

Challenges to Protection of Civilians in South Sudan

A Warning from Jonglei State

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1. Introduction

Protection of Civilians (PoC) is now well established as a policy realm within United Nations (UN) peacekeeping missions, its agencies as well as among non-UN actors (Holt and Taylor 2009). However, as demonstrated in the literature on PoC and in the present volume, there is no unified understanding of what PoC means and entails in practice (Lie and de Carvalho 2010). This report focuses on how protection issues are conceptualized and operationalized among international stakeholders in Bor, the state capital of Jonglei state in South Sudan, and analyses key challenges to the implementation and impact of protection initiatives on the ground¹. Since most of the literature on PoC tends to provide UN headquarters perspectives from various levels,² the aim of the present study is to complement previous research by moving further down the protection chain and offering the perspectives of actors operating in the immediate interface with vulnerable populations. These actors include the military and civilian components of the United Nations Mission in Sudan (UNMIS), various UN agencies, and international non-governmental organizations (INGOs).³

The PoC field in Bor has evolved as an important parameter to our broader understanding of the protection problematique, for several reasons. First, it adds another level of research to the protection chain. Second, it involves most of the relevant actors as found at higher levels. Third, due to the remoteness and particularities of Bor, these actors operate more detached from their mother institutions at more central headquarters levels. This context thus provides a privileged optic into the contextual application of the wider PoC sphere.

Over the past decade, it appears to have become mandatory for the UN Security Council to include ‘protection language’ when authoriz-

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- 1 Our original aim of approaching protection concerns from the protectee’s point of view would have enabled us to see the interface of ideas and how they impinge each other as the PoC concept is transmitted through various headquarters onto the beneficiaries. However, upon arrival in Bor we realized that the area had not yet dried up after the rains, making visits outside the regional capital impossible due to muddy and inaccessible roads. This was also a challenge to the various protection actors operating out of Bor, who were prevented from travelling to the field during the rainy season (May to November). Most agencies therefore concentrated their activities in and around Bor, with less attention to the remoter and more marginalized areas of Jonglei state.
 - 2 This includes New York HQ and Country Office/mission level HQs. Solhjell’s work on sexual and gender based violence and other protection-related issues in DRC (Solhjell 2009) and Chad (Solhjell, Karlsrud and Lie 2010) are among the exceptions.
 - 3 While this report focuses on the role of international actors in PoC, the perceptions of the local authorities on the protection initiatives undertaken by international actors have also been included in our analysis.

ing new and extending existing peacekeeping missions.⁴ The phrase in Council resolutions ‘to protect civilians under imminent threat of physical violence’ is now seen as a token for the missions being mandated for civilian protection under Chapter VII of the UN Charter. This language is broad and without explicit liabilities to any UN entities. As Victoria Holt asserts, ‘the authorisation for civilian protection is clear, but the Council’s resolution leaves the decision to protect civilians up to the Special Representative of the Secretary General (SRSG), the Force Commander or another actor further down the chain to “deem” it to be within the scope of “its capabilities”’. What is not clear is if the capabilities, from the beginning, were deemed sufficient to protect civilians or were planned to be so’ (Holt 2005: 14). Hence, the inclusion of the protection language in mandates is no guarantee for civilian protection, nor does it contribute to clarify the understanding of protection or what it means and entails in practice.

However, the handing over of responsibility for framing protection activities to the mission level might also be a way of ensuring greater contextualization, flexibility and success of protection efforts. Here there is a relevant parallel to Howard’s work on UN peacekeeping (Howard 2008). In addressing the conventional understandings regarding UN led peacekeeping operations’ repeated failures, she attributes the potential success of such operations to the degree of autonomy the mission enjoys vis-à-vis its headquarters.⁵ With reference to our focus on protection, this reminds us that it is not enough to consult mandates when dealing with protection issues: mandates must be investigated as they are shaped and articulated in practice.

1.1 Protection Concerns in South Sudan

This study draws on field research conducted in Bor, Jonglei state, complemented by interviews with key protection stakeholders in Juba, the capital of South Sudan.⁶ Both contexts are characterized by the presence of international actors, and many of the protection activities pivot around UNMIS, which was established in response to the Comprehensive Peace Agreement (CPA), signed between the Government of Sudan (GoS) and the Sudan Peoples Liberation Movement/Army (SPLM/A) on 9 January 2005.

The peace agreement between the Arab-Islamist regime in Khartoum and the former insurgents in South Sudan marked an end to more than two decades of brutal civil war in the Sudan (see Johnson 2003; and

4 Since 1999 (to date), the UN Security Council has authorized ten peacekeeping operations with PoC mandates (see Holt and Taylor, 2009).

5 The degree of autonomy can be an effect of the mission’s intended architectural design, and of how the SRSG or mission head interprets the mandate, as well as his/her roles and functions.

6 The field study was conducted in Jonglei and Juba in October 2010. The data from the fieldwork has further been complemented by desk reviews.

Madut Jok 2007). The ultimate milestone of the CPA was reached with the implementation of the referendum, where an overwhelming majority of the south Sudanese people voted in favour of secession from the North. On 9 July 2011, South Sudan achieved its long awaited independence, and a few days later the UN General Assembly admitted the new state (the Republic of South Sudan) as the 193rd Member of the United Nations.

Although the CPA formally came to an end with the secession of South Sudan, many contentious issues were left unresolved, and the coming period will thus be decisive for the future relations between the newly born state and its neighbour in the North. Failure by the parties to reach agreements over the contested North-South (1.1.56) borders, Abyei area, oil and water resources, security arrangements⁷, and citizenship could have serious ramifications for peace and security in the region. The recent escalation of the security situation in Abyei and Southern Kordofan, including reports of mass atrocities by government forces and aligned militia against the civilian population in these areas, do not only raise serious protection concerns, but could also undermine the fragile peace process between the former warring parties⁸.

The security and protection concerns in South Sudan, however, do not pertain solely to the North–South dispute, but are also related to internal tensions in the South⁹. In 2009, more than 2500 civilians, including women and children, were killed in South Sudan as a result of inter-tribal violence (see McEvoy and Le Brun, 2010). While UN reports indicated a general reduction of violence throughout South Sudan in 2010, the situation has rapidly deteriorated following the referendum, mainly due to intensified struggles over power and resources, as well as the re-surfacing of ethno-political rivalries. Further to a series of deadly tribal clashes during the first half of 2011, armed rebellions by discontented ex-militia and defected SPLA officers are now adding to the complexity of the security dynamics in South Sudan¹⁰.

7 This includes the outstanding security arrangements for northern SPLA soldiers in Southern Kordofan and Blue Nile States, i.e. whether they should be redeployed to the South or integrated into the Sudan Armed Forces (SAF). While both states are located in North Sudan, parts of the population have strong historical, ethnic and political ties with the South. According to the CPA, popular consultations are to be held in both states to ascertain the ‘will of the people’ through a democratically elected legislature on shortcomings in the constitutional, administrative and political arrangements of the CPA. The SPLM and NCP have, however, decided that ‘the consultations would not be a referendum and therefore not lead to separation’ (UNSG 2011b:2). With rising tensions between SPLM north and NCP at the state level, the popular consultations are, however, yet to be completed, and the ongoing fighting between SAF and northern SPLA soldiers in Southern Kordofan illustrate the need for urgent solutions to these outstanding issues.

8 The militarization on both sides of the North-South border line is also considered to be a major security concern. An analysis of the North-South dynamics is, however, beyond the scope of this report.

9 While the grievances may differ, many of the local conflicts in South Sudan are also inter-linked with conflicts at the national and regional level (see Sørbo 2010).

10 In June 2011, the UN reported that more than 1400 civilians had been killed in South Sudan since the beginning of the year (see: <http://af.reuters.com/article/topNews/idAFJOE75S0JA20110629>). The armed uprisings in various locations in the South can be

Jonglei state, located in the central part of South Sudan, has since the signing of the CPA been marked by violent inter-communal conflicts.¹¹ While several of these conflicts have erupted as a result of traditional cattle-raiding practices and competition over resources (land, water and livestock), socio-economic grievances and legacies of the civil war, including ethno-political tensions, contested administrative and tribal borders, youth unemployment, erosion of traditional conflict resolution mechanisms, lack of integration of former militias, and the proliferation of arms have further contributed to the complex security scenario. In many cases, these factors have in turn been manipulated by political actors at the local, state, and/or national levels for political and economic purposes. In 2009, more than 1000 civilians were killed and over 300 children abducted in Jonglei state in the course of a series of brutal attacks and counter-attacks between rivalling ethnic groups.¹² These conflicts further demonstrated a shift from the more 'traditional' cattle raids to the increased targeting of women and children. Following the general elections in 2010, the state has further become one of the most serious battlegrounds for tribal conflicts and armed insurgencies in the region¹³.

Adding to the protection scenario is the rise in food insecurity¹⁴ and flooding during the rainy season. Moreover, in view of the separation of the country and uncertain future for the approximately 1.5 million southerners in the North, hundreds of thousands displaced southerners in Khartoum and neighbouring countries are expected to return to the South, including Jonglei, which is likely to exacerbate protection concerns on the ground (NRC 2010). Against this backdrop, there are serious concerns that the security situation in South Sudan could further deteriorate following independence, with grave consequences for the safety and security of the civilian population.

seen in relation to political discontent as well as grievances within the security sector, including the incomplete integration of former militias into the regular forces (see also ICG, 2011). Many southerners, as well as observers, further believe the North is backing some of these insurgencies, including renewing its support to former southern militia proxies, in an effort to instigate instability and fragmentation in the South. Deadly incursions by the Ugandan rebels, the Lords Resistance Army (LRA), into South Sudanese territory are also causes of insecurity and grave protection concerns.

- 11 Inter-ethnic conflicts in Jonglei State are common between the Dinka, Murle and Lou Nuer. During the dry season, cross-border raids and clashes between the Jikany Nuer of Upper Nile and Lou Nuer of Jonglei, as well as between the Dinka Bor and Mundari of Central Equatoria, have also taken place. Inter-tribal clashes have also taken place along the border to Ethiopia. Moreover, intra-clan disputes erupt frequently among the Nuer and Dinka ethnic groups respectively (See also ICG, 2009).
- 12 According to the Jonglei state government, in 2009, 1262 people were killed and 380 children abducted in Jonglei state as a result of violent conflicts.
- 13 After being defeated in the gubernatorial elections in April 2010, former SPLA Commander, General George Athor, defected from the army (SPLA), and launched an armed insurgency in the Khorfulus area of Jonglei State. He subsequently formed an umbrella rebel movement called South Sudan Democratic Movement. The government is further facing armed rebellions in a number of strategic areas of Unity State and Upper Nile State.
- 14 The Norwegian Refugee Council (NRC) describes food security as a major protection concern in South Sudan. According to NRC, around 1.5 million people in the South are 'severely food insecure' (NRC, 2010). Few other actors in Jonglei and Juba, with the notable exception of the WFP, mentioned food security as a "protection" concern.

Amidst these mounting security challenges, the Government of South Sudan (GoSS), who has primary responsibility for protecting the civilian population, seems to lack capacity to fulfill this obligation. This has to a great extent been attributed to its weak and underdeveloped security and rule of law institutions.¹⁵ Due to poorly equipped police forces, the authorities have tended to turn to the army when intervening in inter-communal conflicts and/or disarming the civilian population. However, the deployment of unprofessional and poorly trained ex-guerrilla soldiers to villages has invariably resulted in harassment and abuses of the local population, in some cases culminating in violent confrontations between the SPLA and armed civilians. In several places, this has contributed to a deteriorating relationship between the SPLA and the civilian population, undermining the perceived credibility of the government and its ability to protect the citizenry¹⁶.

Since the government seemingly lack the capacity to provide protection to the civilian population, the focus has tended to shift to the role and engagement of international actors in the protection sphere – as will be discussed in the below sections.

1.2 Down the Protection Chain: from Policy to Practice

The CPA marked not only the end to the civil war, but also the start of greater international engagement in Sudan. On 24 March 2005, the United Nations Mission in Sudan (UNMIS) was authorized under Security Council Resolution (SCR) 1590 to support the signatory parties, the Government of Sudan (GoS) and the Sudan Peoples Liberation Movement/Army (SPLM/A) in implementing the CPA.¹⁷ UNMIS has a broad mandate. In terms of protection, the mission is to ‘...contribute towards international efforts to protect and promote human rights in Sudan, as well as to coordinate international efforts towards the protection of civilians, with particular attention to vulnerable groups including internally displaced persons, returning refugees, and women and children, within UNMIS's capabilities and in close cooperation with other United Nations agencies, related organizations, and non-governmental organizations’ (UNSCR 1590 2005: 4d).¹⁸

15 This includes weak law enforcement agencies and judicial system. Further to the statutory/modern judicial system, the Interim Constitution of Southern Sudan (2005) recognizes customary law, including courts, through the local government system. However, a discussion of the challenges surrounding this parallel legal system is beyond the scope of this report.

16 The ongoing counter-insurgency operation carried out by SPLA in Jonglei, Unity and Upper Nile states has resulted in reports of grave violations against the civilian population in these areas. This information has, however, been difficult to verify by the UN due to the SPLA imposed restrictions of movement on UNMIS.

17 UNMIS' mandate (under SCR 1978 (2011) ended on 9 July 2011, and has been replaced by UNMISS (UN Mission in the Republic of South Sudan) (UNSCR 1996 (2011)).

18 UNMIS PoC mandate was further reinforced by subsequent Security Council Resolutions: SCR 1812 (2008), SCR 1870 (2009), SCR 1919 (2010) and SCR 1978 (2011).

While the overall mandate of UNMIS is in accordance with Chapter VI of the UN Charter, the Security Council also included a Chapter VII Clause relating to PoC, authorizing UNMIS 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’ (ibid.: paragraph 16).¹⁹

With mandates under both Chapter VI and Chapter VII, UNMIS is a dual mission (Holt and Taylor, 2009). The Chapter VI mandate focuses on supporting the implementation of the CPA, providing for the protection of civilians as a responsibility mainly by the civilian component of the mission. The Chapter VII mandate authorizes the mission to ‘use force to protect itself, humanitarian workers, and civilians, without acknowledging the dilemmas and paradoxes such dualism would create for the mission’ (ibid: 321). However, ‘the Council’s decision to include the Chapter VII clause in the mandate did not lead to changes in the mission concept, structure, or resources’ (ibid: 332–333). As will be argued below, the unresolved tension between the mission’s overall mandate and its PoC mandate, further reflected by the conflicting conceptions between the UN Security Council on the one hand and the UN Secretariat and the mission on the other,²⁰ has had serious implications for implementation of PoC on the ground.

UNMIS is a multi-dimensional mission comprising civilian, police and military components under the leadership of the Special Representative of the Secretary General (SRSG). As of May 2011, the strength of the mission was 10418 uniformed and 4145 civilian personnel²¹. Mission headquarters is located in Khartoum, where the top civilian and military leadership of UNMIS is situated, including the SRSG and the Force Commander. In line with the CPA provisions for the establishment of a semi-autonomous government (GoSS) in the South, the mission includes a Regional headquarters-South in Juba, the capital of South Sudan. The South is divided into three sectors –

19 In relation to UNMIS Protection of Civilians (PoC) mandate, paragraph 16 (pp 6) is most often referred to. Interestingly, SCR 1590 diverged from the Secretary General’s report of 31 January 2005 (UNSG 2005) which only recommended a Chapter VI mandate (see also Holt and Taylor, 2009).

20 See Holt and Taylor, 2009, for an analysis of the tension between the UN Security Council perception of UNMIS mandate on the one hand and the UN Secretariat/ UNMIS perception on the other hand.

21 Uniformed personnel include 9264 troops, 457 military observers, and 697 police officers. The authorized strength is 10,000 military personnel, including 750 military observers, up to 715 police and an appropriate civilian component. The civilian component include 1018 internationals, 2797 locals, and 330 UN Volunteers. The civilian numbers are of March 2011 (see <http://www.un.org/en/peacekeeping/missions/unmis/facts.shtml>).

all with headquarters and a set of field offices – with military, police and civilian personnel deployed at all levels²².

Since UNMIS also is an integrated mission, the Deputy SRSG Resident and Humanitarian Coordinator has overall responsibility for facilitating the coordination and coherence of activities between UNMIS and the other UN agencies organized under the umbrella of a UN Country Team.²³ In the capacity as an integrated mission, the UNMIS Protection of Civilians (PoC) section – the first of its kind in any UN mission – was initially designated the ‘lead’ for protection activities in Sudan. This entailed working with and coordinating the activities of all protection actors, including UN humanitarian actors and non-UN actors.²⁴ With the introduction of the protection cluster to South Sudan in July 2010, the coordination of protection has, however, been re-organized, as will be addressed under section 3 of this report²⁵.

In the context of South Sudan, the separate and at times conflicting mandates of the UN agencies on the one hand and the peacekeeping operation on the other has impeded the integration across the UN family. The many challenges related to the concept of integration have further impacted on the development of a coherent PoC strategy. ‘PoC requires a collaborative effort across the UN system in any given context. A contested model of integration, either on practical or principled grounds, means that a coherent protection strategy is less likely to emerge’ (Holt and Taylor, 2009: 28). The range of perceptions of what protection means in theory and in practice, the disjuncture between mandate and its implementation, as well as ambiguity as to who are responsible – and how – for adopting, translating and implementing the protection framework, have had critical implications for the international community’s operational approach to protection (Lie and de Carvalho 2008). As UNMIS is a multi-dimensional and integrated mission it involves a host of different actors, which in turn means a need for overarching harmonization and coordination efforts in order to establish coherence among these actors.

Below we give an account of such discrepancies and processes pertaining to international protection actors and activities in Bor in Jonglei state. As will be seen, the variety and complexity of actors to be harmonized under one umbrella served to exacerbate already latent

²² Sector I: Greater Equatoria (HQ in Juba), Sector II: Greater Bahr Al Ghazal (HQ in Wau), and Sector III: Greater Upper Nile (HQ in Malakal).

²³ A mission becomes ‘integrated’ when ‘the Resident Coordinator/Humanitarian Coordinator (RC/HC) function is integrated with the peacekeeping operation through the appointment of a Deputy Special Representative of the Secretary- General responsible for the RC/HC function’ (de Coning, 2010:2).

²⁴ See UN. ‘The role of UNMIS Protection’, <http://protection.unsudanig.org/index.php?fid=role>.

²⁵ The UNMIS PoC strategy, finalized in November 2010, further provides for the mainstreaming of PoC and dissolution of the PoC section. The strategy had, however, not been implemented on the ground by the time of our field study in South Sudan (see also Table 1).

challenges to UNMIS in general and regarding PoC in particular: that is, the disjuncture between the mandate and intentions on the one side, and practices and effects on the other. In this, our findings corroborate previous research conducted at the mission – and regional HQ in Khartoum and Juba (Lie and de Carvalho 2008; see also Holt and Taylor 2009) on the lack of a shared definition and/or conceptual understanding of PoC among protection actors on the ground. However, although the structural challenges might be similar, the content of the findings differs. This may well be because protection actors in Bor, at the bottom of the PoC chain, are more remote from the policy processes at the more central levels of Juba and Khartoum, while also closer to the operating environment and beneficiaries of protection initiatives.

2. Perspectives from the Bottom of the PoC Chain – UNMIS in Bor, Jonglei State

Our field study in Bor revealed numerous, occasionally conflicting, conceptions of protection among UNMIS staff members. These diverging understandings could broadly be categorized into 1) physical protection, 2) legal/rights-based and humanitarian, 3) peacebuilding and conflict prevention, and 4) a broader development perspective. This corroborates previous research conducted by Lie and de Carvalho (2008) and Holst and Taylor (2009)²⁶.

Staff members commonly distinguished between physical protection, on the one hand, and the humanitarian and legal form of protection, in line with International Humanitarian Law (IHL), Human Rights Law (HRL) and International Refugee Law (IRL), on the other. While the former was seen as the responsibility of UNMIS military, the latter was mainly associated with the UN and non-UN humanitarian members of the protection cluster, including UNMIS Human Rights and PoC sections. However, we found no uniform understanding on the meaning of physical protection – whether it meant the use of lethal force, projection of force, deployment of troops to deter violence, and/or pre-emptive patrolling, or if it was related to military escorts and the facilitation of humanitarian assistance.

In the absence of a common definition on PoC, including a coherent strategy and operational guidelines, the concept of protection of civilians, as formulated in the mandate, is perceived to be too abstract by actors in the field. Simple questions like ‘who should be protected – and from what or whom?’ could not so easily be answered. How then does this lack of a definition and shared conceptual understanding impact on the operationalization of PoC activities on the ground?

2.1 UNMIS Civilian Units: Perceptions of their Role in PoC

This lack of a common conception on PoC, including the absence of guidelines to clarify the division of responsibilities among the various UNMIS civilian sections, seemed to have led to confusing and some-

²⁶ See Lie and de Carvalho 2008 and Holt and Taylor 2009 for further analysis of their findings on the diverging conceptual understandings of PoC among UNMIS staff members in Juba and Khartoum.

times conflicting understandings among staff members over their operational roles in relation to PoC.

The ‘non-traditional’ protection actors among UNMIS civilian sections in Bor appeared uncertain about their own role in protection, and tended to defer responsibility to the military, as well as the UNMIS PoC, Child Protection, and Human Rights sections. Most sections, however, did recognize their regular activities as indirect forms of protection. Protection was not necessarily the means or goal of their activities, but could be seen as a desirable albeit an unintended effect of their actions. For instance, representatives of the Civil Affairs section in Bor did not see an immediate link between their mandate and PoC, although recognizing that their support to the authorities and local communities in promoting peace and reconciliation, including management of inter-communal conflicts, could be understood as preventive mechanisms to protect civilians. Moreover, the section’s contextual knowledge and mapping/analysis of political – and conflict dynamics on the ground were considered as important tools used to inform and recommend courses of action to the mission leadership in efforts to prevent or deter local violence and conflicts. One Civil Affairs officer in Bor, however, expressed frustration over the perceived weakness of the section’s non – implementing mandate, including lack of resources to effectively support and follow up on local peacebuilding initiatives. This, it was argued, was contributing to undermine Civil Affairs’ impact on the ground.²⁷

Similarly, UN Police personnel in Bor generally did not perceive themselves as key protection actors, due to their non-executive mandate under Chapter VI. Instead, they would refer to UN military and UNMIS PoC as the main actors in PoC. Some UN Police officers nonetheless understood their regular mandated tasks – including capacity building support to South Sudan Police (training, advising, mentoring, and monitoring), patrolling, and interaction with the local communities – as indirectly supporting the mission’s overall protection efforts. Interestingly, most of the other units within UNMIS (both civilian and military) perceived both UN Police and Civil Affairs as important actors in the field of protection.

27 According to several UNMIS staff members, a significant amount of Civil Affairs’ time was instead spent on logistical assistance to government officials, reporting, as well as ‘fire fighting’ work, in cooperation with the authorities and the mission leadership, to mitigate or deescalate a crisis. Most of the peace-conferences facilitated by the section were also seen to be ineffective and unsustainable, due to lack of implementation and follow up by relevant stakeholders. One Civil Affairs officer in Bor also noted that the cooperation and coordination with other UN (i.e. UNDP) and non-UN implementing partners had been weak. This could to a great extent be explained by internal bureaucracy, different mandates, organizational structures and priorities, as well as lack of mechanisms for such cooperation. While some staff members called for a stronger ‘implementing’ role of Civil Affairs, the findings of an assessment (conducted by ACCORD) of UNMIS Civil Affairs’ conflict management work (UNMIS 2010b), emphasise the importance of ‘limiting the role of Civil Affairs conflict management work to supporting, facilitating and advising, i.e. stopping short of implementing instead of, or on behalf of, local actors’ (ibid: 3).

Human Rights staff members, whose protection mandate derived directly from the mission's original mandate (SCR 1590), saw their role in protection as different from the other sections, including the PoC section, due to the Human Rights section's legal framework and focus on the rights of the individual, rather than communities. In contrast, the PoC section, mandated to coordinate protection activities, understood protection of civilians to be a joint responsibility of all UNMIS sections. However, similarly to Civil Affairs, both Human Rights and PoC sections found it difficult to deal with protection and human rights concerns in a substantial manner due to the perceived weaknesses in their mandates²⁸. Moreover, in most cases, other considerations within the mission mandate seemed to take precedence over PoC concerns.²⁹

UNMIS civilian sections (Civil Affairs, Human Rights, PoC) in Bor also identified understaffing and the lack of access to the remote areas, especially in the rainy season, as major obstacles to effective implementation of their mandates. Moreover, the restriction on movement, imposed by the SPLA to areas where military operations were ongoing, was further impeding the mission's access to civilians at risk.

There also appeared to be limited coordination and cooperation on PoC-related matters among the mission's various entities. While the distinction between the different sections working on protection could seem artificial due to their closely related mandates, the sections seemed to have compartmentalized themselves, concentrating on their specific day-to-day tasks so as to avoid stepping onto the others' turfs.

These findings illustrate the apparent gap between the discourse at UN HQ in New York and the understanding and operationalization of PoC in the field. While most staff members in Bor acknowledged the importance of PoC, only sections with a direct PoC mandate saw it as a priority in their daily tasks. The lack of a uniform understanding of PoC made cooperation and coordination between the various sections problematic. The non-implementing/executive mandates of the civilian sections and UN Police, which in most cases limited their actions to observing, advising and reporting, might also have contributed to the tendency of some sections to undermine their own role in protection. All these challenges must be seen in relation to the lack of a coherent PoC strategy as well as clear operational guidelines as to the roles and responsibilities of the various sections.

28 While recognizing that UNMIS could use its offices to advocate at the higher level, Human Rights and PoC units perceived their work on protection to be limited to monitoring and reporting on matters of relevance to the mission mandate.

29 Victoria Holt and Glyn Taylor also describe the 'human rights dilemma', as when the 'UN feels compelled to promote peace by working with those who may have unsatisfactory human rights records, while still retaining the role of an "outside critic" of the same process' (Holt and Taylor, 2009:27).

2.2 Perceptions on the Role and Engagement of the Military in PoC

Although being regarded as a critical actor in PoC, UNMIS military was commonly described by civilian actors in Bor, including local authorities, as incapable of providing protection to the civilian population in Jonglei state. This was attributed mainly to the perceived reluctance of the military commanders to deliver on mandated PoC tasks, as well as the inadequate resources and capacities on the ground. Perceived capability constraints included untrained and insufficient number of troops (i.e. 110 to 120 troops in Jonglei state, which is roughly half the size of the UK), inadequate equipment, limited flexibility and mobility of troops, as well as a general lack of contextual knowledge, language skills and interaction with the local communities. Military PoC-supporting initiatives were seen to be limited to showing presence, patrolling, protecting UN premises and staff, and in rare cases providing humanitarian escorts. Some assumed that such activities could have a deterrent effect, while others regarded these activities as nothing more than the regular monitoring and verification activities of the UNMIS military component. Moreover, most civilians believed the military was equipped only for a Chapter VI mandate, as initially planned by the UN Secretariat. Some UN civilian staff members even voiced doubts over whether the Chapter VII Clause on PoC had been accepted by the UNMIS military contingents.

Overall, civilian protection actors and local government officials expressed considerable frustration over the UNMIS military, arguing there was no will or intention on the part of the military commanders to contribute to protection. And even if there had been such will among the commanders on the ground, they would have been unequipped for the assignment. Some even questioned the capacity of the military to protect its own premises and staff, referring to several incidents of burglaries in the UNMIS compound. The commanders were also seen to be bound hand and foot due to their inability to take decisions without approval from the higher command. As one UN staff member lamented: 'If a convoy is attacked the military troops would not even be able to shoot back unless they have a "go ahead" from the contingent commander.' The military side was therefore seen as merely symbolic, not an actual protection force.

The perceived inability of UNMIS to enforce freedom of movement and make use of its mandate to protect civilians in areas where SPLA was conducting military operations had also become a source of discontent among humanitarian actors in Bor. Despite incoming reports of harassment against the civilian population in some of these locations, UNMIS was unable to secure access and protect the people, due to the SPLA-imposed restrictions on movement.³⁰ As a UN staff

³⁰ See also UN SG report on the Sudan, 31 December 2010 (UNSG 2010a).

member in Bor stated, ‘The government and the UN are seeing everything through a security lens right now [ahead of the referendum and 9. July]– anything else [including protection] is less prioritized.’

2.3 UNMIS Military: Perceptions of their PoC Role

Representatives from the military component of the mission in Bor – broadly categorized into the Indian military company (or Troop Contributing Country troops – TCC)³¹ and military observers – described their core functions in accordance with the provisions under Chapter VI, notably to support implementation of the CPA. This entailed monitoring and verifying the Ceasefire Agreement and its provisions. The TCC troops were further seen as responsible for providing force protection of UNMIS and UN personnel and assets, as well as ensuring the security and freedom of movement of personnel and facilitating humanitarian escorts.

Unlike the TCC, UNMIS military observers are unarmed, and hence did not perceive their mandate to be within PoC’s clause for Chapter VII. Instead, they understood their role in PoC to be more indirect and in line with their overall effort to support the peace process, through monitoring, patrolling, information gathering and interactions with the communities and the SPLA.

In the military Rules of Engagement (ROE) – based on the conventional doctrines of minimum use of force and proportionality – the PoC mandate (Rule No 1.9) reads: ‘Use of force, up to and including deadly force, to protect civilians, including humanitarian workers, under imminent threat of physical violence, when competent local authorities are not in a position to render immediate assistance, is authorized. When and where possible, permission to use force should be sought from the immediate superior commander’ (p. A-2).³² Nonetheless, officers from the Indian military company in Bor seemed reluctant to talk about their role in PoC. The sensitivity surrounding the military’s role in PoC could possibly be related to the unresolved tension between the overall CPA supporting mandate and the PoC mandate, combined with increased pressure and calls from the international community and the UN Security Council regarding the need for UNMIS military to make more efficient use of its capabilities to implement its PoC mandate.

In an attempt to translate the security aspect of PoC into practice, the UNMIS PoC Security Concept describes various scenarios when force is authorized, including rankings of the degree of threshold for inter-

31 The Indian military contingent, including the Sector Commander, is located in Malakal, Sector HQ.

32 See UNMIS Rules of Engagement for the Military Component of the United Nations Mission in Sudan (UNMIS), 29 April 2005.

vention based on the potential consequences for the overall CPA supporting mandate of the mission³³. ‘Obviously, the threshold for deciding on UNMIS’ armed intervention will increase in view of the expected seriousness of consequences for UNMIS’ overall mandate’ (UNMIS 2009: 5).³⁴ Hence, the mission is less likely to use force to protect civilians if this could have serious consequences for the overall mandate of the mission. The highest threshold for intervention would be when major combatants of the CPA signatories are involved, while the lowest threshold would be when individuals or gangs are concerned. In scenarios involving militias and tribal fighters, the intervention threshold would be somewhere in the middle. However, the PoC Security Concept, by falling short of being a military doctrine with clear operational instructions, remains open to interpretation by the military leadership and commanders on the ground.

In Bor, the provisions in the PoC Security Concept did not seem to have been internalized or operationalized by the military component. For instance, while the Security Concept provides for intervention of on-the-scene commanders encountering a situation where civilians are under threat, the military commanders in the field remained fully dependent on instructions from the national contingent commander at sector HQ in Malakal, before any action could be executed. The national contingent commander would in many cases further need to await instructions from his or her capital prior to an intervention. According to one military officer, there was no room for manoeuvre, as they were ‘only following orders’.

In the absence of clear operational instructions as to when and how to react to a situation of ‘imminent threat’ against civilians, the consequences of acting are perceived to be more severe than refraining from taking any action. This also has to be seen in relation to the complex operating environment, where the distinction between victim and perpetrator is often blurred. The apparent reluctance to take action has further been attributed the mindset of military commanders in light of the instructions received from their respective capitals prior to and during deployment – ‘the national caveats that the TCC put on the operations of their contingents [are] restricting them from fulfilling their roles assigned to them in the concept of operations’ (Holt and Taylor, 2009: 203).

33 The PoC Security Concept was developed by UNMIS Force HQ in 2009. The paper explores the ‘freedoms, constraints, expectations, and options available to the mission’ in relation to the security aspect of PoC ‘under imminent threat of physical violence’ (UNMIS 2009: 3).

34 The paper provides a practical example of this: ‘intervention against combatants who owe their allegiance to CPA signatories and/or are operating under the control of a recognized branch of government (s) has a higher risk of negatively affecting the implementation of the UNMIS mandate than an intervention against independent tribal fighters’ (UNMIS 2009: 5).

A military intervention to protect civilians under imminent threat remains therefore in the hands of the national contingent commander and the mission leadership (e.g. the SRSG and Force Commander). The Force Commander's actual command and control of the TCC, however, remains limited to the TCC capitals' intent and commitment to implement the PoC mandate. Hence, the absence of clear operational instructions, complicated chain of command and the prevailing mindset of the TCC commanders have arguably contributed to undermine timely and appropriate responses to protect civilians at risk.

It must also be asked: do we expect UN peacekeepers to go to 'war' with the very state that has consented to their presence? From a tactical perspective, the TCC troops would be militarily inferior to any Sudanese armed group. From a political and strategic perspective, an armed intervention without the consent of one of the CPA signatory parties could have repercussions for relations between the host government and the TCC, including the mission as a whole.³⁵ This could further have implications for the perceived impartiality of the mission. Furthermore, this must be seen in relation to the tensions within the dual mandate of the mission, where UNMIS' overall CPA supporting mandate seems to take precedence over PoC when the military is to take decisions on a possible intervention. These dilemmas are, however, not reflected in the mandate and discourse at the UN Security Council level, where PoC is used to legitimize or explain the rationale for mission deployment, hence raising the expectations among the host government and local communities. However, without the necessary resources and political backing by the UN Member States, the peacekeepers will not be able to meet these expectations.

According to one senior UN official at the Juba level, the Security Council had created false expectations as to the capacities of the TCC troops. In reality, for political and economic reasons, the Member States were not committed to invest the necessary resources or personnel required for a Chapter VII mission. As argued by the UN official:

If [the mission] is to provide physical protection, there needs to be a force capable of this. For UNMIS [which lacks the required resources and capacities on the ground] it would have been better not to have troops at all as the expectations would then not have been so high. The international community, as well as the host government and the local communities, would then have known the core purpose of the mission [Chapter VI, support to the CPA]. It is better to be realistic so we can move forward. There is further a need to sit down and define these [PoC] responsibilities.

³⁵ The UN Capstone Doctrine, distinguishing between use of force at strategic and tactical level, also recognizes that the UN is not well positioned to project force at the strategic level (UN 2008).

This confirms the prevailing gap between the UN Security Council's mandate, conception, and expectations of PoC – and the realities on the ground. In his report on the protection of civilians in armed conflict (UNSGa, 2009), the UN Secretary-General called for clear directions from the Security Council on how missions are to protect civilians, noting that this would ideally 'be informed by a realistic assessment of what is possible based on consultations with the Secretariat, troop and police contributors and other stakeholders. [...] Currently there remains a disconnect between mandates, intentions, expectations, interpretations and real implementation capacity' (UNSGa, 2009: 11). Moreover, as concluded by Holt and Taylor, 'the presumed 'chain' of events to support PoC – from earliest planning, to Security Council mandates, to implementation of mandates by peacekeeping missions in the field, is broken' (Holt and Taylor, 2009: 5).

In light of the global financial climate and reluctance by Western Member States to contribute with their own troops to peacekeeping operations in Africa, these challenges are unlikely to be resolved in the near future. How can then peacekeepers improve their capabilities, within the limitations of the current political and financial realities, to protect civilians *short of using lethal force*? This question appears to have been absent from the debate on PoC³⁶.

In an attempt to explore the options available to the mission, the UNMIS PoC Security Concept has identified a four-phase approach to PoC.³⁷ Here the use of physical force, seen as the ultimate resort, is identified as one of several measures UNMIS can take to prevent violence against civilians. Other measures, short of using lethal force, include conflict prevention, monitoring, early warning mechanisms, deployment of forces and pre-emptive patrolling. While some of these measures have been implemented through the Jonglei Stabilization plan³⁸, including civilian–military patrols, the impact has been limited – mainly due to lack of commitment and pro-activeness among the military component to support these efforts. The lack of formal coordination mechanisms between the military company and the civilian leadership at the field level (as in Bor) has further impeded integrated mission approaches to PoC.

36 The New Horizon initiative calls for a capability- driven approach to "improve the performance of peacekeeping on the ground by linking clear operational tasks and standards with capacity-building and training programmes, equipment and support needs, and, as appropriate, incentives to deliver mandated tasks" (UN 2010: 6). Discussions on how military peacekeepers can protect civilians without using lethal force appear, however, to be missing from the overall debate.

37 These are assurance, pre-emption, intervention, and consolidation (see UNMIS 2009).

38 Some of the priorities in the Jonglei Stabilization plan included technical and logistical assistance to the State, enhanced presence and visibility across Jonglei State, integrated Long Range Patrols in critical areas, humanitarian assistance to vulnerable groups, and capacity building of the South Sudan Police Service. Further to the above, the plan is to provide for the standing capacity of joint Long Range Patrols and joint Temporary Operation Bases to facilitate rapid deployment, in the event of violence and/or high risk of conflict, to areas throughout South Sudan.

Moreover, the apparent reluctance of the UNMIS leadership to challenge the SPLA and make use of its mandate in order to facilitate access to the civilian population in areas where the SPLA has imposed restrictions on movement can be seen as a reflection of the tensions within the dual mandate of the mission. As illustrated in the above analysis, if intervention means compromising UNMIS relations with one of the signatory parties, and hence impeding its ability to support the peace process, the core political mandate of the mission will generally take precedence over the Chapter VII clause to protect civilians under imminent threat. Apart from the obvious tension within the mandate of the military component of the mission (with direct mandates under both Chapter VI and Chapter VII), the conflicting mandate of the mission is further reflected within the civilian component, as represented by the political sections on the one hand and the humanitarian sections on the other hand.

Importantly, the restrictions on the movement of UNMIS further shed light on the failure of the UNMIS leadership, from the onset of the mission, to enforce its freedom of movement in accordance with the security provisions of the CPA. While this can partly be explained by the mission's desire to maintain good relations with the government, including the SPLA, it must further be seen in relation to the inherent weaknesses of many UN peacekeeping operations in Africa, including those in Darfur and Ivory Coast.³⁹

Despite these challenges, most representatives from the humanitarian community believed the added value of UNMIS in the protection sphere was to provide physical protection through military means. Physical protection was thus seen as UNMIS main contribution to protection – although the resources and capabilities of the military troops on the ground were seen as insufficient for this task.

³⁹ See for instance S/2010/543 (UNAMID) (UNSG 2010 b) and S/2011/5 (UNOCI) (UNSG 2011a).

3. PoC versus Protection

Until recently, UNMIS PoC unit functioned as the link between UNMIS on the one hand and the UN and non-UN agencies on the other hand in relation to the protection of civilians. However, despite the set-up of various coordination mechanisms, unity of effort between UNMIS and the humanitarian community has proven problematic for several reasons. These include: conflicting mandates (political/security versus humanitarian/human rights), lack of a common definition and understanding of protection, as well as the absence of a holistic protection strategy. Because of these challenges, the various protection actors have tended to act on behalf of their respective mandates, instead of harmonizing and targeting their protection activities towards assessed needs. As a result, the impact of protection activities on the ground has been limited.

3.1 Protection Cluster: Humanitarian Country Team

Following the introduction of the cluster approach to South Sudan and the subsequent establishment of the protection cluster in July 2010, the coordination of protection has been re-organized.⁴⁰ The Cluster, led by the Office of the UN High Commissioner for Refugees (UNHCR)⁴¹ and co-led by the Norwegian Refugee Council (NRC),⁴² is now responsible for coordinating the protection activities of the Humanitarian Country Team (HCT).⁴³ The protection cluster is meant to strengthen rather than replace the existing sectoral coordination mechanisms under the overall leadership of the Humanitarian Coordinator. The role of UNHCR, as the protection cluster lead, is to facilitate a process aimed at ensuring coordinated and effective humanitarian responses in relation to protection. UNHCR is further required to be the 'provider of last resort' (i.e. filling the gap) when necessary, and where 'access, security and availability of resources make this possible' (IASC, 2006: 7).

40 In April 2010 the cluster approach was formally introduced in seven emergency sectors in Southern Sudan. Each cluster is co-led by a UN agency and an NGO.

41 The UNHCR is also the Global Cluster Lead (see IASC, 2006).

42 The NRC is not present in Jonglei State, but has offices in Juba (country office), Aweil and Yei (field offices). The focus of the NRC in Southern Sudan is on emergency capacity, return and capacity building. It is also working on legal assistance and land conflicts (through the ICLA project) and IDP protection.

43 This includes UN humanitarian agencies, other inter-governmental and non-governmental organizations and relevant government counterparts. In states where the cluster approach has not been activated there will be equivalent coordination by the protection sector. However, the ICRC does not take part in the cluster approach. It has stated that: 'coordination between the ICRC and the UN will continue to the extent necessary to achieve efficient operational complementarity and a strengthened response for people affected by armed conflict and other situations of violence' (IASC, 2006: 1).

This re-organization is believed to have resulted in a clearer distinction between the humanitarian community and UNMIS in terms of protection of civilians. Given the conflicting mandates between the mission and humanitarian community, most UN and non-UN humanitarian actors thus appeared more comfortable with this solution.⁴⁴ A senior UN official in Juba even went beyond the organizational distinction, arguing there was a conceptual distinction between PoC and protection. According to this official, the former relates specifically to the Department of Peacekeeping Operations (DPKO) and peacekeeping missions, while the latter is to be understood in terms of the traditional humanitarian perspective on protection, represented by the protection cluster. The UN official further argued that UNMIS had a more narrow approach to protection than the protection cluster, due to the former's specific mandate to provide physical protection to civilians under imminent threat.

The conceptual understanding of protection, however, seemed to differ between the various humanitarian organizations operating in South Sudan, and the protection cluster had therefore failed to reach agreement on a common definition on protection. In the meantime, the cluster had employed the Inter Agency Standing Committee (IASC) definition⁴⁵. Some humanitarian actors described the definition as too broad and abstract, arguing that it could result in a loss of focus as 'everything becomes protection', thus making coordination and harmonization of efforts more challenging. This dilemma was further illustrated by the protection cluster working group in Bor⁴⁶, where the agenda was structured according to differing notions of protection, which included physical and legal protection of refugees, returnees and IDPs; rule of law; child protection; sexual and gender-based violence; and land, property and housing issues. Other protection-related issues, like food security, non-food items, service delivery, peacebuilding, and security were left out, and instead covered by separate clusters (as with food security and non-food items), or by development-oriented agencies (i.e. UNDP) and UNMIS. UNHCR in Bor, however, stressed that protection was a cross-cutting domain, underlying the activities of all the sectors.

Members of the protection cluster working group in Bor mainly saw the meeting as an arena for exchanging information and reports on protection-related matters – without questioning each other's diverging and sometimes conflicting notions of protection. Limited attention

44 See also NRC and IDMC (2010).

45 IASC definition of protection: 'all activities aimed at ensuring full respect for the rights of the individual in accordance with the letter and spirit of the relevant bodies of law (i.e. human rights law, international humanitarian law and refugee law)'.

46 These findings are based on our observation of a protection cluster working group meeting in Bor on 21 October 2010, and minutes from previous meetings. Participants in the meeting included various UN agencies, UNMIS civilian sections, INGOs, various government ministries and local police officers.

was given to practical solutions: most of the Action Points were related to the dissemination of reports and debriefings on assessment missions. This appeared to have resulted in some discontent among the participants from the government side, and during the meeting on 21 October 2010, one government official called for more focused and structured discussions to allow more time for practical recommendations as to the way forward.

Discussions among the participants at the meeting further revealed the absence of a shared understanding of protection, yet ‘protection’ was what had brought them together. Perceptions differed within the humanitarian community, as well as between the humanitarian community and the government. In general, the actors seemed to perceive protection against the backdrop of the institution they represented and would mainly engage in discussions related to their specific field of work. For instance, while sexual and gender-based violence was identified as one of the five thematic areas on the agenda, none of the agencies seemed to pay much attention to the matter, as none of them had a direct mandate on the issue. Instead of regarding it as an integral part of protection, sexual and gender-based violence was further described by some protection actors as a niche field, distinct from the overall protection mandate⁴⁷.

Hence, while the UNHCR sought to mainstream protection through the protection cluster, our findings indicate a lack of shared understanding among the various humanitarian actors as regards protection. The broad IASC ‘umbrella’ definition of protection, covering a wide range of activities, does not seem to have clarified the concept or its meaning in practice. Furthermore, in line with our findings among UNMIS civilian sections, only agencies with a direct protection mandate considered their role in protection to be significant. Others with a more indirect mandate, like WFP, did not perceive any immediate link between the core mandate of the agency and protection, and hence de-emphasized their significance.

This must be seen in relation to the lack of a coherent protection cluster strategy, as well as the absence of a common understanding of the methodologies, standards and indicators to be used in identifying protection concerns and in implementing activities. The dual task of the protection cluster was further seen as a challenge to effective harmonization of activities. On the one hand, the cluster lead was responsible for building a synergetic, comprehensive and integrated protection response; on the other hand, the protection cluster had to ensure effective specialized protection responses through focal point agencies.

47 The common denotation among the international actors was sexual/gender based violence (S/GBV), but due to the political sensitivity surrounding the issue, some INGOs had recently been requested to remove the ‘S’ from the language. We were, however, informed that this was rather a matter of rhetoric than practice.

Judging from our meetings with protection cluster members in Jonglei state, the methodologies used in inter-agency assessments missions appeared heavily dependent on the individual team leader and composition of the team, and not on standardized approaches. Sometimes participatory assessments were conducted, but the time constraints (often due to tight deadlines imposed by donors) frequently hindered the protection cluster in carrying out comprehensive protection assessments. Most of these missions were therefore conducted in an *ad hoc* manner, often at the expense of including the perspectives of women, who were seen to be less accessible than men in the villages.

Thus, the UNHCR, as well as other agencies and organizations, have often had to implement projects without any prior assessments on the ground. This adds to the challenges related to the various actors' tendencies to implement protection activities according to their own mandate, without taking into account the real needs of the civilian population they are supposed to be targeting.⁴⁸

Most international actors operating out of Bor seemed to recognize the importance of a holistic and concerted approach to protection. Yet, there were limited junctures and structures that could facilitate such a comprehensive approach. In general, there appeared to be limited interaction and dialogue between UNMIS and the humanitarian and development actors in the field. In most cases, the lines of communication and information sharing went through their respective regional offices in Juba. The monthly meeting of the protection cluster working group was considered to be among the most important arenas for interaction between various agencies. However, since this was a working-level meeting, the senior leadership of UNMIS and UN agencies did not attend. Moreover, the limitations of the agenda excluded key protection actors. While some specialized UN agencies and INGOs appeared to have developed bilateral relations with UNMIS PoC, Human Rights, and UN Police, there was less interaction between the humanitarian community and the remaining sections at UNMIS, including the civilian leadership and the military. This in turn led to a general lack of understanding of the roles and responsibilities of the other actors.⁴⁹

Some UN staff members argued that that the separation of the protection cluster from UNMIS PoC and development actors had contribut-

48 During our field study in Southern Sudan, UNHCR in Juba was in the process of developing methodologies and a systematic framework for Protection Cluster needs assessments. This was to improve the standardization and coherence of assessment missions carried out by cluster members in the field. Moreover, as part of the South Sudan Protection Cluster Needs Assessment, the Protection Cluster published a report in January 2011, presenting an analysis of data collected from interviews and focus groups in 13 payams from 7 September – 27 November 2010 (see <http://southsudanprotectioncluster.org/2011/01/rna-data-analysis/>). The Needs Assessment is also intended to function as the basis for a protection cluster strategy in South Sudan.

49 See also Holt and Taylor, 2009.

ed to undermine the coordination and harmonization of protection activities across the humanitarian, development, and political/security nexus – as there was no formal interface between the two pillars. One UN staff member pointed out: ‘right now there are two ways to approach protection in South Sudan: the military and the humanitarian way, but there is no correlation between the two’. Many felt that the lack of an integrated approach had negatively impacted on the implementation of protection activities on the ground.

Hence, whereas most protection actors recognized the need for a combined effort across the whole spectrum of the UN family and partners in order to address protection concerns adequately in Jonglei state, the lack of guidelines and a coherent protection strategy remained key obstacles to an integrated approach. Although this can partly be explained by the diverging conceptual and operational understandings of protection, as well as the different organizational structures, heavy UN bureaucracy, limited flexibility, and turf battling, it should also have been seen in relation to the conflicting mandates between UNMIS and the humanitarian community, including the perceived threats to the ‘protection space’.

3.2 UNMIS’ Multi-dimensionality – Curtailing the Humanitarians’ Protection Space

Among those interviewed, there was a general concern that the political and military aims and means of the peacekeeping mission could have repercussions for humanitarian operations and their core humanitarian principles of independence, impartiality and neutrality. The blurred distinction between the roles of the military and humanitarian organizations is widely seen as a threat to humanitarian space, as it may compromise the neutrality of humanitarian actors (see Slim 2001).

The humanitarian space is linked to a protection space, defined as ‘an environment sympathetic to international protection principles and enabling their implementation to the benefit of those entitled to protection’ (UNHCR, 2009: 5). According to Assistant High Commissioner of UNHCR, Erica Feller, ‘maintaining the neutrality and independence of humanitarian action in the context of an ever stronger drive towards integrated approaches combining political, military, humanitarian, and development strategies, is a constant challenge’. Moreover, the High Commissioner for Refugees has ‘labelled the shrinking of humanitarian space as UNHCR’s biggest concern at the moment’ (ibid.: 2).

In light of these perceived challenges, the IASC has recommended future integrated missions to develop guidelines on civilian–military

coordination (IASC, 2008). In Bor, humanitarian actors expressed concerns over the perceived blurring of activities between UNMIS and the humanitarian agencies, complaining that the local population and the government no longer recognized the differences between the 'blue' UN (UN agencies) and 'black' UN (UN peacekeeping operation). This was particularly worrisome when military actors performed activities of a humanitarian nature. Others were critical to the presence of civilian protection sections (like PoC, Human Rights and Child Protection Unit) under the mission structure, arguing that this further contributed to the perceived politicization of humanitarian action.

At the same time, given the complex security environment in conflict and post-conflict situations, most humanitarian actors today have recognized the need for political and military actors in the humanitarian sphere. For instance, the ICRC has emphasized the importance of establishing an interface between the diverse protection actors to ensure effective protection, including political and security actors, despite the different 'principles, policies and practices, competencies, and resources' (ICRC 2009: 33)

In South Sudan, the humanitarian community has called upon UNMIS to assume a far more active role in protecting civilians, even if this should require the use of physical force. Moreover, several humanitarian actors in South Sudan indeed described UNMIS' added value in terms of its ability to provide robust protection, as no other UN agency or INGO could take on this task. Nobody contested UNMIS' involvement in PoC as long as it limited its activities to physical protection by the military. However, because UNMIS is a multi-dimensional and integrated mission, the operations of the military side of UNMIS intrinsically affect other agencies, non-military as well as non-UN. This, then, '...reflects a deeper moral paradox around the use of force. This paradox is the old one that the best way to stop violence might be to use it' (Slim 2001: 326).

The outwardly 'artificial' distinction between 'protection' and 'PoC' might therefore be seen as an attempt by humanitarian actors to resolve this dilemma by preserving the boundaries between the mission and the humanitarian community. While recognizing UNMIS' role and responsibility in physical protection, the same agencies would emphasize their non-interaction with the military component of the mission. Most humanitarian organizations were further reluctant to use UNMIS military escorts, for fear of potential negative implications for the 'humanitarian space'. Despite their reluctance to be associated with UNMIS, most agencies nonetheless stressed their satisfaction with the logistical support (i.e. airlifts) of the mission, which facilitated the movement of personnel and humanitarian assistance to locations not accessible by road. This form of cooperation with the mission was regarded as a necessity in order to reach populations in need,

and was not seen to be compromising the humanitarian principles of the organizations.

While many theorists have contested the notion of ‘humanitarian space’ due to its inapplicability in practice (see Keen, 1994), some have gone even further, arguing that the perceived threat to ‘humanitarian space’ is in reality the intervention of other non-traditional actors into the humanitarian arena, rather than the desire to uphold humanitarian principles per se. According to Hilhorst and Janson, ‘the language and principles of humanitarian space are strategically or tacitly used by different actors to advance or legitimize their respective interests, projects or beliefs’ (Hilhorst and Janson, 2010: 1118). Moreover, ‘actors use humanitarian principles strategically to gain access to the arena or to discredit competitors’ (ibid: 1123). One INGO staff member in Bor also disputed the ‘humanitarian space’ argument used by many humanitarian workers, pointing out the need to distinguish South Sudan from Darfur – where humanitarian personnel had become direct targets in the conflict. In South Sudan the violence was not targeted at international workers, and threats to ‘humanitarian space’ in the South and in Darfur were thus not comparable.

Table 1. UNMIS PoC Strategy

In recognition of the paramount challenges facing the mission as regards effective operationalization of PoC, UNMIS finalized its long-awaited PoC strategy in November 2010.⁵⁰ The mission-wide strategy provides for a more holistic approach to PoC, and includes a range of civilian and military activities – from political dialogue, conflict resolution and physical protection, to human rights and legal reform (UNMIS 2010a).⁵¹ With an aim to mainstream and integrate PoC into the overall political goal of the mission, the PoC section will further be dissolved and incorporated into other civilian sections. While the Principle Deputy SRSG will be responsible for joint planning and coherence of protection efforts across the UN family at the regional level, the interface between UNMIS PoC and the protection cluster in the field remains to be clarified. During our field visit, initial reactions to the strategy among UN staff in Juba and Bor appeared to be mixed. While some maintained it would probably result in a greater focus on PoC within UNMIS, as well as improved coordination among the various mission components, others believed PoC would be de-prioritized, given the ‘inappropriate’ timing, the dissolution of the PoC section, and the lack of operational guidelines on how to translate the strategy into activities on the ground. Since nearly all mission activities now could be classified as PoC, some also found the PoC strategy to be too broad and non-specific. Hence, instead of ensuring more effective implementation of PoC, the strategy could lead to a lack of focus and prioritization of tasks (e.g. similar to the IASC definition of protection)⁵²

50 The development of the new strategy is in line with SCR 1919 (2010) which ‘calls upon UNMIS to implement a mission-wide protection strategy, comprehensively throughout the mission area, including the implementation of tribal conflict resolution mechanisms, and urges UNMIS to enhance its presence in areas of high risk of localized conflict, including by conducting frequent patrols’.

51 In line with the DPKO/DFS Operational Concept on PoC (2010), UNMIS strategy is based on a three-tiered approach: 1) protection through political prevention (monitoring, verification and early warning, as well as conflict prevention through political advocacy and engagement with the government); 2) protection from physical violence (political mitigation and conflict resolution initiatives supported by the projection of force); and 3) establishment of a protective environment (through advocacy, legal reform and capacity building of state institutions).

52 As the strategy was finalized only recently (during our field visit), it would be premature to offer an extensive analysis of its potential implications on the ground. The PoC strategy will also need to be revised following 9 July 2011, with the deployment of the new peacekeeping mission in South Sudan (UNMISS), and in line with the new Security Council mandate (UNSCR 1996 (2011)).

4. Are Protection Initiatives Appropriate?

The international community in Jonglei state had varying perceptions as to the appropriateness of the protection activities carried out by UNMIS and other UN and non-UN actors. Some protection actors claimed the international community was taking the needs and concerns of the local communities into account through ‘participatory’ needs assessments. The concept of ‘participation’ was, however, interpreted variously. While many acknowledged the need to include women and youth to a greater extent, there did not appear to be a systematic approach to ensure that their voices would be taken into consideration.

Meanwhile, others questioned the procedures used by international protection actors in identifying ‘protection concerns’, and believed there was a general lack of understanding of the local context, cultural beliefs and values of the local population. It was argued that the international community’s perception of protection mainly derived from preconceived Western discourses and international conventions, often resulting in ‘ethnocentric’ initiatives. These initiatives, it was held, did not necessarily reflect the local community’s perceptions of the most immediate concerns and needs. For instance, in South Sudan, traditional conceptions as to what constitutes a ‘child’ often deviated from the Western perspective. While a person below the age of 18 was legally considered a child by the Child Act, in South Sudan a 16-year-old girl or boy was old enough to marry and have children. One protection officer further remarked: ‘Protection of girls is considered to be an irrelevant matter among the local communities. Even the women do not understand the importance of this issue. In many communities in Jonglei, women are regarded as property, and domestic violence is not considered to be major concern.’⁵³

Cattle raiding, identified as a key protection concern by most international staff members in Bor, was also believed to have different connotations among the local communities. As one UN staff member noted, ‘Cattle raiding is not always seen as an offence or crime by the local communities. Instead it is a deep-rooted traditional activity practised for centuries, and is related to the practices of dowry and polygamy, including regulated mechanisms for compensations between the parties concerned’. These seemingly different conceptual understand-

⁵³ Although sexual/gender based violence was believed to be common in many households, no studies had been conducted on this matter in Jonglei State as per November 2010.

ings of protection between the local communities and the international protection actors had, according to several protection actors, undermined the implementation and impact of protection activities.

While this forms part of the picture, it should, however, be borne in mind that traditional values and practices are never static – they adapt according to the changing environment. The ‘traditional practice’ of cattle raiding has been politicized and ‘criminalized’ with the civil war, and is regularly associated with inter-clan/ethnic fighting, the abduction of women and children, power struggles and competition for resources. With the proliferation of arms, as well as the erosion of traditional power structures and conflict resolution mechanisms, the balancing system for compensations has further been lost, resulting in violent spirals of revenge killings between rivaling tribes⁵⁴. Women and children have also increasingly become the targets of violence during cattle-raiding incidents. To judge from informal talks with community members in Bor and other areas in the South,⁵⁵ these developments – including cattle raids, tribal conflicts, rapes and abductions of children and women – were indeed perceived as major threats to their safety and security. This perspective was reiterated by the local authorities in Bor, further calling for enhanced focus by the international community on long-term development and peacebuilding programmes to address the root causes of the protection concerns.

However, up to now, engagement by the international community to deal with these concerns, including structural causes of the violence, appears to have been absent at worst, and ad hoc at best. As extensively discussed in the above sections, for a number of reasons, UNMIS has not been able to effectively utilize its PoC mandate to protect civilians from these threats (i.e. cattle raids and tribal violence, including sexual and gender based violence and child abductions). Further to its support to peace – and political processes at the national level, UN multi-dimensional peacekeeping operations also have a critical role to play in peacebuilding and conflict management at the local level⁵⁶.

54 The government has been trying to replicate some of the traditional mechanisms by requesting offenders to compensate for the stolen cattle. Implementation of these initiatives has, however, been undermined by the lack of follow-up and accountability on the part of the government and relevant stakeholders.

55 This include interactions with community members in Central and Eastern Equatoria States (in November 2010), as well as in Upper Nile and Unity States (in the period between 2007-2009).

56 According to the UN capstone doctrine, UN multi-dimensional peacekeeping operations should play a ‘catalytic’ role in peacebuilding activities (de Coning et al., 2008:3). UN peacekeeping is also described as ‘early peacebuilding’, aimed at laying the foundation for sustainable peace and legitimate governance. One of the core peacebuilding objectives in the UN Secretary-General’s report on ‘peacebuilding in the immediate aftermath of conflict’ is ‘support to political processes, including electoral processes, promoting inclusive dialogue and reconciliation, and developing conflict-management capacity at national and subnational levels’ (UNSG 2009b: 6). Other priorities include: support to basic safety and security; provision of basic services; restoring core government functions; and economic revitalization. The SG report further calls for enhanced coordination between the various peacebuilding actors, as well as ‘early agreement on priorities and alignment of resources behind them’ (ibid: 4).

However, the non-implementing mandates of UNMIS civilian components, combined with the lack of synergies within UNMIS as well as between the mission and other UN and non-UN implementing organizations, have contributed to impede the mission's impact in these initiatives. The lack of access to remote and conflict-prone areas also appears to have undermined the mission's ability to identify relevant local stakeholders as well as to monitor and support the implementation and follow up of local peacebuilding efforts. Although the mission, through the Civil Affairs section, has facilitated a number of 'grass-roots' peace conferences, this has rarely resulted in tangible and durable results on the ground due to 'top-down imposed agreements' and lack of 'sustained engagement' (see UNMIS 2010b:3). Moreover, while increasingly recognizing the importance of integrating macro – and micro – level peacebuilding, the UN HQ and mission leadership has focused most of its attention and resources on the implementation of the broader political mandate of the mission (in support of the CPA) at the expense of local peace – and conflict prevention initiatives⁵⁷.

Meanwhile, most UN agencies, INGOs, and donors have, since the signing of the CPA, continued their war-time focus on humanitarian responses at the cost of investing in longer-term peacebuilding and development initiatives⁵⁸. As a result, the international community has tended to treat the 'symptoms' – instead of the addressing the underlying causes of the violent conflicts manifested at the local level. There has further been a tendency to justify the lack of interventions by referring to the 'violent culture' and rigid traditional values and practices of the south Sudanese. This underplays the role and ability of the international community to assist the local communities and authorities in finding solutions, and responsibility is handed over to the civilian population (see also Pantuliano et al. 2008 and Autesserre 2009).

The disconnect between the wider protection discourse, actual practice and local needs thus draws attention to the more general problem of how and why the international protection actors on the ground are failing to address the concerns identified by the local communities⁵⁹.

57 See also Autesserre (2009) for a critique of the international peacebuilders neglect of local conflicts in DRC. In the case of UNMIS, however, the leadership increasingly recognized the critical need for conflict prevention initiatives at the local level in order to consolidate overall peace and stability in South Sudan, as well as to facilitate the implementation of the CPA (i.e. elections, referendum etc).

58 This is with the exception of UNDP (United Nations Development Programme). The agency has several programmes ongoing in the area of crisis prevention and recovery; democratic governance; poverty reduction/achieving the millennium development goals; and in the area of environment and energy for sustainable development. An assessment of these initiatives is, however, beyond the scope of this paper.

59 This also highlights the need for further research on the local communities' own perspectives on protection, including their concerns and perceptions on the appropriateness of the activities carried out by the international community. This is critical in order to ensure that protection activities carried out by the international community are responding to the actual needs on the ground.

5. Conclusions and Recommendations

The above findings illuminate a discrepancy between local concerns and what the protection community has to offer. We have also noted the disjuncture within the protection community, not only by degrading a concerted approach, but also in constituting a battlefield over what protection is and ought to be. Moreover, instead of harmonizing the various protection efforts, international protection actors have tended to approach protection within the backdrop of their respective institutional mandates. This has often resulted in unilateral, top-heavy and ad hoc, non-specific approaches at the expense of local concerns and needs.

In South Sudan, there has further been a tendency by the international community to concentrate its efforts on short-term humanitarian needs at the cost of long-term peace- and development initiatives. According to Gunnar Sørbo, ‘an approach to peacebuilding is required that can address multiple arenas and sources of conflict in a more integrated way, including concern with poverty, land issues and livelihood support. This has been slow to emerge in the post-war reconstruction of Sudan for various reasons’ (Sørbo 2010: 183).

The failure of the international community to adequately address the protection concerns identified by the local communities could be related to their complex and deep-rooted causes, which call for long-term commitment, extensive resources, continuous follow up, specialized capacities, presence in remote locations and knowledge of the local context, as well as unified efforts across the political, security, human rights, humanitarian, and development range of the UN family and partners.

As illustrated in the above analysis, the lack of a coordinated approach on the part of the international community can be attributed to the absence of a common conceptual and operational understanding of protection – including the lack of a coherent protection strategy and guidelines as to the interface between the various protection actors. The different organizational structures, heavy bureaucracy and limited flexibility, as well as turf battles and the conflicting mandates between UNMIS and the humanitarian community, have all contributed to this lack of integration.

Our findings from Bor further corroborate previous research findings regarding the prevalence of diverging understandings of protection and its meaning in practice within the various protection entities, in-

cluding the humanitarian community and UNMIS respectively. This has also undermined the effectiveness of protection initiatives on the ground.

In the case of UNMIS, there is further a huge gap between the PoC discourse at the UN Security Council level in New York, and the perceptions and local realities in South Sudan. The diverging conceptions between the UN Security Council and UNMIS must be seen in relation to the abstract and broad protection language in the mandate, leaving the interpretation of the mandate in the hands of the mission leadership and military contingent commanders. While this could have brought more contextualized and appropriate responses to protection concerns, the available resources and capacities of the mission, have proven insufficient for effectively meeting actual needs on the ground. Hence, while mandates ought to be realistic, flexible, and implementable at the same time, they also need to be matched with adequate resources, capabilities, and political support⁶⁰.

Moreover, as extensively discussed in the previous sections, the prevailing tension within the dual mandate of the mission seems to influence the decisions by the mission leadership and military commanders on whether or not to intervene to protect the civilian population. The prevailing mindset among many military peacekeepers and complex chain of command, combined with the lack of a military doctrine and clear operational guidelines, has further impeded timely and appropriate interventions on the ground.

Despite these constraints, the UN Security Council did not change its PoC discourse, but instead accelerated its pressure on the mission to make more efficient use of its capabilities to implement the PoC mandate, without providing the necessary political and financial support – or fully taking the primary responsibility of the host government into account. This has led to unrealistic expectations among the host government and local communities regarding the UN's role and responsibility in providing protection to the civilian population. The perceived failure of the UN to meet these expectations could have serious repercussions for the operations and credibility of UN missions in the future (see UN, 2008). In Jonglei state, this has already resulted in growing negative sentiments against the UN in some areas. However, unless the UN Security Council and Member States politically commit to their calls for greater mission focus on PoC, by providing the necessary resources and political backing, the mission's ability to protect civilians will remain limited.

60 The need for mandates reflecting clear and achievable tasks is also laid out in the UN New Horizon document (UN 2009).

The UN New Horizon Initiative (UN 2009) has called for an expansion of the peacekeeping partnership, including an extension of the contributor base to UN peacekeeping operations.

Broadly speaking, UN Member States are divided into two main categories: 1) the ones who make financial contributions, i.e. wealthy democracies in the North, and 2) the ones who make troop contributions, i.e. countries from the Global South. The first category, basing its value system on Western notions on protection and human rights, have been at the forefront of shaping and setting the PoC agenda at the Security Council, while the latter, in many cases not subscribing to the same standards and values of the West, are tasked to implement this agenda, as dictated by Western Member States, on the ground.

This gap, however, needs to be bridged if the UN Security Council and Member States are committed to improve the performance of UN peacekeeping operations. Through troop contributions, Member States from the North would be better informed of the complex realities and demands on the ground when setting the PoC agenda, including operational tasks and standards. At the same time, this could encourage experienced TCCs from the Global South to meet the expected operational standards and perform more pro-actively to ensure effective delivery on mandated tasks. This would further send a strong message regarding the West's political commitment to UN peacekeeping in Africa – and not exclusively to [NATO] military operations in areas of strategic and geopolitical interest. By contributing with troops, smaller Member States in the North, like Norway, could further set an important precedent and be in a much stronger position to engage in and influence policy processes concerning PoC and peacekeeping at the highest level. Moreover, until Western Member States contribute with their own troops to UN peacekeeping, it is not reasonable to expect TCCs from the Global South to risk the lives of their troops in the name of PoC.

Meanwhile, to move forward, the policy discussions on the role of UN peacekeeping missions in PoC will have to go beyond questions of financial and political commitment by the UN Security Council and Member States. Given the high threshold to the use of force, there is a need to explore how peacekeepers, within the limitations of the constraining environment, can improve their operational capabilities and protect civilians without using lethal force. The mission in South Sudan could arguably make more efficient use of its resources and capacities by concentrating its efforts on preventive initiatives, i.e. through conflict management, early warning mechanisms, flexible deployment of forces, as well as capacity building of local authorities and state se-

curity forces⁶¹. Further to the need for advanced equipment and training of TCC troops, this will, however, require fundamental changes in the mindsets of the military commanders, necessitating in-depth consultations and binding agreements between the UN Secretariat and TCCs on operational requirements and performance expectations prior to the deployment of their contingents. The success of these initiatives will also depend on the support and direction taken by the mission leadership as well as the capabilities of the civilian and police components of the mission.

It remains, however, to be seen whether the UN Security Council and Western Member States, as well as the humanitarian community and human rights advocates, will be willing to change the current discourse on PoC according to the long-term needs of the host country and realities on the ground. Eventually, the debate on PoC needs to raise the more fundamental question as to whether the focus should remain on the UNs capability to protect – or if it should shift towards how the UN better can enable the government in protecting its own citizenry⁶².

The deteriorating security situation in South Sudan, including regular threats and violations against the civilian population, is causing concerns over the government's capability to provide protection and security to its citizenry. In the coming period, it is therefore imperative that the international community accelerate its assistance to the Government of South Sudan in the highly complex and challenging state – and peacebuilding process, with a special focus on long-term institution – and capacity building initiatives, including support to justice and security sector reform and conflict management capacities at the national and local level. Investments in strong and durable partnerships with local stakeholders, including civil society actors, is further required throughout this process. In the longer term, the government's perceived political inclusiveness and ability to provide security and safety, services, and socio-economic development to the local population, will to a great extent inform the prospects for durable peace and stability in South Sudan.

Expectations among the host government and local communities to the new UN peacekeeping mission in South Sudan (UNMISS), which replaced UNMIS on 9 July 2011, are already huge⁶³. The weak ca-

61 This will require joint efforts by the military, police and civilian components of the mission, in partnership with other UN and non-UN actors.

62 The 'Report of the UN Secretary-General on peacebuilding in the immediate aftermath of conflict' highlights the importance of 'national ownership' and capacity development from the onset to ensure sustainable peace in post-conflict situations (UNSGb 2009).

63 UN Security Council Resolution 1996 (2011), mandating the United Nations Mission in the Republic of South Sudan (UNMISS), was passed on 8 July 2011. Acting under Chapter VII, UNMISS will consist of 7000 military personnel (with a possible reduction to 6000), up to 900 civilian police personnel, and an appropriate civilian component. UNMISS has been mandated to 'consolidate peace and security, and to help establish the

pacities of the government and volatile situation on the ground are necessitating enhanced efforts by the international community, including the UN, to assist the government in protecting the civilian population in the next period. There is, however, a need to be realistic about what the UN actually can achieve. Moreover, to ensure greater sustainability and impact on the ground, the international community, in cooperation with national and local partners, should focus its protection initiatives on prevention and management of conflicts, as well as efforts to support and enable the government to take on its primary responsibility to protect its citizenry.

conditions for development in the Republic of South Sudan, with a view to strengthening the capacity of the Government of the Republic of South Sudan to govern effectively and democratically' (UNSCR 1996 2011: 3). On protection of civilians, the broad and mandatory language of 'protecting civilians under imminent threat of physical violence' is included in the resolution, with an emphasis on proactive deployment and patrols in areas of high risk of conflict (ibid: 3 (b) (v)). Further, UNMISS is authorized 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' (ibid: 4). The PoC approach differs, however, from previous Security Council mandates, in that it puts an emphasis on conflict prevention and capacity building through an integrated strategy of the mission in support of the government. As the mandate is yet to be translated into practice, it would be premature to make an assessment of the potential implications on the ground. However, a few preliminary remarks can be made. While the new PoC mandate of UNMISS appears to be more flexible and realistic than the previous UNMIS mandate, the success of the new approach will to a great extent depend on the resources, structure, composition and capability of the mission (military, police and civilian), effective cooperation with UN and non-UN partners, its ability to deploy an effective early warning system, the mindset of the military contingents, as well as the consent of the government to grant the mission the requisite space to operate and the freedom to move across South Sudan. Finally, while the Security Council has authorized UNMISS under Chapter VII, this may not have any significant implications for the operations on the ground. UNMISS, with similar troop strength as UNMIS (in the South), will also depend on good relations and cooperation with the government in order to operate effectively in South Sudan. The Chapter VII mandate could, however, raise false expectations as to the 'robustness' of the mission in terms of its capability to protect civilians.

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