

Conflict Sensitivity Analysis:

United Nations Mission in South Sudan (UNMISS) Protection of Civilian (PoC)
Sites Transition:
Bentiu, Unity State, and Malakal, Upper Nile State

Conflict Sensitivity Resource Facility
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This Conflict Sensitivity Analysis (CSA) was requested by the Inter-Cluster Coordination Group in October 2020 and examines the **conflict sensitivity implications** of the transition of UN Protection of Civilian sites in Bentiu, Unity State, and Malakal, Upper Nile State, from sites under the protection of United Nations Mission in South Sudan to camps for internally displaced persons (IDPs) under the jurisdiction of the Government of the Republic of South Sudan.

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Acronyms

CCCM	Camp Coordination and Camp Management
CSA	Conflict Sensitivity Analysis
DRC	Danish Refugee Council
FGD	Focus Group Discussion
GRSS	Government of the Republic of South Sudan
GoS	Government of Sudan
HLP	Housing, Land and Property
IOM	International Organization for Migration
ICCG	Inter-cluster Coordination Group
IDP	Internally Displaced Person
KI	Key Informant
KII	Key Informant Interview
OCHA	Office for the Coordination of Humanitarian Affairs
NGO	Non-governmental Organization
PoC	Protection of Civilians
R-ARCSS	Revitalised Agreement on the Resolution of Conflict in the Republic of South Sudan
SPLA-IG	Sudan People's Liberation Army – in Government
SPLA-IO	Sudan People's Liberation Army – in Opposition
SPLM-IG	Sudan People's Liberation Movement – in Government
SSPDF	South Sudan People's Defense Forces
SPLM-IO	Sudan People's Liberation Movement – in Opposition
SRSG	Special Representative of the Secretary General
UN	United Nations
UNHCR	United Nations High Commission for Refugees
UNMISS	United Nations Mission in South Sudan
UNPOL	United Nations Police
UNSC	United Nations Security Council
UNSCR	United Nations Security Council Resolution

Executive Summary

This **Conflict Sensitivity Analysis** was requested by the Inter-Cluster Coordination Group (ICCG) in October 2020. It examines the key conflict dynamics and conflict sensitivity considerations of the transition of UN Protection of Civilian (PoC) sites under the protection of United Nations Mission in South Sudan (UNMISS) in Bentiu, Unity State, and Malakal, Upper Nile State, to camps for internally displaced persons (IDPs) under the jurisdiction of the Government of the Republic of South Sudan (GRSS).¹ This follows the announcement on 4 September 2020 of the Special Representative of the UN Secretary General (SRSG) in South Sudan, David Shearer, that UNMISS will ‘progressively withdraw its uniformed troops and police from the Bor and Wau PoCs and gradually do the same in the Juba, Bentiu and Malakal PoC sites’. The analysis used a mixed methods approach, including virtual semi-structured interviews with key informants (KI) from multiple organisations (including UN agencies, Cluster leads, national NGOs and international NGOs) and incorporating feedback from 10 focus group discussions (FGDs) conducted across different gender and age groups in Bentiu and Malakal PoCs which were facilitated by the Danish Refugee Council (DRC) and the International Organization for Migration (IOM).

This report looks at **conflict sensitivity considerations of the PoC transition in Bentiu and Malakal, and then provides recommendations** to donors, aid agencies, UNMISS and the Government of South Sudan to consider during and after the transition. It identifies how aid actors’ response could mitigate negative impacts on conflict dynamics or leverage positive opportunities. The focus of this analysis is the PoC sites in Bentiu and Malakal, both of which have a **history of inter-communal and inter-ethnic tension among neighbouring communities**. The conflict sensitivity analysis does not provide an indepth analysis of either the wider conflict dynamics in Unity and Upper Nile state or the broader housing, land and property (HLP) issues outside of the PoCs.

The PoC sites were established at UNMISS bases as a result of the civil war that broke out in South Sudan in December 2013. In September 2020, approximately 167,856 IDPs were reportedly residing within the five PoC, or former-PoC, sites. The justification provided by UNMISS for transitioning the sites included a reported reduction in the immediate threats that led PoC residents to seek shelter within the PoC sites; that the PoCs sites absorb significant uniformed capacity, thereby limiting UNMISS’s capacity to protect civilians in other conflict hotspots (i.e., Warrap, Jonglei, and the Greater Equatoria states); and that the Sudan People’s Liberation Movement (SPLM)-led GRSS views the existence of the sites as infringing on its sovereignty.

Bentiu, Unity State’s capital, hosts the largest PoC site, with a current population of 99,052 residents. Most residents fled to the PoC following attacks in southern Unity State, in which the Sudan People’s Liberation Army troops and its allied militias destroyed and confiscated crops and property while engaging in widespread violence against civilians.² With 33,137 residents, the **Malakal** PoC is situated near Malakal town, which was largely destroyed during by civil war. Continuing tensions between the Shilluk and Padang Dinka communities in Upper Nile State are related to disputes over access to, and the control of, lands on the east bank of the Nile, from which many Shilluk have been displaced, and have been exacerbated by the recent killings of prominent figures from the Shilluk community in Malakal PoC and town between July and November 2020.

¹ Throughout this analysis, the following terms refer to the different levels of government and various authorities: GRSS refers to the SPLM-led Revitalized Transitional Government of National Unity (R-TGoNU) and its officials, State Government refers to the respective state governments and their officials, local government refers to the counties and payams, traditional authorities refer to chiefs, and informal authorities refers to the community-based administrative structures in the PoCs. For periods prior to the formation of the R-TGoNU, SPLM/A-IG will refer to the government and its armed forces, while SPLM/A-IO will refer to the opposition and its armed forces.

² In September 2018, the SPLA was officially renamed the South Sudan People’s Defence Forces. References to the SPLA and the SSPDF refer to the formal armed forces under the control of the SPLM-led Government of South Sudan, with the name used reflecting the name of these forces at the time of events.

Aid agencies operating in the two PoC sites have identified a number of key conflict issues, which will impact on, and be impacted by, the transition process. It was found that in both PoC sites residents face existing **threats to their safety and security**, including revenge killings, thefts, armed clashes among youth gangs and sexual and gender-based violence (SGBV). Residents have raised concerns that the transition will exacerbate these threats. A joint South Sudan National Police Service (SSNPS)/Sudan People's Liberation Movement-In Opposition (SPLM-IO) police force was established in July 2020 at the entrance to the Bentiu PoC perimeter, although it is not clear if the 36 personnel-strong force will have the capacity to respond to security incidents across the PoC. In Malakal, such joint arrangements have not yet been established.

There are **multiple informal authorities and administrative structures in the PoCs, which provide varied pathways to justice** for PoC residents and seek to facilitate dispute resolution without residents having to rely on formal structures. Examples of these informal authorities include Community High Committees, Community Watch Groups and Chief's courts. Despite the availability of these pathways, PoC residents feel they have little access to reliable, unbiased and effective justice. These PoC-specific authorities will face challenges during the transition process, as they navigate relationships with government officials who will now be responsible for overseeing the PoCs, while still requiring capacity building and other support to arrive at, and implement, decisions in-line with International Human Rights standards. While the role of the Chiefs and the Chief's courts is referred to in South Sudan's constitution and enshrined in the Local Government Act, they will also need continued capacity building support with regards to International Human Rights standards.

With the relevant state governments assuming the administration of the PoC sites, residents in both sites report concerns that UNMISS' withdrawal of police and troop presence will result in **violence against civilians**. Residents were particularly concerned that former fighters or young men might be detained or forcibly recruited into the the South Sudan People's Defense Force (SSPDF) following the transition. Others raised fears of looting or robbery by SSPDF or South Sudan National Police Service (SSNPS), increased taxation of PoC residents and the potential for State governments to intervene in, and exacerbate, inter-communal disputes.

Such fears are heightened by **State Government** arrangements in both Unity and Upper Nile States. Post-transition, Bentiu PoC will be under the jurisdiction of the Unity State Governor, Joseph Monytuil, a prominent Bul Nuer leader and key regional ally of President Salva Kiir. Many PoC residents associated Monytuil with the violence that caused them to flee to the PoCs in the first place. In Upper Nile State, after a long impasse on 29 January 2021 Budhok Ayang Kur, a Shilluk politician and military commander, was appointed Governor, although at the time of writing it is too early to understand how this appointment has been received by the Malakal PoC and town residents. The transition of both Bentiu and Malakal from PoC sites to IDP camps will provide South Sudan's national and state governments more direct influence over the life of IDPs in the sites. Crucially, informants to this report and some focus group participants are concerned that this may result in **additional bureaucratic, advocacy and access constraints** on aid agencies operating in the sites, which could in turn shape contestation over how aid is distributed and perceptions over who it benefits, while limiting the ability of the aid sector to advocate on behalf of PoC residents.

Housing, Land and Property issues present a significant conflict issue in both Unity and Upper Nile states. Many residents in both Bentiu and Malakal sites have had their land or property destroyed and occupied since they fled to the PoC sites. While return is not directly linked to the PoC transition, HLP disputes arising from significant numbers of PoC residents returning to their areas of origin or habitual residence could overwhelm weak formal legal mechanisms charged with resolving HLP disputes. In both states this could lead to conflict between returning PoC residents and current occupants of their properties (in urban areas) or land (in rural areas). PoC residents returning or relocating would also be vulnerable to pre-existing insecurity in these areas.

Competition for aid resources and employment in areas around both Malakal and Bentiu PoCs is acute as aid agencies' activities contribute significantly to the local economy within PoC sites and provide livelihoods opportunities for the sites' residents. Tensions have emerged in both Bentiu and Malakal due to the perception that resources offered by aid activities are inequitably distributed between PoC and town residents, coupled with economic decline and scarcity of food and other resources. In Unity State, there has been friction between youth and NGOs over recruitment practices and the ethnic composition of NGO staff, most recently in Koch (November 2020).

The report provides 24 recommendations for donors, aid agencies, UNMISS and the Government of the Republic of South Sudan. The recommendations encourage the equitable targeting and distribution of assistance, both within the transitioned sites and areas of potential resettlement or return, to ensure that both aid actors and the government avoid creating major pull or push factors for returns and relocations through the redesignation of the sites and any resulting reconfigurations of services provided. Any solutions process should be based on the principles of safe, voluntary, informed and dignified returns and resettlement, be done according to international standards, and should not validate contested claims to land or property.

The depth of communication and consultation from UNMISS regarding transition process and timeline for the two remaining sites was raised within 14 of the 16 interviews for this report. While UNMISS has indicated that they are developing transition plans in conjunction with humanitarian actors operating, these plans must be widely accessible to ensure aid actors' and community engagement can be consistent and inclusive. Finally, the recommendations reflect on how existing community-based structures that have arisen within PoC sites can be mapped, supported and their capacity built post-transition. As structures that are community-selected and generally trusted among community members, they are instrumental in resolving disputes and should be supported by UNMISS Human Rights Division (HRD) and UN Police (UNPOL) to develop effective coordination between IDP and government groups.

1 Introduction

1.1 Overview

This Conflict Sensitivity Analysis (CSA), conducted by the Conflict Sensitivity Resource Facility (CSRF), was requested by the Inter-Cluster Coordination Group (ICCG) in October 2020 and conducted in coordination and consultation with the Camp Coordination and Camp Management (CCCM) and Protection Clusters. The analysis identifies key conflict sensitivity considerations for donors, aid agencies, UNMISS and the Government of South Sudan at both the national and state-level.³ This analysis seeks to inform conflict sensitive decision-making of operational agencies by outlining key potential conflict dynamics that could be aggravated by the transition process and providing recommendations for mitigating these risks, and is intended to complement the Protection Cluster's ongoing Protection Risk Assessment of the (soon-to-be) transitioned sites. While this report identifies key conflict-sensitivity considerations for a range of stakeholders in relation to the transition of the PoC sites, it does not aim to comprehensively address issues contributing to the larger conflict dynamics across South Sudan, including issues such as administrative land transfers, economic and/or resource disparities amongst ethnic groups, and broader land and property concerns.

On 4 September 2020, the Special Representative of the UN Secretary-General (SRSG) in South Sudan, David Shearer, announced that UNMISS had begun to “progressively withdraw its troops and police from the Bor and Wau PoCs”, which would officially become IDP camps under the jurisdiction of the GRSS, and would gradually proceed to do the same in other PoC sites.⁴ According to Annex I of the Summary of the Memorandum of Understanding (MoU) signed between UNMISS and the Central Equatoria State Governor in September 2020, this would entail the respective state governments assuming responsibility for the provision of security and protection to IDPs living in the camps; ensuring humanitarian agencies continue to have unimpeded access to provide protection and humanitarian services; and the maintenance of law and order in PoC sites. UNMISS' Relief, Reintegration and Protection (RRP) Section will provide ongoing support to ensure the implementation of the MoU. On 27 January 2021, an MoU was signed between SRSG and Unity State Governor, Joseph Monytil, establishing the terms of the upcoming transition of Bentiu PoC.⁵ Though UNMISS have previously indicated that the transition of Malakal PoC will not take place until a Governor for Upper Nile State is appointed, at the time of writing, there has been no indication that the Malakal transition process has begun following recent Budhok Ayang Kur's appointment on 29 January 2021.

1.2 Methodology

The analysis used a mixed methods approach, including remote, semi-structured key informant interviews (KIIs), focus group discussions (FGDs), presentations of preliminary findings to key inter-agency groups and a review of secondary literature and relevant analyses. A total of 16 virtual KIIs were conducted throughout October and November 2020 with key informants (KI) from UNMISS, various United Nations (UN) agencies, Clusters, and national and international non-governmental

³ The R-ARCSS was signed in September 2018. Due to delays, the Re-vitalized Transitional Government of National Unity, which include the SPLM-in Government, the SPLM-in Opposition, and members of the South Sudan Oppositoin Alliance was not formed until February 2020. There have been delays in implementing other key milestones, such as the establishment of the unified institutions, the completion of national and sub-national appointments, security sector reform and the integration of the armed forces, and the establishment of a Hybrid Court.

⁴ Mold, F (2020) 'UN Protection of Civilian Sites Begin Transitioning to Conventional Displacement Camps', UNMISS, September (<https://unmiss.unmissions.org/un-protection-civilians-sites-begin-transitioning-conventional-displacement-camps>)

⁵ UNMISS (2021) 'UN envoy in South Sudan, High Commissioner for Refugees visit Bentiu, discuss security needs and voluntary returns', 28 January, (<https://unmiss.unmissions.org/un-envoy-south-sudan-high-commissioner-refugees-visit-bentiu-discuss-security-needs-and-voluntary>)

organizations (NNGOs/INGOs).⁶ On behalf of the CSRF, the International Organization for Migration (IOM) and the Danish Refugee Council (DRC) conducted 10 focus group discussions (FGDs) with PoC residents in Bentiu and Malakal PoCs (five in each site, with maximum six participants per FGD). FGD participants included community leaders, women over 30, women aged 18-30, men over 30, and men aged 18-30. These interviews and FGDs are numbered, anonymised and referenced in parenthesis throughout the report (i.e. (I: A10)). Notably, Government officials, foreign traders and key contacts from the private sector were not interviewed as part of this analysis. A bibliography of literature and analyses consulted can be found on page 27, in addition to the questions used to guide KIs and FGDs which can be found in annex I.

2 Context summary

2.1 Conflict in South Sudan (2013-2020)

The PoC sites have existed for over seven years, having been established rapidly and spontaneously when UNMISS opened the gates of its bases to tens of thousands of civilians fleeing violence as the South Sudan civil war broke out in December 2013.⁷ As the war unfolded, there were clashes between the armed forces of the governing SPLM in-Government (SPLM-IG), the newly-formed SPLM in-Opposition (SPLM-IO) and their respective aligned militias in various state capitals over control of urban areas. The civil war has directly resulted in the death of an estimated 190,000 South Sudanese and the displacement of 4.5 million people since December 2013.⁸ On capturing towns and villages, both sides directed widespread violence against civilians in the form of executions, kidnapping, torture and rape while destroying or looting property, crops and livestock. Facing violence and the loss of their homes and livelihoods, civilians fled to PoCs in vast numbers amidst a rapidly deteriorating humanitarian and security situation.

2.2 United Nations Mission in South Sudan (UNMISS)⁹ mandate

While UNMISS bases in Wau and Pibor had previously hosted over 12,000 civilians seeking protection from violence between October 2012 and November 2013, these arrangements were temporary and relatively small-scale compared to the civilian movements to PoC sites in December 2013.¹⁰ The outbreak of the war led the UN Security Council to adapt UNMISS' mandate to more accurately reflect its increased protection role, rendering its original focus temporarily deprioritised.¹¹ Some analysts have argued that this marked a significant shift for UNMISS, which had previously been a mission

⁶ UNMISS: Bentiu Field Office; UN agencies: UNHCR, OCHA, IOM; Clusters: Protection, and Camp Coordination and Camp Management (CCCM); national NGOs: Upper Nile Youth Development Association (UNYDA), HealthLink and Nile Hope; international NGOs: DRC/DDG, ACTED, NRC and Saferworld

⁷ Throughout this analysis references to 'war' or 'civil war' refer only to the South Sudanese Civil War (December 2013 – February 2020). Where the narrative refers to events taking place during the earlier First and Second Sudanese civil wars fought between southern Sudan rebel movements and the Khartoum-based government before South Sudan's independence in July 2011 they will be explicitly labelled as such.

⁸ Checchi F, Testa A, Warsame A, Quach L, Burns R (2018), 'Estimates of crisis-attributable mortality in South Sudan, December 2013 - April 2018: A statistical analysis', London School of Hygiene and Tropical Medicine, p 2 (<https://www.lshtm.ac.uk/south-sudan-full-report>)

⁹ UNSCR [1996 \(2011\)](#), established the UN Mission in South Sudan (UNMISS) as a Chapter VII military peacekeeping mission authorised to consolidate peace and security and to help establish conditions for development in South Sudan. Following the outbreak of civil war in South Sudan UNSCR [2155 \(2014\)](#) was adopted, reinforcing UNMISS and reprioritizing its mandate: (a) protection of civilians; (b) monitoring and investigating human rights; (c) creating conditions conducive to the delivery of humanitarian assistance; (d) supporting the implementation of the Cessation of Hostilities Agreement. UNMISS' mandate continues to be reaffirmed, with point (d) adjusted to reflect the status of peace talks and agreements. UNSCR 2459 (2019), adopted on 15 March 2019, and subsequently reaffirmed on 12 March 2020 and 12 March 2021, updated UNMISS mandate with (d) Supporting the Implementation of the Revitalised Agreement and the Peace Process.

¹⁰ Arensen M (2016), 'If we leave we are killed': Lessons Learned from South Sudan Protection of Civilian Sites 2013–2016', International Organization for Migration South Sudan, p 16 (https://publications.iom.int/system/files/pdf/if_we_leave_0.pdf)

¹¹ The adaptation of UNMISS' mandate is elaborated on under: Murphy R (2017) 'The United Nations Mission in South Sudan and the Protection of Civilians', *Journal of Conflict and Security Law* 22(3) pp 367-394.

providing a ‘relatively standard form of UN intervention’ emphasising state-building and government cooperation, to one where the Protection of Civilians was increasingly focused on.¹² Although UNMISS had initially developed guidelines outlining how civilians might be protected within the bases and dividing responsibilities with humanitarian actors, these plans were overtaken by the speed and scale of the crisis.¹³ Alongside the rapid evacuation of humanitarian personnel when the violence began, UNMISS became responsible for responding to the urgent protection needs of PoC residents. The PoC sites are located within or adjacent to UNMISS bases, where South Sudanese who report being under imminent threat of physical violence can benefit from the status, privileges and immunities of the UN, and are subject to the exclusive control and authority of the UN.¹⁴ It must be noted, however, that both UNMISS’ original and adapted mandate is non-executive, which means that there are limits on UNMISS’ authority within the PoCs, particularly with regards to public security and the detentions and prosecution of individuals accused of crimes within the sites.¹⁵

The 2019 ‘*Future Planning for the Protection of Civilian Sites in South Sudan*’ noted that, with regards to UNMISS’ police and military components, the PoC sites are ‘disproportionately consuming the available capacity for protection of civilians tasks, leaving fewer resources for patrolling in conflict hotspots or areas of return’.¹⁶ However, the same report outlined that of the 11,200 UNMISS troops belonging to infantry units, 14% (1,545 personnel) were performing duties directly related to the PoC sites, with 61% (6,881 personnel) allocated to patrolling activities outside the perimeter of the sites.¹⁷ With regards to the 2,101 UNMISS police personnel, 90% (1,889 personnel) were directly performing tasks related to the PoC sites.¹⁸ In March 2021 the UN Security Council re-affirmed UNMISS’ mandate and authorized that the uniformed troop ceiling be maintained at 17,000 personnel and the uniformed police ceiling be maintained at 2,101, the same number as in the March 2020 and March 2019 resolutions.¹⁹ As of November 2020, UNMISS reported having 14,028 contingent troops and 1,526 police personnel deployed in country, and indicated to those conducting this report that over half were allocated to the protection of civilians, both inside and outside PoC sites.²⁰

2.3 Protection of Civilian sites

In September 2020, approximately 167,856 IDPs were reported to reside within the five PoC (or, former-PoC) sites in Bentiu, Bor, Juba, Malakal and Wau, with the largest site being Bentiu and Bor being the smallest.²¹ In the years since their creation at the end of 2013, the population of the PoCs

¹² Giffen A, Gorur A, Jok JM, Mayai AT (2014), ‘Will they Protect us for the Next 10 Years: Challenges faced by the UN Peacekeeping Mission in South Sudan’, Stimson Center and Sudd Institute, Novp 8 (<https://www.stimson.org/2014/will-they-protect-us-for-the-next-10-years-challenges-faced-by-un-peacekeeping-mission/>); UNSCR 2155, S/RES/2155 (2014)

¹³ Craze J, Tubiana J, Grimizzi C (2016), ‘A State of Disunity: Conflict Dynamics in Unity State, South Sudan, 2013–15’, Small Arms Survey, p 145 (<http://www.smallarmssurveysudan.org/fileadmin/docs/working-papers/HSBA-WP42-Unity-Dec-2016.pdf>)

¹⁴ In accordance with the 1946 Convention on the Privileges and Immunities of the United Nations, as outlined UNSC (2019), ‘Future planning for the protection of civilians sites in South Sudan’, Report of the Secretary General, S/2019/741, 12 September (<https://undocs.org/en/S/2019/741>)

¹⁵ Stern J (2015), ‘Establishing Safety and Security at Protection of Civilians Sites: Lessons from the United Nation’s Peacekeeping Mission in South Sudan, Civilians in Conflict, Policy Brief 2, September, p 10 (https://www.stimson.org/wp-content/files/file-attachments/CIC-Policy-Brief_2_Sept-2015.pdf)

¹⁶ UNSC (2019), ‘Future planning for the protection of civilians sites in South Sudan’, Report of the Secretary General, S/2019/741, 12 September, p 3 (<https://undocs.org/en/S/2019/741>)

¹⁷ Ibid, p 3.

¹⁸ UNSC (2019), p 4.

¹⁹ UNSC (2021), ‘Resolution 2567 (2021) Adopted by the Security Council on 12 March 2021’, S/RES/2567(2021), p 7 ([https://undocs.org/en/S/RES/2567\(2021\)](https://undocs.org/en/S/RES/2567(2021))); UNSC (2020), ‘Resolution 2514 (2020) Adopted by the Security Council at its 8744th meeting, on 12th March 2020, S/RES/2514 (2020), p 7 (<http://unscr.com/en/resolutions/doc/2514>); UNSC (2019) Resolution 2459 (2019) Adopted by the Security Council at its 8484th meeting, on 15th March 2019, S/RES/2459 (2019), p 7 (<http://unscr.com/en/resolutions/doc/2459>)

²⁰ UNMISS (2020b) ‘Facts and Figures’ (<https://unmiss.unmissions.org/facts-and-figures>)

²¹ IOM South Sudan (2020), ‘Submission to the United Nations Secretary-General High Level Panel on Internal Displacement: Results of Consultations with Internally Displaced and Host Community – South Sudan’, September (<https://reliefweb.int/report/south-sudan/submission-united-nations-secretary-general-high-level-panel-internal>)),

has fluctuated, reaching a peak population of over 208,000 by the end of 2015, with the most significant increase in Bentiu, where the PoC population increased from approximately 40,000 to over 100,000 due to offensives and counter-offensives between armed forces of the SPLM-IG and the SPLM-IO and their associated militias in Unity state.²² Although Bentiu's population has remained relatively stable at around 100,000 since 2015, in other PoCs the populations have risen and fallen in response to food insecurity or the outbreak and cessation of national conflict or sub-national violence in areas from which residents have fled,²³ resulting in an overall decline in PoC populations since 2015.

Since the PoCs' establishment, the SPLM-IG has been frustrated by their existence, accusing UNMISS of sheltering rebel forces and infringing on its sovereignty. The signing of the Revitalised Agreement on the Resolution of the Conflict in South Sudan (R-ARCSS) in 2018, following the breakdown of the original ARCSS, gave both the SPLM-IG and the SPLM-IO strong incentives to push for the closure of the PoC sites, albeit for different reasons. For the SPLM-IG, it would address the SPLM-IO's criticism that the PoCs existence demonstrated the SPLM-IG's inability to protect civilians from abuses, while for the SPLM-IO, the closure of the PoCs could facilitate the repopulation of areas from where they had traditionally drawn their support in preparation for any census, elections and referendum.²⁴

While the transition process is not directly related to returns, all humanitarian agencies interviewed for this report expressed support for the safe, dignified, informed and voluntary return of PoC residents to their areas of origin or habitual residence, or other locations as a durable solution, only when this can be supported by all necessary factors. However, concerns regarding both the process and pace of UNMISS' transition was raised in 14 out of 16 interview for this analysis and all FGDs. In addition, the IOM Protection Profiling exercises conducted across sites in Bentiu, Bor, Juba PoC 1, Juba PoC 3, Malakal and Wau at various times between 2018 and 2020 found that an average of 63% of IDPs in the PoCs had not considered, or even discussed, leaving and attempting to return home, mostly due to security concerns or, to a lesser extent, the scarcity of food outside the PoCs.²⁵

Any solutions process would require large parts of the country be conducive for this, and it should be noted that the IOM findings indicate a lack of appetite among PoC residents for leaving. Many PoC residents have opposed the transition process, as illustrated by the hosting of peaceful demonstrations in Bor, Juba and Bentiu PoCs in September 2020 to indicate their unhappiness.²⁶ The demonstrators highlighted that, as outlined in the R-ARCSS Chapter II, the integrated security arrangements were not yet in place and the appointment of Governors and County Commissioners was not yet completed, both of which are needed to facilitate the transition. Finally, in both Bentiu and Malakal, many residents felt that the State governments, who would be responsible for PoC sites administration and security post-transition, could pose a threat to their safety (see Section 3.1).²⁷ This could have the unintended consequence of creating a push factor for movement outside the sites.

²² Arensen M (2016), p 17

²³ The national conflict in Unity in 2016 between the SPLM-IG and SPLM-IO and their associated militias and the sub-national violence in Jur River in March 2019 led to significant increases in the population of the PoCs in Bentiu and Wau (PoC Area Adjacent to the UNMISS site; IOM Displacement Tracking Matrix (2019), 'Wau Influx from Jur River March-June 2019' (<https://displacement.iom.int/reports/south-sudan-%E2%80%94-jur-river-displacement-wau-march-june-2019>)

²⁴ London School of Economics (LSE) (2019) 'The Future of Protection of Civilians Sites: Protecting displaced people after South Sudan's peace deal' [Memo], Conflict Research Programme, February (<https://www.lse.ac.uk/ideas/Assets/Documents/Conflict-Research-Programme/crp-memos/POCS-in-SS-Feb-2019.pdf>)

²⁵ UN (2020), p 5 (<https://reliefweb.int/report/south-sudan/submission-United-Nations-Secretary-General-High-Level-Panel-Internal>)

²⁶ Sudan Post (2020) 'South Sudan IDPs in Bentiu protest against UN peacekeepers' withdrawal', 28 September (<https://www.sudanpost.com/south-sudan-idps-in-bentiu-protest-against-un-peacekeepers-withdrawal/>)

²⁷ Craze J, Pendle N (2020), 'A Fantasy of Finality: The UN Impasse at the Protection of Civilian Sites in South Sudan', African Arguments, September (<https://africanarguments.org/2020/09/23/a-fantasy-of-finality-the-un-impasse-at-the-protection-of-civilian-sites-in-south-sudan/>)

2.3.1 Bentiu, Rubkona County, Unity State

Bentiu, Unity State's capital, is a major commercial hub for the region, particularly for the cross-border import of goods from Sudan and the export of oil. Unity state itself is a politically fragmented and contested space due to competition and tensions between the SPLM-IG, SPLM-IO and Nuer sub-groups for influence and control. Apart from the two northernmost counties of Unity State (Pariang and Abiemnhom), which are largely populated by Dinka sub-groups, the remaining seven counties are each associated with a different sub-groups of the Nuer, with the Leek Nuer residing mostly in Rubkona.²⁸ Since the 1970s, Unity State's oil fields have made it a strategic asset. During the Second Sudanese Civil War (1983-2005), the Government of Sudan (GoS) fuelled violence in Unity through alliances with rival factions and militias, drawing on local power struggles, to secure control over the area and its resources.²⁹ The outbreak of the South Sudan war re-enforced the fractionalisation of the Nuer sub-groups in Unity State, with Nuer militias supporting either the Sudan People's Liberation Army-in Government (SPLA-IG) or the Sudan People's Liberation Army-in Opposition (SPLA-IO). In the first year of the conflict, control of Bentiu alternated between the SPLA-IG (and their allied militias of Dinka and Bul Nuer) and the SPLA-IO (backed by several Nuer sub-groups from southern Unity). With the conflict's fluid frontlines, civilians often found themselves caught between the warring sides. Non-Nuer civilians experienced abuses from SPLA-IO forces (such as the 'Bentiu Massacre' in April 2014), while Nuer communities in southern Unity State were displaced following attacks by SPLA-IG allied forces who used scorched earth tactics, including widespread killings, sexual violence, forced disappearances and intentional destruction of homes and assets, to ensure communities would not return.³⁰

In December 2013, when the SPLA-IO captured the town, residents of the Bentiu PoC were mainly Dinka and Darfuri traders. The SPLA-IG attacks in early 2014 resulted in Nuer from Bentiu town and southern Unity State seeking protection at the PoC site. By the end of 2014, many of the Dinka residents in the PoC had left, with a UN Security Council report noting that many of the homes left by the Nuer in Bentiu were confiscated by the SPLM-IG or inhabited by Dinka.³¹ By December 2014, Bentiu had become the largest of the PoC sites with 40,574 residents, mainly Nuer.³² The mid-2015 SPLA-IG offensives in Koch, Rubkona, Guit, Leer and Mayendit counties resulted in the Bentiu PoC population rapidly growing again – over 28,000 arrivals were registered between 29 April and 15 June alone – rising to around 120,000 by the end of the year.³³ The recurring offensives ruined crops, prevented cultivation, and destroyed household assets and livelihoods, causing famine in Leer and Mayendit counties in February 2017.³⁴

In the months before the R-ARCSS was signed in September 2018, the SPLA-IG continued to launch assaults on Leer and Mayendit counties, repeating the previous patterns of violence.³⁵ Although the signing of the R-ARCSS was followed by a spate of sexual and gender-based violence in the area around the PoC,³⁶ UNMISS reported the signing of the R-ARCSS also led to a decrease in violence against civilians in Unity State and that relations between Bentiu PoC and town residents showed

²⁸ Craze, et al (2016), p 19.

²⁹ Ibid, p 22-24.

³⁰ UNMISS-OHCHR (2015), 'The State of Human Rights in the Protracted Conflict in South Sudan', December (https://unmiss.unmissions.org/sites/default/files/human_rights_update_report_of_4_december_2015_final.pdf)

³¹ UNSC (2019), p 9.

³² UNMISS (2014), 'Update- UNMISS "Protection of Civilians" (PoC) Sites', July, p 1 (<https://reliefweb.int/sites/reliefweb.int/files/resources/14-07-Update%2031.pdf>)

³³ UNMISS-OHCHR (2015), p 9.

³⁴ World Food Programme (2017), 'Joint Statement On Famine In South Sudan' (<https://www.wfp.org/news/joint-statement-famine-south-sudan>)

³⁵ UNMISS-OHCHR (2018), 'Indiscriminate attacks against civilians in Southern Unity: April-May 2018', (https://reliefweb.int/sites/reliefweb.int/files/resources/UNMISSReportApril_May2018.pdf)

³⁶ Reuters (2018), 'Unknown gunmen rape 125 women in South Sudan: aid agency', 30 November (<https://www.reuters.com/article/us-southsudan-violence-idUSKCN1NZ24D>.)

signs of improving.³⁷ In the months after the R-ARCSS was signed, 15,084 residents left the PoC with the intention of returning to their former homes.³⁸ Feedback from one of the focus groups noted that relations between Bentiu PoC residents and those living in Bentiu and Rubkona towns have improved following the signing of the R-ARCSS, suggesting that generally positive perceptions of IDPs among Bentiu and Rubkona residents might still hold true, despite continuing suspicion.³⁹ During the Protection Risk Assessment, conducted by the Protection Cluster, FGD participants suggested that if PoC residents left the PoC and tried to claim their old homes, tensions could escalate into conflict.

2.3.2 Malakal, Malakal County, Upper Nile State

During the December 2019/January 2020 IOM Biometric Registration, a total of 27,924 individuals were registered as resident in the Malakal PoC, while according to the DRC/CCCM headcount in September 2020 the total population of the PoC was 33,137 people.⁴⁰ The difference between the biometric and headcount populations does not necessarily indicate that the PoC population has increased, but rather reflects the nature of the two exercises. Biometric registration is a rigorous exercise that excludes those residents in the PoC for reasons other than being displaced, whereas the headcount process simply reflects every resident in the PoC, including those who are not IDPs.

Before the start of the war in December 2013, Malakal was South Sudan's second largest city, with an estimated population of 250,000 people, and was a key political and economic hub critical to its oil-exporting infrastructure, due to the Adar-Yale oil fields, located 140 km to the north-east.⁴¹ The magnitude of the destruction of Malakal town during the civil war was considerable, and, having changed hands multiple times in 2013-14, it was almost entirely destroyed by October 2015.⁴² The January 2020 Biometric Registration found that 77% of PoC residents came from Malakal County, with the remainder from neighbouring areas in Upper Nile State, including Kodok town, and Jonglei State.⁴³ Finally, the Humanitarian Needs Overview 2020 found that 121,500 people in Malakal County had significant humanitarian needs.⁴⁴

In spite of the two communities' historical interdependence, longstanding tensions between the Shilluk and Padang Dinka communities in Upper Nile State have increased since the end of December 2013 and reached a volatile point in December 2020. This can in part be attributed to historical tensions and competition over administrative control and resources found in the arable and community lands on the east bank of the Nile. The changes in the number of states and their boundaries, increasing from 10 to 28 in October 2015 and then 32 in January 2017, before reverting back to the original 10 in February 2020, intensified this competition and resulted in the gradual

³⁷ UNMISS-OHCHR (2019), 'Conflict-Related Sexual Violence in Northern Unity- September - December 2018', February (https://www.ohchr.org/Documents/Countries/SS/UNMISS_OHCHR_report_CRSV_northern_Unity_SouthSudan.pdf)

³⁸ UNSC (2019), p 10.

³⁹ Kang TK, Deng D, (2019), 'Urbanization as a result of displacement A case study of Bentiu, South Sudan', IOM Displacement Tracking Matrix Unit (https://www.internal-displacement.org/global-report/grid2019/downloads/background_papers/Kang_FinalPaper.pdf)

⁴⁰ Danish Refugee Council/CCCM Cluster (2020), 'Malakal POC Headcount September 2020; IOM Displacement Tracking Matrix (2020a), DTM Biometric Registration Malakal PoC Site, January 2020' (<https://dtm.iom.int/reports/south-sudan-%E2%80%94biometric-registration-update-malakal-poc-site-jan-2020>); IOM-UNHCR (2019), 'Malakal PoC Intention-Perception Survey, May 2019', May (<https://data2.unhcr.org/en/documents/details/69389>)

⁴¹ James LM (2015), 'Fields of Control: Oil and (In)security in Sudan and South Sudan', Small Arms Survey, November, p 10 (<http://www.smallarmssurvey.org/about-us/highlights/highlights-2015/highlight-hsba-wp40.html>)

⁴² Craze J (2019), 'Displaced and Immiserated: The Shilluk of Upper Nile in South Sudan's Civil War, 2014-19', Small Arms Survey, September, p 37 (<http://www.smallarmssurveysudan.org/fileadmin/docs/reports/HSBA-Report-South-Sudan-Shilluk.pdf>)

⁴³ IOM Displacement Tracking Matrix (2020a)

⁴⁴ OCHA (2019), 'South Sudan Humanitarian Needs Overview - 2020', November (<https://reliefweb.int/sites/reliefweb.int/files/resources/South%20Sudan%20-%20Humanitarian%20needs%20overview%202020.pdf>)

marginalisation of the Shilluk community according to many commentators.⁴⁵ Aid organisations have not consistently been perceived as neutral actors within this context, however, with the SPLM-IG's selective blocking of humanitarian access throughout 2015-18 leaving aid actors little choice but to, in some cases, inadvertently contribute the Shilluk communities' marginalisation.⁴⁶

During the Second Sudanese Civil War (1983-2005), Dinka communities moved into lands viewed as being part of the Shilluk kingdom, a trend that continued following South Sudan's independence. There were violent clashes between the Shilluk and Padang Dinka over land ownership in 2005-2006 and 2009, and existing grievances were exacerbated by the creation of the new, and contested, counties of Canal/Pigi in 2009 and Akoka in 2010.⁴⁷ By 2010, the Shilluk community on the east bank of the Nile had been significantly reduced, with up to 80% having been internally displaced or fleeing abroad.⁴⁸ Efforts to push the Shilluk completely to the west bank of the Nile continued, and, as per the secondary literature review conducted for this report, in 2017 the SPLM-IG disrupted humanitarian access to communities on the west bank of the Nile, in an apparent move to erode communities' support for Agwelek, Johnson Olonyi's Shilluk force.⁴⁹ In the same year, the UN's Commission on Human Rights in South Sudan also reported that an SPLA-IG coordinated offensive on Wau Shilluk areas 10km north of Malakal was followed by the transport of over 2,000 mainly Dinka IDPs from Central and Eastern Equatoria to Malakal.⁵⁰

3 Key conflict sensitivity issues

3.1 Concerns about State Governance

Both focus group participants and key informants unanimously flagged that PoC residents in both Bentiu and Malakal distrust the national government, and Bentiu residents distrust the Unity State Government, who they associate with the acts of violence that led to their relocation to the sites for UNMISS protection in the first place. The Governor for Unity State is Joseph Nguen Monyтуil and on 29 January 2021 Budhok Ayang Kur was appointed as Upper Nile State Governor.

3.1.1 Bentiu

One FGD that included community leaders in Bentiu PoC observed that "the government cannot take [over] the PoC administration because it is the same government who brought me here" (FGD: B1). When it transitions, Bentiu PoC would come under the jurisdiction of the Unity State Governor Joseph Nguen Monyтуil, a Bul Nuer politician and commander aligned with the SPLM-IG, and Police Commissioner John Bul Mayik. Both were involved in mobilizing and leading forces on behalf of SPLM-IG during the devastating 2015 dry season fighting in southern Unity.⁵¹ As a result, they are seen by many PoC residents as playing a key role in the violence that led to their displacement. At the time of writing, County Commissioners for Unity State had not been appointed, and this process presents both an opportunity to build trust between the state government and PoC residents, as well as having the potential risk of further alienating them, depending on who is appointed as Commissioner in their areas of origin or habitual residence. As outlined in Section 4 below, FGD participants unanimously

⁴⁵ Pritchard M (2020), 'Fluid States and Rigid Boundaries on the East Bank of the White Nile in South Sudan', European Institute of Peace, July, p 6 (<https://www.csrf-southsudan.org/repository/fluid-states-and-rigid-boundaries-on-the-east-bank-of-the-nile-in-south-sudan/>)

⁴⁶ Craze J (2019), p 66.

⁴⁷ Conflict Sensitivity Resource Facility- South Sudan, County Profiles: Malakal (<https://www.csrf-southsudan.org/county-profiles/>)

⁴⁸ Craze J (2019), p 10.

⁴⁹ Ibid, p 55.

⁵⁰ UN Human Rights Council (2018) 'Report of the Commission on Human Rights in South Sudan', A/HRC/37/71, March, Section D, p 11 (<https://www.ohchr.org/en/hrbodies/hrc/cohsouthsudan/pages/index.aspx>)

⁵¹ Small Arms Survey, Mapping Actors and Alliances Project South Sudan (<https://maapss.org/kumu?id=5cb6cfd67ea6140461fdb43>)

expressed concerns that the Unity State Government presents a threat to PoC residents' safety which could be intensified following the transition of the site.

3.1.2 Malakal

On 29 January 2021, President Kiir announced the appointment of Budhok Ayang Kur and James Tor Monybuny to the positions of Upper Nile State Governor and Deputy Governor respectively. At the time of writing, it is unclear how these appointments have been received by Malakal PoC and Malakal town residents. President Kiir had rejected the First Vice President Riek Machar's (SPLM-IO) nominee, Johnson Olony, whose appointment was widely opposed by many of Malakal town's current residents but supported by many of those living in the PoC. In an 18 November 2020 letter from Padang Dinka leaders addressed to the GRSS and the international community, Olony was described as a 'warmonger' and 'murderer' who has partaken in 'ethnic cleansing' in towns of 'Padang land'.

The challenges of the absence of a Governor were noted during Malakal FGDs, with a participant stating: "take a look at the formation of R-TGoNU with 10 states. All of the other 9 State Governors have been appointed, while Upper Nile State government is pending. This clearly indicates that we have a big problem in Upper Nile State" (FGD: M1). Both younger male and older male residents in the PoC suggested that the transition should be paused until a Governor is appointed to Upper Nile State, as "Malakal is a completely different context compared to other states in South Sudan" (FGD: M3, M5). Additionally, many Shilluk residents in the PoC many would like to see their King participating in government, while many town residents suggested that a Governor who does not come from either the Shilluk or Padang Dinka communities may be seen as more neutral when settling disputes over access to and control over land, as well as housing and property issues. (I: A2).

The SPLM-IG also recognised the importance of the impasse over the governorship in Upper Nile State, given that the other nine governors had been agreed by R-ARCSS signatories and appointed. A conference, 'Peace, reconciliation, healing and unity among the people of Upper Nile State', was planned for December 2020 to bring together representatives from the PoCs, counties in Upper Nile and neighbouring countries and announced by President Kiir, but later postponed. At the time of writing, feedback from those interviewed for this report still appears relevant – it is unclear if the appointment of a Governor and Deputy Governor for Upper Nile State reflect progress and a step towards peace nationwide or could trigger further conflict (I: A7).⁵²

3.2 *Tensions between communities in and outside of POC sites*

The conflict in 2013 that led to the PoCs' existence both drew upon, and exacerbated, grievances between communities living in and around the PoC sites. Though the civil war ended in 2018 and there appears to be some willingness among community members and leaders since then to improve community relations, some mutual suspicion and isolation remains. Around PoC sites in Bentiu and Malakal, the PoC transition is likely to bring underlying grievances to the foreground and present risks of intercommunal competition, disputes and even violence.

3.2.1 Bentiu

Within the PoC, most residents live according to their sub-groups (originating from Guit, Panyijjar and Koch among other locations) and grievances or disputes between them can have implications on both sides of the perimeter fence. For instance, in 2014 some PoC residents left the site to join battles in Bentiu town as forces aligned to either the SPLM-IG and SPLM-IO fought for control of the town.⁵³ At the same time, tensions can also be fuelled by grassroots or localized violence in residents' places of origin or habitual residence, such as in October 2015 when tensions between Nuer sub-groups from

⁵² The First Vice President, Republic of South Sudan: Press Statement on Upper Nile State Conference 16-19 December 2020, 13 December 2020 (<https://docs.southsudanngoforum.org/sites/default/files/2020-12/Press%20statement%20in%20the%20Upper%20Nile%20State%20Conference.pdf>)

⁵³ Craze J et al (2016), p 147.

Leer and Guit erupted due to events happening outside the PoC.⁵⁴ While the causes of revenge killings within the site can vary widely, including individual and family grievances, they are often sparked by events occurring outside the PoC. Nonetheless, one interviewee for this report noted that while divisions between residents coming from counties in southern and northern Unity remain, they have become less prevalent as the latter have left the site in larger numbers (I: A1).

There have been signs that previous tensions have calmed slightly since the signing of the R-ARCSS, with the UNMISS Head of Office in Bentiu reporting in August 2019 from joint SPLM-IG/SPLM-IO peace rallies in Bentiu and the PoC, relaying hopes that the symbolic events may mark a turning point in relations among the communities in Unity State.⁵⁵ Additionally, some FGD participants also indicated that relations between residents in the Bentiu PoC and residents of Bentiu and Rubkona towns had improved following the signing of the R-ARCSS. Similarly, despite some mutual suspicion, IOM also found positive perceptions among some of Bentiu and Rubkona towns' residents towards IDPs.⁵⁶ One group living in the PoC stated that they were eager to cement good relations with host communities by intermarrying and establishing a shared market to trade (FGD: B6).

Nonetheless, there is still suspicion and animosity between PoC site residents and surrounding communities. One group of PoC residents referred to a decision by nearby communities not to share their water supply from the river with the PoC as evidence of remaining suspicion (FGD: B7). Another group shared similar frustrations about the lack of community or government leadership, "there is no assured reconciliation between IDPs and host communities due to the absence of regular peace messages that would make communities aware of peace initiatives" (FGD: B9). Women in the PoC explained that internationally-sponsored reconciliation initiatives do not necessarily reduce suspicions: "We can't say we have positive relations with host community because we only speak to them through the UN. Actual relations require us to relate to them ourselves with peace and confidence" (FGD: B8).

3.2.2 Malakal

As of January 2021, longstanding tensions over land disputes between Shilluk (as the former majority) and Padang Dinka communities are especially severe.⁵⁷ The severity of these tensions can be seen in two letters, one written by Shilluk and Nuer representatives and the other by representatives of the Padang Dinka. The first letter was sent by Shilluk and Nuer IDP leaders to UNMISS on 9 November 2020. It condemns the killing of Shilluk and Nuer individuals both within the PoC and in surrounding areas, asserting these killings are a result of ethnic targeting, highlights the lack of investigation or justice in response, emphasises how this compromises the safety of former PoC residents living in Malakal town and reflects on the insufficient provisions in place to guarantee their protection. There is an explicit request that Malakal town is made 'free' of Padang militia. According to a key informant during the information-gathering stage of this report, the Dinka population of Malakal town experience similar concern regarding targeted killings and attacks, particularly at the then-prospect of Shilluk former-military commander Johnson Olony being appointed as Upper Nile State Governor, fearing retribution killings on the basis of ethnicity (I: A10). At letter from Padang Dinka leaders to the GRSS and the international community on 18 November 2020 on the potential appointment of Johnson Olony as Governor included similar ethnically focused and inflammatory language, as referring to 'ethnic cleansing' in towns of 'Padang land'. On 29 January 2021 President Salva Kiir announced the appointment of Budhok Ayang Kur and James Tor Monybun as Upper Nile State Governor and Deputy Governor respectively, at the time of writing it is unclear what the impact of

⁵⁴ Ibid, p 148.

⁵⁵ Hirahara H (2019), 'Believing in Peace in South Sudan', *Medium*, 7 August (<https://medium.com/@UNPeacekeeping/believing-in-peace-in-south-sudan-85f266a67d00>)

⁵⁶ IOM South Sudan Displacement Tracking Matrix (2019).

⁵⁷ Craze J (2019), p 60.

these appointments will have on the security around Malakal town and the PoC, or how they have been received by Malakal town and PoC residents.⁵⁸

On 17 February 2016 tensions between different ethnic groups in Malakal PoC erupted into violence with an assault on the camp population. Over a two-day period, approximately 35% of the PoC's shelters were burned, approximately 30 residents were killed and an estimated 123 residents injured.⁵⁹ As shown by UNOSAT satellite imagery, none of the shelters in the Dinka and Darfuri areas were affected by the violence, while the Nuer section was completely burnt to the ground and damage was sustained in significant parts of Shilluk areas.⁶⁰ Additionally, according to the UN's 5 August 2016 statement on the Board of Inquiry report on Malakal, '...it was highly likely the attack was planned'.⁶¹

Divisions along ethnic lines were also reflected in FGDs, wherein participants stated that the Shilluk and Nuer "share the same fears around transition as they all come from the same community/ethnic background [...] they know they are all targets and facing the common enemy" (FGD: M2). A further group commented "the communities in Upper Nile and Malakal are divided on tribal lines, everyone is [not yet] ready to live together" (FGD: M3). Finally, and most explicitly of all, residents of Malakal PoC claimed, "the Dinka may be hopeful, because the transition will give them opportunity to kill the PoC residents or even push them out of the PoC" (FGD: M2).

3.3 Housing, Land and Property (HLP)

The UNMISS transition does not necessitate returns, however it could heighten disputes over HLP issues.⁶² It is possible that for PoC residents considering or planning to leave for their area of origin or habitual residence, or to resettle elsewhere, the transition may escalate this process. In addition, the potential HLP issues related to the re-designation of the sites and the land they sit on receives little attention and could lead to forced evictions. With regards to HLP, this report does not provide an overall assessment of whether overall conditions in the country, including key geographic locations relevant to PoC sites, are currently conducive for returns or resettlement.

HLP and Conflict

The destruction of homes and property, and disputes over access to, administration of and control over land and its resources has played an integral role throughout South Sudan's decades of conflict, contributing to the ethno-demographic composition of many conflict-affected areas in the country. From the outbreak of war in 2013 to 2017, an estimated 3.5 million people were displaced (Shelter NFI Cluster: 2017). This resulted in many individuals (and communities) having their homes and property physically dismantled and sold, occupied by or allocated to others; experiencing multiple displacements; or resorting to the illegal occupation of land in an effort to protect their livelihoods. Much the recent conflict has resulted in displacement to urban areas, where the ownership and control of land is often individually held and is considered to be of significant commercial and political value.

⁵⁸ According to the Small Arms Survey's *Mapping of Actors and Alliances Project – South Sudan*, Budhok Ayang Kur is a Shilluk politician and military commander, while James Tor Monybun is a Padang Dinka who was former Governor of Central Upper Nile (under the 32 states).

⁵⁹ Ibid.

⁶⁰ UNOSAT (2016) 'IDP Camp in UNMISS base, Malakal, South Sudan', February (https://unosat-maps.web.cern.ch/SS/CE20131218SSD/UNOSAT_A3_Malakal_6FEB2016.pdf)

⁶¹ UN Secretary General (2016), (Statement) 'Note to Correspondents' -- Board of Inquiry Report on Malakal', August (<https://www.un.org/sg/en/content/sg/note-correspondents/2016-08-05/note-correspondents-board-inquiry-report-malakal>)

⁶² Title deeds and individual land ownership through the formal (statutory) legal system is found mainly in urban areas. In the rural areas where many PoC residents come from, land is 'owned' by the community and governed by primarily by customary law, with community members, often men, given 'use rights' based on being a member of, and accepted by, their community. Both statutory and customary legal systems are recognized in South Sudan's constitution.

3.3.1 Bentiu

As noted by Joshua Craze, the South Sudanese have long experienced forced displacement as a widespread and deliberate tactic, carried out with the intention of preventing returns.⁶³ It severely impacted communities who fled largely rural areas to urban centres like Rubkona town and the PoC in Bentiu or Temporary Protection Areas, such as in Leer. A 2019 assessment of HLP issues in Bentiu and Rubkona, commissioned by DRC-DDG, found that 94% of survey respondents said their land or homes had been destroyed in the previous five years, while a fifth of IDPs and returnees said that their homes or land had been occupied since.⁶⁴ This has led to HLP disputes emerging in different areas of Unity state, including between different communities residing in Rubkona and Guit (I: A1). As a result, HLP issues will have considerable implications for the future of PoC residents and pose difficult political questions for government authorities that PoC residents accuse of being the cause of their displacement and of the destruction of their homes and property. If PoC residents attempt to return to their places of origin or habitual residence, HLP disputes between returning families departing the PoC and current occupants could lead to localised or inter-communal conflicts if not addressed.

Currently, most residents appear reluctant to resettle or return to their places of origin or habitual residence due to security concerns. However, according to the IOM's Displacement Site Flow Monitoring findings '...Bentiu PoC site saw an increase in intended permanent exits between February and May 2020...', with most intending to travel to Leer, Koch, and Panyijar.⁶⁵ Most of those that do leave have left family members behind, suggesting that such moves could be tentative and contingent on security, livelihoods and access to services in the area of destination.⁶⁶ The PoC site seems to serve as a useful back up, as a fifth of people returning to the site after long absences did so after failing to permanently return to their homes.⁶⁷

Meanwhile, returnees to Rubkona County from Sudan have tended to settle in the PoC first to reunite with family rather than head to their places of origin or habitual residence before the closure of the border as part of COVID-19 restrictions reduced the rate of returns.⁶⁸

Resolution of HLP Issues

The resolution of HLP disputes is not straightforward, as many IDPs face complex obstacles in re-claiming their land or returning. The challenges include lacking land rights documentation in urban areas; occupation of community lands by others; a lack of access to reliable means of claiming their rights and resolving HLP disputes; unclear legal framework on land, particularly in rural areas, which is often governed by customary law; under-resourced institutions; and the lack of consistent, broadly agreed and transparent processes for recognizing rights to, and control over, land, especially where this has traditionally been governed by the customary, rather than formal, system, where land is held by communities rather than individuals. These challenges have been exacerbated by the changes in the number of states and administrative divisions, which has in turn raised the profile of controlling and administering land, particularly along ethnic lines, and further entrenched disputes between customary and statutory authorities over land across all levels of government.

⁶³ Craze J (2018), p 5.

⁶⁴ Deng D, Pritchard M (2019), 'Cracks in the Foundation' Rapid Assessment of Housing, Land and Property (HLP) Issues in Bentiu, South Sudan', Danish Refugee Council, October, p 25.

⁶⁵ IOM South Sudan Displacement Tracking Matrix (2020b) 'Population Count – Bentiu POC', June (<https://dtm.iom.int/reports/south-sudan-%E2%80%94-bentiu-poc-site-population-count-june-2020>).

⁶⁶ IOM South Sudan Displacement Tracking Matrix (2020c) 'Displacement Site Flow Monitoring May 2020' (<https://displacement.iom.int/reports/south-sudan-%E2%80%94-displacement-site-flowmonitoring-may-2020>); LSE (2019), p 4-5.

⁶⁷ IOM South Sudan Displacement Tracking Matrix (2020d), 'Displacement Site Flow Monitoring January 2020 'South Sudan – Bentiu PoC Site Population Count' (<https://displacement.iom.int/reports/south-sudan-%E2%80%94-bentiu-poc-site-population-count-january-2020>)

⁶⁸ Ibid.

In Bentiu and Rubkona, like elsewhere in Unity State and South Sudan, government officials, including the Governor of Unity State, the Mayor of Bentiu town and the Commissioner for Rubkona County have the most influence over resolving HLP issues, particularly in urban areas, whether through land surveys, planning or registration. While the Ministry of Lands, Housing and Urban Development (MLHUD) and the South Sudan Land Commission (SSLC) have ultimate responsibility for oversight and policy formulation of HLP issues at the national level, the ministry is not yet fully established in Unity State. As a result, the Ministry of Physical Infrastructure works with state-level officials to make decisions over day-to-day HLP implementation in the state. Yet of the people surveyed by DRC-DDG that face HLP problems affecting their ability to return, the vast majority do not seek assistance to resolve them, with the main reasons being ‘security concerns’ and that they ‘didn’t know who to ask’.⁶⁹ At the same time, respondents in Bentiu PoC who had experienced HLP disputes were significantly less likely to try to negotiate directly with the other party than respondents from Bentiu or Rubkona towns. Women and girls face particular barriers to resolving or claiming their HLP rights, owing to cultural norms, which see men as best placed to protect, and therefore own property or assert rights to land in rural areas.⁷⁰ In DRC’s assessment, the vast majority of respondents thought that a woman who owns land should register it in the name of her son or husband and that a daughter should not be entitled to inherit marital property. Women often encounter obstacles when seeking to navigate land administration bureaucracies or processes based on customary law, and, as a result, are often offered worse terms than men when negotiating access or recognised ownership of HLP (I: A9).

3.3.2 Malakal

Unresolved HLP rights have been recurrently and unanimously flagged by agencies and affected individuals alike as the key potential conflict issue that may be escalated by the Malakal PoC transition. PoC residents, who originate predominantly from Malakal town, Panyikang, Fashoda, as well as Maban, Manyo, Renk, and Ulang counties and Jonglei state, may find it difficult to re-claim their homes or property, or land due to their destruction, physical dismantling or occupation. According to UNHCR and IOM Intentions Survey (May 2019), 80% of residents questioned in Malakal PoC own a house or land that has been destroyed, and 52% of those whose house had been destroyed either have no intention of returning or are undecided. In spite of the same survey reporting that 44% of residents surveyed would like to vacate the site, there are indications that PoC residents are choosing to remain within the site. While there is a ‘commuter’ population in Malakal PoC who leave during the day to access markets and livelihood opportunities, which is estimated at 70% of daily measured flow, they return to the PoC at night.⁷¹

Gender and HLP

Up to 80% of displaced households in South Sudan are female headed. In Malakal PoC specifically, 68% of households surveyed in UNHCR-IOM Intentions/Perceptions Survey (May 2019) were female-headed. Women and girls are disproportionately affected by HLP issues, face distinct threats related to displacement, resettlement and return, and are particularly disadvantaged in asserting or claiming rights to land through formal and customary courts (Oxfam: 2019). According to the Ministry of Land, Housing and Urban Development’s ‘National Gender Assessment of the Land Sector in South Sudan’ report (2020), challenges faced by women on HLP issues include obstacles in adjudicating claims via formal or customary institutions, due in part to patriarchal social norms, local contexts and men’s over-representation in national, local administrative and customary institutions. This results in decisions to advance women’s rights to assets not being adopted and limiting their access to productive assets despite women’s disproportionate contribution to the county’s agricultural labour force.

⁶⁹ Deng D, Pritchard M (2019), p 27.

⁷⁰ Ibid, p 32.

⁷¹ Harragin S (2020), “Back on their feet’: The role of PoCs in South Sudan and the potential for returning ‘home’”, Conflict Sensitivity Resource Facility, October (<https://www.csr-f-southsudan.org/repository/back-on-their-feet-the-role-of-pocs-in-south-sudan-and-the-potential-for-returning-home/>)

The volatility and potential for HLP and land disputes (both in relation to physical property and territory more broadly) to escalate into conflict are already apparent in Malakal town. On 5 November 2020, 10 local chiefs were assaulted over a land dispute on Malakal Airport Road, resulting in the injury of four individuals, one of whom was identified by Eye Radio as Paramount Chief of the Chollo (Shilluk) community, Mr. Adam Ajak.⁷² Further, on 13 July 2020 a Shilluk lawyer, Mr. Thomas Aban Akol Ajawin (the brother of Lam Akol), was killed in Malakal, allegedly for investigating a land issue, and on 4 October 2020 two members of the Shilluk community, Juliano Ambros Otwol, Upper Nile Regional Facilitator of the South Sudan Council of Churches and Sabino Arop Okeu, an SSPDF Major General, were killed in Malakal town.⁷³ As reflected in the letter from Shilluk and Nuer leaders in the PoC to UNMISS mentioned above in Section 3.2.2, these killings are seen not as arbitrary criminality. Instead, they were characterized in the letter as perpetrated by Padang Dinka militia groups, with the two men targeted, their role as peacebuilders within their communities and advocating for Shilluk land rights, reconciliation, community dialogue and a reduction in hate speech.

3.4 *Multiple authorities, administrative structures and pathways to justice*

PoC residents and those interviewed for the analysis highlighted that residents of both Malakal and Bentiu PoC sites engage with a range of community-based administrative structures, community leaders and traditional authorities with fluid and overlapping spheres of responsibility and influence which offer them some means of protection, dispute resolution and access to justice. This complex network provides PoC residents with multiple routes for resolving disputes and issues without having to rely on formal national or state government bodies, which lack sufficient capacity and are distrusted by many PoC residents. While established and supported by UNMISS and other actors in the PoCs, members of community-based administrative structures, such as the Community High Committees (CHC), Community Watch Groups (CWG) and Community Emergency Response Teams (CERT), are selected by PoC residents themselves. Community leaders include political and civil society leaders and elders, whose authority is often based on their personal influence and standing among PoC residents. Traditional authorities, in particular Chiefs, predate the establishment of the PoCs and draw on their authority from South Sudan's constitution and the respect they are able to garner from communities by being seen as fairly settling disputes according to customary law.⁷⁴

Although UNMISS works with both community-based administrative structures and the Chiefs' Courts to rule on disputes, the CHCs and Chiefs' courts' adherence to international human rights standards when resolving disputes is not guaranteed. Nonetheless, by drawing support from a broad coalition of community leaders the Chiefs' courts and CHCs have had some success in ruling on cases in a way that is accepted, defuses potential tensions and reduces the chance that victims or their families will take revenge for the crimes committed, even against powerful individuals.⁷⁵ The challenge for the aid community is how to continue to engage with and improve the customary courts, recognising that they do not always meet international human rights standards, however, they are understood by and familiar to many PoC residents and in the absence of access to (or familiarity with) the statutory court system, it is what PoC residents use and can reduce the chance of revenge killings and conflict.

⁷² As reported by an NGO in South Sudan that focuses on independently collecting and analysing security incident data for humanitarians.

⁷³ Letter (2020), 'Subject: Position of PoC Community Leaders in regards to the Systematic cold blood killing of our sons and daughters in Malakal town', Leaders of Internally-Displaced Persons (IDPs) in Malakal PoC, 9 November.

⁷⁴ Established and formally recognized during the colonial period, South Sudan's Constitution entrenched customary law and chiefly authority. The authority of the chiefs does not simply draw from this however, it must be earned by demonstrating allegiance to the community and acting as a fair judge when applying customary law. See Ibreck R and Pendle N (2017a), 'Community Security and Justice under United Nations Governance: Lessons from Chiefs' Courts in South Sudan's Protection of Civilians Sites. *Stability: International Journal of Security & Development*, 6 (1), pp1–17. (<http://dx.doi.org/10.5334/sta.568>)

⁷⁵ LSE (2019), p 6. See also: Ibreck R, Logan H, Pendle N (2017b), 'Advancing Justice: A Local Approach to Courts in South Sudan', JSRP Policy Brief 6, The Justice and Security Research Programme, January.

According to those interviewed for this report and FGD participants, many residents in Bentiu and Malakal PoCs feel they have little access to justice through formal legal processes, with mechanisms in place perceived by PoC residents as being unreliable, lacking capacity or biased. As a result, PoC residents in both sites are wary of the formal court systems, reflecting their general distrust of GRSS and relevant state government officials, many of whom are blamed by PoC residents for their original displacement (according to FGDs conducted in both sites). Formal courts have operated remotely, if at all, for much of the last few years. Simultaneously, UNMISS does not have an executive mandate, meaning it does not have the legal authority to govern populations and prosecute criminal cases, as this would undermine the role and sovereignty of the GRSS. The lack of knowledge about and uncertainty around how to seek resolution through the formal legal system leaves the majority of the PoC population not reporting violent crimes, especially cases of rape.⁷⁶

3.4.1 Bentiu

Access to justice suffered greatly during the civil war, with the formal courts withdrawing from Bentiu in 2015, only returning in a limited, albeit mobile form in 2018. It was not until 2019 that a prosecutor was deployed to Bentiu and the Governor requested the deployment of a permanent high court judge shortly after.⁷⁷ UNMISS sought to remedy this gap by beginning to hold and evict suspected criminals from the PoC, in coordination with community authorities, as well as supporting mobile courts in Bentiu in collaboration with the Ministry of Justice.⁷⁸ Part of the formal legal system, mobile courts are presided over by high court judges and UNMISS makes provision for legal representation for all parties to cases. On the one hand, these formal courts have contributed to the (re)establishment of formal justice services and offer an example of productive state-society interactions between government officials and PoC residents. However, as mobile courts visit the PoC infrequently, they are not very accessible and have limited capacity to meaningfully address the backlog of criminal cases pending.⁷⁹

There is growing evidence that in the PoCs, the Chief's courts, community-based administrative structures like the CHC and other community leaders are filling the gap in access to justice by providing accepted judgments through the Informal Mediation and Dispute Resolution Mechanism (IMDRM), even on politically-sensitive cases.⁸⁰ However, there are challenges to, and limits on, the capacity of mechanisms such as the Chief's courts or the IMDRM. Reflecting on their performance in Bentiu PoC one interviewee observed: "Informal authorities overlap and have challenges, including human rights adherence, women's inclusion, lack of capacity, but they are absolutely key in reducing conflict. Conflict escalates like a fire, but these actors kill the spark at the lower level and at the earliest stage." (I: A6).

Indicating the value of both statutory and customary/informal courts, while only 10% of those surveyed by DRC in the Bentiu PoC, Bentiu and Rubkona towns said that someone in their household had engaged either the customary/informal or statutory courts in the past, of that 10%, 63% of those engaged with customary courts and 67% of those who had engaged with statutory courts indicated that the experience was positive.⁸¹ There are barriers to their use however, as using the customary/informal courts can incur fees and settling disputes or cases through both the formal and customary/informal systems can result in the public exposure of sensitive or private matters. This

⁷⁶ Willems R, Deng D (2016), 'Access to Justice: Perceptions of and Experiences with Violent Crime in South Sudan', Septemher, p 33 (<https://protectionofcivilians.org/wp/wp-content/uploads/2017/03/access-to-justice-in-south-sudan-final-report.pdf>.)

⁷⁷ Amnesty International (2019), "Do you think we will prosecute ourselves?" No Prospects for Accountability in South Sudan, May, p 17 (<https://www.amnesty.org/download/Documents/AFR6511052019ENGLISH.PDF>)

⁷⁸ Ruai J (2019), 'Mobile Court in Bentiu Reduces Case Backlog and Whets Appetite for Permanent Justice', UNMISS, 28 September (<https://unmiss.unmissions.org/mobile-court-bentiu-reduces-case-backlog-and-whets-appetite-permanent-justice>)

⁷⁹ Deng D, Pritchard M (2019), pp 35-36, p 45.

⁸⁰ LSE (2019), p 3.

⁸¹ Deng D, Pritchard M (2019), p 2.

might explain why in cases of civil disputes, respondents reported they were five times more likely to consult with family, friends or NGOs to find a solution.⁸²

3.4.2 Malakal

Within Malakal PoC, a CWG, Block and Sector leaders, Women's Committee, PoC Community Coordination Committee (PCCC), Youth Leadership body and Chief's courts are in place. Similarly to Bentiu, this requires Chiefs to work alongside camp administrators, peacekeepers and humanitarian actors in an effort to uphold justice that both satisfies customary expectations and conceptions of justice yet does not encroach on individuals' rights. While these community-based administrative structures are clearly valued by PoC residents and described as 'influential' (FGD: M5), particularly when led by traditional authorities, it was also recognised that they have limitations. A focus group of younger men in the PoC suggested that "there should be a formation of inclusive Judiciary, parliament and executive of the State so that law and order is restored and accountability [is re-instated]" (FGD: M5). Following the first outbreak of fighting in South Sudan in 2013, due process for both victims and offenders in Upper Nile state has been limited, and, as a result, offenders have often been detained for extended periods without a trial and victims have seen little access to justice in relation to violations they have experienced. Although UNMISS supported the establishment of the mobile formal court in Malakal PoC with a total of 12 cases reviewed and three convictions made, it ended in September 2019, leaving a vacuum and continuing an culture of impunity and a lack of access to justice for many.⁸³

3.5 *PoC residents' human safety and security concerns*

Within IOM's Protection Profiling exercises conducted between 2018-2020 across all five PoC sites, respondents cited security concerns as the main reason for not leaving the PoC sites.⁸⁴ Security incidents referenced within this report are based on security data, FGDs, interviews conducted for this analysis and findings from the Protection Cluster's Protection Risk Assessment (PRA) conducted concurrently with the conflict sensitivity analysis.

3.5.1 Bentiu

PoC residents in Bentiu face a number of human safety and security issues in their daily lives. These range from incidents of revenge killings, theft, armed clashes between youth gangs, SGBV, multiple cases of attempted or successful incursions into the site by armed individuals, and incidents of the PoC perimeter being damaged and/or stolen, particularly in February and March 2020.⁸⁵ Currently the perimeter fence, which is patrolled by a private security company alongside the joint South Sudan National Police Service (SSNPS)/SPLM-In Opposition (SPLM-IO) police unit, is porous and enables people to enter without controls (PRA Findings). A 2019 DRC-DDG survey in Bentiu and Rubkona found that Bentiu PoC residents were three times as likely as residents of Bentiu or Rubkona towns to report that a member of their household had been raped in the last five years, and also being more likely to report abductions and killings of household members within the same period.⁸⁶ In December 2020 there was a significant outbreak of violence between youth in Bentiu PoC, resulting in one fatality and four individuals injured.⁸⁷

⁸² Ibid, p 27.

⁸³ Adwok S (2019), 'Mobile Court Concludes Proceedings in Malakal', UNMISS, 23 September (<https://unmiss.unmissions.org/mobile-court-concludes-proceedings-malakal>)

⁸⁴ UN (2020), p 5.

⁸⁵ As per reported data from an NGO in South Sudan that focuses on independently collecting and analysing security incident data for humanitarians.

⁸⁶ Deng D, Pritchard M (2019), 'Cracks in the Foundation' Rapid Assessment of Housing, Land and Property (HLP) Issues in Bentiu, South Sudan, Danish Refugee Council, October, p 38.

⁸⁷ As per reported data from an NGO in South Sudan that focuses on independently collecting and analysing security incident data for humanitarians.

Key informants and FGD participants raised concerns that security incidents will continue and even increase with the PoC transition. A number of those interviewed for this report suggested that the temporary withdrawal of UNPOL from the site due to COVID-19 fuelled further insecurity at night, and in isolated places (I: A8). This was confirmed by a PoC resident: “We feel safe in the day but not during the night due to insecurity within [the PoC]. There’s no more protection or patrolling done by the UN Police in the site and sometimes clan revenge killings happen. People can normally come from outside the PoC to kill inside the site.” (FGD: B9). Two aid workers based in the PoC estimated there are at least 70 incidents of looting and armed robbery each month in the site (I: A1). Male PoC residents also highlighted that gaps in the site perimeter fence contribute to insecurity and leave residents vulnerable to armed incursions and criminality driven by people breaking into the site (FGD: B6, B7).

During FGDs and interviews conducted for this report, participants mentioned their doubts about the ability of UNMISS, as well as state and national governments, to protect residents both inside and outside PoC sites. To establish a more reliable and trusted means of protecting PoC residents, the joint SSNPS/SPLM-IO police unit was formed in July 2020 with its police station at the entrance to the Bentiu camp. It has been tasked with patrolling the camp perimeter and, with 36 personnel (18 SSNPS and 18 SPLM-IO) as of January 2021 the unit has reportedly dealt with a number of security complaints since it was established. The joint police force receives weekly capacity building sessions from UNMISS Human Rights Division (HRD) on topics such as international human rights and humanitarian law, and the force publicises regular monitoring reports (I: A11). According to the Protection Cluster’s PRA Findings there have been occasional incidents of harassment by the joint police force, including taxing and threatening IDPs. Among those interviewed for the analysis, there was ambivalence about the joint force’s effectiveness, with one respondent indicating that coordination with UNPOL has sometimes fallen short and confusion between the joint police and UNPOL has led to cases where neither force has responded to reported crimes (I: A8). A concern was raised by an interviewee for this report regarding the capacity of a joint police force with 36 personnel to protect a population of approximately 100,000 residents, even with the assistance of Community Watch Groups (I: A7). In other interviews, it was noted that some PoC residents are reporting their criminal complaints to joint SSNPS/ SPLM-IO police station, either by phone or in person (I: A12). Following the transition, the joint-police force will work closely with the Community Watch Groups (CWGs) to provide security throughout the PoC, though it is not yet clear how this will work in practice (I:A8). However, there are varying levels of trust among PoC residents in the CWGs, whose members are selected by PoC residents themselves, with it being reported that the CWG had targeted youth for beatings and beaten young women for wearing trousers (PRA Findings).

3.5.2 Malakal

The security concerns raised during the information gathering for this analysis related primarily to the recent killings of prominent Shilluk community members, as well as fears for the future safety and security of PoC residents after the transition. Participants in Malakal FGDs unanimously expressed concerns for their safety and security when UNMISS withdraws its troops and UNPOL from the site, with a key fear being that there will be inadequate security provisions instated. One FGD participant stated that “UNMISS was like our shield for protection and once this shield is removed, we will expect nothing but renewed suffering” (FGD: M1). Another noted that “every family in the PoC has lost their beloved ones at the hands of the current government”, while a third remarked that, without UNPOL’s presence, “the government will leave the PoC gates open and the Dinkas will come and kill us.” (FGD: M2, M5).

The concerns about the prospect of a SPLM-IG appointee for State Governor was observable within several FGD groups, with one FGD suggesting a joint inclusive police unit should be formed, with mixed ethnic representation, that it receives training on human rights and be ready to deploy in response to security concerns arising in both Malakal town and the PoC site (FGD: M5). Similarly, participants across all five FGDs stated that the safety of women and children, described as ‘powerless’ by some, was a key concern. Women and children are considered to be more vulnerable

and exposed to the threat of harassment and sexual assault by the military and would be unable to escape quickly should conflict erupt. Women in particular noted that without an adequate UNPOL presence there will be no forces to escort them while they collect firewood, compounding their vulnerability to gender-based violence (GBV), particularly rape. Young men in the PoC also voiced fears about security, citing forced recruitment, the high prevalence of arms in Malakal town and potential lack of control resulting in the influx of guns and weapons into the PoC after the site's transition (FGD: M3, M5).

3.6 *Competition over resources*

The civil war destroyed much of the lands and infrastructure in Unity and Upper Nile states, along with access to resources and livelihood prospects. As a result, the control of, and access to, resources, food and livelihood opportunities is a key driver of conflict, particularly when access is perceived by some as inequitable. As the PoC transition may shape how aid resources are distributed both within and outside of PoC sites, the process risks exacerbating such underlying tensions.

3.6.1 Bentiu

Aid is a significant resource in the political economy of Bentiu town and Rubkona County, and its distribution has historically been shaped by the conflict dynamics of the county. Most large agencies operate under UNMISS protection following their relocation, alongside civilians, to the PoC. However, this has contributed to the perception among Bentiu town residents that those living in the PoC are disproportionately prioritised to receive assistance. One interviewee for this report based in Bentiu commented that "outside of the PoC, neighbouring residents consider those within the PoC to be 'well taken care of', and that they are 'not equals' (I: A1). However, many residing in Rubkona were previously PoC residents, and so identify to some extent with PoC residents." (I: A1). This tension may also be due to food insecurity and lack of resources in Bentiu and surrounding areas. During the IOM Protection Profiling exercises (2018, 2019, 2020) Bentiu IDPs have cited food insecurity as one of the key reasons for not leaving the PoC site.⁸⁸ This sentiment was echoed in FGDs and interviews for this report, where participants referenced the ongoing scavenging of PoC residents, as well as those living outside the PoC site, in search of food. It is not only the distribution of tangible assistance that causes tensions among residents inside and outside the PoC. Grievances over NGO hiring practices and opportunities is also seen in Bentiu PoC, the Pariang refugee camps and across Unity State. This resentment can boil over, as seen most recently in the physical attack on the World Relief Compound in Koch on 3 November 2020 over tensions regarding NGO hiring practices.

3.6.2 Malakal

Given the scarcity of resources, economic crisis and disruption to services in Malakal town, perceptions of unequal distribution of aid assistance between residents of the town and the PoC has also been flagged by many of those interviewed as a key source of tension within Malakal. According to NGOs operating in both the PoC and town, there the sentiment among those residing in Malakal town that aid programming disproportionately benefits those residing in the PoC site, while the lack of resources in town is neglected. As highlighted by Simon Harragin, a Dinka trader (and former army officer) in Malakal town referred to the PoC population as in a 'different country' given its perceived abundance of aid assistance.⁸⁹ According to an interviewee for this report, the COVID-19 response has fed into this perception, as Malakal town residents have suggested that better handwashing facilities

⁸⁸ UN (2020), p 5.

⁸⁹ Harragin S (2020), 'Back on their feet': The role of PoCs in South Sudan and the potential for returning 'home', Conflict Sensitivity Resource Facility, October, p 4 (<https://www.csr-southsudan.org/repository/back-on-their-feet-the-role-of-pocs-in-south-sudan-and-the-potential-for-returning-home/>)

and masks are provided to PoC residents, and their continuing claims that the sorghum PoC residents receive is of better quality and quantity than sorghum provided to town residents (I: A10).⁹⁰

Livelihoods, markets and resources in Malakal town have been significantly affected by conflict, flooding, the continued depreciation of the South Sudanese Pound (SSP) and the corresponding inflation. Reduced livelihoods prospects, which have left many in Malakal town also needing assistance, could be linked to increased cases of theft and other criminality, as well as incidences of illegal taxation. The existing pressures on the town's limited resources was also compounded by the arrival of IDPs from Jonglei seeking to access to the market in Malakal, which put further pressure on Malakal's already overstretched food resources. (I: A5).

4 Potential impact of the transition on conflict dynamics

4.1 Violence against remaining and outgoing PoC residents

In both the Bentiu and Malakal PoCs, as reported by the UN in September 2020, there has been an increase in security incidents since the UNMISS and UNPOL patrols in PoC sites were reduced due to COVID-19 social distancing recommendations.⁹¹ As noted in both FGD and those interviewed for this report, the withdrawal of UNMISS troops and UNPOL could lead to further increases in security incidents after the sites transition. UNMISS has indicated they will 'provide technical assistance to SSNPS to strengthen law enforcement, security incident response, and community policing capabilities' in addition to training on International Human Rights Law and International Humanitarian Law Standards (MoU Annex I: UNMISS and Central Equatoria State Government).

4.1.1 Bentiu

According to the UN and human rights organisations, both the SPLA and the SPLA-IO, as well as their associated militias, deliberately targeted civilians in the war – displacing them from towns and villages, looting and destroying property and livestock, abducting civilians and engaging in executions and rape.⁹² PoC residents, many of whom previously fled the SPLA offensives in southern Unity, view both the GRSS and the state government as key threats to their safety and reported fearing they would be exposed to violence once again when the site is transitioned (I: A1, A2, A3, A6). This was echoed in the Protection Cluster's PRA Findings, which found that male residents were reluctant to leave the site following the transition due to fears they could be killed because they did not join the SPLA or its militias during the civil war. As noted above, key figures in the current state administration are alleged to have played prominent roles in the SPLA's military campaigns in Unity, particularly in the south of the state, between the start of the civil war in December 2013 and 2018.⁹³ It was reported that community leaders urged PoC residents not to meet with the new Governor on his appointment in June 2020 (I: A1), while, at the same time, the Governor was criticised by PoC residents making insufficient effort to gain their trust or initiate peace initiatives (FGD: B4).

One FGD participant explained: "PoC residents were forced to come to the PoC site by the Government. The same Government who tried to kill us should not protect me...We do not want to be protected by the same Government who killed and tortured us" (FGD: B2). Focus groups of men in the site relayed their fears that Government forces stationed within the site could engage in looting

⁹⁰ Perceptions among targeted and non-targeted populations of inequitable aid distribution among PoC populations is notably explored within Chapter V of the report Briggs C, Monaghan L (2017), 'Protection of Civilians Sites: Lessons from South Sudan for Future Operations', Norwegian Refugee Council, May, p 44 (https://www.nrc.no/globalassets/pdf/reports/poc-sites_lessons-from-south-sudan-copy.pdf)

⁹¹ UN (2020), p 5.

⁹² UNMISS-OHCHR (2018) p 2. See also: Amnesty International (2018), 'Anything that was breathing was killed- War crimes in Leer and Mayendit, South Sudan', September (<https://www.amnesty.org/en/documents/afr65/8801/2018/en/>); Human Rights Watch (2015) "They Burned it All" Destruction of Villages, Killings, and Sexual Violence in Unity State South Sudan', July (<https://www.hrw.org/report/2015/07/22/they-burned-it-all/destruction-villages-killings-and-sexual-violence-unity-state>)

⁹³ Craze J, Pendle N (2020).

and robbery to secure resources while others feared that their weapons would be shared around the site, fuelling criminality, intercommunal tensions and revenge killing (FGD: B2, B3). Another focus group of young women suggested that the government (not specified if this referred to national or state government) might use any backlash or opposition to their control to justify repressive or abusive measures against PoC residents (FGD: B5).

4.1.2 Malakal

The transition of the site could result in significant numbers of residents leaving the PoC to return to their places of origin or habitual residence, resettle within Upper Nile State, relocate to Juba, or become refugees by crossing the border into Sudan (I: A3) or Uganda (PRA Findings). Once sites are under the jurisdiction of the Upper Nile State Government, PoC residents report fears that they could be forcibly displaced from the site, physically assaulted or experience other violations of their human rights. The fear of security incidents and increased lawlessness following the withdrawal of UNMISS' troops and UNPOL was raised in FGDs, with a group of younger male residents stating they "have no option [to leave] [...] as staying in the PoC is the only safe place for them" and that "criminal elements [will increase] as the absence of UNPOL could allow people to commit crimes at will" (FGD: M:5). Given that a number of young men in the Malakal PoC site are former fighters, there is a concern that they would be particularly threatened by this. Some analysis interviewees noted that young men could have little option but to join armed groups of youth in rural areas to engage in cattle raiding to secure a livelihood, given social pressures and assumed roles of young men (I: A2). The perceived threats and insecurity expected to follow a transition suggest that subsequent returns or resettlements by Malakal PoC residents would be neither safe nor voluntary within the current context.

4.2 *Increased Housing, Land and Property (HLP) disputes in areas of concern*

While the PoC transition does not necessitate the departure of PoC residents and the link to HLP is indirect, some PoC residents may decide to leave owing to some of the human safety and security concerns outlined in Section 4.1. In this case, long-standing HLP issues and disputes may come to the fore, particularly if PoC residents choose to travel to former lands and homes, many of which have since been re-occupied, rather than new settlements. With HLP structures and institutions lacking capacity in both locations to solve complex and highly contentious disputes, HLP conflicts could escalate into broader, intercommunal disputes about land ownership.

4.2.1 Bentiu

Owing to safety concerns raised by PoC residents following the UNMISS transition, some aid workers in the PoC site expect a significant proportion of PoC residents to leave the site, which could involve either resettling elsewhere or returning to their places of origin or habitual residence in Rubkona County or southern Unity State (I: A1, A6). In this case, HLP issues will have considerable impact on the outcome of the transition as PoC residents seek to reclaim their former properties or access to land (I: A8). Of those surveyed by DRC-DDG in Bentiu and Rubkona area, 92% of respondents who experienced an HLP issue opted not to seek assistance in resolving it, with the main reasons being 'security concerns' and 'didn't know who to ask'.⁹⁴ If, as a result of the PoC transition, more people are willing to seek resolution of their HLP issues, there is a risk that the very limited capacity of available state authorities, such as the County Land Authorities, could be overwhelmed, resulting in disputes and violence between PoC residents who have returned home and those currently residing in those areas. If HLP issues are left unresolved they could exacerbate pre-existing intra-ethnic tension, particularly if disputes intersect with current the conflict dynamic among Nuer sub-groups. Furthermore, the ownership status of the houses and plots within the PoC site is yet to be determined post-transition. Many these have been occupied by the same families for years, some of whom have invested in buying or even building entirely new houses on their plots. The ownership of the land the

⁹⁴ Deng D, Pritchard M (2019), p 27.

PoC sits on is a sensitive issue as it will directly determine whether residents are able to buy, sell or rent structures and for how much.

4.2.2 Malakal

As noted above, should the PoC transition lead to the departure of a large number of residents who then seek to resolve outstanding HLP issues, which could result in residents being subjected to physical attacks, legal obstacles or secondary displacement. This was highlighted frequently in FGDs, wherein PoC residents claimed they would have to ‘fight’ to reclaim their former homes (FGD: M5). Many Malakal PoC residents do not have the documents needed to support their rightful legal claim to their former homes, presenting further challenges. While disputes should, in principle, be resolved by the Land Division of the High Court in urban areas as per Chapter XV (Articles 91-99) of the Land Act (2009), this structure is not functional in Malakal. At present, the Mayor has been tasked with this, as per the broad roles allocated to him under the Local Government Act. However, it is not clear how claimants would be able to claim or demonstrate their ownership, given that IDPs who tried have reported being asked to produce a title deed, which may have been lost or destroyed when they fled their homes (I: A9). A significant movement of PoC residents back into Malakal town could trigger conflict given that many IDPs in Malakal PoC come from Malakal town and few report wishing to live in rural areas (I: A5). As noted by Joshua Craze in his 2019 report, there have been previous attempts by Padang Dinka administrations and militias to push Shilluk residents out of the PoC in the hopes they would relocate to another camp on the west bank of the Nile. Many PoC residents have stated they do not intend to do so, perhaps in fear that doing so would legitimise a Padang Dinka ‘land grab’ (Craze’s term), thereby undermining Shilluk claims to territories on the east bank of the Nile, as well as the fact that other ethnic groups currently occupy the west bank.⁹⁵ To this end, many Shilluk PoC residents reportedly consider that the PoC is their last foothold of the east bank, with many feeling they will not be able to reconcile with the Padang Dinka (I: A5).

4.3 *Increased conflict over resources*

The current level of conflict over resources such as assets, property and cattle within both Bentiu and Malakal PoC sites and surrounding areas is significant, and there have been reported concerns around the fluidity of movement in and out of PoCs with UNMISS’ transition (I: A12). Within the 2021 HNO/HRP, OCHA identifies that financial pressures and access to livelihoods opportunities are particularly pertinent to those residing both inside Bentiu and Malakal PoC sites and their surrounding areas, where economic opportunities are largely related to activities by aid agencies. Reduced access to economic opportunities could fuel tension and competition among youth in these areas, and aspirations for employment could increase as the peace agreement is implemented. A common sentiment among youth in both Bentiu and Malakal is that other South Sudanese are ‘taking their jobs’ (I: A4), and a future transition could fuel competition for increasingly scarce opportunities and resources.

4.3.1 Bentiu

In Bentiu PoC, the distribution of aid resources, whether in terms of employment or goods and services, is a politically sensitive issue and one that is closely monitored by communities. Focus groups in Bentiu expect that humanitarian services will be restricted following the PoC transition, due to both declining security conditions and fears that the Government could seek to shift resources out of the PoC to meet its own priorities, as well as potential taxation of PoC residents and aid agencies themselves (FGD: B2, B4). At the same time, one focus group of community leaders highlighted their concerns that the state government will seek to leverage its influence over the site to open recruitment opportunities in camp management and in the aid system for its allies and people living in Bentiu and Rubkona towns (FGD: B1).

⁹⁵ Craze J (2019), p 64.

4.3.2 Malakal

On 7 September 2020, armed individuals in military uniform raided 200 cattle approximately 2km south of Malakal PoC site.⁹⁶ This large-scale theft was noted in FGDs, with a PoC resident suggesting that such incidents could escalate to more ‘ill-minded missions in the PoC’ in the context of UNMISS’ reduced presence in the PoC (FGD: M5). The potential for an increase in theft and armed robberies after the PoC transition is concerning, particularly given the prevailing perception among those outside the PoC that PoC residents are prioritised and receive additional assistance.

4.4 *Concerns over reduction in aid provision*

In Malakal, a resident stated ‘aid agencies should continue to provide services and advocate with their respective donors to remain committed to supporting the vulnerable population in the PoC even when the status of the PoC is changed in [the] future’ (FGD: M4), and other residents in Malakal have reported interpreting the PoC site transition as being synonymous with the withdrawal of aid services (PRA Findings). In Bentiu, PoC residents have stated the need for psychosocial services in the site to help residents process trauma (PRA Findings). As noted, slow progress on the R-ARCSS implementation is concerning for many, and significant progress, in particular around the implementation of the security arrangements and the establishment of the Hybrid Court, should be seen as key milestones to guide decision-making around reducing support to transitioned sites.

4.5 *Inadequate and inequitable communications*

The lack of sufficient and meaningful communication with PoC residents on the status of the UNMISS transition was raised by all focus groups and within 14 interviews for this report, which could leave some PoC residents with insufficient time to plan any potential exit from the site or fearful of violence, as elaborated on under Section 4.1. To this end, on 16 September 2020, a letter from Malakal’s camp management expressed discontent to UNMISS regarding the lack of transparency on the transition process, and the fact that residents are obtaining information predominantly from the media. On 12 October 2020, the UN SRSG visited Malakal and Bentiu PoCs to meet with Camp Community High Committees to discuss the transition process. During the Malakal PoC FGDs conducted with younger women, none of the six participants reported being aware of the planned transition, and with older women, only half of the participants reported being aware of the planned transition. UNMISS is developing transition plans for both sites (with DRC supporting on the community engagement aspect in Malakal) that, at the time of writing, are receiving inputs from the Transition Taskforce and humanitarian partners, and will be translated for accessibility for PoC residents (I: A13).

5 Operational implications

As outlined above, there are several potential causes of conflict in both the Bentiu and Malakal PoCs, their surrounding areas and potential areas of return, which aid agencies should be aware of to mitigate their potential negative effects and inform decision-making throughout the transition process.

5.1 *Increased bureaucratic and access impediments*

Annex I of the MoU between UNMISS and Central Equatoria State Government outlines that the government will ‘ensure unimpeded access to the sites for the provision of protection and humanitarian assistance’, and, as such, it is assumed that similar terms will be included in MoUs between UNMISS and the Unity and Upper Nile state governments. In several interviews and FGDs, respondents voiced concerns that the transition of Bentiu and Malakal PoC sites to IDP camps under state government control could allow the GRSS or relevant state government authorities to influence

⁹⁶ As reported by an NGO in South Sudan that focuses on independently collecting and analysing security incident data for humanitarians.

or restrict the actions of aid agencies in the PoCs, which could shape how aid is prioritized and distributed, as well as perceptions over who is benefiting. Specific concerns identified include the forced relocation of aid actors out of PoC sites, bureaucratic impediments, reduced access to former-PoC populations and curtailed NGO advocacy.

5.1.1. Bentiu

With the administration of Bentiu's PoC site handed over to the state government, aid agencies will be dependent on the state authorities for both access to PoC residents and protection. This could be leveraged by authorities to inhibit analysis or advocacy that is critical of the authorities' management of the site. Analysis interviewees cited past examples where aid agencies were forced to make concessions which negatively impacted on conflict dynamics and beneficiaries, including decisions not to provide services to returnees from Sudan or to publish a report investigating allegations of sexual assaults by uniformed forces or their allied militias outside Bentiu PoC (I: A2). If this trend continues or deteriorates post-site transition, aid agencies' capacity to push back against policies or practices implemented by government officials that erode humanitarian conditions and exacerbate conflict dynamics could be limited.

5.1.2. Malakal

Similar to Bentiu, concerns were raised among those interviewed for this report KIs that the future Upper Nile State Governor or the Relief and Rehabilitation Commission (RRC) may seek to influence access to former-PoC site in ways that shape population movements or the geographical distribution of ethnic groups in ways that drive conflict and push a political agenda. Additionally, analysis interviewees raised concerns relating to possible additional bureaucratic requirements, and the subsequent conflict stoked among male youth (whose demographic is more likely to seek employment), if the state government requires agencies to relocate their offices from the PoC to Malakal town (I: A2; A13). It was reported that SPLM leaders at all levels of government have suggested that agencies in the PoC are 'IO sympathisers' perpetuating the 'dependency' of PoC residents by providing food, medical services and shelter materials to PoC residents while ignoring those in need in Malakal Town. The current practice is that when NGOs in Malakal town, but not the PoC, recruit a new staff member the incoming staff is required to either have an employment card, or pay a fee to get a card, a holdover from a practice instituted by the previous Central Upper Nile state under the 32 state system. Requiring an employment card adds a bureaucratic step to the hiring process, could allow state authorities to influence who can be hired and contravenes the principles of a free, fair and transparent recruitment process as upheld by NGOs and UN agencies. Despite OCHA's attempts to negotiate on this issue, it has persisted, and, as a result, NGOs operating in Malakal town increasingly advertise with the shortlisting requirement contingent on the possession of an employment card.

6 Recommendations

6.1 *Immediate priorities*

Donors

1. **Donors should continue to fund activities in PoC sites for as long as residents choose to remain there, as this will contribute to ensuring safe, dignified, informed and voluntary returns or resettlement.** Withdrawing or reducing assistance could incentivise returns before conditions in areas of origin or habitual residence could support a conflict sensitive returns process. Continuing support in the PoC sites was raised by many of those interviewed for this analysis, and many PoC residents were concerned that the transition could result in a significant reduction in, or termination of, assistance. The continued provision of services in PoC or transitioned sites could slow the rate of departure, easing the pressure on properties, resources and services in areas of potential return or resettlement, allowing aid agencies and donors the time needed to conduct

conflict sensitivity assessments in these areas and establish the necessary infrastructure to facilitate their economic and social re-integration.

2. **Further research addressing HLP issues needs to be funded that seeks to operationalize commitments by the GRSS to ensure ‘access to an effective mechanism that restores IDP’s housing, land and property and/or provides them with compensation’ (GRSS 2017:8).** This research would be particularly relevant for Malakal, and it should be used to inform donors and others on how to best support the adjudication of HLP issues and ensure that any mechanism addresses PoC residents’ fears around lack of reliability, capacity and bias.

Aid Agencies

3. **Ensure regular communications and inclusive consultations with PoC residents on the status of, and planning for, the transition.** FGD participants within both sites consistently identified insufficient meaningful consultation and communication on the transition process, timeline and implications on service provision across both PoCs. Many PoC residents obtain information on the status of the transition from media sources, which may or may not be correct, and aid agencies could fill this gap with timely and correct information. While it is noted that a more detailed timeline and planning document is being developed, it is critical that this an inclusive consultative process that engages a cross-section of PoC residents. Once transition plans are finalized, aid agencies should share information in a manner that allows for PoC residents to not only receive information on the process and its implications, but also understand how decisions were arrived at and those who were engaged in the decision-making process.
4. **Provide regular updates on the the security situation in areas of potential resettlement or return.** According to IOM, Malakal PoC residents highlighted the need for additional information on security about their preferred area to which they would return or resettle.⁹⁷ Information provided through the media or social media is at times incorrect and providing regular information will allow those considering leaving the PoC to make informed decisions based on up to date and credible information.
5. **Consider the unique challenges of female and child PoC residents** in lack of access to income, information and former properties, and increased risk of sexual violence when planning and implementing of programmes, which should be based on gender-sensitive analysis of risk and analysis of risk to child residents.

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6. **UNMISS’ transition plan for both Bentiu and Malakal PoCs should be published and made available to all aid agencies and community leaders.** Once the transition plan has been published, time must be given for effective communication between PoCs residents and humanitarians/ UNMISS to reduce tensions and ensure that relations with camp leaders are two-way rather than just as implementers of UNMISS/camp management policies. PoC residents should receive assurance that a) PoC sites will accommodate the more vulnerable members of their family while they go to places of origin or habitual residence to lay the foundation for the reparation of their homes and livelihoods; and b) that UNMISS’ protection mandate and capacity assigned to protection will adapt accordingly should the R-ARCSS collapse.
7. **UNMISS should also focus its patrols on areas of possible resettlement or return to monitor any potential conflict that may arise.** If there is deployment of troops from PoCs to potential hotspots in areas such as Warrap, Greater Equatoria and Jonglei, this would enable UNMISS to have stand-by capacity to deploy Quick Reaction Forces, in addition to protect those in transitioned sites,

⁹⁷ IOM-UNHCR (2019).

should major conflict incidents arise.⁹⁸ Greater use by UNMISS of Temporary Operating Bases, Long-Range Patrols and deployment of civilians outside of state headquarters would help to build trust amongst local communities and better understand the local drivers of conflict outside state capitals.

8. **UNMISS should continue to actively support the facilitation of humanitarian access** as part of their mandate and ensure the protection and safety of humanitarians providing services in redesignated PoC sites. This is referenced in Annex I of the Summary of the Memorandum of Understanding (MoU) between UNMISS and the Central Equatoria State Government in September 2020, whereby the state government ensures unimpeded access of humanitarians to provide services in the site, however should also be included in the upcoming MoU between UNMISS and Upper Nile State Governance.
9. **UNMISS should ensure that all incoming or remaining authorities in the PoC site are fully prepared for the transition.** In order to ensure transitioned sites are civilian in character, free of arms and to build confidence amongst camp populations, UNMISS should continue to provide rapid capacity building in-line with UN Human Rights Due Diligence Policy (HRDDP) to the South Sudan National Police Service and Bentiu joint police force. The UNDP training module manual (2013) would be a useful document. As an intermediary measure, the facilitation of self-governance of PoCs under traditional leaders and community-based institutions established by PoC residents would be preferable to immediately allowing SSNPS to police PoCs and would further seek to address the immediate protection concerns of PoCs residents.

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10. **Movement of PoC residents to urban areas, whether in areas surrounding the PoCs or otherwise, should be supported** if it coincides with the wishes of IDPs, even if this is not in-line with previous government policies concerning 'taking the town to the people'.⁹⁹ PoC residents may wish to leave the PoC but not immediately to return to their areas of origin and may choose to re-locate to urban areas in search services or livelihood opportunities until services in areas of origin are improved. Ultimately and as per international standards, all decisions should be in-line with the core principles of IDPs having a safe, dignified, informed and voluntary returns or resettlement process.
11. **State authorities should retain established community-based administrative structures in the PoCs and participate in regular coordination meetings to build a positive relationship with aid agencies and PoC residents.** During key informant interviews and focus group discussions in both PoCs, concerns were raised about the transition to state government administration. By continuing to support community-based administrative structures and regularly engaging in coordination meetings, the state authorities could demonstrate a commitment to working collaboratively with PoC residents and aid agencies in managing the PoC site.

6.2 Longer term considerations

Aid agencies

12. **Support to areas of potential resettlement or return** would contribute to creating conditions conducive for voluntary movements, can offer livelihood opportunities and mitigate social tensions. This is particularly important given that UNMISS and Central Equatoria authorities

⁹⁸ Within Annex II of the Summary of the MoU signed between UNMISS and Central Equatoria State Authorities in September 2020, the UNPOL Quick Response Team will support the SSNPS 'in the event of an emerging security situation in the event of an emerging security situation within IDP camps that poses a significant threat to UNMISS, its personnel or assets and the personnel and assets of other humanitarian entities which is beyond the capacity of SSNPS to manage'

⁹⁹ Kindersley N (2019), 'Returns and Peace in South Sudan: Challenges, opportunities and the way forward', Conflict Sensitivity Resource Facility, December, p 4 (<https://www.csrfsouthsudan.org/repository/returns-and-peace-in-south-sudan-challenges-opportunities-and-the-way-forward/>)

stipulate in the MoU that no forced evictions will take place following the transition, Areas of potential resettlement or return should be identified and prioritised on the basis of PoC residents' preferences, rather than the GRSS, state governments or UNMISS. This would also help to avoid generating pull factors to areas that could remain insecure, as witnessed in the 2018 offensive on southern Unity, when some of those displaced by fighting in Leer and Mayendit had left the PoC, only to be re-displaced by military operations. Ultimately and as per international standards, all decisions should be in-line with the core principles of IDPs having a safe, dignified, informed and voluntary returns or resettlement process.

- 13. Assistance provided to areas of potential return or resettlement should include a focus on youth (both young men and young women), who have been significantly impacted by conflict and economic adversity.** Livelihood opportunities and education programming to give youth opportunities to positively contribute to their communities and generate an income. This would also potentially contribute to increasing young women's ability to support themselves or their families, and reduce criminality in Malakal town, given feedback in FGDs amongst male residents that, post-transition, they may feel little choice but to join groups of young men in rural areas engaged in activities such as cattle-raiding in order to secure a livelihood.
- 14. Assistance should be provided in areas of potential returns or resettlement to avoid creating or exacerbating tensions between former PoC residents and existing community residents.** This should include conducting conflict sensitivity assessments in areas of likely resettlement or return to understand the conflict risks. Assistance should be provided to returning PoC residents and external communities equitably, which should be reflected within targeting criteria. Improving access to services in potential areas of return or resettlement in Unity State, such as Bentiu town, Rubkona, Koch and Guit, or Jand in Upper Nile State, including Malakal town, Fashoda, Panyikang, could help to ensure that they are able to meet the needs of both current residents and potential future residents, helping to mitigate tensions and create conditions that are conducive for voluntary returns or resettlement.
- 15. Where possible, peacebuilding and social cohesion approaches should inform and be integrated into all ongoing and upcoming programmes within PoCs and areas of return or resettlement in close conjunction with local peacebuilding actors.** Peacebuilding approaches may include: incorporating equity into targeting criteria; bringing together community leaders to negotiate shared commitments to facilitate access and non-violence; delivering joint IDP-host community programming; using project oversight bodies to bring together representatives of diverse communities; prioritising support to bodies that are already connectors between communities; integrating cultural and recreational activities that bring communities together alongside project events; mental health and psychosocial support and inter-communal interdependency-based livelihood strategies as de-escalation methods in communities in which tensions are very volatile.

In its *Returns, Recovery and Resilience Strategy 2019-2022*, IOM's programmatic focus for Malakal and Greater Upper Nile identifies 'addressing housing, land and properties issues in Malakal town through a peacebuilding approach' and 'social cohesion activities such as recreational activities and dialogue between the leaders of the PoC community and Malakal town' as key activities.¹⁰⁰ During FGDs Malakal PoC residents identified peacebuilding and social cohesion programmes as a pre-requisite to the site's transition, noting it was important to 'bring the two divided communities together [...] to better understand each other's perspectives on land grabbing.' (FGD M:5). Working with and through existing community structures and peacebuilding actors will be important and national NGOs (i.e. UNYDA and Hope Restoration) are implementing social

¹⁰⁰ IOM South Sudan (2019), 'Return, Recovery and Resilience Strategy 2019-2022', August, p 19. <https://southsudan.iom.int/media-and-reports/other-reports/iom-south-sudan-return-recovery-and-resilience-strategy-2019-2022>.

cohesion programmes in Malakal PoC and town, however more agencies could integrate intentional and long-term peacebuilding elements into their programming.

16. **Cluster leads should support agencies to ensure programmes in the midst of the transition are implemented in the most conflict-sensitive way** according to their technical operations, including coordination of activities, sharing of analysis, and recognising opportunities to support peacebuilding. As of now, the CCCM Cluster is encouraging members to adopt more conflict-sensitive approaches and share relevant lessons and recommendations through the upcoming transition, however more could be done to coordinate analysis sharing, programmatic planning and potential support to areas of resettlement or return.
17. Where this has not already been done by aid actors, **community-based authorities and leadership structures (i.e. CWGs, CHCs, CERTs) that have operated within PoC camps should be mapped and assessed** to explore whether they can be usefully supported by aid agencies and given a leading role in shaping aid responses to the transition. Such community-based structures are generally considered to be well trusted by, and representative of, the communities in which they reside, relationships can be built between them, and they should be intentionally supported by aid actors through the transition.
18. **Work with UNMISS to map and assess customary courts** to identify what capacity building support should be provided to strengthen them and allow them to redress grievances across county boundaries and between ethnic groups. The courts should meet regularly (and in adherence to international human rights standards) to follow up previous compensation agreements and ensure payments are completed.

United Nations Mission in South Sudan (UNMISS)

19. **Work with aid agencies to map and assess customary courts** to identify what capacity building support should be provided to strengthen them and allow them to redress grievances across county boundaries and between ethnic groups. The courts should meet regularly (and in adherence to international human rights standards) to follow up previous compensation agreements and ensure payments are completed
20. In Malakal town, **UNMISS should support the rehabilitation of basic services** and the repair of infrastructure while supporting the creation of livelihoods to different groups through different initiatives including public works programmes, vocational training (TVET) such as that already being attempted by UNMISS in Malakal and microcredit loans.¹⁰¹
21. In Malakal, which remains the only PoC site which has not yet been transitioned, **UNMISS and Humanitarian Camp Managers should give genuine power to community-based structures** to enable local conflict-resolution mechanisms to quickly and effectively prevent minor disputes escalating into conflict. Particularly, Community Watch Groups (CWGs) should be supported by UNMISS HRD and UNPOL to train and support the CWG to develop effective coordination between IDP and government groups, as well as on gender sensitivity, as there are reportedly varying levels of trust of the CWG amongst Bentiu residents (PRA Findings).

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22. As outlined in its National Framework Plan for Returns, Resettlement and Re-integration, the Government should **prioritize progress against the timely implementation of measures to ensure and promote the resolution of root causes of conflict** that is critical to creating the conditions needed for safe, dignified, informed and voluntary durable solutions for displaced persons.

¹⁰¹ UNMISS (2020a) 'Despite COVID-19, 60 people build skills through an UNMISS-supported vocational training in Malakal', 9 June (<https://unmiss.unmissions.org/despite-COVID-19-60-people-buildskills-through-unmiss-supported-vocational-training-malakal>)

23. Public-works programmes for rehabilitating infrastructure, particularly in the case of Malakal, and providing employment for former fighters could be considered.

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Annex I

Focus Group Discussion Questions

Ten Focus Group Discussions were conducted from 11-18 November 2020 in Bentiu Protection of Civilian site, Unity State, and Malakal Protection of Civilian site, Upper Nile State across five different groups and age sets, including community leaders, women aged over 30, women aged 18-30, men aged over 30 and men aged 18-30. As per COVID-19 guidance, to allow socially-distanced focus groups, a maximum of six participants were included in each discussion.

1. What are the hopes and concerns amongst PoC residents about the proposed transition of the POC site to an IDP camp?
 - o Why do residents feel hopeful, and concerned?
 - o Do you think everyone in the PoC site shares these hopes/concerns?
 - o Who do you think is the most hopeful and most concerned?
2. Could the transition affect tensions or conflict within the PoC? If so, how?
3. Could the transition affect conflict issues in the area surrounding the PoC? If so, in what way?
4. Who within the PoC could influence how the transition evolves? In what way could they influence the transition?
5. Who do you think benefits from the PoC transition? Why?
6. Who do you think would be harmed by the PoC transition? Why?
7. What are the initial/interim measures that will make you and others feel safe and able to engage in the process of integrating into areas surrounding the PoC after the transition?
8. What should the aid community do to ensure the transition does not increase tensions or conflict within the PoC and surrounding areas?

Key Informant Interview Questions

A total of 16 semi-structured interviews were conducted in total throughout October and November 2020 across organisations including UNMISS, UN agencies, Clusters and national and international non-government organisations (NGOs). The guiding questions for interviews are listed below.

1. What are the key conflict issues that PoC site/IDP camp residents are most concerned about? What are the key threats to safety and security that PoC site/IDP camp residents are most concerned about? This refers to both immediate concerns in the PoC sites/IDP camps, as well as potential concerns when the PoC sites transition to IDP camps. How might these concerns differ as per sex, age and ethnic group of PoC residents?
2. What are the key conflict issues that aid agencies have identified and how does this correspond with the concerns outlined by site/camp residents?
3. What are the key issues/concerns that agencies need to consider in order to ensure that the transition (including timing of the transition) from PoC to IDP camp status does not drive conflict in the camps, surrounding areas or areas of origin?
4. Who are the key influencers that can drive/foster conflict/violence both within the PoC sites/IDPs camps or within the broader community outside of the PoC sites/IDP camps? How often or through what means are the agencies engaging with these influencers?
5. Who are the key influencers that can mitigate conflict/violence within the PoC sites/IDP camps or within the broader community?
6. What are the key factors that could contribute to either reducing potential for conflict/violence or exacerbate existing tensions?

7. How have agency operations in the sites/camps mitigated risks of conflict and contributed towards peace in response to these conflict issues? What are the positive and negative lessons learned?
8. Are there good practices from former-PoC sites (that have since been transitioned) to mitigate risks of conflict that agencies in the PoCs should be aware of to inform the transition process?
9. Have PoC site/IDP camp residents reported any concerns with regards to the handing over management of sites and responsibility for protection to the the national and State Governments? If so, what are those concerns and what steps could the aid community take to address them?