a UN operation from a peacebuilding mission to one focused on the protection of civilians (POC) is a radical departure from anything that the UN has attempted in nearly six decades of peacekeeping.

The aim of this paper is to examine the UN's civilian-protection mandate in South Sudan, and make an assessment of the potential of UNMISS following Resolution 2155 to protect civilians, end the violence and move South Sudan towards a post-conflict developmental agenda.

Civilian protection in UN peace operations

Although early UN peace operations in the Congo and Cyprus had limited roles in terms of protection, it is now common practice for missions to be explicitly mandated to protect civilians from harm. The perceived failures of peacekeeping in the 1990s were synonymous with a failure to protect civilians from being attacked by armed belligerents. The absence of mandates to enable this, as well as insufficient human and materiel resources rendered UN missions in Rwanda and Bosnia, for example, incapable of providing sufficient protection to civilians in mortal danger. Since the late 1990s, however, Security Council practice has evolved to recognise that the consequences of human suffering are a threat to international peace and security (see, for example, Resolutions 1265 [1999] and 1820 [2008]). As a result, there has been a revolution in the tasks of peace operations, which now include explicit and robust civilian-protection mandates.

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Starting with the 1999 UN mission in Sierra Leone, the Security Council has regularly invoked Chapter VII of the UN Charter to create protection mandates. Today about half of the UN missions are mandated to protect civilians 'under imminent threat of physical violence', in accordance with geographical, temporal and capability-based caveats, and with 'respect to the responsibilities' of the host state.⁵ It is telling that all but one of the UN missions since 1999 have included these provisions. Even when the provisions have not been specifically spelt out, responsibilities for civilian protection have been implicit in a number of UN missions.⁶ These developments were reflected in the March 2009 report of the General Assembly's Special Committee on Peacekeeping Operations (C-34), which made explicit the relationship between peacekeeping and POC.⁷

The adoption of civilian-protection mandates by large missions deployed to unstable regions (e.g. the United Nations Organization Stabilisation Mission in the Democratic Republic of the Congo [MONUSCO] and the United Nations Mission in Darfur [UNAMID]) led some analysts to argue that the UN peacekeeping system is overstretched, under-resourced and 'overmatched'.⁸

Consequently, implementation has proven difficult. Lack of necessary equipment and appropriately skilled personnel have hampered efforts. Different interpretations of those mandates and the associated rules of engagement by various host states and national entities have also led to inconsistent, and at times ineffective, implementation of civilian-

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protection obligations. It has also been recognised that a lack of strategies and operational concepts, as well as tactical-level doctrine and guidance for civilian protection significantly diminish the effectiveness of these mandates.

United Nations Mission in the Sudan – mandate to protect civilians

When the war between Sudan and southern Sudan ended in 2005, the Security Council established the United Nations Mission in the Sudan (UNMIS), which included a significant civilian-protection mandate. UNMIS was established as an integrated, multidimensional peace-support operation to help implement the comprehensive peace agreement (CPA),⁹ support the reform of Sudan's security sector and protect civilians. With an authorised strength of up to 10 000 military personnel and up to 715 civilian police personnel, UNMIS included the following tasks:

- To monitor and verify the implementation of the ceasefire agreement.
- To help with the establishment of the disarmament, demobilisation and reintegration (DDR) programme, as called for in the CPA.
- To help the parties to the CPA restructure the police service in Sudan, to make it consistent with democratic policing; to develop a police training-and-evaluation programme; and to otherwise assist in the training of civilian police.
- To help the parties to the CPA promote the rule of law, including establishing an independent judiciary, and protect the human rights of all the people of Sudan.
- To support the preparations for and conduct of the elections and referenda provided for by the CPA.
- To contribute towards international efforts to protect and promote human rights in Sudan, and to coordinate international efforts towards POC.¹⁰

The Security Council emphasised the importance of civilian protection when it authorised UNMIS, under Chapter VII of the charter, to:

... take the necessary action, in the areas of deployment of its forces and as it deems within its capabilities, to protect United Nations personnel, facilities, installations, and equipment, ensure the security and freedom of movement of United Nations personnel, humanitarian workers, joint assessment mechanism and assessment and evaluation commission personnel, and, without prejudice to the responsibility of the Government of Sudan, to protect civilians under imminent threat of physical violence.¹¹

During the first years of the mission's deployment, the Darfur crisis drew much of its resources away from supporting the CPA. Several leadership gaps – notably, UNMIS was without an in-theatre special representative of the secretary-general (SRSG) between late October 2006 and late October 2007 – and persistent staffing shortfalls further reduced the mission's effectiveness.¹²

In August 2006, the Security Council decided to expand the UNMIS mandate and deploy the mission to Darfur, while continuing its existing mandate and operations. The Security Council decided that UNMIS would be strengthened by up to 17 300 military personnel and by up to 3 300 civilian police personnel, including up to 16 formed police units (FPUs), and that the mandate would support the implementation of the Darfur Peace Agreement and the N'djamena Agreement on Humanitarian Ceasefire on the Conflict in Darfur.¹³

Differing interpretations of the mandate created serious confusion for UNMIS and its partners during the CPA interim

However, UNMIS was not able to deploy to Darfur because of the Sudanese government's persistent opposition to a UN operation in that region.¹⁴ UNMIS therefore continued with its original mission of supporting implementation of the CPA, focusing on the parties' outstanding commitments, including the redeployment of forces; resolving the dispute over the oil-rich Abyei region; and preparing for national elections in 2010 and the referendum in 2011.¹⁵

Like the other missions with a POC mandate, UNMIS had difficulty translating its POC mandate elements into a viable concept of operations. Differing interpretations of the mission's Chapter VII mandate for POC created 'serious confusion' for UNMIS and its partners during the CPA interim period. There appeared to have been limited coordination and cooperation on POC in the mission, with different sections working in isolation. Several attempts were made to clarify the Security Council's mandate and systematise the mission's approach, until finally a decision was made in early 2010 to 'mainstream' POC and abolish the UNMIS Protection Section.¹⁶

According to Secretary-General Ban Ki-moon's April 2010 report on progress with the mission, the UNMIS strategy for protecting civilians was based on a three-tier approach:

- Providing the immediate security required to physically protect civilians under imminent threat of physical violence
- Facilitating the delivery of basic needs by securing access for humanitarian and relief activities

- Deterring attacks on civilians and enhancing the state's capacity to protect through conflict prevention and management, and the strengthening of human-rights mechanisms.¹⁷

This rather ambitious protection strategy was translated into concrete UNMIS operations by means of increased patrolling and a greater UNMIS presence in remote potential hotspots in southern Sudan. The strategy was also evident in the mission's response to major conflicts, such as the January 2010 clashes between Dinka and Nuer groups, which resulted in 50 reported deaths and at least 11 000 displaced persons.¹⁸

Rather than enhancing state capacity to protect, however, it seems that UNMIS troops were dependent on state capacity (i.e. the acquiescence of the SPLA) to fulfil their patrolling duties. For example, in the months leading up to April 2010, UNMIS continued to receive reports of serious abuses carried out by the SPLA during its military operations, and reports of armed groups along the border of Sudan's Western Bahr el Ghazal state and southern Darfur. However, the secretary-general reported that 'UNMIS was unable to conduct an assessment of these areas owing to the lack of security guarantees from SPLA' and that '... planned aerial assessments of the border areas ... in Western Bahr el Ghazal State were also called off after security clearances from SPLA were denied'.¹⁹

In October 2010 the secretary-general reported to the Security Council that UNMIS had '... finalized, in consultation with the UN country team, a strategy for the protection of civilians intended to provide clear direction on how it [would] meet the objectives of its protection of civilians mandate during the last year of the Comprehensive Peace Agreement'.²⁰ The mission's strategy provided for a 'more holistic' approach to POC, and included various civilian and military activities, including political dialogue, conflict resolution, physical protection, human rights and legal reform. This strategy was based on a three-tiered approach to POC that had recently been promulgated by the UN Department of Peacekeeping Operations (DPKO) and the Department of Field Support (DFS):

- Protection through political prevention (monitoring, verification and early warning, as well as conflict prevention through political advocacy and engagement with the government)
- Protection from physical violence (political mitigation and conflict-resolution initiatives supported by the projection of force)
- Establishment of a protective environment through advocacy, legal reform and capacity building of state institutions.²¹

Notably absent, however, was concrete guidance on how the projection of force would protect civilians against the kind of violent inter-communal conflict and armed attacks that persisted during the transition from war to peace.²²

Between June 2011 and March 2012, International Alert conducted an assessment of peace, conflict and peacebuilding in South Sudan following the CPA. Their assessment found that some states – notably Northern and Western Bahr el Ghazal, and Central Equatoria – were free of significant sustained violent conflict. However, in the centre and north-east of the country, there was little evidence of any progress in peacebuilding: violent tribal conflict and armed insurgencies were still found to be widespread throughout 2011. In the states of Unity and Jonglei, violence had significantly increased around the time of independence.²³

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Following a resurgence of violence in Jonglei, Upper Nile and Abyei in early 2011, UNMIS increased its presence in the affected areas, helped with the protection of people displaced by the violence, and increased its political engagement with stakeholders. However, the SPLA denied access to UNMIS personnel, which severely hampered their ability to patrol in conflict areas such as Abyei, Jonglei and Upper Nile, and to deter threats against civilians.²⁴

While the prevailing situation in South Sudan at independence may point to weaknesses in the second tier of the UNMIS POC strategy (i.e. the protection of the population from physical violence), it certainly hints at abject failure in the third tier – namely the establishment of a protective environment (through advocacy, legal reform and capacity building of state institutions). It is arguable that the UN did little to ensure that the conventional security and justice foundations of post-conflict peacebuilding – DDR and security sector reform (SSR) – were in place before the referendum that led to independence for South Sudan and the liquidation of UNMIS.

A key drawback was the time lapse from the conclusion of the CPA to the onset of the DDR activities

The contribution of UNMIS to DDR and SSR

While the CPA provided an overarching framework for the DDR process, it did not stipulate implementation issues in detail. A national DDR strategic plan and a national reintegration policy were therefore developed in 2007. The strategic plan stated that the main objective of DDR in Sudan (both north and south) was to ‘... contribute to creating an enabling environment for human security and provide support to post-peace agreement social stabilization across Sudan, particularly in war-affected areas’.²⁵ The plan also identified the target beneficiaries of DDR as disabled and elderly combatants; child combatants and children associated with the armed forces and groups; and women associated with the armed forces and groups. There may be an ethical – and, in the case of children, legal – imperative for such prioritisation, but the approach might also be seen to maintain or enhance combat capabilities by retaining the fittest fighters.

The DDR programme was an important element of the security provisions in the CPA. Both parties to the agreement committed to the implementation of a transparent DDR process in both the north and south of the country, which would help reduce the numbers of armed forces on both sides by 180 000 soldiers as part of the transition to peace and development. This number was to include members of the Sudanese Armed Forces (SAF)

and SPLA, as well as so-called ‘special-needs groups’. These were defined as women associated with armed forces and groups, children associated with armed forces and groups, the disabled and the elderly. The special-needs groups were the beneficiaries in the first phase of DDR implementation. While there were several splinter groups of militias operating in support of the two parties to the CPA, the militia groups – designated as Other Armed groups (OAGs) – were required to align with one or the other of the signatory parties’ armed forces (i.e. the SPLA or the SAF) by 9 June 2007 to be considered for eligibility.²⁶

In accordance with the CPA and Security Council Resolution 1590 of 24 March 2005, UNMIS was mandated to provide support and assistance to the government of national unity and government of South Sudan in the areas of planning, developing and implementing the national DDR programme. An integrated UN DDR unit (made up of UNMIS, the UN Development Programme, the UN Children’s Emergency Fund and the World Food Programme) was established to help the relevant national institutions in the process. In line with the integrated DDR standards, the DPKO was to provide guidance for the DDR process, and lead the planning and implementation of the disarmament and demobilisation components, while the UN Development Programme was responsible for the reintegration component. The promotion of national ownership was emphasised as the principle guiding both policy and the operational design of the DDR programme carried out with UN support.²⁷

The first DDR process, conducted from 2006 to 2008, was called the Interim DDR Programme. This programme aimed to gather baseline information and run pilot projects. The interim programme did not go beyond conceptualising and strategising DDR. Lack of interest on the part of national actors (notably the SPLA), donors and the UN led to the DDR process becoming sidetracked, which meant serious delays in the implementation.²⁸

In a joint effort by the DDR commissions in the north and south, the interim DDR programme was replaced by a multi-year DDR programme in June 2009. A key drawback of this programme was the time lapse from the conclusion of the CPA to the onset of the DDR activities. With nearly three years having passed, a significant number of the potential DDR beneficiaries had already ‘self-demobilised’ and returned to their home communities. Although the SPLA called upon some of these people to report to assembly areas to enter the DDR programme, a large number did not register for it. And among those who did, many were categorised as ineligible, so the credibility of the entire caseload was always in doubt.²⁹

Throughout Sudan, the DDR process delivered very modest results. By 29 March 2011, the national DDR programme had demobilised a total of 44 263 ex-combatants – 32 298 in the north and 11 965 in the south, including 11 179 women and 3 696 disabled participants.³⁰

In southern Sudan, it was increasingly evident that the DDR process was not making a fundamental contribution to security and stability enabling recovery and poverty reduction. In fact, a mid-term review of the South Sudan DDR program in 2010 concluded that the CPA (which was considered a de facto ceasefire rather than a peace accord) was an insufficient basis for a process of demobilisation of active-duty combatants. The review regarded the DDR programme as more of an ‘expensive livelihoods support program for a limited group of people than a relevant contribution to peace and stability in Southern Sudan’. And it concluded that the programme had ‘not been effective in terms of contributing to the reduction of military capability, military expenditure, nor to confidence-building measures’.³¹

The DDR programme’s performance did not improve following this review; when the CPA-DDR programme closed at the end of 2012, only 12 525 ex-combatants – many of them from special-needs groups – had been demobilised in southern Sudan.³² These poor results during the period of UNMIS’s deployment are attributed to a number of structural impediments that should have been apparent to the programme designers from the outset.

From March 2005 to July 2011, UNMIS’s responsibilities in terms of transforming the security sector and rule of law, as reflected in various Security Council resolutions, included:

- Liaising with donors on the formation of joint integrated units
- Helping restructure the Sudanese police service, to make it consistent with democratic policing; developing police training and evaluation; and helping in the training of civilian police
- Helping promote the rule of law, which included supporting an independent judiciary and protecting human rights by means of a comprehensive and coordinated strategy, and ending impunity
- Helping develop and consolidate the national legal framework
- Helping restructure the correctional services and helping train corrections officers.³³

Although this mandate reflects contemporary expansive thinking on the scope of SSR processes, it was inadequate in terms of military transformation – the basic prerequisite for establishing the embryonic state’s legitimate monopoly over the use of coercive force.

The focus on redeploying troops and establishing joint integrated units – regarded by UNMIS and the international community as key to the stabilisation of the future Sudan – is said to have hindered the professional development of the SPLA. The command structure remained loose, and when troop salaries remained unpaid for a period, some units resorted to making money by other means. For example, they engaged in illegal timber trafficking in the southern border areas.³⁴ The integration of around 50 000 OAG members between 2005 and 2006 also caused internal issues over accommodating former adversaries and equitably distributing the military ranks. The militia leaders were often awarded the rank of brigadier general even if their armed group had been only the size of a company. This was done to entice the OAGs to integrate with the SPLA.³⁵

44 263

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Efforts to professionalise the South Sudanese Army under the leadership of the US and the UK included plans for reducing troop strength, introducing a pension plan for former soldiers, and developing a new conception of the police and their responsibilities. However, implementing most of these plans was abandoned due to lack of will on the part of the government to shift the focus of its activity from the military and national defence to the political arena, and to more enduring, comprehensive aspects of security, such as building a constitutional infrastructure.³⁶ When the provisional referendum results were announced on 30 January 2011, the Joint Defence Board decided to dissolve the joint integrated units, except for those deployed to Abyei and those securing the oilfields.³⁷

UNMIS concluded its operations with the completion of the CPA on 9 July 2011, the day South Sudan declared its independence

While military concerns remain paramount in the context of civilian protection it is worth mentioning that the sizable police service inherited by South Sudan has been even less fortunate than the military in terms of its cohesion and professionalism. Established in 2005, the Southern Sudan Police Service included members from three groups: former police of the government of Sudan who were previously based in government-held towns; former SPLA soldiers who were re-assigned to operate as civilian police in the SPLM-controlled areas; and demobilised SPLA officers. In 2006 these three groups of police personnel were integrated into the police service under the Ministry of Interior of the government of Southern Sudan. The police service subsequently continued to absorb a large number of SPLA personnel, who had little or no training. This posed significant programming challenges for the police leadership and international efforts to help establish the rule of law.³⁸ It is therefore unsurprising that the SPLA, not the police service, is still considered the primary provider of internal security in South Sudan.³⁹

Efforts to resuscitate the justice and penal sectors were similarly ineffectual. They were hampered by insufficient human and financial resources, and lack of legitimacy. Formal frameworks governing criminal and correctional codes were promulgated slowly, and efforts to train judges and ministerial bureaucrats failed through lack of capacity. These constraints limited attempts to expand access and extend service provision across the territory.⁴⁰ The continuing dependency of statutory institutions of the rule of law upon the social order and justice provided by various non-state and informal sources undermined

the nascent state's claims on legitimacy due to its inability to uphold its side of the social contract.⁴¹

UNMIS concluded its operations with the completion of the CPA on 9 July 2011, the day South Sudan declared its independence. The mission was rightly proud of the role it had played in support of the referendum that concluded the parties' commitments under the CPA. However, the potentially disastrous consequences of unfinished business in SSR seemed to have been subsumed by the euphoria surrounding the newly created Republic of South Sudan.

South Sudan and UNMISS

In accordance with the CPA, the referendum held in January 2011 resulted in an overwhelming vote in favour of independence for South Sudan by over 98%. On 9 July 2011, South Sudan became the newest country in the world, spawned by a six-year peace process that began with the signing of the CPA. Due to its predominantly Dinka composition, the SPLM's political and military pre-eminence created a strong degree of ethnic dominance in the new nation.⁴² Vice President Riek Machar was the most influential representative of the second largest ethnic group, the Nuer. Although other ethnic groups regard the government, the SPLM and the army of South Sudan as Dinka-dominated, Machar represents other groups who compete for control of the oil-rich Unity State. Machar is also a senior representative of former militia leaders who were allied with Khartoum against the SPLA.⁴³

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After independence South Sudan's domestic political and security agenda has continued to be intertwined with a number of unresolved issues the new country has with Sudan. These include oil-pipeline charges,⁴⁴ demarcation of the border between the two countries and the status of several border regions, including Abyei, South Kordofan and Blue Nile. While the SPLM government and the SPLA depict external threats as the most significant, the government is still far from having a monopoly over violence within its territory.⁴⁵

On 8 July 2011, the Security Council determined that the situation in South Sudan continued to pose a threat to international peace and security in the region. Acting under Chapter VII of the UN Charter, it established UNMISS for an initial period of one year from 9 July 2011. The secretary-general was asked to transfer certain functions performed by UNMIS to the new mission, UNMISS, together with staff and logistics that were needed for the new mission, as of 9 July 2011, and to begin the liquidation of UNMIS.⁴⁶

UNMISS's original mandate was to support the government of South Sudan in peace consolidation, thereby fostering longer-term state building and economic development. The initial strength of UNMISS was up to 7 000 military personnel, up to 900 civilian police personnel and an appropriate civilian component.⁴⁷ Interestingly, the Security Council envisaged that the security situation in South Sudan would be benign enough to allow for a reduction in the size of the force soon after deployment. In the section specifying the authorised strength of the mission components, Resolution 1996 states that the council 'further decides to review in three and six months whether the conditions on the ground could allow a reduction of military personnel to a level of 6 000'.⁴⁸

As well as specifying a wide range of peacebuilding tasks, Resolution 1996 contains a number of notable POC elements. The mission was authorised to support the government in exercising its responsibilities for conflict prevention, mitigation and resolution – and for the protection of the citizenry – in various ways:

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- By building capacity to help anticipate, prevent, mitigate and resolve conflict
- By developing an early-warning capacity, with dissemination and follow-up mechanisms
- By monitoring, investigating, verifying and reporting regularly on human-rights threats and potential threats to the civilian population, as well as actual and potential violations of international humanitarian and human-rights law
- By advising the government, including the military and police, to help it fulfil its responsibility to protect civilians
- By deterring violence in areas at high risk of conflict and, within its capabilities and in its areas of deployment, by protecting civilians under imminent threat of physical violence
- By providing security for UN and humanitarian personnel, installations and equipment, and by contributing to the creation of security conditions conducive to safe, timely and unimpeded humanitarian assistance.⁴⁹

In keeping with the trend in protection mandates, Resolution 1996 notably authorised UNMISS to use 'all necessary means', within the limits of its capacity and in the areas where its units are deployed, to carry out its protection mandate.⁵⁰

However, in his May 2011 special report to the Security Council outlining the mission's proposed tasks, the secretary-general was at pains to downplay the peacekeeping force's responsibility for protecting civilians from armed attack. In this report, Ban stated clearly that '... the protection of civilians is first and foremost the sovereign responsibility of the Government [of South Sudan]'. He also said that 'external support to the Government in building its capacity to protect civilians is, at its very core, a civilian activity using political, human rights, humanitarian, police, justice, correction and military tools'.⁵¹ In other words, the secretary-general was suggesting that SSR should be an essential pillar of the civilian-protection architecture.

RESOLUTION 1996

NOTABLY AUTHORISED UNMISS
TO USE 'ALL NECESSARY MEANS'
TO CARRY OUT ITS MANDATE

Resolution 1996 did include a strong SSR element: it authorised UNMISS to support the government of South Sudan in developing its capacity to provide security, to establish rule of law, and to strengthen the security and justice sectors, by:

- Supporting the development of strategies for security-sector reform, rule of law and justice-sector development
- Supporting the government in the development and implementation of a national DDR strategy
- Strengthening the capacity of the Republic of South Sudan Police Services.⁵²

As outlined above, the DDR programme implemented by UNMIS from 2009 to 2011 fell far short of the expectations of the international donor community. After the establishment of UNMISS, a new DDR strategy was developed by the National DDR Commission. A pilot programme was launched in mid-2013 with the support of Germany and the World Bank's Transitional DDR Program.⁵³

The incorporation of several militia groups into the SPLA during the period of the CPA meant that South Sudan ended up with one of the largest armed forces in Africa. The embryonic state found itself spending about 40% of its budget on the security sector, much of it on salaries. There is therefore an economic developmental imperative for the disarmament, demobilisation and reintegration of large numbers of SPLA personnel, as well as those of various paramilitary forces (police, prisons and wildlife service officers). But there is arguably a much more pressing security imperative for the creation of a single, cohesive and effective defence force for South Sudan.⁵⁴

There is arguably a much more pressing security imperative for the creation of a single, cohesive and effective defence force for South Sudan

A huge obstacle to meaningful reform of the SPLA has been the sheer number of soldiers it employs, with estimates ranging between 120 000 and 207 000, and the soldiers' varying levels of professional military competence and training. As many of the soldiers are functionally illiterate, their prospects for finding civilian jobs are slim. And agriculture does not afford them many prospects either because of issues surrounding land ownership and inadequate rural infrastructure.⁵⁵

In January 2013, the government attempted to provide the impetus for military transformation by discharging about a hundred high-ranking officers from active service. This rather modest restructure provoked a rumour that the leadership in Juba had wanted to block an attempted coup. Ethnic loyalties in the government were aroused and the reform process soon ran aground.⁵⁶

UNMISS is the principal actor guiding and supporting SSR activities in South Sudan. In addition to the UN, the World Bank and various development agencies have also provided funding for a number of SSR-related programmes. And in 2012 another DDR programme was established under the South Sudan DDR Commission, with the initial target of 4 500 ex-combatants to be demobilised in the first quarter of 2012. The final target of the programme is to reduce the total force strength to no more than 120 000. This figure is to be reached by 2017, meaning that as many as 90 000 combatants would need to be demobilised.⁵⁷

A HUGE OBSTACLE TO REFORMING THE SPLA HAS BEEN THE NUMBER OF SOLDIERS IT EMPLOYS, ESTIMATED TO RANGE BETWEEN 120 000 and 207 000

Little progress was made towards this outcome, as the SPLM and SPLA were unconvinced of the imperative of ‘right-sizing’ the army, and state institutions were struggling to build legitimacy and effectiveness at the time the civil war was triggered.

The start of civil war

South Sudan’s civil war was triggered on 15 December 2013, following a meeting of the SPLM’s National Liberation Council, when fierce fighting erupted between rival units of the SPLA in Juba. The next day, President Salva Kiir, dressed in the uniform of the Presidential Guard, announced on national television that the former vice president, Riek Machar, had attempted a coup. Within days, 11 senior political figures were arrested for alleged involvement.⁵⁸

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The alleged coup was the climax of increasing tensions between two centres of power in the ruling SPLM, with one faction allied to President Kiir and the other to Vice President Machar. The rift in the party emerged in 2012 when Machar openly told the president that he was going to run for the chairmanship of the SPLM in the 2013 party convention. The SPLM secretary-general, Pagan Amum, also told Kiir that he was interested in the chairmanship. This was an open challenge to Kiir’s authority, as whoever is elected as chair would essentially become the party’s candidate in the 2015 presidential elections. Kiir responded by stripping the two challengers of all powers and responsibilities in the party and government – a process that ended in July 2012 with Machar’s dismissal as vice president and the placement of Amum under house arrest.⁵⁹

Tensions between the president, Machar and other senior SPLM leaders steadily increased through the year and throughout 2013, to the point where Machar publicly accused Kiir at a press conference on 6 December 2013 of dictatorial tendencies and unilateral decision making. Shortly afterwards, on 14 December, a long-postponed meeting of the SPLM National Liberation Council was finally held to discuss and endorse the party’s manifesto and constitution. The meeting was scheduled for three days, but after a first day of heated debate, Machar and several other council members failed to show up for the following day’s session, which adopted the party’s foundation documents.⁶⁰

That evening, there was a firefight between elements of the Presidential Guard in their Juba barracks, close to the venue of the National Liberation Council meeting. Although the reasons for the fighting and what actually happened were not well reported, President Kiir was quick to convene a press conference on the morning of 16 December, during which he described the overnight fighting as an attempted *coup d’état* perpetrated by forces allied with Machar.⁶¹ This alleged coup, or firefight between units of the SPLA, meant that political differences among the ruling elite were now being openly contested on the military front. This was a development that had far-reaching consequences for the future of South Sudan and the prospects of establishing a professional national army.⁶²

Fighting among soldiers continued on 16 December. It spread to the SPLA general headquarters and other military bases, as well as residential areas of Juba, resulting in large-scale loss of life and human-rights abuses. Thousands of civilians fled, many seeking refuge in UNMISS bases – as did deserting members of the SPLA. The next day, the government announced the arrest of 11 individuals whom it had accused of colluding with Machar to plot what it described as the ‘attempted coup’. Most of these had participated with Machar in the press conference of 6 December.⁶³ The systematic targeting of Nuer civilians in Juba in the days following 15 December was perhaps the most critical factor in mobilising Nuer to join Machar’s movement.⁶⁴

Fighting continued throughout December and spread from Juba to Jonglei, Upper Nile and Unity. The SPLA rapidly split into two factions, with commanders at various levels defecting with their troops to align with others who were also opposed to the president and SPLA loyalists. On 21 December, Machar announced that he was opposing the government and on 3 February 2014 told the media that he had formed a resistance group to fight the government – subsequently to become known as the SPLM/A in Opposition.⁶⁵

In response, the government of South Sudan began a process of mass recruitment, and in many places armed the communities to defend their territory against the armed opposition. This practice was opposed by some government officials, who realised the dangers of militarisation in places where old and new grievances might lead some to take up arms against Juba – particularly in parts of the Equatoria region, Unity, Jonglei and Upper Nile.⁶⁶ While the three Equatoria states seem to be firmly aligned with the government of South Sudan, control of Unity has been fiercely contested – resulting in interruptions to the flow of oil from the Unity oilfields. Upper Nile also remains highly contested territory.⁶⁷

Humanitarian emergency

The civil war has been marked by widespread abuses against civilians, including women and children, committed by all parties to the conflict. Thousands of people, civilians and combatants alike, have been killed, either in crossfire or by targeted violence. Thousands of people with gunshot wounds have been treated by health workers since 15 December 2013. Rape and other forms of sexual and gender-based violence have been associated with the hostilities. Numerous reports indicate that civilians have been targeted with violence based on their political and/or community affiliation.⁶⁸ By January 2014, about half a million people had been displaced in South Sudan and around 74 300 had crossed into neighbouring countries. These numbers have continued to grow, and by April 2014 the total number of those displaced reached 917 000, with the highest increase occurring in Upper Nile.⁶⁹

An agreement to cease hostilities signed on 23 January 2014 has been regularly broken by both parties to the conflict – often with devastating consequences.⁷⁰ The violence has aggravated humanitarian and developmental problems, not least because the livelihoods of hundreds of thousands of people have been disrupted or destroyed. Up to 7 million people are now at some risk of food insecurity in the country as a whole.⁷¹

In addition to the immediate impact of conflict and displacement, several other factors mean that conditions are rapidly deteriorating for many communities. These include disrupted agricultural cycles, the suspension of development programmes and the economic impact of reduced oil revenues leading to further austerity. Tens of thousands of children are at risk of having their education interrupted. The threat to aid-workers, especially South Sudanese ones, continues to challenge the provision of aid. The aid organisations have experienced active hostilities – looting and commandeering of humanitarian assets, and interference in humanitarian operations.⁷²

The civil war has been marked by widespread abuses against civilians, including women and children, committed by all parties to the conflict

In the early days of the crisis, it was expected that people seeking shelter in UNMISS bases would soon return to their homes, especially in Juba. Six weeks into the crisis, however, it became evident that people would remain displaced for much longer. Towns such as Bentiu and Bor have seen fluid patterns of displacement and re-displacement, depending on who is in control of the area. By mid-January, Bentiu, Bor, Malakal

and parts of Juba, were almost deserted, as most people had sought refuge in UN bases or moved to more peaceful areas. Most displaced people – close to 90% – are outside UN bases, many in places where aid organisations have limited access to assess protection and assistance needs.⁷³

Civilians sheltering inside the UN bases experience problems related to the mixed composition of the displaced groups, the proximity of the protected areas to active fighting, crime and overcrowding. However, all indications suggest that many intend to stay in the bases for the time being, depending on the actual or perceived security situation.⁷⁴ And further fighting continues to bring more people to seek shelter with UNMISS.

The potential humanitarian impact of ongoing tensions between Sudan and South Sudan is also cause for great concern

And the civil war is not all: the potential humanitarian impact of ongoing tensions between Sudan and South Sudan is also cause for great concern. With both countries immersed in domestic conflicts, little progress has been made to resolve issues such as the protection of the oilfields in South Sudan during the civil war and the implementation of the September 2012 agreements on oil sharing, cross-border trade, border security and other matters. The Darfur region of Sudan remains volatile, despite the deployment of the African Union–UN hybrid operation in Darfur. And nearly three years of internal conflict has exacerbated a humanitarian crisis in South Kordofan and Blue Nile. The fighting in these states intensified in April and May 2014, and recent military campaigns – including the bombing of civilian areas by the Sudanese Armed Forces in both states – have had a devastating impact on civilians.⁷⁵

Furthermore, Sudan and South Sudan have made little progress to address the challenges they face in terms of implementing their agreement of 20 June 2011, which includes arrangements for the administration and security of Abyei. On 13 May 2014, the UN secretary-general provided the Security Council with an update on the situation in Abyei, and the deployment and operations of the UN Interim Security Force for Abyei (UNISFA) since 25 February 2014.⁷⁶ This paints a bleak picture of the security and political situation in Abyei, as well as of the efforts of the parties to fulfil their agreements. Giving four options for a renewed mandate for UNISFA,⁷⁷ the secretary-general emphasised the gravity of the situation: ‘The conflict over Abyei still has the potential to bring Sudan and South Sudan back to war. The political processes, which were designed to

resolve the dispute over its final status and restore confidence between the Ngok Dinka and Misseriya communities, are now in total paralysis.⁷⁸

The reaction of UNMISS

UNMISS was neither politically nor militarily prepared for the conflict. At a press conference in Juba on 26 December, the first question put to the special representative of the secretary-general by a journalist was, 'Did you see this coming?' Hilde Johnson responded:

Before the crisis broke out and the violence erupted, there were 800 international businessmen and women in South Sudan on an investment conference which was actually organized and very actively supported by all the international partners. It was one of the biggest conferences in the region, with enthusiastic support, and a lot of investment deals were signed. That was basically on the 4th 5th and 6th of December. Ten days later, we have the situation. No, we did not see this coming.⁷⁹

For days after the fighting first broke out in December, civilians in Juba were directly targeted on the basis of their ethnicity, but UNMISS troops were denied permission by the SPLA to patrol even the UN perimeters and were repeatedly obstructed at government checkpoints. With the secretary-general calling for a ceasefire, UNMISS continued to provide support to the SPLA, thereby calling into question its stated impartiality.⁸⁰

Hundreds of civilians began arriving at UNMISS bases seeking protection just hours after the fighting had spread to the streets. The rapidly deteriorating security situation left little room for deliberation or even hesitation. UNMISS senior leadership took the risky decision to open their compound gates to those clamouring to get into a safe place. It was not foreseen, however, at that point that the UNMISS bases would play long-term host to tens of thousands of civilians. The mission's physical-protection work was made more difficult by the evacuation of nearly all international humanitarian staff, looting of humanitarian facilities and combat operations near UNMISS bases in many locations.⁸¹

UNMISS was neither politically nor militarily prepared for the conflict

What appeared to be an ethnically motivated deadly attack on 19 December by an armed group at the UNMISS base in Akobo, Jonglei, where civilians were seeking refuge, resulted in the deaths of two UNMISS peacekeepers, an international consultant and at least 19 local civilians. The attack led the mission to evacuate all personnel from Akobo. The following day, in Yuai, two UNMISS helicopters came under direct

small-arms fire by anti-government forces while evacuating military personnel and internally displaced persons. On 24 December, several shells hit the UNMISS compound in Bor, resulting in three peacekeepers sustaining injuries. The risk of deteriorating security at this point prompted the mission to relocate its personnel from Yuai and Gumuruk. In the light of the deteriorating security situation, the UN endorsed the relocation of non-critical personnel from affected duty stations to Juba or out of South Sudan altogether.⁸²

UNMISS senior leadership took the risky decision to open their compound gates to those clamouring to get into a safe place

Peacekeepers are not humanitarian workers, and UNMISS staff did not have access to humanitarian supplies, such as tents, food or materials to build latrines. The consequence was the dire condition in some of the bases. Nevertheless, UNMISS assumed the lead in the management of safety and security of civilians in the protection sites within its bases, while enlisting the support of humanitarian aid partners to provide clean water, emergency latrines, food, healthcare and shelter. Contingency planning was initiated should the situation deteriorate. This included the provision of humanitarian supplies inside the bases and the exploration of other sites that might be used to protect civilians.⁸³

By 26 December 2013, the overstretched mission was sheltering over 50 000 civilians in its various compounds in Juba, Bor, Bentiu and Malakal, and elsewhere, and it was moving to rapidly redeploy its assets to the most volatile areas – in particular those where civilians had sought refuge in UN camps.⁸⁴ By 1 January 2014, about 68 000 people had sought refuge in UNMISS camps in 13 locations.⁸⁵ UNMISS military engineers and humanitarian agencies had to hastily prepare accommodation sites in the UN compounds, which did not have adequate facilities for such numbers.⁸⁶

A few days into the crisis, the relationship between the government and UNMISS started to grow increasingly tense. There were unfounded allegations that UNMISS was aiding and abetting the anti-government forces. Hostile public statements were made by senior government officials and freedom of movement of the mission's personnel was increasingly restricted. Anti-UN demonstrations were organised in several state capitals, including Rumbek (Lakes State) and Aweil (Northern Bahr el Ghazal).⁸⁷

Tension between the government and UNMISS was high. The mission pursued a policy of supporting the state in some parts

of the country while claiming neutrality in others, which caused confusion and frustration to both government and opposition.⁸⁸ For example, when government forces intercepted a UN weapons shipment in March 2014, confusion over its intended recipients led to allegations that UNMISS supported the SPLM/A in Opposition, protests by senior government figures and public calls for SRSJ Johnson's removal from office.⁸⁹

The UNMISS response to government intransigence, obstruction and hostility has been diplomatic rather than forceful. According to the secretary-general's March 2014 report on the mission, UNMISS has brought each incident to the attention of the relevant government authorities, reminding them of their obligations under the status-of-forces agreement, and has asked for an investigation and accountability. With regard to the more flagrant cases, 'the mission has sent a formal protest note and presented a *démarche* to the Government at the highest levels'.⁹⁰

Uganda has been accused of having economic motivations for the intervention and has been criticised for its force's abuses of civilians

Regional response

When conflict broke out in Juba in mid-December 2013, the Ugandan People's Defence Force (UPDF) had troops deployed alongside SPLA units as part of a regional force to counter the Lord's Resistance Army (LRA). On 20 December 2013, Uganda deployed additional UPDF forces, including an air wing, to Juba. With UNMISS literally confined to its bases, the UPDF forces played a critical role in securing the capital city and in recapturing Bor for the second time, on 18 January 2014. Although the interventions of the UPDF may have saved Juba from being taken by opposition forces and helped bring the opposition to the negotiating table, they have also been controversial – not least because of the alleged use of cluster munitions. Uganda has been accused of having economic motivations for the intervention and has been criticised for its force's abuses of civilians – as was the case with earlier UPDF deployments in South Sudan. While Uganda believes its military intervention was tacitly approved by the US, its approach was at odds with subsequent peacemaking efforts of the UN, the African Union and the Intergovernmental Authority on Development (IGAD)⁹¹ – who were all calling for an immediate ceasefire.⁹²

IGAD was quick to mobilise its peacemaking machinery. It sent high-level delegations to Juba and convened an extraordinary summit of IGAD member states in Nairobi on 27 December

2013. This summit appointed three special envoys to help the government of South Sudan and the SPLM/A in Opposition reach a resolution to the crisis and initiate a dialogue. These efforts were successful and a formal negotiation process between the conflicting parties began in Addis Ababa on 4 January 2014. These negotiations led to the government and the SPLM/A in Opposition signing an Agreement on the Cessation of Hostilities (CoH) on 23 January 2014, intended as a precursor to inclusive dialogue and a process of national reconciliation.

Under the CoH agreement, the parties agreed to cease all military action aimed at each other and any other action that might undermine the peace process.⁹³ The agreement was to come into effect within 24 hours of its signing, upon which the parties would:

- Immediately cease all military operations and hold their forces in present positions
- Refrain from taking any action that might lead to military confrontation, including all movement of forces and ammunition resupply
- Ensure that all forces and other armed groups under their influence would disengage and observe the agreement
- Redeploy and/or progressively withdraw from the South Sudan theatre of operations armed groups and allied forces deployed there on invitation of either side.

It is noteworthy that the parties agreed to refrain from attacks on civilians, and committed themselves to the protection of human rights, life and property, according to the provisions of various national, continental and international instruments.

The parties also agreed that the state of emergency would be lifted at a time to be recommended by a monitoring and verification mechanism (MVM), which was to be immediately formed under the leadership of IGAD. This mechanism, it was agreed, would be responsible for monitoring the implementation of the CoH agreement. It was also agreed that IGAD special envoys, in consultation with the parties, would establish a joint technical committee responsible for establishing a monitoring and verification team (MVT), and for developing the working methods of the implementation mechanism.

While MVT membership was to be determined by the joint technical committee, its members would be approved by the IGAD special envoys. Members would report to the special envoys on the parties' compliance with the agreement, including their pledge to protect civilians. The team would be composed of representatives from the IGAD member states, the parties themselves and other partners. The team would include a mix of civilians and military or ex-military personnel. The MVT

would have 22 members – a chairperson (selected by the IGAD special envoys in consultation with the parties), three headquarters staff and 18 monitors, who would work in smaller teams.

Headquartered in Juba, the MVT would be allowed to use its discretion to deploy verification missions on the basis of credible information, complaints submitted by the parties and/or requests from the IGAD special envoys. As required, the special envoys would have the right to deploy additional monitors, in consultation with the parties.

Although the MVM was to be established immediately, in reality it took several months for the first elements of the MVT to deploy. Within days of being signed, the CoH agreement had been repeatedly violated by both parties and fighting continued in various locations in South Sudan. Despite differences among member states on how to resolve the conflict, IGAD announced in March 2014 its intention to send a protection and deterrence force (PDF) as part of the MVM envisaged under the 23 January CoH agreement. The precise mandate of this force was unclear, but there was talk of it being tasked to enforce the cessation of hostilities; protect members of the MVT; secure the oilfields; and ensure that IGAD member states pursued the same objectives on the battlefield that they had signed up to in the Addis agreement. It was also suggested that a basic rationale for the PDF was to guarantee the security of Juba and oil installations, enabling the UPDF to withdraw (as called for in the CoH agreement) or to be incorporated into the PDF.⁹⁴

But, regardless of the PDF's deployment modalities, on 11 April 2014 IGAD issued a communiqué announcing that the MVT had started work. According to this communiqué, first a team was deployed to Bor on 1 April 2014, followed by a similar deployment in Bentiu on 5 April. Meanwhile deployment to other locations was also planned.⁹⁵ On 9 May, it became apparent that the UN Secretariat was in alignment with the regional initiative, including the idea of deploying a regional PDF, when the secretary-general submitted a letter asking the Security Council to consider authorising UNMISS to provide protection for the MVM teams until the modalities for the deployment of the protection force were determined.⁹⁶

Following high-profile interventions by the UN secretary-general and US Secretary of State John Kerry, President Kiir and Machar agreed to meet in Addis Ababa on 9 May, a Friday. This was their first direct contact since the conflict had begun on 15 December 2013. They signed an agreement for an immediate cessation of hostilities within 24 hours and the establishment of a transitional government of national unity to 'oversee a permanent constitutional process and guide the country to new elections'.⁹⁷ Unfortunately, the agreement was violated that very weekend, 10 to 11 May, with fresh fighting reported in Bentiu. Both sides accused the other of having broken the ceasefire.⁹⁸

UNMISS reinforced for protection of civilians

In passing Resolution 2132 (2013) on 24 December 2013, the Security Council endorsed the secretary-general's call to temporarily increase the force levels of UNMISS and authorised an enlarged security capability for the mission. This consisted of:

- A military component of up to 12 500 troops of all ranks
- A police component, including appropriate FPU's, of up to 1 323

To deliver this new capacity as quickly as possible, the Security Council authorised the secretary-general to conduct an '... appropriate transfer of troops, force enablers,

RESOLUTION 2132 AUTHORISED THE REINFORCEMENT OF UNMISS BY

5 500

ADDITIONAL TROOPS AND

440

ADDITIONAL POLICE

and multipliers from other missions, in particular MONUSCO, UNAMID, UNISFA, UNOCI and UNMIL, subject to the agreement of the troop-contributing countries and without prejudice to the performance of the mandates of these United Nations missions'.⁹⁹

In essence, Resolution 2132 authorised the reinforcement of UNMISS by 5 500 more troops, and 440 more police, with the aim of increasing security, reinforcing peacekeeping bases and providing critical assets. These included Mi-17 utility helicopters, a commercial Mi-26 helicopter, and a C-130 tactical transport aircraft, which was kept on standby in MONUSCO for use by UNMISS.¹⁰⁰

The Security Council endorsed the secretary-general's call to temporarily increase the force levels of UNMISS

The operational deployment and tasking of the expanded force was coordinated by three new sector headquarters, in Malakal, Bor and Bentiu. Five priority tasks were identified for the strengthened peacekeeping force. These included the protection of civilians and helping create security conditions conducive to the delivery of humanitarian assistance. According to the secretary-general's report of 6 March 2014, UNMISS developed a medium-term, three-tiered response plan to guide its protection activities during the crisis. The UNMISS medium-term POC plan in response to the crisis – which looks remarkably similar to the UNMIS POC strategy that was announced in November 2010 – consists of the same three-tiered approach.

Under the second tier of the plan (i.e. protection from physical violence), the secretary-general noted that UNMISS had had to respond to incidents on a daily basis – responses that included use of force. He also noted that the presence of former combatants, the availability of weapons and over-congestion in the sites had generated major security and crime-related concerns. The secretary-general stated that the situation had 'taken UNMISS into uncharted territory' and that the mission needed to develop, together with the UN Secretariat, 'a strategy to address criminality in the protection sites and ascertain the resources necessary to implement the strategy'.¹⁰¹

Concept of operations for protection of civilians

With the arrival of the surge troops, it was envisaged that UNMISS would have increased capability to deter threats against civilians, engage in the protection of civilians under threat and help create an improved security environment to allow for the delivery of emergency humanitarian assistance and eventually allow internally displaced persons to return home

safely. A basic concept of operations for the surge troops was developed by UNMISS, as follows:

- A battalion deployed to Juba would be responsible for the security of the site for the protection of civilians and facilities at the UN House compound. The troops would systematically increase their patrolling efforts in Juba and areas outside the town where internally displaced persons were expected to return to.
- A battalion from UNAMID would deploy to Malakal to take responsibility for the security of sites for the protection of civilians and UN compounds in Malakal and other vulnerable areas in the northern part of Jonglei.
- Another battalion would deploy to Bentiu. This unit would assume initial responsibility for the security of sites for the protection of civilians and UNMISS facilities. As the battalion's main body and its equipment begin to arrive, troops would assume additional security responsibilities in western Warrap State and southern Unity.
- Two companies would deploy to Warrap State and assume responsibility for areas near Kwajok and Turalei. They would also act as a reserve force should violence or fighting spill over from Unity into Warrap.
- Three medium-lift helicopters from Rwanda and three from MONUSCO would be based in Juba and Bor, depending on the security threat. They were to be used for logistical and operational requirements in areas considered to be under heightened threat. Tasks would include reconnaissance missions, troop movements, resupply missions and conducting 'dynamic patrols'.¹⁰²

The UNMISS reserve battalion would be reconstituted in Rumbek and held in a high-readiness state for rapid response across the whole area of operations.

Four FPU's would be deployed under Resolution 2132 (2013) to UNMISS compounds in Juba, Bor, Bentiu and Malakal, where the majority of internally displaced persons seeking protection in UN camps were present. The tasks of the police units include the protection of internally displaced persons, public-order management within UN compounds, screening of dangerous substances, riot control during the distribution of humanitarian assistance, and the protection of UN staff and assets.¹⁰³

This deployment of FPU's in support of internal security at UN bases and safe areas is a first for the UN and a potentially risky innovation. In February 2014, the UN DPKO and DFS released a long-awaited 'Policy on UN Police in Peacekeeping Operations and Special Political Missions'.¹⁰⁴ This new policy guidance states that POC is a mandated task that requires concerted action from all mission components, including UN

police. In missions with an executive mandate, the policy document specifies that UN police will be directly responsible for physical protection of civilians against imminent threats. It also notes that in the more common non-executive authority missions, UN police will fulfil their civilian-protection responsibilities by providing operational support to the host-state police. This includes advice on planning and conducting operations and investigations into incidents or training host-state police to perform key protection functions – such as providing security in camps for internally displaced persons.¹⁰⁵

The policy document clearly states that primary role of FPU is public-order management and that public-order policing tasks will in most cases be conducted in support of the host-state police. However, FPUs can be called upon to act independently in accordance with mission mandates. Importantly, the policy states that FPUs shall provide protection for UN police and civilian personnel, as well as facilities and equipment, and intervene where necessary for the protection of staff in accordance with FPU capabilities.¹⁰⁶ While this guidance, together with the renewed UNMISS mandate, gives authority for FPUs to provide security in the camps, their effectiveness in this role will depend heavily on the detailed operational and tactical guidance provided within mission, and on the severity of the challenges faced in the months to come.

This new policy guidance states that POC is a mandated task that requires concerted action from all mission components

UNMISS reconstituted for protection of civilians

Well ahead of the scheduled mandate expiry date of 15 July 2014, the UN Security Council on 27 May unanimously passed resolution S/RES/2155 (2014) renewing and extending the UNMISS operation until 30 November 2014. This substantially restructured the mission's form and function. The resolution significantly revised the mission's mandate by underscoring the decision to depart from the previous mandate's activities, which were primarily concerned with state building, and to prioritise instead the task of protecting civilians.

Expanding on previous guidance, including guidance relating to defending POC sites, the resolution instructed UNMISS to 'protect civilians under threat of physical violence, irrespective of the source of such violence, within its capacity and areas of deployment'.¹⁰⁷ Taking its lead from previous mandate adjustments, such as that of MONUSCO in the DRC, the resolution not only reiterates the authorisation of 'all necessary means', but also gives priority to civilian protection in decisions about the deployment of capacity and resources available to the mission.

Overall, the resolution sustained the increased troop and police levels for at least another year and streamlined the UNMISS mandate to focus on four key tasks: protection of civilians; monitoring and investigating human-rights abuses; creating enabling conditions for the delivery of humanitarian assistance; and supporting the implementation of the 23 January 2014 CoH agreement. The resolution states that 'certain Mission tasks will therefore be ceased', which sends a clear signal that UNMISS is no longer in the business of providing capacity-building support to the institutions of state.¹⁰⁸

On the other hand, Resolution 2155 clearly emphasises the need for the mission to support for the IGAD-brokered peace process. It states that the Security Council, acting under Chapter VII, endorses the CoH agreement accepted and signed by the Republic of South Sudan and the SPLM/A in Opposition on 23 January; further

THE UNMISS OPERATION HAS BEEN
RENEWED AND EXTENDED TO

30 NOVEMBER 2014

endorses the agreement to resolve the crisis in South Sudan signed on 9 May; calls for immediate and full implementation of the agreements by both parties; and 'expresses its readiness to consider all appropriate measures against those who take action that undermines the peace, stability, and security of South Sudan, including those who prevent the implementation of these agreements'.¹⁰⁹

As mentioned, the secretary-general submitted a letter on 9 May asking the Security Council to consider authorising UNMISS to provide protection for IGAD monitoring and verification teams 'within its capabilities, and on a temporary basis, until such time as the modalities for the deployment of the IGAD Protection Force are determined'.¹¹⁰ The wording of Resolution 2155 suggests that the Security Council has acceded to his request by deciding that the authorised troop strength of 12 500 shall '... include a component consisting inter alia of three battalions, with additional responsibility for protecting IGAD's MVM as set out in paragraph 4(d), as well as implementing the mission's overall mandate ...'.¹¹¹ This force component will be responsible for providing 'mobile and dedicated fixed-site security to IGAD's MVM'.¹¹²

Resolution 2155 therefore brings the MVM protection forces directly under UN command and control, while giving the MVM protection component responsibility for implementing other elements of the mission's broader civilian-protection mandate. However, it is unclear if assigning three UNMISS battalions to MVM protection is intended as a stopgap measure, as implied in the secretary-general's 9 May letter to the Security Council, or whether this force component is seen as an ongoing feature and is in fact the de facto regional PDF mooted by IGAD in March 2014.

According to an analysis of a draft of Resolution 2155, the troop ceiling includes units that would form an 'IGAD Protection Force' comprising about 2 500 IGAD troops serving under an Ethiopian force commander who would report to the UNMISS chain of command. This 'IGAD Protection Force' would comprise Ethiopian troops, with Kenya and Rwanda (a non-IGAD country) possibly also contributing troops.¹¹³

This interpretation was echoed by the US permanent representative to the UN in a media statement on Resolution 2155, which welcomed:

... the willingness of countries from the East African regional organization, the Intergovernmental Authority on Development (IGAD), to contribute a regional force to UNMISS as part of the new troop complement ... This troop contribution will be vital to supporting the new UNMISS mandate and to providing protection to the personnel from IGAD's Monitoring and Verification Mission ...¹¹⁴

Regardless of how this is interpreted, however, it seems that UNMISS will now have a force component, commanded by an Ethiopian officer and composed of regional troops, which will assume responsibility for providing mobile and site security for the various elements of the MVM. This arrangement may be acceptable to Uganda, which has maintained that it will not withdraw its troops unless a regional force is deployed to South Sudan to replace UPDF troops. And it should be acceptable to the SPLA/M in Opposition, which has rejected the deployment of a separate regional force by IGAD, saying it would behave like the UPDF and side with the government to deter their forces. It has, however, indicated that it would accept a deployment of regional forces if they were strictly part of UNMISS.¹¹⁵

The exact status and composition of the MVM protection component, or IGAD protection force or protection and deterrence force remain unclear. Resolution 2155 states that the MVM protection component will be composed of three battalions (i.e. about 1 800 to 2 000 troops). But it says nothing about what other force components, 'force multipliers' and mobility assets are envisaged for this element to bring it up to the strength of 2 500 and to enable it to fulfil its extended mandate – not only to protect the IGAD MVTs, but also to contribute to the overall mandate of using 'all necessary means' to protect vulnerable civilians.

It became increasingly clear that the whole state-building approach of the mission was flawed

Conclusion

From the inception of the mission, the UNMISS leadership and the Security Council viewed South Sudan as a post-conflict developing country rather than a politically fragile, deeply divided and highly conflict-prone embryonic state. This is despite the fact that several thousand South Sudanese were killed and wounded in violent conflict in three out of its ten states in the period before December 2013. Events since then have ensured that the mission's post-conflict peacebuilding lens was shattered, as it became increasingly clear that the whole state-building approach of the mission was flawed.

The UNMISS approach to protecting civilians – based on the DPKO and DFS 'operational concept' of 2010 – also turned out to be a naively idealistic template that provided no guidance on what to do when government and opposition forces launched brutal attacks on civilian communities and UN bases, and when communities took up arms against their neighbours. Under such circumstances, the very posture of the mission (deployed to support the government with building the state institutions

of South Sudan) became untenable and resulted in a type of schizophrenia in the mission's leadership.

Resolution 2155 places a high level of expectation on the mission's capacity to deliver on its very broad civilian-protection mandate

The Security Council's acknowledgement of the need for UNMISS to cease certain state-building tasks indicates that the prevailing view among members is that the mission cannot support a government that has been accused of serious human-rights violations. Although it is necessary in the short term, ending the mission's support for state building will be a further setback to the project of building a state that is capable of meeting the basic needs of its citizenry and fulfilling its primary responsibilities to protect its population. The Security Council faces a difficult dilemma – deciding between the need for due diligence on who can be a partner for peace and the need to help the government of a nascent state fulfil its basic functions.

On the other hand, it is better to focus the mission on a narrower set of core tasks – protecting civilians, facilitating the provision of humanitarian access, monitoring and reporting on human rights, and supporting the implementation of the CoH agreement – given the severity of the security and humanitarian situation, the limited resources of the mission and the implications of supporting a state whose armed forces are committing serious human-rights violations. By providing a streamlined mandate, the Security Council has given UNMISS a potentially more viable mission – albeit an extremely complex and ambitious one.

Incorporating regional MVM protection forces under the UNMISS chain of command may help to contain north–south tensions and escalating regional rivalries. However, the component's likely leadership by Ethiopia and the inclusion of troops from neighbouring countries have the potential to exacerbate and prolong armed conflict, as the involvement of regional forces did in the DRC and in Sudan's second civil war. With UNMISS likely to be protecting civilians in theatres of active combat, the Security Council should be wary of the risks associated with establishing such a close relationship between the mission and a regional MVM that reports directly to IGAD rather than to the SRSG.

Aside from the potentially fraught task of providing support to the IGAD MVM, Resolution 2155 places a high level of expectation on the mission's capacity to deliver on its very broad civilian-protection mandate. The mission's responsibility

to provide physical protection through protection sites where thousands of people are seeking refuge with UNMISS continues to place them at risk of being caught in between government and opposition forces, which have shown their blatant ignorance of and/or disrespect for international humanitarian law. The UNMISS bases currently acting as safe havens are located in strategic towns that have been, and are likely to be, repeatedly attacked as the protagonists seek to expand the territory under their control and increase their bargaining power at the negotiating table. Moreover, the UN protection sites may be targeted if either side believes they harbour ethnic, political or military opponents. It would take only one 82 mm mortar round to cause devastation in any of the UN camps currently offering protection across the country.

The practice of establishing UN safe havens or protected areas is not exactly 'uncharted territory', as suggested by the Secretary General. It was in fact severely discredited in the 1990s because of the UN's failure to protect civilians during the Rwandan genocide of 1994 and the Srebrenica massacre of 1995. However, in addition to promises of protection against armed attack, the UN is now also accepting responsibility for protecting South Sudanese against disease and famine. The UN protected areas are therefore likely to be in increasing demand as feeding centres, regardless of the conflict situation or perceived threats of armed violence. Indeed, as of late September 2014, 97 000 civilians continue to rely on these sites for shelter and sustenance.

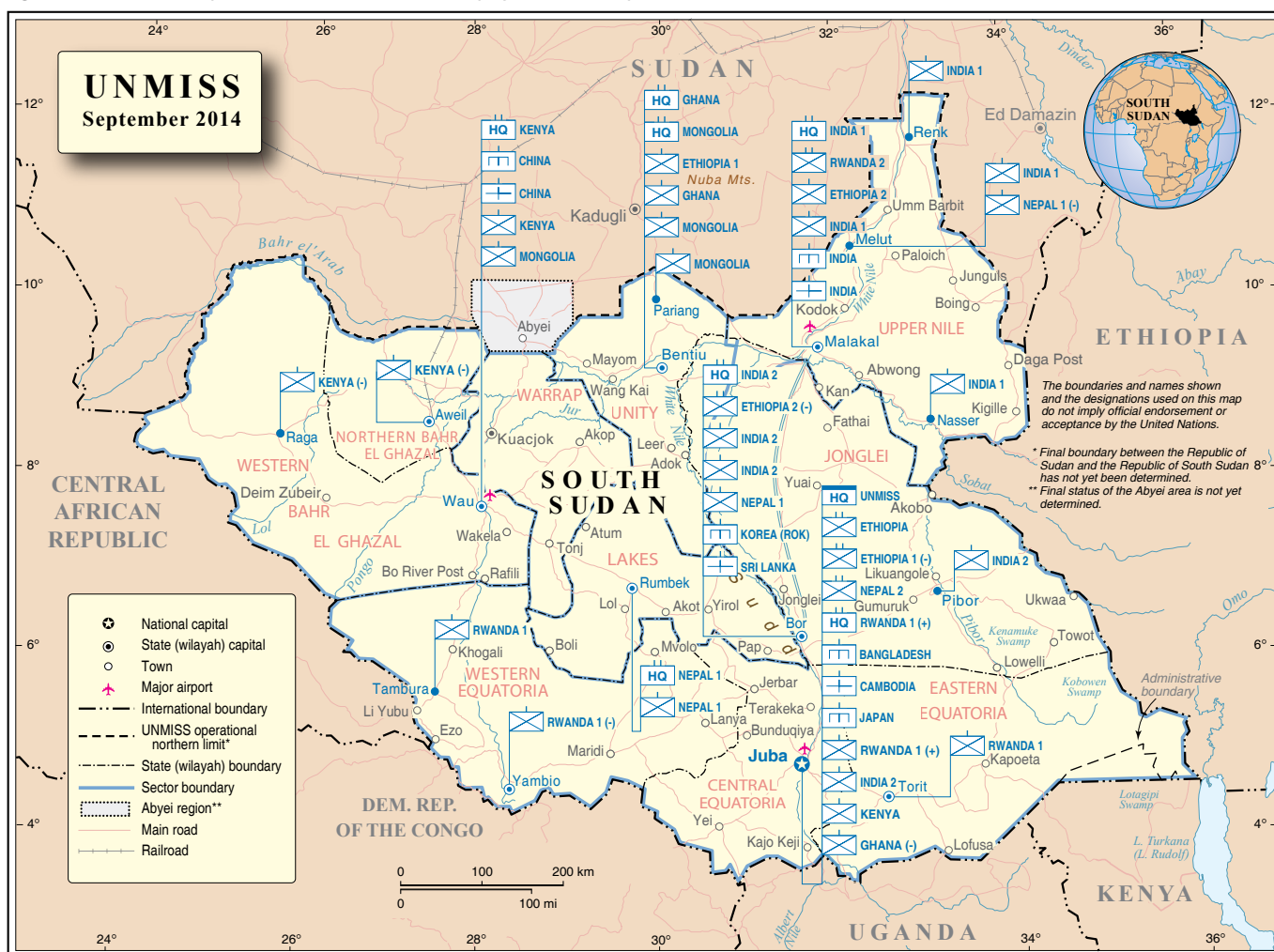
If the UN is to continue to accompany the transition in South Sudan beyond the present emergency, it should have a much larger stake in shaping any eventual comprehensive peace accord

Whatever form and function it assumes going forward, UNMISS cannot simply hold the line, but needs to create momentum to extricate the mission from its position of extreme vulnerability in the face of such dependency among the local population. UNMISS should not accept any constraint, by any party, including the government of South Sudan, on its freedom of movement. An enabling status-of-forces/mission agreement must be negotiated, and the first challenge to the new mission's freedom of movement should be met with a response that is emphatic enough to underline the supremacy and resolve of the UN Security Council. Without tough diplomacy backed by muscle, the mission will remain vulnerable to 'bullying' by government and opposition forces, and potentially by regional forces denying the UN freedom of movement as well.

In tandem with a more assertive security posture, the new UNMISS civilian leadership should be more actively and constructively engaged in the Addis negotiation process. To date, diplomacy has failed to make the cessation of hostilities stick, let alone produce a meaningful peace agreement and way ahead that is acceptable to the parties. However, should negotiations between the leaders resume, key elements of the 9 May 2014 agreement will need to be clarified, such as the modalities for the transitional government of national unity, including who will participate in it and the timeline for the proposed constitutional process and elections.

Moreover, if the UN is to continue to accompany the transition in South Sudan beyond the present emergency, it should have a much larger stake in shaping any eventual comprehensive peace accord. For example, a viable agreement designed to bring lasting peace to South Sudan must include strong consensus on constitutional principles and state-building priorities, including urgent and comprehensive programmes of DDR and SSR. The mediation process needs to produce the kind of consensus and commitment that would avoid the sort of mistakes and omissions that helped cause South Sudan's rapid descent from post-conflict independence to a grinding civil war.

Figure 1: South Sudan's provinces with UNMISS force deployment as of September 2014¹¹⁶



Map No. 4456 Rev. 14 UNITED NATIONS
September 2014 (Colour)

Department of Field Support
Cartographic Section

Notes

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