

The United Nations Mission in the Republic of South Sudan (UNMISS): Protecting **Civilians in a Volatile Environment**

Eli Stamnes

The United Nations Mission in the Republic of South Sudan (UNMISS) was established by Security Council Resolution 1996 on 8 July 2011, in order to support this fledging state in consolidating peace and security; establishing conditions for development; governing efficiently and democratically; and in establishing good neighbourly relations. South Sudan's independence, which was backed by overwhelming popular support (nearly 99%) in a referendum held in January 2011, was the result of a six year long process, set in motion by the Comprehensive Peace Agreement (CPA). This agreement was signed in January 2005 between the Government of Sudan and the Sudan People's Liberation Movement (SPLM) and ended a war that had spanned more than two decades. However, many issues related to ethnic polarisation, inter-communal tensions and extreme violence still remain to be resolved. Indeed, South Sudan's population is currently considered to be at high risk of mass atrocity crimes, something that represents great challenges to the UN mission.¹

As outlined below, the case of UNMISS is unique in terms of how the mission has dealt with the protection of civilians under immediate threat of violence, and serves to shed light on areas where new thinking is required in relation to the protection of civilians in the context of UN peace operations in volatile environments.

UNMISS and developments since the December 2013

Although having a broader peacebuilding scope, the initial mandate of UNMISS also stipulated several means by which the mission was to support the South Sudan government in exercising its responsibility for the protection of civilians, including monitoring and reporting on human rights violations and potential threats against the civilian population; advising and assisting the government, military and police in fulfilling its responsibility to protect civilians; deterring violence through proactive deployment and patrols in high risk areas; and, within its capabilities and in its areas of deployment, protecting civilians under imminent threat of physical violence.²

This was based on the assumption that the government and authorities would be willing partners in enhancing civilian protection and the respect for human rights in the new state. However, this assumption proved to be too optimistic. As events have unfolded, not only non-state actors but also state authorities, seeking to marginalise ethnic groups and maintain

power for an exclusionary elite, have perpetrated violence against civilians, with the government failing badly in its protection responsibilities.³

The violent crisis in December 2013 resulted in UNMISS taking steps unprecedented in the history of civilian protection. The crisis was the culmination of increasing tensions within the ruling party, the SPLM. On the first day of the party's National Liberation Council, on 14 December, disagreement between President Salva Kiir, the former Vice-President, Riek Machar, and other senior party leaders came to a head, resulting in Machar and others not returning the following day, when important decisions were to be made. On the evening of 15 December, fighting broke out in the barracks of the Presidential Guard in Juba, and the President declared that this constituted an attempted coup d'état by forces loyal to Machar. The fighting spread quickly to other military installations as well as residential areas, and resulted in large-scale killings and abuses. Thousands of civilians and individuals deserting from the security forces fled and sought refuge within UNMISS bases. The tensions continued to rise, with segments of the forces taking sides with or against the president, and spread to the states of Upper Nile, Unity, Central Equatoria and Jonglei, resulting in even more civilian casualties and refugees. Due to the ethnic dimension of the conflict, many of the refugees escaped targeted attacks against particular communities. Machar announced that he intended to remove the president from office and that his forces - subsequently labelled SPLM/A-IO - constituted a resistance group.4

The crisis also lead to a deterioration of the relationship between UNMISS and the South Sudanese government. The UN was accused of taking sides in the conflict and senior government officials made hostile public remarks about the mission. There were several anti-UN demonstrations, UN personnel were harassed, threatened and had their movements obstructed. There were also serious status-of-forces agreement violations including several attempts by SPLA soldiers to forcibly enter the UN compound in Bor.

The backdrop for this was the decision by the UN mission, faced with the threat of large-scale civilian killings, to open the gates of its compounds in Juba, Bor, Akobó, Bentiu, Malakal and Melut to the fleeing masses. The military engineers and humanitarian partners moved swiftly to ensure a minimum of facilities within the compounds. By March 2014, 85,000 persons had sought refuge at eight UNMISS compounds, and by

the abbreviated form of Sudan People's Liberation Movement/Army-in Opposition

See, Global Centre for the Responsibility to Protect, Populations at Risk, http://www.glo-1 balr2p.org/regions/south_sudan; United Nations Mission in the Republic of South Sudan, Flash Human Rights Report on the Escalation of Fighting in Greater Upper Nile, April/May 2015, 20 June 2015

Lamii Moivi Kroma, 'Caught in the Middle: Civilian Protection in South Sudan', IPI Global 3 Observatory, 23 October 2014 http://theglobalobservatory.org/2014/10/civilian-protec-tion-south-sudan-poc-idps-html/.

S/RES/1996 (2011) 8 July, para 3b(iii-v).

S/2014/158, Report of the Secretary-General on South Sudan, 6 March 2014. SPLM/A-IO is

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the time of writing the number has grown to more than 166,000.5 Needless to say, this has placed a huge strain on the resources of the mission and has meant a shift in focus as well as a reallocation of resources. The immediate need for additional forces to protect civilians and assist in the provision of humanitarian assistance was secured through intermission cooperation mandated by Security Council Resolution 2132 of 24 December, raising the troop level of UNMISS to 12,500 personnel and the police component to 1,323 personnel.⁶ The mandate of UNMISS was formally reprioritised towards the protection of civilians, human rights monitoring, creating conditions for the delivery of humanitarian assistance, and supporting the implementation of the Cessation of Hostilities Agreement (signed in January that year) in Security Council Resolution 2155 of 27 May 2014. Among these responsibilities, the protection of civilians was to have first priority. The resolution also decided that the increased size of the troop and police components be maintained and authorized the mission to 'use all necessary means' to perform its tasks. Thus, UNMISS was given one of the strongest Security Council mandates to protect civilians under threat of physical violence.7

Since this, no less than seven additional peace agreements have been signed between the government and the rebel forces, but the violence has continued. The intensity of the fighting has varied, with periodic spikes, notably in April 2014, October 2014 and April 2015. Towns and villages have been burned, sometimes with people being burned alive, and torture, extrajudicial killings, child recruitment and incredibly brutal sexual and gender-based violence is widespread. While the capital Juba was affected at the beginning of the 2013 crisis, most of the fighting has taken place in the North-East of the country, in the Greater Upper Nile region - in particular in Unity, Upper Nile and Jonglei states. It is estimated that around 1.6 million have been displaced and tens of thousands have been killed since December 2013. Both government and rebel forces perpetrate atrocities, which in many cases may amount to war crimes and crimes against humanity. The fighting has also meant that food production has been impossible in the areas affected over the last few years, and that 70% of the areas' schools have closed. This adds other devastating dimensions to the crisis.8

As a result of the significant upsurge in violence this spring, the UN Security Council extended UNMISS' mandate until the end of November, maintaining the size of the military and police components. It underscored grave alarm concerning the worsening political, security and humanitarian crisis in South Sudan and expressed grave concern about reports that there are reasonable grounds to believe that war crimes and crimes against humanity are being committed. It reminded the government of its primary responsibility to protect civilians.9

Protection of Civilian sites

The case of UNMISS represent an unprecedented case in terms of offering protection of civilians in such large numbers within its compounds. The civilians are sheltered in so-called Protection of Civilian sites (PoC sites). Conceptually PoC sites should not be confused with the 'safe havens' of the 1990s, which were larger scale, pre-planned areas designated (but failing) to offer civilians protection, nor with camps for internally displaced people (IDP camps), which provide more substantial humanitarian assistance. The PoC sites are meant to be a temporary last resort and to provide refuge for civilians under immediate threat of physical violence. This was emphasised in UNMISS' original guidelines for protecting civilians at their bases. However, in the aftermath of the December 2013 crisis, these conceptual lines have become blurred. Large numbers of refugees have settled in the PoC sites with uncertain prospects for departure, with the the sites also attracting IDPs from other parts of the country. As a result the UN mission has had

to adopt a pragmatic view on what its role within these sites should be.

Humanitarian assistance was not part of UNMISS's original mandate in South Sudan. Before the December 2013 crisis, the humanitarian needs of the South Sudanese population were the focus of the various humanitarian actors present in the country. As the numbers within the UN gates grew, the need for humanitarian assistance there became increasingly acute. The humanitarian actors, always guarding their image of independence and neutrality, were initially weary of getting involved within the PoC sites as this would mean closer association with the military forces. However, as the humanitarian needs there grew, several actors, such as Médecins Sans Frontières (MSF) and the International Committee of the Red Cross (ICRC), felt compelled to get involved inside the UN gates due to the humanitarian imperative. As a result, a camp management cluster was established and responsibilities were divided between the UN mission and the humanitarian actors. Naturally, the humanitarian actors were to coordinate the provision of humanitarian assistance whereas UNMISS was to be responsible for security vis a vis external threats and within the camps, as well as for providing logistical support to the humanitarian actors. Nevertheless, when the security situation within the sites has made it too dangerous for the humanitarian actors to operate, UNMISS has had to take on humanitarian responsibilities, such as food and water provision, site management and the building of latrines. The mission's health clinics have also provided medical care to a substantial number of civilians.¹⁰

The living conditions within the PoC sites are very poor. With so many people seeking shelter, the sites are extremely crowded, and this makes it difficult to ensure that the sites adhere to humanitarian standards. In some instances there have been up to ten times as many people per square metre as the so-called Sphere standard prescribes.11 Needless to say, the congestion, and the fact that the sites are extremely muddy, represents big sanitation challenges and major health and mortality risks.

The security situation is also challenging. The congestion is itself a source of tension, and in addition there is intra-community leadership struggles, inter-communal tensions, youth gang violence and domestic violence. Humanitarian personnel and UNMISS staff are also being threatened. Sexual and gender-based violence against women and children is a worrying problem, as well as the sexual exploitation of women and children by male site inhabitants. The situation within the camp reflects developments on the outside and violence there frequently spill-over into the PoC sites, leading to casualties. A recent incident took place in the site in Juba on 11 May 2015. With the further ethnicization of the conflict, more problems are predictable as long as the fighting continues. The sites have also been attacked from the outside by the warring parties, resulting in the death of civilians on several occasions. The perhaps gravest of these was the attack on the PoC site in Bor in April 2014, which left over 50 people dead.¹²

UNMISS has addressed the security concerns in a variety of ways. The mission has reached out to community leaders and sought to establish some ground rules for appropriate conduct within the PoC sites. It has also supported informal community-led conflict resolution mechanisms, and implemented conflict transformation trainings and peace dialogues at some of the sites. UNMISS police patrol the sites on a daily basis and deals with incidents occurring. This includes investigation and co-operation with local authorities in order to bring the perpetrators to justice. The latter have entailed some human rights and legal dilemmas for UNMISS, but are important in order to prevent impunity. The mission has also had to expel individuals from the sites (after conducting a risk assessment regarding their individual security outside the gates) in order to maintain security.

Remarks to the press made by Under-Secretary-General for Humanitarian Affairs and Emer-gency Relief Coodinator, Stephen O'Brien, Juba, South Sudan, 25 July 2015. 5 S/RES/2132(2013), 24 December

S/RES/2155 (2014), 27 May.

United Nations Mission in the Republic of South Sudan, Flash Human Rights Report on the Escalation of Fighting in Greater Upper Nile, April/May 2015, 20 June 2015; Global Centre for the Responsibility to Protect, Populations at Risk, http://www.globalr2p.org/regions/ south_sudan; S/2015/296, Report of the Secretary-General on South Sudan, , 29 April 2015. 9

¹⁰ Damian Lilly (2014) 'Protection of Civilians sites: a new type of displacement settlement?' Humanitarian Exchange Magazine, 62 (September).

¹¹ As set out in the internationally recognised The Sphere Handbook: Humanitarian Charter and Minimum Standards in Humanitarian Response, see electronic version at http://ww spherehandbook.org. Human Rights Watch (2014) South Sudan's New War: Abuses by Government and Opposition

¹² Forces, 7 August, https://www.hrw.org/report/2014/08/07/south-sudans-new-war/abuses government-and-opposition-forces; United Nations Mission in the Republic of South Sudan, Flash Human Rights Report on the Escalation of Fighting in Greater Upper Nile, April/May 2015, 20 June 2015; S/2015/296, Report of the Secretary-General on South Sudan, 29 April 2015; Damian Lilly (2014) 'Protection of Civilians sites: a new type of displacement settlement?' Humanitarian Exchange Magazine, 62 (September).

Moreover, since many of the people seeking shelter are former combatants, UNMISS has implemented a strict disarmament policy at arrival. With regard to domestic violence and sexual and gender-based violence, the mission co-operates with humanitarian partners in order to streamline referral pathways and provide emergency services efficiently to the victims.13

Protection of Civilians outside the PoC sites

The UNMISS Protection of Civilians Strategy outlines protection activities along three tiers:

- 1) Protection through political process
- 2) Providing protection from physical violence
- 3) Establishing a protective environment¹⁴

Although the protection of civilians mandate of UNMISS gives priority to protection from physical violence, there is no sequential order among these tiers. Activities within the tiers are to take place concurrently, and together they are intended to constitute a comprehensive approach to preventing and responding to threats and attacks on South Sudan's civilian population. Moreover, although the PoC sites absorb much of the resources of the mission, the protection needs of civilians in major population centres and rural areas are to be addressed simultaneously.15

Activities within tier 1 include supporting the implementation of the Cessation of Hostilities Agreement, which is seen as central to ending the atrocities committed against the civilian population. In addition, the tier includes advocacy in connection to political agreements to ensure that protection concerns, including sexual and gender-based violence are addressed within them. Inter-communal dialogue, dialogue between the government and opposition forces, conflict mitigation and conflict resolution activities also fall under this tier. UNMISS' civil affairs team organises meetings with local authorities, community leaders, youth and women across South Sudan, including in territory held by the opposition. The purpose of these meetings is to identify conflict threats and mitigation measures. The mission also organises a number of roundtable discussions and workshops with youth, community leaders and internally displaced people in order to develop conflict management skills and to engage in resolving inter communal disputes. UNMISS seek to de-escalate tensions by engaging with security officials, state and community leaders, and promote peaceful coexistence between Nuer and Dinka communities through regular engagement.¹⁶

In addition to the protection from physical violence offered by, and within, the PoC sites,17 the tier 2 activities of UNMISS also include proactive deployment, high visibility patrolling of areas deemed to be vulnerable and at risk, and focused aviation patrols. The purpose of the activities is partly to deter attacks on civilians, partly to interact with and reassure vulnerable communities in order to avoid further displacements, and partly to gather information and assess threats. If needed, UNMISS can also use force, up to lethal force, to protect civilians from physical violence.18

This work has been hampered by the restriction of UNMISS' movements imposed by the South Sudan government. Moreover, both government and opposition forces have attacked UN personnel, UN helicopters have been shot down, UN convoys have been attacked, UN personnel have been detained and kidnapped, and there have been several attacks on UN camps. In addition, UNMISS has still not reached its authorised force strength and lacks mobility assets such as helicopters and riverine assets for patrolling the Nile. In his recent report on South Sudan, Secretary-General Ban Ki-moon, appeals to troop-contributing countries to 'expeditiously deploy remaining surge capabilities and military equipment, which are critical to enable UNMISS to deliver its mandated tasks effectively'.19

13 S/2015/296, Report of the Secretary-General on South Sudan, 29 April 2015; Damian Lilly (2014) 'Protection of Civilians sites: a new type of displacement settlement?' Humanitarian Exchange Magazine, 62 (September).

14 UNMISS Protection of Civilians Strategy, 15 September 2014, para 31.

- Currently there are six of them, see, S/2015/296, Report of the Secretary-General on South-17 Sudan, 29 April 2015, para 30.
- S/2015/296, Report of the Secretary-General on South Sudan, 29 April 2015; UNMISS Pro-18 tection of Civilians Strategy, 15 September 2014
- 19 S/2015/296, Report of the Secretary-General on South Sudan, 29 April 2015, para 67.

These deficiencies serve to exacerbate even further the substantial logistical challenges presented by the terrain, lack of infrastructure and the climate (in particular the rainy season), which would make many areas hard to access even if UNMISS was operating at its full, planned capacity.

Activities within tier 3 focus on supporting the creation of conditions in which it would be safe for displaced people (within and outside the PoC camps) to return home or settle permanently in new locations. Advocacy for, and monitoring of, the adherence to international human rights, the rule of law and the appropriate conduct of the police and law institutions is part of this work. So too is work aimed at building trust and confidence amongst displaced people and resident communities. In a pilot project focusing on selected areas in Juba, UNMISS, in cooperation with the United Nations Development Programme (UNDP), provides technical support to the confidence- and trust-building policing strategy of the Inspector General of Police. Moreover, with the aim of creating safer conditions with regard to sexual and gender-based violence, the UN has inter alia worked to establish networks of male advocates in all the ten states of South Sudan.²⁰ Although Security Council Resolution 2187 of 25 November 2014 underlined 'the necessity to find sustainable solutions for the internally displaced population, including in alternative safe and secure locations'.²¹ and the Special Representative of the Secretary-General, Ellen Magrethe Løj, stated at a subsequent press conference that 'we need to focus more on fostering a safe and secure environment outside the UN camps', 22 mass return of the internally displaced people seems unlikely in the current situation. Indeed, with the increased tension and violence seen since April 2015, the PoC sites have recently received thousands of new arrivals. For example, the PoC site in Bentiu registered and verified over 28,000 additional arrivals between 29 April and 15 June 2015.23 This underlines the need to work on all three tiers concurrently.

Notwithstanding this, the need for civilian protection outside the PoC sites is acute. The number of displaced people there is at least ten times as high as within the sites. Many of these try to reach the UN sites, but are stopped by checkpoints set up by the warring parties in order to hinder the movement of enemy forces as well as to prevent civilians from getting to the bases. In addition, the civilians are subjected to various forms of violence, torture and killing at these checkpoints. The situation is also precarious for a large number of displaced people in the Greater Upper Nile, who in an attempt to escape the fighting, now are sheltering in the swamps.²⁴ And, of course, the threats of physical and sexual violence, torture, arrests, enforced disappearance, burning etc. are not limited to the displaced part of the population. As the warring parties move into new territory, new groups of civilians become threatened and subjected to this.

In a recent statement, the UN Special Adviser on the Prevention of Genocide, Adama Dieng, said 'The brutality and cruelty of these attacks defies imagination ... Given the widespread and systematic nature of attacks against civilians, some may constitute war crimes and crimes against humanity and those responsible must be held accountable.' He placed the responsibility for the suffering and despair of the South Sudanese people on both parties to the conflict due to their unwillingness to end the civil war.²⁵

Lessons learnt and questions highlighted by the UNMISS case

The South Sudan case has in several ways highlighted the need for new thinking around the protection of civilians in the context of UN peace operations in volatile environments.

PoC sites

There is widespread agreement that the decision to open the gates of UNMISS' compounds to civilians that were under immediate threat of physical violence, was correct. There is no doubt that this saved thousands of lives. Violence of

- Press conference in Juba 11 December 2014. 23
- United Nations Mission in the Republic of South Sudan, Flash Human Rights Report on the Escalation of Fighting in Greater Upper Nile, April/May 2015, 20 June 2015. United Nations Mission in the Republic of South Sudan, Flash Human Rights Report on the 24
- Escalation of Fighting in Greater Upper Nile, April/May 2015, 20 June 2015; S/2015/296, Report of the Secretary-General on South Sudan, 29 April 2015. See, 'Impunity must urgently be tackled in South Sudan – USG Adama Dieng', http://unmiss.unmis-
- 25 sions.org/Default.aspx?tabid=3465&ctl=Details&mid=6047&ItemID=9074499&language=en-US.

UNMISS Protection of Civilians Strategy, 15 September 2014.
S/2015/296, Report of the Secretary-General on South Sudan, 29 April 2015; UNMISS Protection of Civilians Strategy, 15 September 2014

²⁰ S/2015/296, Report of the Secretary-General on South Sudan, 29 April 2015.

²¹ S/RES/2187(2014) 25 November.

this scale was not anticipated and UNMISS did not have the mandate nor the means to stop the killings when the fighting broke out. But the mission did not hesitate to do what it had the ability to do, and thus it avoided the fate of UN missions of the past, which were passive bystanders while atrocities were committed. However, its approach was ad hoc, and as such this case has highlighted the need to develop guidelines for situations in which large numbers of civilians need immediate shelter and may end up staying for a substantial period of time. Thought is required around the questions of how (or whether) future UN missions should be prepared for a rapid influx of large numbers of refugees, and how they may accommodate such numbers and expeditiously provide a minimum of water, food and sanitation.

There is also a need to think about how to coherently and consistently provide security within the PoC sites and for site inhabitants who venture outside to fetch various supplies, as well as securing the PoC sites against external attack. There is also the question of how to police the PoC sites. Since the PoC sites were on UNMISS premises, UN police had to take on an executive role there, and had to cooperate with South Sudan authorities in order to bring perpetrators to justice. This is challenging in scenarios where the same authorities may be involved in gross human rights violations, and should not be done in an ad hoc manner in future.

Cooperation with humanitarian actors

The unprecedented situation with so many people sheltering within the UN mission's gates, demanded that UNMISS personnel and humanitarian actors acted with pragmatism and creativity in order to take care of the tasks at hand. The humanitarian actors' reluctance to work too closely with military personnel, as well as the different nature of their respective responsibilities, meant that there had to be parallel coordination mechanisms for humanitarian assistance and protection activities.²⁶ The cooperation and coordination between these mechanisms was secured through the camp management cluster, daily coordination meetings, and a humanitarian coordinator, who acted like a 'firewall' so that there were no direct interaction between humanitarian and military actors. UNMISS and its humanitarian partners were in this way brokering new ground, which could serve as a model (or at least, a starting point) for future missions facing similar challenges.

The widespread occurrence of sexual and gender-based violence both inside and outside the PoC sites has also underlined the need to find modes for cooperation between humanitarian actors and UNMISS. The streamlining of referral pathways for victims in order to secure treatment and other emergency responses is one example of lessons that can be learnt from this case. However, in order to

tackle this problem, much thinking remains to be done in terms of its prevention, protection, appropriate reaction and how to combat impunity for perpetrators of sexual and gender-based violence.²⁷ These issues are too wide-reaching to be dealt with adequately here and is a topic for a separate study.

Prioritisation of protection activities

The case of South Sudan highlights the need to work concurrently on the three tiers of protection of civilians - protection through political process; providing protection from physical violence; and establishing a protective environment. Without an inclusive and comprehensive political process aimed at establishing conditions for a sustainable peace, the need for physical protection may be infinite. And if work is not done to ensure the safe return or permanent resettlement of the IDPs, people will be stuck in the PoC camps or other hiding places indefinitely. However, the experience of UNMISS shows that this three-tired approach requires much more resources that the mission has had at its disposal. Scarce resources has meant that UNMISS has had to prioritise the provision of protection from physical violence, and that to only a small proportion of the South Sudanese civilians that have needed it. The logistical problems (which should have been foreseen due to the UN's previous engagement in the area) aside, it is clear that UNMISS has lacked the resources and ability to act on its mandate in a consistent and robust manner, something that is critical to the protection of civilians.28 This lesson must be taken into account in future planning of missions with similar protection of civilians mandates. Another, and hitherto unanswered, question arising from the UNMISS case regards the ability to carry out the other parts of the protection mandate if the mission were to open fire against any of the warring parties in order to protect civilians. This is probably not a question that can be answered in general terms, but depends upon the specific circumstances of each mission. It is nevertheless, a question worth pondering further.

A final lesson from the UNMISS case, is something that became clear as soon as the crisis of December 2013 erupted. That is, that there was an inherent contradiction between the initial peacebuilding mandate of UNMISS and its protection of civilians role. The peacebuilding activities were supposed to support the government, whereas the protection activities became necessary because of the government's neglect of its primary responsibility to protect its population. With government forces also committing atrocities, such support became totally irreconcilable with a protection of civilians mandate. This illustrates the limitations of what UN peacekeeping missions can achieve in volatile environments, and begs the question of whether the UN is such circumstances should concentrate solely on protecting vulnerable civilians.²⁹

29 Cedric de Coning and Diana Felix Da Costa (forthcoming) 'United Nations Mission in the Republic of South Sudan (UNMISS)' in Joachim A. Koops et. al. (eds.) *The Oxford Handbook of U.N. Peacekeeping Operations* (Oxford: Oxford University Press).

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About the Author

Eli Stamnes, PhD (2002) is a Senior Research Fellow at NUPI. She headed the institute's UN Programme from 2006 to 2008 and its R2P Programme between 2008 and 2011, and works now in the Peace Operations and Peacebuilding Research Group. Her research interests include critical approaches to peace and security, UN peace operations, peacebuilding, gender, mass atrocities and the Responsibility to Protect (R2P).

 ²⁶ Damian Lilly (2014) 'Protection of Civilians sites: a new type of displacement settlement?', *Humanitarian Exchange Magazine*, 62 (September).
27 This issue is touched upon in A/70/95–S/2015/446, Report of the High-level Independent Panel on Peace

Operations on uniting our strengths for peace: politics, partnership and people, 17 June 2015, para 99.

²⁸ This is not a problem limited to UNMISS, but concerns many missions with a protection of civilians mandate, see A/70/95–S/2015/446, Report of the High-level Independent Panel on Peace Operations on uniting our strengths for peace: politics, partnership and people, 17 June 2015, para 95.