

# A REFUGE IN FLAMES

The February 17-18 Violence  
in Malakal POC



**CENTER FOR  
CIVILIANS IN CONFLICT**  
RECOGNIZE. PREVENT. PROTECT. AMEND.



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Cover photo: Image by Justin Lynch

Caption: After fleeing the violence on February 18, people living in Malakal POC look back toward the burning camp.

# Organizational Mission and Vision

Center for Civilians in Conflict (CIVIC) works to improve protection for civilians caught in conflicts around the world. We call on and advise international organizations, governments, militaries, and armed non-state actors to adopt and implement policies to prevent civilian harm. When civilians are harmed, we advocate for the provision of amends and post-harm assistance. We bring the voices of civilians themselves to those making decisions affecting their lives.

CIVIC's vision is for a future where parties involved in conflict go above and beyond their legal obligations to minimize harm to civilians in conflict. To accomplish this, we assess the causes of civilian harm in particular conflicts, craft creative solutions to address that harm, and engage with civilians, governments, militaries, and international and regional institutions to implement these solutions.

We measure our success in the short term by the adoption of new policies and practices that lead to the improved wellbeing of civilians caught in a conflict. In the long term, our goal is to create a new global mindset around robust civilian protection and harm response.

## Acknowledgements

This report was primarily researched and authored by Matt Wells, Program Officer on Africa and Peacekeeping at CIVIC. It was reviewed internally by Kyle Dietrich, Senior Program Manager on Africa and Peacekeeping; Marla Keenan, Managing Director; and Federico Borello, Executive Director. In addition, several UN and humanitarian officials in South Sudan provided invaluable feedback on a draft. CIVIC is also grateful to Dena Verdesca, who designed the report and prepared it for publication.

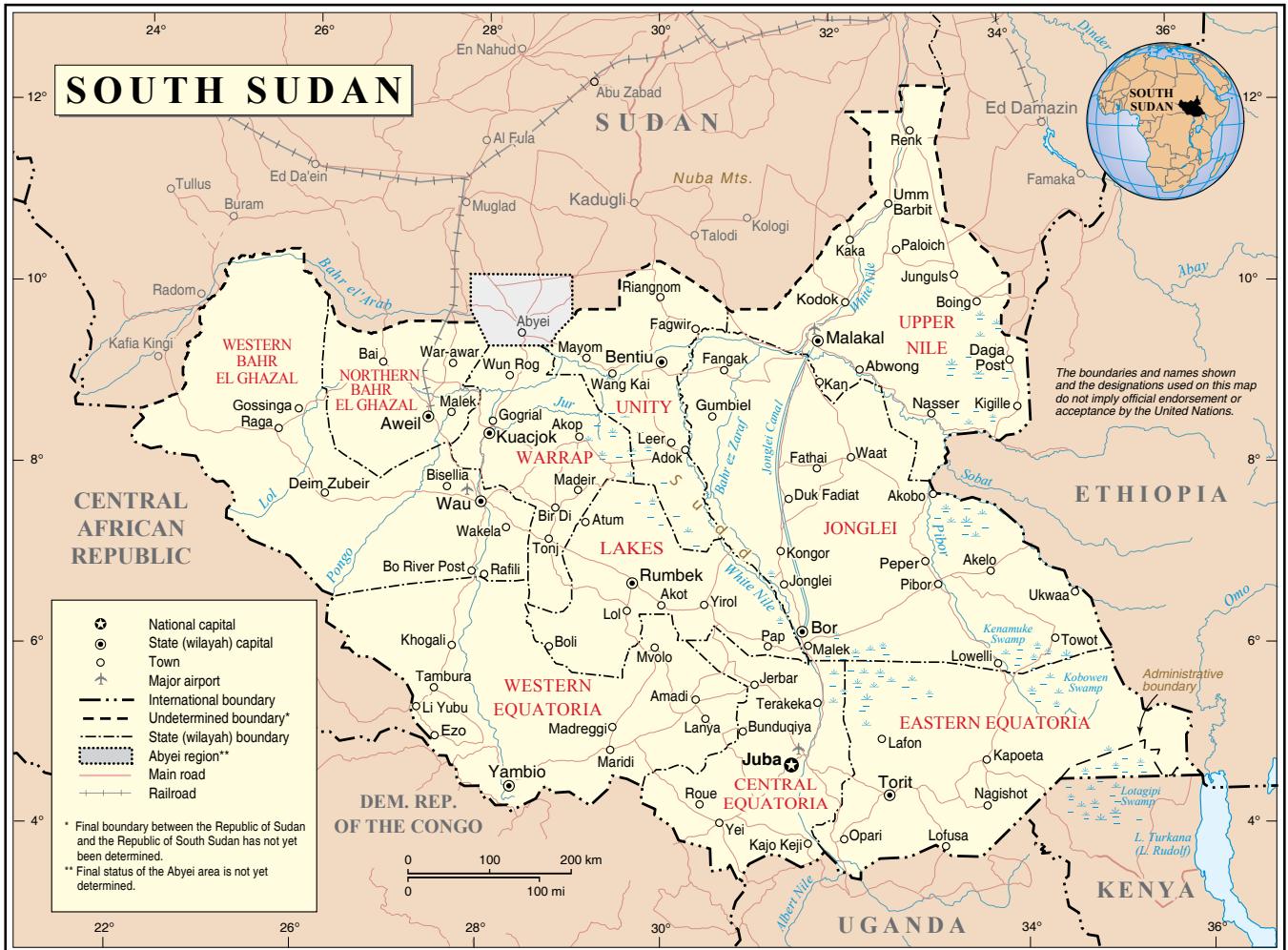
CIVIC would like to sincerely thank all of those who assisted with the research for this report, including the many officials within the UN Mission in South Sudan (UNMISS) who were generous with their time and willing to discuss openly the events in Malakal.

CIVIC would also like to express its deep appreciation for all the people living in the Malakal Protection of Civilians (POC) site who agreed to share their stories. Civilians have repeatedly borne the brunt of the conflict in South Sudan; if the current peace process is to succeed, their perspectives and needs must be prioritized.



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Map No. 4450 Rev.1 UNITED NATIONS  
October 2011

Department of Field Support  
Cartographic Section

South Sudan Country Map courtesy of the United Nations Office of the High Commissioner for Human Rights  
<http://www.ohchr.org/SiteCollectionImages/Countries/ssmap.pdf>





Malakal PoC Reference Map courtesy of the International Organization for Migration  
<http://www.iomsouthsudan.org/tracking/node/139>



*Women living in Sector 2 of Malakal POC begin clearing out the charred remains of their shelters.  
Image by: Matt Wells, CIVIC*

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## EXECUTIVE SUMMARY

On the night of February 17, violence broke out within the Malakal Protection of Civilians (POC) site, located on a base of the United Nations Mission in South Sudan (UNMISS). The following morning, if not earlier, attackers wearing the uniform of the country's military, the Sudan People's Liberation Army (SPLA), entered through a breach in the fencing along the eastern perimeter and took active part in fighting and in burning the camp. By around 4 p.m. on February 18, when UNMISS forces pushed the attackers out of the POC site, at least 30 internally displaced persons (IDPs) living within the camp had been killed, more than 120 had been injured—many by gunshot—and around one-third of the camp had been burned to the ground.

As a result of the devastating armed conflict that started in December 2013, UNMISS has overseen the protection of more than 200,000 IDPs in six POC sites across the country. Malakal POC was unique in that it housed a large number of IDPs from three different ethnic groups: the Dinka, Nuer, and Shilluk. Throughout the conflict, politico-ethnic divisions and tensions outside the camp have been replicated within the camp; since mid-May 2015, that meant the Nuer and Shilluk were in a loose alliance, as they have been within the Sudan People's Liberation Movement/Army in Opposition (SPLM/A-IO), on the other side of which were the Dinka, who tend to support the government.

After some small-scale inter-communal clashes between Shilluk and Dinka IDPs during the evening of February 16, much more intense violence erupted on February 17 around 10:30 p.m., largely focused within Sector 2 of the camp, where the Dinka and Nuer sections were located. Initially, both sides appear to have employed rocks, spears, and machetes, but the situation quickly deteriorated as guns were fired and a few grenades were rolled or thrown. Many IDPs who lived in Sector 2, or in Sector 3 further south, quickly fled their homes for Sector 1. The Nuer fighters, who had been joined by Shilluk youth, retreated back to their area; gunshots continued intermittently for several hours, including when an UNMISS fire truck responded to the outbreak of a fire after midnight. Around 3 a.m., the situation calmed for the night.

On February 17, the fencing along the eastern perimeter was ripped open near Block P, a Dinka area in Sector 2, less than 10 meters from an UNMISS sentry post; the vast majority of Dinka IDPs began fleeing the camp and moving toward Malakal town. Fighters in SPLA uniform, who had already been spotted along the perimeter during the night of February 17, began entering the same breach between 10 and 11 a.m. on February 18. Around the same time, the fighting resumed at an even greater intensity than the previous night—and was far more one sided. The Dinka and SPLA fighters appear to have had free reign of much of the camp for at least several hours, firing on Nuer and Shilluk civilians and burning homes. By 2 p.m., large sections of the camp were reduced to ash.

UNMISS appears to have responded slowly and ineffectively throughout much of the attack. Some of this was a result of challenges it faced, including in how to engage attackers who were IDPs themselves and in civilian attire; how to respond at nighttime, in a crowded camp where attackers hid behind shelters; and how to stop attackers breaching the camp perimeter within a mass of civilians trying to flee the camp. Other decisions and actions appear less defensible, however, and suggest that a more effective, robust response could have deterred or deescalated much of the violence—particularly on February 18.

## The burning of the camp was deliberate and systematic.

This report is based primarily on field research in South Sudan from March 5-19, including a week of research in Malakal. Center for Civilians in Conflict (CIVIC) interviewed 47 IDPs who directly witnessed aspects of the violence; 21 UN officials in Malakal and Juba, including civilian, military, and police; as well as humanitarian officials, members of South Sudan's parliament, local civil society representatives, and experts on the conflict dynamics in South Sudan,

particularly in the area formerly known as Upper Nile State. CIVIC was also provided certain UNMISS internal documents and emails about the events, all of which helped inform this report; however, CIVIC has chosen to cite only those which do not compromise the confidentiality of the person or persons who provided the information. CIVIC also met with officials from the UN Department of Peacekeeping Operations (DPKO) in late March and shared an initial draft of this report with eight UN officials in Juba and New York for feedback and comments.

Several conclusions are clear. First, the external fighters supporting the Dinka almost assuredly included SPLA soldiers. CIVIC received consistent, corroborating accounts from IDPs who saw fighters in full military uniform firing guns inside the camp on February 18 and saw SPLA vehicles along the eastern perimeter, including at least several that came from the direction of Malakal town. These accounts are further corroborated by internal UNMISS documents and emails, in which the presence and movement of SPLA soldiers were reported along camp perimeters on both February 17 and 18; and reported inside the camp during the mid-morning and early afternoon of February 18. Even if some fighters in partial or full SPLA uniform were Padang Dinka militia, which appears likely, it still points to SPLA involvement—as those militia fighters would have had access to SPLA uniforms, SPLA vehicles, and heavy weapons; and, without any response from the military, ultimately breached the perimeter of a POC site near which SPLA soldiers are constantly deployed.

Second, while unclear how the fire first started on February 18, there is no doubt that the burning of the camp was ultimately deliberate and systematic. The fire jumped natural firebreaks, including ditches and pathways, indicating that it was set systematically in different areas. Moreover, the Dinka area was completely untouched by the burning, as was a small section in Block Y where Darfurian IDPs resided, no more than five meters from Nuer homes in the same block that were all burned. The attackers who set the fire deliberately burned Nuer and Shilluk camp sections—along with humanitarian structures in and adjacent to those sections.

Third, and finally, there are serious concerns about UNMISS's response, including how it recognized and responded to warning signs; handled perimeter breaches both prior to and during the attack; and ultimately deployed and responded as events unfolded on February 17 and 18. Despite trainings on the Mission's rules of engagement (ROEs), some peacekeepers still seemed to misunderstand the Chapter 7 protection of civilians mandate, as a unit from at least one troop contributing country (TCC) asked for written confirmation they could use lethal force in response to this attack. There are also strong indications that at least some of the troops underperformed, including through an unwillingness to engage.

Even given the enormous resource constraints that the Mission faces, the resourcing necessary to ensure proper perimeter security appears not to have been adequately prioritized. The decision to employ outside contractors for gate security also likely contributed to the proliferation of weapons within the camp. And, as the violence unfolded, critical leadership from Juba appears to have been slow—with the Crisis Management Team meeting for the first time around 3 p.m. on February 18, some 16 hours after the fighting started. As an UNMISS military official told CIVIC, fault was not limited to any one branch of the Mission: "Everyone needs to take collective responsibility."<sup>1</sup>

UNMISS and DPKO, to their credit, have demonstrated a commitment to understanding what happened. The Mission completed an internal review in mid-March. A special investigation from UN headquarters will examine the attack itself, including who was responsible, and UNMISS's Human Rights Division is undertaking an investigation that may result in a flash report. These efforts are critical in answering how the attack happened, including whether it was planned and who was responsible on the ground and from a command perspective.

In addition, a Board of Inquiry (BOI) will begin an investigation in mid-April into UNMISS's response to the attack, including any failings by either UNMISS civilian or military authorities. A draft of the BOI report is to be completed by the end of the month. There is clear indication that the Head of UNMISS is deeply invested in a strong, credible BOI investigation, going so far as to delay troop rotations until the BOI completes its work.

The year 2015 saw the advancement of critical conversations around UN peacekeeping reform, including through the publication of the High-level Independent Panel on Peace Operations (HIPPO) report,<sup>2</sup> the development of a UN policy on the protection of civilians in peacekeeping,<sup>3</sup> and the strong commitments that many countries made at the U.S.-led UN Peacekeeping Summit. Many of these conversations focused in particular on addressing challenges that have historically undermined more proactive protection of civilians.

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1 CIVIC interview, Malakal, March 2016.

2 Report of the High-Level Independent Panel on United Nations Peace Operations, *United Our Strengths for Peace – Politics, Partnership, and People*, June 16, 2015, [http://www.un.org/sg/pdf/HIPPO\\_Report\\_1\\_June\\_2015.pdf](http://www.un.org/sg/pdf/HIPPO_Report_1_June_2015.pdf).

3 United Nations Department of Peacekeeping Operations/Department of Field Support, *DPKO/DFS Policy on The Protection of Civilians in United Nations Peacekeeping*, April 2015, <http://www.futurepeaceops.org/wp-content/uploads/2016/01/2015-07-Policy-on-PoC-in-Peacekeeping-Operations.pdf>.

The attack on Malakal POC is in many ways the first test case following the momentum of 2015. Beginning with the BOI, a strong response both within UNMISS and from the Secretariat could demonstrate that reform efforts are being incorporated into decision-making, even on sensitive issues. It could demonstrate a step forward for the peacekeeping system, in which performance, particularly in protecting civilians, is demanded—and accountability delivered to military units that fail to perform.

In addition to broader peacekeeping reform efforts, UNMISS now needs to rebuild confidence with the IDP population in South Sudan and ensure it draws the lessons needed to better prevent, deter, and deescalate any future attacks on a POC site. This is not the first time a POC site in South Sudan has come under attack. In Bor in April 2014, pro-government youth fighters killed around 50 people in the POC site, in an incident that raised similar concerns about the peacekeepers' response. A BOI likewise investigated those events, though the findings were never made public. Several UNMISS officials wondered whether the Mission had successfully incorporated the lessons learned from that incident.

To ensure the same mistakes are not repeated, the Security Council should strongly consider calling on the Secretariat to make public as much of the BOI report as possible. At minimum, UNMISS and the Secretariat should speak openly about what went wrong and how they are addressing it.

Amidst a conflict marked by horrific violence, the Mission had built up enormous goodwill among civilians in South Sudan through the creation and operation of the POC sites, which have undoubtedly saved lives. In the aftermath of the Malakal attack, however, the credibility of the Mission's response will play a critical role in determining whether that confidence remains. Without it, the Mission's much needed efforts to engage communities on their protection needs and any reconciliation process will be undermined.





*A woman stands in front of the burned remains of Malakal POC, February 2016*

*Image by Justin Lynch*

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## THE ATTACK

### *Background*

The conflict that broke out in December 2013 has been marred by the deliberate targeting of civilians by all sides, including through killings, sexual violence, forced displacement, the destruction of homes, and the looting of property.<sup>4</sup> Upper Nile State experienced some of the heaviest fighting—with Malakal itself changing hands around a dozen times.<sup>5</sup> In August 2015, the parties to the conflict signed a peace agreement. Fighting continued in subsequent months, including in Upper Nile, though declined toward the end of the year. As of this writing, the Transitional Government of National Unity (TGoNU), which would bring the former parties together, had still not been formed—though it appeared imminent, with the promised return to Juba on April 19 of Riek Machar, head of the SPLM-IO.

In October 2015, President Salva Kiir issued an administrative decree that redesigned the map of South Sudan, establishing 28 states in place of what had been 10 states.<sup>6</sup> In addition to putting the national peace process in limbo, the 28-state decree exacerbated localized conflicts in several parts of the country. Nowhere has this been more acute than in Upper Nile State, which would be divided into three new states: Latjor, which would be Nuer dominated; Western Nile, which would be Shilluk dominated; and Eastern Nile, which would be dominated by the Padang Dinka.<sup>7</sup> Eastern Nile State would include considerable land east of the Nile that the Shilluk community considers its own, including Malakal town.<sup>8</sup> For the Shilluk, the 28-state decree therefore makes peace impossible.

4 *Assessment mission by the Office of the United Nations High Commissioner for Human Rights to improve human rights, accountability, reconciliation and capacity in South Sudan: detailed findings*, UN Doc. A/HRC/31/CRP.6, March 10, 2016 (hereinafter OHCHR report), <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=17207&LangID=E>; Human Rights Watch, “*They Burned it All: Destruction of Villages, Killings, and Sexual Violence in Unity States South Sudan*,” July 2015, <https://www.hrw.org/report/2015/07/22/they-burned-it-all/destruction-villages-killings-and-sexual-violence-unity-state>; CIVIC, “*Those Who Could Not Run, Died*,” *Civilian Perspectives on the Conflict in South Sudan*, February 26, 2016, <http://civiliansinconflict.org/resources/pub/those-who-could-not-run-died-civilian-perspectives-on-the-conflict-in-south>.

5 Small Arms Survey, “The Conflict in Upper Nile State: describing events through March 8, 2016,” pp. 8-14, <http://www.smallarmssurveysudan.org/fileadmin/docs/facts-figures/HSBA-Conflict-Upper-Nile-March-2016.pdf>; Tim Franks, “Malakal: The city that vanished in South Sudan,” BBC News, October 24, 2015, <http://www.bbc.com/news/world-africa-34571435>.

6 “South Sudan president expands states to 28 as opposition accuses him of deal violation,” *Sudan Tribune*, October 3, 2015, <http://www.sudantribune.com/spip.php?article56581>; “South Sudan president creates 28 new states,” *Al Jazeera*, December 25, 2015, <http://www.aljazeera.com/news/2015/12/south-sudan-president-creates-28-states-151225101750723.html>.

7 Small Arms Survey, “The Conflict in Upper Nile State,” p. 4.

8 The new Dinka-controlled Eastern Nile State would also include all of the oil reserves previously within Upper Nile State, including the Paloich oilfields.

In December, President Kiir appointed governors for the 28 states, naming SPLA Gen. Chol Thon for Eastern Nile. The government came under local and international criticism for moving forward with the decree, culminating in a January 31 request from the Intergovernmental Authority on Development (IGAD) to suspend its implementation.<sup>9</sup> Although the government acquiesced publicly, implementation on the ground continued to advance.<sup>10</sup>

On February 1, one day after Governor Chol Thon named his state cabinet,<sup>11</sup> the Secretary General for the Eastern Nile State government issued an administrative order that, in noting the “abolition of (10) States,” terminated and transferred “government employees from Eastern Nile State to Western Nile & Latjor States.”<sup>12</sup> While confusingly worded, the order’s message was unambiguous in the minds of Shilluk and Nuer leaders: Shilluk and Nuer civil servants were being pushed out of the Eastern Nile State government.<sup>13</sup> And, as Small Arms Survey has noted, “Given the strength of the opposition to the new states... transfers [to the other two states] are purely theoretical. Eastern Nile is the only new state that will be operative for the foreseeable future.... The civil servants who were told to go to Latjor and Western Nile will simply lose access to their salaries.”<sup>14</sup>

Moreover, in the weeks leading up to the attack, the government and SPLA blocked the movement of goods, including food, from the Shilluk heartland on the western side of the Nile.<sup>15</sup> This made camp life even more miserable, particularly for the Shilluk and Nuer populations, which faced much greater security risks than the Dinka in going to Malakal town to purchase goods.<sup>16</sup> Small Arms Survey has described similarly:

*In the first half of the month, international NGOs were restricted from reaching Wau Shilluk from Malakal, while the SPLA also closed the route to Wau Shilluk for civilians at the PoC site. Among the results were massive price increases at the PoC site, whose residents relied on goods from Sudan and fish from the river, delivered to the camp by traders and family members on the west bank of the Nile. The price of cooking fuel trebled in a two-week period.<sup>17</sup>*

9 IGAD, *Communique of the 55th Extra-ordinary Session of the IGAD Council of Ministers* (Addis Ababa, Ethiopia, January 30-31, 2016), p. 4, [http://www.igad.int/attachments/1275\\_55COM\\_Communique.pdf](http://www.igad.int/attachments/1275_55COM_Communique.pdf); “IGAD tells South Sudan to suspend 28 states until review,” *Sudan Tribune*, February 1, 2016, <http://www.sudantribune.com/spip.php?article57870>.

10 See Small Arms Survey, “The Conflict in Upper Nile State,” p. 16 (“Although the GRSS spokesperson, Michael Makuei, has repeatedly claimed that the process of establishing the new states has been suspended, the process continues unabated in Dinka-majority states such as Eastern Nile.”).

11 Ibid. The cabinet is “overwhelmingly Padang Dinka.” Ibid.

12 Republic of South Sudan: Upper Nile State – Malakal, *Administrative Order No (1) 2016*, February 1, 2016 (on file with CIVIC).

13 CIVIC interviews with Shilluk and Nuer IDPs, Malakal, March 2016; and with a member of Parliament, Juba, March 2016.

14 Small Arms Survey, “The Conflict in Upper Nile State,” p. 16.

15 CIVIC interviews with Shilluk and Nuer IDPs, Malakal, March 2016; and with humanitarian officials, Juba, March 2016. A humanitarian official told CIVIC that while women and children could move back and forth, they could not carry anything, including food. CIVIC email correspondence, Juba, April 2016.

16 Shilluk and Nuer men could not exit the camp at all during this period, due to the security threats, while their women often did so at great risk of harassment and, at times, sexual violence at the hands of the SPLA. CIVIC interviews with Shilluk and Nuer IDPs, Malakal, March 2016; and with humanitarian officials, Juba, March 2016. Even when CIVIC was in Malakal in mid-March, several men in SPLA uniform stopped and forced to the ground, at gunpoint, a group of Shilluk women returning from a long morning of collecting firewood. The men took all of the firewood. CIVIC interviews with two women among the group, Malakal, March 2016.

17 Small Arms Survey, “The Conflict in Upper Nile State,” p. 18.

Around the same time, the government also began flying several thousand Dinka from Juba up to Paloich and Melut—in what appeared to be a strategy to settle Eastern Nile State with a Dinka population that hailed from other regions, including Pigi county.<sup>18</sup>

Together, the order regarding the civil servants, the humanitarian access denial, and the resettlement of Dinka into land the Shilluk community believes to be its own suggested a strategy to consolidate Dinka control of the new Eastern Nile State.<sup>19</sup> Nuer and Shilluk IDPs interviewed by CIVIC overwhelmingly see the February 17-18 violence in the POC site as an escalation of the same strategy, in particular as an effort to push the Shilluk in Malakal POC across to the west bank.<sup>20</sup> Many South Sudan experts agree.<sup>21</sup> If anything, however, the attack has served to reinforce the Shilluk commitment to remain in the POC site, as it is their only foothold east of the Nile, in an area they consider to be their ancestral land.<sup>22</sup>

Yet, while the broader political dynamics appeared to disadvantage the Shilluk and Nuer, day-to-day camp life in recent months often saw the Dinka IDPs suffer most. Heavily outnumbered within the camp, Dinka IDPs, including women, who found themselves alone or in small number in other communities' areas, faced frequent harassment and physical violence.<sup>23</sup> In addition, several months before the February 2016 violence, a plain-clothes SPLA soldier who entered the camp—a relatively common occurrence, either to visit family in the Dinka IDP section or to purchase goods at the market—was surrounded and killed with a machete; another SPLA soldier spent significant time in the UNMISS level two hospital after being beaten and suffering a major head wound.<sup>24</sup>

These provocations in both directions occurred in what were already miserable camp conditions for everyone living in Malakal POC. The camp was extremely overcrowded, particularly after an influx of 16,000 people in July and August 2015; by February 2016, it held around 47,000 people, with an average living space per person of roughly one-third what is recommended under international humanitarian standards.<sup>25</sup> Shelters were erected on marshland and pathways, and “[a]ccess to clean water and sanitation [were] inadequate,” according to Médecins Sans Frontières (MSF).<sup>26</sup> General fatigue from more than two years of conflict, growing tensions over issues like the 28-state decree, and the substandard camp conditions combined to create an explosive situation by mid-February. The violence that followed has unfortunately only further entrenched the mistrust and anger between the communities.

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18 CIVIC interviews with people with direct knowledge of this population movement, Juba and Malakal, March 2016. See also Small Arms Survey, “The Conflict in Upper Nile State,” pp. 19-20 (“These returnees are being settled in Malakal and elsewhere on the east bank of the White Nile. In what is effectively a state-sanctioned land-grab, civilian habitation will be used to consolidate Padang Dinka territorial control, which was achieved militarily, through a forced population transfer of the Shilluk.”).

19 CIVIC interviews, Juba and Malakal, March 2016. See also Small Arms Survey, “The Conflict in Upper Nile State,” pp. 1, 4.

20 CIVIC interviews, Malakal, March 2016.

21 CIVIC interviews, Juba and Washington, DC, March 2016. See also Small Arms Survey, “The Conflict in Upper Nile State,” pp. 18-19 (noting, for example, that “[t]he Eastern Nile administration’s attempt to force the Shilluk off the east bank of the White Nile by denying access to humanitarian aid and trade links was supplemented in February 2016 with a planned assault on the UNMISS PoC site.”) An UNMISS official told CIVIC that, following the violence in Malakal, Governor Chol Thon said that, now that the Dinka IDPs were in Malakal, the Shilluk and Nuer should also leave the POC site and return to their areas. CIVIC email correspondence, April 2016.

22 CIVIC interviews with Shilluk IDPs, Malakal, March 2016.

23 CIVIC interviews with Dinka IDP leadership, Malakal, March 2016; and with UNMISS civilian officials, Malakal, March 2016.

24 CIVIC interviews with UNMISS civilian and military officials, Malakal, March 2016; and with humanitarian representatives, Malakal, March 2016.

25 Médecins Sans Frontières (MSF), “South Sudan: Dramatic increase in patients in Malakal’s UN site as living conditions jeopardise health of thousands,” November 18, 2015, <http://www.msf.org/article/south-sudan-dramatic-increase-patients-malakal-s-un-site-living-conditions-jeopardise-health>.

26 Ibid. MSF further noted that the large-scale influx in July and August 2015 was disproportionately comprised of women and children, who arrived after fleeing conflict-related violence and hunger. In the camp, they lived in particularly deplorable conditions, compared to people who had been there longer. Ibid.

## How the Violence Unfolded

Between when violence broke out in earnest at 10:30 p.m. on February 17 and when it was finally controlled around 4 p.m. on February 18, at least 30 people were killed within the POC site, including three aid workers. More than 120 were wounded, many by gunshot,<sup>27</sup> and around one-third of the camp was burned the ground. Most IDPs within the camp lost what little belongings they had, consumed by the fire as they fled.

**At least 30 people were killed and more than 120 wounded, many by gunshot.**

For most Shilluk and Nuer IDPs interviewed by CIVIC, the events began in the early evening of February 16, when two men, who were either plain-clothes SPLA soldiers or Padang Dinka militia fighters, attempted to enter Juliet Gate with Kalashnikov rifle magazines.<sup>28</sup> They

were stopped and searched by Warrior Security, a contractor hired to assist with gate security, and UN police, who together discovered the rifle magazines. When UN police tried to hold and question them just inside the gate, SPLA outside intervened, beating a member of the UN Formed Police Unit (FPU) and allowing their comrades to escape.<sup>29</sup> That evening, several small-scale altercations occurred between Shilluk and Dinka IDPs.<sup>30</sup>

Troubled by the incident at Juliet Gate, several Nuer and Shilluk leaders met with UNMISS leadership in the late morning of February 17 to express their concerns about guns within the Dinka section of the camp.<sup>31</sup> Tensions were high throughout the day, with little interaction between the Dinka on one hand and the Shilluk and Nuer on the other.<sup>32</sup>

An inter-communal dispute between Shilluk and Dinka youth started during the evening of February 17, with diametrically opposed accounts as to who initiated it. The situation briefly defused before reigniting as much more intense violence around 10:30 p.m.<sup>33</sup> There was an exchange of gunfire between the Shilluk area in Sector 1 and the Dinka area in Sector 2,<sup>34</sup> but CIVIC was unable to determine who was the initial aggressor. Quickly, however, the violence was largely concentrated within Sector 2 of the camp, where the Dinka and Nuer sections were located. Initially, both sides appear to have employed rocks, spears, machetes, and clubs, with several fighters killed or wounded on both sides.<sup>35</sup>

27 OCHA, *Humanitarian Bulletin: South Sudan*, March 3, 2016, p. 1, [http://reliefweb.int/sites/reliefweb.int/files/resources/160303\\_OCHA\\_SouthSudan\\_humanitarian\\_bulletin.pdf](http://reliefweb.int/sites/reliefweb.int/files/resources/160303_OCHA_SouthSudan_humanitarian_bulletin.pdf) (reporting that 120 people had been wounded); MSF, "South Sudan: MSF Treats 73 Wounded in Malakal Fighting," February 19, 2016, <http://www.doctorswithoutborders.org/article/south-sudan-msf-treats-73-wounded-malakal-fighting> (noting, the day after the violence, that of 73 people that had been admitted to its hospital within Malakal POC, 46 had gunshot wounds).

28 CIVIC interviews with IDP witnesses, Malakal, March 2016; with UNMISS military and civilian officials, Malakal, March 2016. See also Small Arms Survey, "The Conflict in Upper Nile State," p. 19 (indicating that those who attempted to enter were Padang Dinka fighters).

29 CIVIC interviews with UNMISS military and civilian officials, Malakal, March 2016; and with IDPs who witnessed different parts of the incident, Malakal, March 2016.

30 CIVIC interviews with UNMISS and humanitarian officials, Malakal, March 2016; and email correspondence, April 2016.

31 CIVIC interviews with community leaders involved in the meetings, Malakal, March 2016.

32 CIVIC interviews with IDPs, Malakal, March 2016.

33 CIVIC interviews with witnesses to the outbreak of violence, Malakal, March 2016. This is further corroborated by the UNMISS Malakal timeline, on file with CIVIC.

34 CIVIC interviews with UNMISS civilian officials, Malakal, March 2016.

35 CIVIC interviews with witnesses as well as youth who took part in the fighting, Malakal, March 2016.

## Fencing along the eastern perimeter was ripped open... less than 10 meters from an UNMISS sentry post

The fighting escalated again, however, as the frontline moved toward the humanitarian services area, located between the Dinka and Nuer sections in Sector 2. While youth fighters from both sides were armed with melee weapons like spears and clubs, the Dinka had heavier firepower.<sup>36</sup> From the area near the World Vision center and the Presbyterian church, Dinka

fighters tossed several grenades, at least one of which exploded near Nuer fighters some 15 meters away, killing several and wounding others, according to five witnesses interviewed by CIVIC.<sup>37</sup> The Dinka fighters also opened fire with Kalashnikov rifles, which quickly pushed the Nuer fighters, who had been reinforced by Shilluk fighters, back toward the Nuer area.<sup>38</sup> At some point after midnight, a fire broke out in the northeastern corner of Block W, a Nuer area, though it was controlled with the help, albeit flawed (see below, pages 27-28), of UNMISS.<sup>39</sup>

When gunfire started around 10:30 p.m., many IDPs who lived in Sector 2, or in Sector 3 further south, fled their homes toward Sector 1, which remained free of fighting on the first night.<sup>40</sup> After the initial violence, gunshots continued intermittently, but neither side appears to have again pressed the attack into the other side's area. By around 2 or 3 a.m., the gunfire ceased for the night.<sup>41</sup>

On February 17, the fencing along the eastern perimeter was ripped open near Block P, a Dinka area in Sector 2, less than 10 meters from an UNMISS sentry post; the vast majority of Dinka IDPs began fleeing the camp through this breach and moving toward Malakal town.<sup>42</sup> Fighters in SPLA uniform, already spotted along the perimeter during the night of February 17, began entering the same breach between 10 and 11 a.m. on February 18.<sup>43</sup>

Around the same time, the fighting resumed at an even greater intensity than the previous night—and was far more one sided. SPLA and Dinka fighters appear to have had free reign of the camp for at least several hours, firing on civilians they encountered (see John's testimony, on page 17) and burning homes. CIVIC interviewed seven IDPs who were injured by gunfire on February 18, as well as four witnesses who saw attackers kill civilians that day. Some gunfire was reportedly returned from Sector 1, indicating, as during the previous night, that the Shilluk or Nuer fighters had at least a few guns as well.

36 CIVIC interviews with witnesses as well as youth who took part in the fighting, Malakal, March 2016.

37 CIVIC interviews, Malakal, March 2016.

38 CIVIC interviews with witnesses as well as youth who took part in the fighting, Malakal, March 2016.

39 CIVIC interviews with witnesses, Malakal, March 2016; and with UNMISS military and civilian officials, Malakal, March 2016. The UNMISS timeline indicates the fire started around 11:45 p.m., but most officials and witnesses believed that it was later than that.

40 CIVIC interviews with civilians who fled, Malakal, March 2016.

41 CIVIC interviews with IDPs, Malakal, March 2016.

42 CIVIC interviews with IDPs, Malakal, March 2016; and with UNMISS officials, Malakal, March 2016. A smaller hole in the fence in that area appears to have existed already. Dinka leaders said it was no longer safe for their community to use Juliet Gate, which would require them to walk through Shilluk and Nuer areas, so they had to create a hole in the fence. CIVIC interviews, Malakal, March 2016; and email correspondence, April 2016.

43 CIVIC interviews with witnesses, Malakal, March 2016. This is corroborated by the UNMISS Malakal Timeline, on file with CIVIC.

CIVIC interviewed several witnesses who saw fighters in partial and full SPLA uniform carrying jerry cans of petrol, fashioning Molotov cocktails, and setting fire to areas of the camp. As a 43-year-old man who lives in the Nuer section told CIVIC: “They cut water bottles, put the [petrol] in it, lit it with a match, and threw it into houses.... It was a mix of civilians and military doing this.... I was hiding in a corner by my house, watching them down [a path]. When they started to get closer, I fled to [Charlie Gate].”<sup>44</sup>

Interviews and CIVIC’s own observations indicate, without question, that SPLA and Dinka fighters deliberately and systematically burned Nuer and Shilluk sections of Malakal POC. They also deliberately burned at least one humanitarian medical clinic in Sector 2,<sup>45</sup> among much wider destruction of humanitarian facilities. The fire jumped natural firebreaks, including ditches and pathways, indicating that it was set systematically in different areas. Moreover, the Dinka area was left untouched, as was a small section in Block Y where Darfurian IDPs resided, no more than five meters from Nuer homes in the same block that were all burned.<sup>46</sup> Satellite imagery (see below) from before and after the violence shows the scale of the burning as well as its targeted nature.<sup>47</sup> In total, “[a]bout 3,700 families’ shelters were destroyed or damaged during the fighting and fires, along with multiple humanitarian facilities, including clinics, water tankers, nutrition centers and schools.”<sup>48</sup>

Most IDPs who were physically capable fled as gunfire reached their area, with many amassing near Charlie Gate, the entrance into the core UN base area. When the violence ended and the situation calmed, many returned back to see their shelter—and whatever possessions they had within—burned to ashes or looted. A few people who were unable to flee appear to have been burned inside their homes.<sup>49</sup> A 27-year-old woman told CIVIC: “When we saw all the people with guns, I took my child and ran. We saw the smoke [later] and cried.... We have lost everything, all our houses are burned down, nothing [of our possessions] was left.... I have what I was wearing.”<sup>50</sup>

Around 4 p.m., after UNMISS forces engaged and pushed out the attackers in Sector 2, the situation quickly calmed. Civilians had once again borne the brunt of the conflict.

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44 CIVIC interview, Malakal, March 2016.

45 CIVIC observations in Malakal, March 2016; and interviews with humanitarian officials, Juba, March 2016.

46 As with the Dinka, the overwhelming majority of Darfurian IDPs left the POC site during the violence and have stayed in Malakal town.

47 International Organization for Migration (IOM) South Sudan, Malakal PoC Satellite Image of Destruction - 21 Feb 2016, <http://southsudan.iom.int/media-and-reports/other-reports/malakal-poc-satellite-image-destruction-21-feb-2016>(showing the untouched Dinka area that runs across the northern part of Sector 2, as well as the untouched block of Darfurian shelters in the southeastern corner of Sector 2, next to the burned Nuer areas).

48 OCHA, *Humanitarian Bulletin: South Sudan*, March 3, 2016, p. 1.

49 CIVIC interviews, Malakal, March 2016.

50 CIVIC interview, Malakal, March 2016.

Prior to incident (6 Feb 2016)



SECTORS

After incident (20 Feb 2016)



Map boundaries do not imply official endorsement or acceptance by the Government of South Sudan or IOM. This map is for planning purposes only and IOM accepts no liability for consequential and indirect damages arising from its use. Satellite imagery copyright DigitalGlobe Inc. Source: US Department of State, Humanitarian Information unit, Nextview License provided by UNITAR-UNOSAT. IOM/CCCM.

Satellite imagery of Malakal POC before and after the February 17-18 violence, courtesy of the International Organization of Migration  
<http://southsudan.iom.int/media-and-reports/other-reports/malakal-poc-satellite-image-destruction-21-feb-2016>

# JOHN | a 33-year-old Nuer<sup>51</sup>

*The morning of the 18th, the Dinka were moving their women and children outside. They started to move them at night, but this is when I saw it... Soldiers started to come in wearing uniforms [around 10 or 10:30 a.m.]. They moved toward the Nuer area, and this is when the fighting started to take place again [after the night before]. We told the Nuer women and children to run to Sector 1. When the soldiers started targeting us with guns, we ran out of Sector 2 as well...*

*It was around 11 a.m. that I was shot. I was in Block V. The SPLA were on the back side, between Sectors 3 and 2. I turned around and soldiers were 5, 10 meters away. There were two soldiers in full uniform, with the South Sudan flag on the shoulder. They opened fire [with Kalashnikov rifles], as we were standing there. There were five of us. Two died and three were wounded. I took a bullet to my elbow and fell down.... The soldiers were inside the fence [that runs behind Sector 2]. They did not come to us. When they fired and we all fell down, they moved on... I stayed on the ground for about 40 minutes. Some youths from our side saw us and took us to MSF.... The bullet had gone through and broken the bone.*

## SPLA Involvement

By mid-morning on February 18, it seems clear that some soldiers from the government's military, the SPLA, breached the POC perimeter. They then opened fire on people within the camp and took part in the systematic burning of Nuer and Shilluk shelters.

Several dozen witnesses provided consistent accounts of attackers within the camp that were in full military uniform, fighting alongside attackers in civilian attire or half-military, half-civilian attire.<sup>52</sup> In addition, witnesses who lived along the southern and eastern perimeters of the camp saw SPLA pickup trucks with camouflage print during the late evening of February 17 and throughout the morning and early afternoon on February 18.<sup>53</sup> Several witnesses saw some of these vehicles coming from Malakal, traveling around the southern perimeter toward the eastern perimeter where the fencing was ripped open.<sup>54</sup> In addition to the more ubiquitous Kalashnikov rifle, IDPs interviewed by CIVIC described fighters who entered on February 18 carrying PKM machine guns,<sup>55</sup> which likewise appears to suggest the involvement of more professional, formal soldiers. Consistent witness accounts also indicate the use of tracer bullets.<sup>56</sup>

51 CIVIC interview, Malakal, March 2016. John is not his real name.

52 CIVIC interviews, Malakal, March 2016.

53 CIVIC interviews, Malakal, March 2016.

54 CIVIC interviews, Malakal, March 2016.

55 CIVIC interviews, Malakal, March 2016.

56 CIVIC interviews, Malakal, March 2016. See also Justin Lynch, "After the Malakal Massacre, Investigating South Sudan War Crimes," *The Daily Beast*, February 24, 2016, <http://www.thedailybeast.com/articles/2016/02/24/after-the-malakal-massacre-investigating-south-sudan-war-crimes.html>.



The UNMISS timeline and internal UNMISS communications seen by CIVIC both corroborate that SPLA soldiers were involved in attacking the POC site. The timeline in fact first reports the “movement of armed SPLA soldiers... on the eastern perimeter” at 6 p.m. on February 17, before the violence first broke out that night. It again notes the “movement of SPLA soldiers” along the eastern perimeter around 11:30 p.m., certainly raising the possibility of SPLA involvement the first night. The next morning, “SPLA soldiers in large number were seen moving” outside the southern perimeter, which, like the night before, is corroborated by CIVIC’s interviews with IDP witnesses.<sup>57</sup>

## Several dozen witnesses provided consistent accounts of attackers within the camp that were in full military uniform.

The UNMISS timeline first indicates likely SPLA incursion into the camp around 11 a.m., roughly the same time reported by IDPs in CIVIC interviews; perhaps most powerfully, it notes that around 1 p.m., “with thinning out of the IDPs from POC sector 1[,] the SPLA soldiers were being observed now” by UNMISS forces—and that, when UNMISS forces finally engaged the attackers in Sector 2 between 3:45 and 4 p.m., they

“pushed the SPLA soldiers completely out of the base.”<sup>58</sup> The timeline likewise fits with several internal communications seen by CIVIC, including a report from a TCC unit along the eastern perimeter around 10:20 a.m. on February 18 that there were SPLA soldiers outside; and an 11:44 a.m. email from the FPU unit in Malakal that reported shootings around its camp and apparent SPLA presence inside.<sup>59</sup> Several UNMISS officials also said that there were at least some photos taken by Force personnel that showed attackers in military uniform.<sup>60</sup>

In addition to SPLA involvement in and around the POC site, SPLA soldiers deployed to Malakal airport approximately between 11:30 a.m. and noon on February 18—scarcely an hour after fighters in SPLA uniform entered the POC site.<sup>61</sup> Once at the airport, the SPLA soldiers forced the UNMISS personnel there to leave.<sup>62</sup>

In multiple briefings in New York in subsequent weeks, representatives of the Government of South Sudan reportedly said, in response to general allegations of human rights abuses and humanitarian access violations, that both sides of the conflict in South Sudan have and wear SPLA uniforms, so it is often not possible to draw conclusions about who specific perpetrators are.<sup>63</sup> In the case of Malakal, it is easy to dismiss that it was the SPLA-IO, given that it had no way to access the POC site at this time, with the government firmly controlling the area.<sup>64</sup>

57 The information in this paragraph comes from the UNMISS Malakal Timeline, on file with CIVIC.

58 UNMISS Malakal Timeline, on file with CIVIC.

59 Internal email, on file with CIVIC.

60 CIVIC interviews with UNMISS civilian officials, Malakal, March 2016.

61 CIVIC interviews with UNMISS military and civilian officials, Malakal and Juba, March 2016. This is corroborated by the UNMISS Malakal Timeline, on file with CIVIC.

62 CIVIC interviews with UNMISS military and civilian officials, Malakal and Juba, March 2016. This is corroborated by the UNMISS Malakal Timeline, on file with CIVIC.

63 CIVIC interviews with three people present at the briefings, New York, March 2016

64 Even if the opposition could have reached the POC site, it would not have attacked the Shilluk and Nuer sections, the two main groups from which it draws its leadership and forces on the ground.

The stronger argument would be that these were militia fighters in military uniform. Several people interviewed by CIVIC, as well as a recent Small Arms Survey report, indeed point to the involvement of Padang Dinka fighters in the Malakal POC violence.<sup>65</sup> The Padang Dinka militia has played an active role in fighting for the government throughout the conflict.<sup>66</sup> But even assuming some attackers were Padang Dinka militia fighters in SPLA uniform, it would mean they had access to those uniforms, to SPLA vehicles, and to at least some more professional weapons. It would also mean that, despite the consistent deployment of SPLA soldiers near the southern perimeter of the POC site, these militia fighters in SPLA uniforms were able to amass outside and ultimately enter the camp without any question or concern from the military.

The presence of Padang Dinka militia in SPLA uniform would therefore indicate, on its own, at least acquiescence and support from local SPLA soldiers. Moreover, it is overwhelmingly likely that at least some SPLA soldiers were directly involved in the violence.

## Government Response

In a February 20 statement reported by the *Sudan Tribune*, President Kiir “condemn[ed] in the strongest terms possible the recent deadly clashes... in Malakal” and said “the government is ready to cooperate with UNMISS through our local authorities to de-escalate tension and ensure that the perimeter of the compound remains secure.”<sup>67</sup> The statement does not appear to specifically address the involvement of SPLA soldiers more generally.<sup>68</sup>

Around the same time, President Kiir summoned the Governor of Eastern Nile State to Juba for a briefing on the events that transpired.<sup>69</sup> The government likewise announced it would send a team to Malakal to investigate what happened, though the government spokesperson also indicated that it was “waiting for the UN report,” according to the *Sudan Tribune*.<sup>70</sup> While the UN has primacy over the investigation into its response to the attack, it is critical that the government undertake a credible investigation of its own regarding the presence of SPLA soldiers among the attackers on February 18. Previously promised investigations into allegations of serious human rights abuses committed during the conflict do not appear to have resulted in any accountability.<sup>71</sup>

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62 CIVIC interviews, Juba and Malakal, March 2016; Small Arms Survey, “The Conflict in Upper Nile State,” p. 19.

66 Small Arms Survey, “The Conflict in Upper Nile State,” pp. 3-4, 9.

67 “South Sudanese president denies involvement in Malakal clashes,” *Sudan Tribune*, February 20, 2016, <http://www.sudantribune.com/spip.php?article58068>. President Kiir’s statement came a day after the UN Security Council issued a statement saying that it was “particularly alarmed by credible reports of armed men in Sudan People’s Liberation Army (SPLA) uniforms entering the United Nations Mission in South Sudan (UNMISS) camp and firing on civilians, and the looting and burning of tents.” “Security Council Press Statement on Malakal, South Sudan,” February 19, 2016, <http://www.un.org/press/en/2016/sc12252.doc>

68 “South Sudanese president denies involvement in Malakal clashes,” *Sudan Tribune*, February 20, 2016.

69 “S Sudan president summons governor over Malakal violence,” *Radio Tamazuj*, February 21, 2016, <https://radiotamazuj.org/en/article/s-sudan-president-summons-governor-over-malakal-violence>.

70 “Government to send investigation team to Malakal and Wau over recent killings,” *Sudan Tribune*, February 21, 2016, <http://www.sudantribune.com/spip.php?article58084>.

71 See OHCHR report, para. 12 (“Both parties have made commitments related to accountability for the violations committed during the conflict. Despite repeated assurances to the UN, including from the Head of State, the Government did not provide the assessment team with any information on, or evidence of, national investigations into the conflict-related violence.”).

On March 14, the Office of the President wrote a letter to the Governor of Eastern Nile State, “direct[ing] that the divisive and destructive order” from February 1, which terminated and transferred certain government employees, “be stopped immediately, because it is creating more social rifting.”<sup>72</sup> The letter represented a potentially encouraging sign that, in the aftermath of the Malakal violence, national leadership recognized that the state government had gone too far in contributing to the divisive environment. On April 14, however,

## **The state government’s apparent plan to continue implementing the order threatens to aggravate tensions that may lead to further violence in the region.**

the Minister of Information for Eastern Nile State reportedly said in an interview that the state government was still moving forward with the implementation of the decree dismissing the civil servants.<sup>73</sup> According to Radio Tamazuj, he indicated the state government only had a budget for “employees who belong to” Eastern Nile State, though was unclear as to how such classifications were being drawn; he also reportedly denied that the state government had received any request from President Kiir’s office that the Governor rescind the February 1 order.<sup>74</sup>

The state government’s apparent plan to continue implementing the order threatens to aggravate tensions that may lead to further violence in the region. It also provides reason

for concern, particularly if the state government never received the Office of the President’s letter, that national leadership was more interested in appearing to respond to the Eastern Nile State government’s order than in actually stopping its implementation.

72 “President Kiir Rebukes Governor Chol Thon over Mistreatment of Shilluk and Nuer in Malakal,” *Paanluel Wel*, March 15, 2016, <http://paanluelwel.com/2016/03/15/president-kiir-rebukes-governor-chol-thon-over-mistreatment-of-shilluk-and-nuer-in-malakal/> (reproducing the letter from the Office of the President).

73 “East Nile govt says it will continue with the dismissal of workers,” *Radio Tamazuj*, April 14, 2016, <https://radiotamazuj.org/en/article/east-nile-govt-says-it-will-continue-dismissal-workers>.

74 *Ibid.*



*An UNMISS armored personnel carrier (APC) near Malakal POC, as smoke rises from the burning camp, February 2016*

*Image by Justin Lynch*

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## THE UN RESPONSE TO THE MALAKAL VIOLENCE

Malakal POC presented a challenging environment for UNMISS to respond, given the crowded nature of the camp, the potential for incidental harm, and the fact that many fighters were dressed in civilian attire—indeed, many of them were themselves IDPs.

Yet, despite these challenges, the response appears to have come up short, failing to proactively protect civilians—both preventatively and as the violence unfolded—as effectively as appears possible. This section examines nine specific aspects of UNMISS’s response, presented roughly chronologically, from the prelude to the attack through the events over the two days. Each subsection includes specific questions that CIVIC believes the UN should answer, most notably through the Board of Inquiry investigation, in order to rebuild trust with IDPs who remain in POC sites across the country, ensure the Mission is better prepared to deal with any future attack, and, ultimately, provide accountability for any failures that occurred in fulfilling its protection of civilians mandate.

### *Tabletop Exercises (TTX) in September 2015*

In fall 2015, UNMISS organized tabletop exercises (TTX) in Malakal to bring together civilian and military actors and game out the response to potential scenarios. CIVIC has a copy of the two scenarios, dated September 25, 2015. In the first, protests among the IDP community erupt, with one group breaching the UN base area, at which point they begin looting and assaulting civilian staff. In the second, an inter-communal argument devolves quickly into violent combat and spreads through large portions of the camp; the UN police and military response is overwhelmed, and many IDPs look for refuge within the UN base.<sup>75</sup>

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75 Malakal TTX Scenarios, September 25, 2015, on file with CIVIC.

Although it did not include an external incursion by SPLA forces, the second scenario is, in many respects, a close analog to the events of February 17 and 18. This shows, encouragingly, that UNMISS in many ways understood the threat environment in Malakal—including that, in a situation of widespread insecurity within the camp, people would seek protection in the core UN base, often referred to as “old POC.” The TTX also demonstrates the Mission trying proactively to prepare an effective response to future outbreaks of violence, even in the face of daily threats and emergencies.

Both scenarios, however, appear to focus on protecting the UN base—meaning the core area of UN assets, offices, and staff—instead of the IDP area. The second scenario discusses the deployment of UN police and military in response to violence, but indicates that UNMISS is unable to exert control.<sup>76</sup> This emphasis on the core UN area, as opposed to the IDP camp, is similar to how events played out on February 17 and 18, as discussed below. While protecting UN assets and personnel is critical, the relative lack of attention the TTX scenarios appear to have given to protecting the IDP population within the camp raises concerns about whether the peacekeepers were sufficiently prepared to fulfill another essential part of the Mission’s Chapter 7 mandate—protecting civilians under threat.

Moreover, several people interviewed by CIVIC raised concerns about the seriousness with which key actors, including a member of civilian leadership and at least some of the TCCs, engaged with the tabletop exercise.<sup>77</sup> Multiple people involved in the process said that at least some of the TCCs indicated they did not need to take active part since they were trained military and would know how to respond if a situation emerged.<sup>78</sup>

Key questions for the UN to investigate and answer include:

- **Did the TTX scenarios sufficiently focus on how UNPOL, FPU, and Force could best engage to protect civilians within the IDP camp, whether from inter-communal violence or external attack, as opposed to focusing primarily on the protection of the core UN base and staff?**
- **Did the TCCs and civilian leadership in Malakal engage seriously with the TTX scenarios? If not, how can improvements be made to ensure better buy-in for future TTX?**
- **What was the outcome of the TTX? If gaps were identified in terms of policy, capacity, or resources, how did the Mission act to address them?**

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76 Ibid.

77 CIVIC interviews, Malakal and Juba, March 2016.

78 CIVIC interviews, Malakal, March 2016.

## Early Warning

In the days and weeks prior to February 17, there were signs indicating escalating tensions in the POC and the region more generally. As noted above, the increasingly heated rhetoric from the Governor of Eastern Nile State—culminating in the February 1 order that appeared to remove Shilluk and Nuer civil servants from their posts—built upon existing tensions related to the decree creating 28 states. Inside the camp, early February saw a higher occurrence rate than usual of small-scale disturbances between the Shilluk and Dinka in particular, including rock throwing and fist fighting.<sup>79</sup> The SPLA were also in greater number near the camp, according to several UNMISS and humanitarian officials interviewed by CIVIC.<sup>80</sup>

Based primarily on the escalating violence within the POC site, the Protection Cluster went to UNMISS civilian leadership in Malakal on February 8 to share their concerns and to ask that a risk mitigation plan be put together.<sup>81</sup> The leadership in Malakal reportedly did not think it was necessary,<sup>82</sup> although UNMISS officials in Juba indicated that their early warning likewise captured and disseminated concerns about the deterioration of the situation in Malakal, both inside and outside the POC site.<sup>83</sup> Several UNMISS and humanitarian officials believe the lack of trust between them—particularly in Malakal—may have undermined

**Malakal has long been a tinderbox, with recurring episodes of inter-communal violence**

the humanitarian community's ability to feed effectively into the Mission's early warning system.<sup>84</sup> The UN Security Council has specifically mandated UNMISS "to implement a mission-wide early warning strategy, including a coordinated approach to information gathering, monitoring, verification, early warning and dissemination, and response mechanisms, including response mechanisms to threats and attacks against civilians..."<sup>85</sup>

However, the Mission's ability to anticipate the nature and scale of what ultimately happened on February 17 and 18 should likely not be overstated. Malakal has long been a tinderbox, with recurring episodes of inter-communal violence inside the POC site. UN police and troops were generally able to respond effectively in the past, particularly through the use of tear gas.<sup>86</sup> The scale of the killings and destruction on February 17 and 18 appears linked to the widespread use of more deadly weaponry and to the incursion by SPLA elements—aspects that may have been difficult to foresee.

79 CIVIC interviews with humanitarian officials, Juba, March 2016.

80 CIVIC interviews, Malakal, March 2016.

81 CIVIC interviews, Juba and Malakal, March 2016.

82 CIVIC interviews, Juba and Malakal, March 2016.

83 CIVIC interviews with UNMISS officials, Juba, March 2016.

84 CIVIC interviews, Juba and Malakal, March 2016.

85 UN Security Council Resolution 2252, December 15, 2015, para. 8(a)(iii).

86 CIVIC interviews with IDPs in the camp, Malakal, March 2016; and with UNMISS military and civilian officials, Malakal, March 2016.

Key questions for the UN to investigate and answer include:

- **What early warning signs, if any, were missed? What lessons can be learned about how better to track occurrences of violence, including inter-communal violence; to analyze trends, including those that indicate possible escalation; and to ensure that civilian and military decision-makers have access to and are relying on that information in planning?**
- **Did the Mission’s civilian and military components effectively update their preparedness and response plans based on the early warning signs that were captured? If not, how can they better do so in the future?**
- **How can information gathered by the humanitarian community better be incorporated into early warning systems, particularly at the field office level?**
- **How did the Mission engage different communities, both inside the POC site and during patrols, in order to feed into early warning and better understand potential protection threats? What can be improved, including related to the employment of community liaison assistants (CLAs)?**

### *Breaches in Camp Security: Perimeter and Internal*

On February 17, a previous cut in the camp’s fencing—large enough to fit a person—had been ripped open to around 5 or 10 meters wide. The Dinka IDPs in the camp, numbering between 4,000 and 5,000 people, exited through this hole during the night and next morning; around 50 to 100 attackers, including SPLA, entered the camp through the same breach. Firearms that IDPs had smuggled into the camp during the preceding months, if not years, were, along with spears and other melee weapons that IDPs had fashioned inside the camp, pulled out of their hiding places. At the core of the violence that followed were therefore two related issues that have plagued POC site security since the beginning: how to maintain the integrity of perimeter security and how to keep weapons out.



*A hole cut in the fence along the eastern perimeter, near the Dinka section of Malakal POC, March 2016  
Image by: Matt Wells, CIVIC*

Of the three major POC sites in South Sudan, Malakal likely presents the weakest security infrastructure. A simple chain-link fence surrounds the camp. On the eastern perimeter, where attackers ultimately entered on February 18, neither the half-meter deep ditch nor the meter-high berm provided any hindrance. A humanitarian official in Juba told CIVIC that a low-level entanglement had previously been set up between the ditch and berm, but the Mission had not maintained it since it was initially installed.<sup>87</sup> Moreover, although there are sentry posts stationed along the perimeter road that runs between the ditch and berm, there is no buffer zone beyond them. As a result, groups of SPLA soldiers have repeatedly congregated within 20 meters of the camp, particularly along the southern perimeter.

An expert on camp management told CIVIC that, in contrast, best practice would have a “100-meter security zone with robust fencing [on both sides], as well as a berm and a deep ditch”

between the camp and the first robust fence.<sup>88</sup> Several UNMISS civilian and military likewise stressed the need for a buffer or security zone that would facilitate soldiers using deterrent force long before a threat reached the perimeter.<sup>89</sup> A civilian official in Malakal concluded, “They haven’t put money into it. That’s a choice, even if resources are scarce.”<sup>90</sup>

87 CIVIC email correspondence, April 2016.

88 CIVIC interview, Juba, March 2016.

89 CIVIC interviews, Juba and Malakal, March 2016.

90 CIVIC interview, Malakal, March 2016.



## Repairs that needed to happen in real time, or at least daily, were instead happening much slower, if at all

Adding to the challenge, IDPs have repeatedly cut holes in the perimeter fencing in order to skirt official entry points. When walking along the perimeter fencing in Malakal after the attack, a CIVIC researcher photographed at least half a dozen cuts through which a person could enter—in areas that adjoined each of the different ethnic groups in the camp.

Several UNMISS officials in Malakal expressed their belief that the Mission had become lax in repairing fencing,<sup>91</sup> perhaps in part out of the understandable frustration of seeing new cuts appear every time it

repaired an old one. At least five IDPs interviewed by CIVIC said they raised concerns to UNMISS civilian or military authorities about the specific area where the attackers ultimately entered from outside.<sup>92</sup> UNMISS soldiers at sentry posts on the perimeter should have reported this and other breaches to Mission Support. Either they failed to do so, or the Mission stopped regularly repairing identified holes.

The Director of Mission Support (DMS), which has personnel both in Juba and in field offices, is ultimately responsible for allocating the resources needed to repair damaged fencing—and to build perimeters more generally, including berms and ditches. The Indian engineering company stationed at Malakal POC is then in charge of the necessary building or repairs. Within the Mission, opinions differed strongly in apportioning blame, but UN officials near-unanimously felt that repairs that needed to happen in real time, or at least daily, were instead happening much slower, if at all.<sup>93</sup>

The cuts in the fence appear to have been a convenient way for IDPs to smuggle in contraband, including weapons. No one within the Mission that CIVIC interviewed felt confident in estimating the scale of weapons within the camp at the time of the attack, but the fighting made clear that both sides had access to at least some firearms—though Dinka youth appear to have had far more, including at least a small number of grenades.<sup>94</sup>

There are also strong concerns that weapons enter the camp through official gates, in addition to the illicit entry points. The events of February 16, in which men attempted to enter Juliet Gate with magazines for Kalashnikov rifles, show that gate security does catch some attempts to smuggle in arms—but also suggests that people feel confident in trying to move weapons through official posts. Several UNMISS civilian and military officials disagreed with the decision of UNMISS's Department of Safety and Security (DSS) to contract Warrior Security, a South Sudanese company, for gate security, worrying that, particularly in the polarized environment in Malakal, there might be lapses based on the identity of the person to be searched.<sup>95</sup> Several DPKO officials in New York said that it was a financially motivated decision that was indefensible from a security perspective.<sup>96</sup>

91 CIVIC interviews, Malakal, March 2016.

92 CIVIC interviews, Malakal, March 2016.

93 CIVIC interviews, Juba and Malakal, March 2016.

94 It is not surprising that there would be a greater ability among the Dinka to smuggle in firearms, given that the SPLA has been in firm control of Malakal and the area around the POC since early July 2015. Arms for Nuer or Shilluk youth would likely have to be moved from the western bank of the Nile, where the SPLA-IO remains in control, and then pass through areas with SPLA checkpoints—where any young Nuer or Shilluk man would be harassed, if not much worse—before arriving to the POC site.

95 CIVIC interviews, Juba and Malakal, March 2016. In contrast, a humanitarian official told CIVIC that in Bentiu, UNPOL operates the gates with only a limited presence of Warrior Security guards. CIVIC email correspondence, Juba, April 2016.

96 CIVIC interviews, New York, March and April 2016.

UNPOL, which is stretched incredibly thin throughout South Sudan, is responsible for day-to-day internal security within the POC sites, including conducting searches for arms. Several UN and humanitarian officials said that these searches had mostly uncovered spears, not firearms,<sup>97</sup> either indicating that fighters smuggled in guns recently or that the searches have been ineffective for at least certain types of weapons.

Key questions for the UN to investigate and answer include:

- **Taking into consideration the Mission’s resource limitations, what overall improvements should be made to perimeter security, including in relation to berms, ditches, fencing, lighting, and buffer zones?**
- **Was the Mission effective in responding to perimeter security breaches in Malakal? Going forward, how can the Mission streamline the process for reporting cuts in perimeter fencing, allocating the resources for repair, and deploying the necessary engineering capacity, both in Malakal and elsewhere?**
- **Strategically and operationally, has the Mission been effective in protecting against the proliferation of arms inside the camp, including firearms in particular? What measures can be taken going forward?**
- **How can the Mission better engage the IDP population itself on issues related to perimeter security, including to stop the practice of fence cutting and to report breaches when they happen?**

### *Response to Violence on the Night of February 17-18*

Throughout the first night of violence, UNMISS’s main action was to position forces between Sector 1 and Sector 2, to try to keep Shilluk and Dinka IDPs from moving into the other group’s area. The epicenter of fighting, however, was mainly within Sector 2, between the Dinka and Nuer areas. Fighting escalated there over a period of several hours without robust UNMISS response—which several UNMISS officials indicated was a deliberate decision—before ultimately dying out naturally around 2 or 3 a.m. on February 18.

As rock throwing and other small-scale violence broke out between the Dinka and Shilluk youth on the evening of February 17, UNMISS deployed both the FPU and the Quick Response Force (QRF) to the area between Sectors 1 and 2; the situation briefly calmed.<sup>98</sup> As described above, when fighting resumed around 10:30 p.m., it quickly shifted to within Sector 2, likely in part due to where UNMISS was and was not positioned. There, fighting with spears and other melee weapons quickly deteriorated, as people from the Dinka side of the camp began to open fire with guns and grenades. There were casualties on both sides, though the Nuer were outgunned and appear to have suffered heavier losses.<sup>99</sup>

Upon hearing the fighting in Sector 2, at least several dozen Shilluk youth from Sector 1 moved to join the Nuer. Two Shilluk youth interviewed by CIVIC said that UNMISS forces fired tear gas in their direction, but that it was only a small amount and did not affect them—or the larger group of Shilluk youth—as they ran toward the growing violence.<sup>100</sup>

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97 CIVIC interviews, Malakal, March 2016; and email correspondence, Juba, March 2016.

98 CIVIC interviews with UNMISS civilian and military officials, Malakal, March 2016. This is further corroborated by the UNMISS Malakal Timeline, on file with CIVIC. UNPOL, and in particular the armed FPU, typically has primacy over internal security issues within the POC site, unless it arises to a level of violence deemed to be beyond their control. Several UNMISS military officials told CIVIC that once gunshots were fired during the Malakal violence, primacy for the response passed to UNMISS military. CIVIC interviews, Malakal, March 2016.

99 CIVIC interviews with UNMISS and humanitarian officials, Juba and Malakal, March 2016.

100 CIVIC interviews, Malakal, March 2016.

## The fire vehicle arrived at the fire, only to realize that TCC3's armored vehicles had remained behind

After midnight, a fire was deliberately started in the corner of Block W, consuming several houses and a restaurant in the Nuer section of the camp. UNMISS leadership in Malakal ordered that its fire vehicle enter the camp and put out the fire. The fire personnel asked for force protection, and TCC3<sup>101</sup> was ordered to provide armored support, along with a vehicle from TCC1. As the convoy moved down the road from Delta Gate toward Foxtrot Gate, arriving to where it needed to turn to reach the growing fire, gunfire resumed within Sector 2. The fire vehicle arrived at the fire, only to realize that TCC3's armored vehicles had remained behind on the road between Sectors 1 and 2—refusing to enter into an area where active fighting was ongoing, despite its orders.<sup>102</sup> With gunfire increasing in its direction, the fire vehicle

was abandoned at the site for a short period, with another TCC assisting the fire personnel in ultimately evacuating the vehicle.<sup>103</sup>

Several UNMISS military officials in Malakal said that it was a deliberate choice not to engage any fighters that night. They said that, in a crowded IDP camp that is only moderately well lit, they could not mitigate the risk that their own actions would harm innocent civilians—particularly since the vast majority of fighters at that stage of the violence were wearing civilian attire.<sup>104</sup> This is corroborated by the internal UNMISS timeline, which notes, regarding its action taken in response to gunfire and grenade use within the POC site, that “[UNMISS] opening fire would have led to collateral damage.”<sup>105</sup>

While there would undoubtedly be challenges in responding within the camp at night, particularly since the TCCs do not have access to equipment like night vision, the possibility of violence at night—whether within the camp or from an external attack—should have been foreseeable, with contingency plans put in place. Civilians within the POC sites need to know that, regardless of whether they are under threat of physical violence during the day or at night, the Mission has the capability and willingness to respond effectively.

Key questions for the UN to investigate and answer include:

- **What more, if anything, could UNMISS have done during the night of February 17-18 to better protect civilians? Could, for example, the Force have been positioned in sufficient strength between the Dinka and Nuer areas of Sector 2 to deter or deescalate the violence there?**
- **What equipment, training, or other resources (e.g., improved lighting) are needed to ensure that, going forward, UNMISS can effectively respond at nighttime to both inter-communal violence and external attacks?**
- **Did any TCC underperform in not accompanying the fire truck, or in any other aspect of the response to the outbreak of violence on February 17?**

101 CIVIC has chosen not to name the specific TCCs, but still to make clear that there are particular concerns, during the course of the events, linked to different units.

102 The information in this paragraph is based on interviews with several UNMISS civilian and military officials in Malakal with direct knowledge of what happened as well as with five IDPs who witnessed events related to the fire, including several who described where the armored vehicles from TCC3 stopped. CIVIC interviews, Malakal, March 2016. The internal UNMISS timeline mentions that the “fire truck was evacuated with great difficulty by the [Force Protection].” UNMISS Malakal Timeline, on file with CIVIC.

103 Military leadership in Malakal issued a firm order that the fire vehicle needed to be recovered, as that vehicle is essential for the Mission when flights go into or out of Malakal airport. CIVIC interview with UNMISS military official, Malakal, March 2016.

104 CIVIC interviews, Malakal, March 2016.

105 UNMISS Malakal Timeline, on file with CIVIC.

## *Response to the Lull in Fighting, Morning of February 18*

By at least 3 or 4 a.m. on February 18, fighting had subsided within the camp. It did not resume until several hours after daybreak, presenting a critical window in which, without the challenges that existed at nighttime, there was an opportunity to deter additional protection threats. The lack of robust response during this period, particularly within Sector 2 and along the eastern perimeter, meant that, by between 10 and 11 a.m., the violence was able to deteriorate to a degree even worse than the preceding night.

An UNMISS military official in Malakal told CIVIC that, by 1 or 2 a.m., Force had seen the massive perimeter security breach through which Dinka IDPs fled during the night (for more on the breach, see pages 25-27).<sup>106</sup> The internal UNMISS timeline likewise identifies this nighttime movement of Dinka IDPs, along with, at several times from the night of February 17 into the morning of February 18, the presence of SPLA soldiers along the camp perimeter.<sup>107</sup> UNMISS sentry posts exist along the eastern perimeter including, as noted above, one that sits within meters of the perimeter fence breach. According to an UNMISS military official in Malakal, a TCC responsible for some of the sentry posts in that area indicated around 10:20 a.m. that there were SPLA soldiers amassing outside.<sup>108</sup>

**These decisions, particularly in the heat of the moment, were undoubtedly difficult, but provide critical lessons learned**

Armed attackers that entered through the security breach ultimately did not encounter any resistance, however. There were varying accounts within the Mission as to whether peacekeepers were in the relevant sentry post at the time fighters entered.<sup>109</sup> Several UNMISS civilian and military officials in Malakal said that it appeared that one of the TCCs operating along the eastern perimeter abandoned their position around this time, including through pulling back an armored personnel carrier (APC) in that area.<sup>110</sup> Instead of reinforcing the area at this critical moment when armed attackers entered the POC site, at least part of the UNMISS forces there left, undermining the ability to control the situation.

UNMISS military officials in Malakal said it was a deliberate decision not to close the breach in the perimeter fencing at this time, as they understandably did not want to block Dinka IDPs, who were likewise under direct threat, from leaving an area where they no longer felt safe.<sup>111</sup> However, several UN security experts in Juba and New York suggested setting up a rolling gate or parking APCs at or near the security breach, facing outward, in an effort to channel the exit of IDPs while also deterring anyone from entering.<sup>112</sup>

106 CIVIC interview, Malakal, March 2016.

107 UNMISS Malakal timeline, on file with CIVIC.

108 CIVIC interview, Malakal, March 2016.

109 CIVIC interviews, Malakal, March 2016.

110 CIVIC interviews, Malakal, March 2016.

111 CIVIC interviews, Malakal, March 2016.

112 CIVIC interviews, Juba and New York, March 2016.

UNMISS military officials in Malakal also said that it was a deliberate choice not to engage the armed attackers entering the perimeter breach.<sup>113</sup> They said the armed attackers were moving into the camp within the stream of Dinka IDPs leaving the camp, so any gunfire from UNMISS would likely have resulted in heavy civilian casualties.<sup>114</sup> Whether the Mission could have better positioned APCs or other assets to more easily distinguish—and therefore engage—attackers from civilians is a critical question for the Board of Inquiry. These decisions, particularly in the heat of the moment, were undoubtedly difficult, but provide critical lessons learned should a POC site face attack in the future.

What appears to be less defensible is that, within the POC site, Force continued to focus its deployment between Sectors 1 and 2—despite the fact that so much fighting was concentrated within Sector 2 throughout the previous night.<sup>115</sup> Even if they were unable to stop SPLA and other fighters from entering the perimeter breach into Block P, a robust presence between the Dinka and Nuer areas of Sector 2, including with APCs, could have potentially kept fighters from all groups from launching a second round of violence.<sup>116</sup>

Key questions for the UN to investigate and answer include:

- **Did the Mission respond appropriately to the external armed attackers entering the perimeter breach, given the circumstances? What lessons can be drawn, including both strategic and operational, to ensure a better response to a situation in which fighters try to immerse themselves within civilians?**
- **Why was the area between the Dinka and Nuer blocks of Sector 2 not reinforced throughout the morning of February 18, after being a focal point of fighting the night before?**
- **Did any TCCs along the eastern perimeter abandon their posts or otherwise fail to follow orders? Related, were peacekeepers in the sentry post near the perimeter breach throughout this period of February 17-18? If so, did the soldiers present engage effectively, including through rapidly reporting events to the TOC? If the post was unprotected at any time, why?**

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113 CIVIC interviews, Malakal, March 2016.

114 CIVIC interviews, Malakal, March 2016. The internal UNMISS timeline appears to corroborate this, noting at 11 a.m. that a “few armed attackers... reportedly entered into the POC Sector 2. Entry was aided by movement of DINKA IDPs.” UNMISS Malakal Timeline, on file with CIVIC.

115 The account of UNMISS’s positioning is based on interviews with several dozen IDP witnesses and with UNMISS civilian and military officials in Malakal. CIVIC interviews, Malakal, March 2016. It is further corroborated by the UNMISS timeline, which indicates, in response to the “huge volume of fire... from Sector 2” around 11:30 a.m., that the action taken was to “continue[] patrolling the area *between the two sectors*,” making no mention of patrolling *within* Sector 1. UNMISS Malakal Timeline, on file with CIVIC (emphasis added).

116 For example, by deploying along all of the paths between Blocks R, S, and T, in addition to the food distribution area.

## *Response to the Escalation in Fighting on February 18*

As described above on pages 13-16, the violence intensified again between 10 and 11 a.m. on February 18, around the time that armed attackers entered Sector 2 through the breach on the eastern perimeter. It was not until 3:45 to 4 p.m. that UNMISS, with the use of APCs, entered Sector 2 to engage and push out those fighters—by which time the damage was severe, with much of the camp burned down and dozens of civilians killed or wounded.

Through the early part of the escalation, UNMISS appears to have continued to prioritize deployment between Sector 1 and 2 as well as around its core base. The internal timeline notes a “huge volume of fire was opened from Sector 2 by the attackers” around 11:30 a.m., in response to which Force “continued patrolling the area between the two sectors but the attackers were not visible to engage.”<sup>117</sup> While engaging from that distance would have been difficult, it does not answer why an effort was not made to push into Sector 2, where distinction would likely have been much easier.

Although the overwhelming amount of gunfire came from the external attackers and the Dinka youth they joined, there was also some return fire from Sector 1. The fact that there was active fighting on both sides no doubt added to the challenge of UNMISS’s response. However, since the overwhelming majority of Dinka IDPs had left through the perimeter breach by this time, the principal threat to civilians was from the SPLA and Dinka attackers against Nuer and Shilluk who had not yet fled areas of violence; this was primarily individuals who could not flee, including the elderly, as most others had begun moving toward Charlie Gate (for more on Charlie Gate, see page 33).

By around noon, fighters began burning Sectors 2 and 3, as corroborated by witness testimonies, authenticated videos that show a huge amount of smoke rising around that time, and UNMISS’s internal timeline. Between 1 and 2 p.m., the southern blocks of Sector 1 were likewise being set on fire. Given the scale of the fire, there is little the Mission could do once they were set; what was needed was a robust response to deter the attackers from being able to move freely around the camp and set the fires in the first place.

Several UNMISS military officials in Malakal told CIVIC that, during this period, one of the TCCs became impossible to reach.<sup>118</sup> It is not clear whether it was due to a technical failure or deliberate action on the part of the TCC. At the end of the fighting, after 4 p.m., that TCC was found in their accommodation.<sup>119</sup> IDPs interviewed by CIVIC who fled to the TCC’s area when fighting first intensified on February 18 said that its soldiers originally provided protection in the area of its compound, but did not move toward the area of the fighting. Eventually, the IDPs continued on to Charlie Gate.<sup>120</sup>

Another TCC appears to have been positioned at Charlie Gate and in the area that runs from Tristar up to the northern perimeter of the POC site. An UNMISS official told CIVIC the troops from this unit were “closer to Nairobi than to the shooting,”<sup>121</sup> though CIVIC was unable to determine whether this was due to the orders they were given by sector command in Malakal or to any failing on their part. Either way, the bulk of the response within the POC site fell to the third TCC, which is the largest contingent there.

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117 UNMISS Malakal Timeline, on file with CIVIC.

118 CIVIC interviews, Malakal, March 2016.

119 CIVIC interviews with UNMISS civilian and military officials, Malakal and Juba, March 2016.

120 CIVIC interviews, Malakal, March 2016.

121 CIVIC interview, Malakal, March 2016.

Around 2 p.m., UNMISS forces were ordered to intensify their response and clear Sector 2.<sup>122</sup> At least one TCC asked for written authorization to use lethal force in these circumstances.<sup>123</sup> The Mission has a clear Chapter 7 mandate to protect civilians under threat of physical violence, including through the use of lethal force, and trainings have been disseminated as to the ROEs both for self-defense and the protection of civilians.<sup>124</sup>

## **“You can argue, could we have put a stop to it earlier?”**

The concern, however, likely related to several challenges that UNMISS faced. First, many of the people firing weapons were themselves IDPs, dressed in civilian clothes. As an UNMISS military official related, “It’s very, very difficult. You have a guy who’s shooting [wearing] a football jersey. He throws his gun away, and now he’s a civilian.”<sup>125</sup> The hesitance to engage people that UNMISS soldiers were previously meant to protect is, in

many ways, understandable—though it does not account for the similar response to those in SPLA uniform. Second, in the crowded camp environment, the fighters were often difficult to see, with IDPs, UNMISS officials in Malakal, and the UNMISS timeline all describing them as using the camp shelters as cover.

Even after written authorization was provided, UNMISS soldiers remained reluctant to push into the area of heavy shooting and engage those in SPLA uniform. A senior military commander in Malakal ultimately led the soldiers into Sector 2 himself.<sup>126</sup> There, UNMISS APCs took fire from fighters in SPLA uniform and allied youth. They returned heavy fire, quickly “push[ing] the SPLA soldiers completely out of the base. The attackers fled away with a few being seen hitching [a] ride on pick up trucks.”<sup>127</sup> The UNMISS timeline indicates that its forces moved into Sector 2 around 3:45 p.m. and had pushed out the attackers 15 minutes later, with the situation in the camp quickly calming thereafter.<sup>128</sup> An UNMISS military official, who felt strongly that Force’s actions had saved lives that day in a difficult context, related: “You can argue, could we have put a stop to it earlier?”<sup>129</sup>

An UNMISS military official in Juba said there were “quite a high number of rounds fired from the UN side, so it’s strange that we didn’t pick up any uniformed casualties. Maybe the SPLA evacuated their guys out.”<sup>130</sup> The lack of uniformed casualties among pro-government fighters has ultimately given cover to the government’s argument that its forces played no role in the violence.

122 CIVIC interview with UNMISS military official, Malakal, March 2016.

123 CIVIC interviews with UNMISS military and civilian officials, Malakal and Juba, March 2016.

124 CIVIC interviews with UNMISS military and civilian officials, Juba, March 2016. The current protection of civilians mandate is described in UN Security Council Resolution 2252, December 15, 2015, para. 8(a) (“authorizes UNMISS to use all necessary means... to protect civilians under threat of physical violence, irrespective of the source of such violence... [and] to maintain public safety and security of and within UNMISS protection of civilians sites”).

125 CIVIC interview, Malakal, March 2016.

126 CIVIC interviews with UNMISS military and civilian officials, Malakal and Juba, March 2016.

127 UNMISS Malakal Timeline, on file with CIVIC.

128 Ibid.

129 CIVIC interview, Malakal, March 2016.

130 CIVIC interview, Juba, March 2016.

Key questions for the UN to investigate and answer include:

- **Why did it take so long to order and organize Force’s push into Sector 2, in order to engage directly the armed attackers who came from outside the camp? How can a quicker response be ensured in the future?**
- **What led at least one TCC to ask for confirmation in writing that its soldiers could use lethal force in response to the situation in the camp? How can dissemination of the ROEs be improved to ensure better understanding of what is allowed under the Chapter 7 mandate to protect civilians? What additional training might be needed?**
- **Did any UNMISS military units or leadership underperform or fail to perform as the violence escalated between 10 a.m. and 3 p.m.?**

## *Charlie Gate*

By the middle of the night of February 17 to 18, a trickle of predominantly Nuer and Shilluk IDPs had begun fleeing toward Charlie Gate, which separates Sector 1 of the POC site from the UN base area and humanitarian hub.<sup>131</sup> When fighting escalated again during the morning of February 18—and in particular once a large number of SPLA entered the POC site—the trickle became a flood, with thousands of IDPs streaming toward Charlie Gate, in an effort to get into an area where they felt they would be safer.

Throughout this period, UNMISS kept Charlie Gate closed, including by positioning a tank directly behind it.<sup>132</sup> As gunshots intensified in the camp and the systematic burning of homes began in Sectors 2 and 3, civilians’ desperation grew. A 47-year-old woman recalled how, around noon, they were pounding on the gate, begging to be let through.<sup>133</sup> A long line of IDPs stretched behind her, on the path from Charlie to Echo Gate.<sup>134</sup>



*IDPs flee through Charlie Gate as the violence escalates inside the POC site on February 18*  
*Image by Justin Lynch*

131 During the first night, roughly 600 IDPs—predominantly Shilluk women and children from Sector 3—fled into the MSF hospital, located just inside the UNMISS base near Charlie Gate. CIVIC email correspondence with UNMISS official, April 2016. See also MSF, “South Sudan: Fighting in Malakal site leaves at least 18 dead, two of them MSF staff,” February 18, 2016, <http://www.msf.org/article/south-sudan-fighting-malakal-site-leaves-least-18-dead-two-them-msf-staff>.

132 CIVIC interviews with witnesses from the IDP community, Malakal, March 2016; and with UNMISS military and civilian officials, Malakal, March 2016.

133 CIVIC interview, Malakal, March 2016.

134 CIVIC interviews with several dozen IDPs present, Malakal, March 2016.



Eventually, the IDPs began cutting holes in the barbed wire fencing on both sides of Charlie Gate—entering in spite of UNMISS’s efforts to keep them out. CIVIC interviewed a number of women who had cuts on their legs from climbing through the barbed wire, including a 38-year-old woman who described:

For people from sectors 2, 3, and 4, many of them came [to Charlie Gate] when the fighting started at night. They stayed there all night, hoping that the door would be opened or that soldiers would come out and protect them.... For those of us that live near Charlie Gate, we ran there when we saw the shooting coming toward us [on the 18th] and when we saw smoke from the burning....

I climbed through the fence [after it was cut], holding up one of my children. I dipped into dirty water up to my waist. In some areas, the water came to your knees; in others, to your chest.... The barbed wire scratched up my legs, [showing the healing wounds to CIVIC]. Many people got wounded from the wire and are still going to the [health clinic] for treatment.<sup>135</sup>

Once IDPs began streaming through these openings in the fence, the tank was moved, and the IDPs pushed open Charlie Gate.<sup>136</sup> More than 20,000 IDPs, overwhelmingly Nuer and Shilluk, ultimately fled through Charlie Gate and settled into the old POC space, specifically in the areas north of the Rwandan FPU and IndBatt bases (see map on page 2).

Several UNMISS military officials said that the decision to keep Charlie Gate closed was deliberate, as UNMISS forces adopted the “protect the citadel principle.”<sup>137</sup> “The actual priority was that we’re going to have to defend ourselves, as a mass of people was moving up [toward Charlie Gate],” said one official. “We don’t know who they are, what they have [in terms of weapons].”<sup>138</sup> This thinking appears to reflect the TTX scenarios, as discussed above.

At minimum, the decision to leave Charlie Gate closed exacerbated the level of panic among the IDPs, led to a large number of at least minor injuries, and left a highly concentrated population at risk of becoming easy targets should fighters have arrived in that area. It is also not clear that there was a great risk of fighters having infiltrated the civilians at Charlie Gate, given that fighting had not reached inside Sector 1 during this period. On the other hand, any potential threat to UN and humanitarian staff should not be taken lightly; the protection of UN and humanitarian personnel and assets is essential to the Mission also being able to protect civilians.

A UN security expert in New York expressed that, even if not through Charlie Gate, there always needs to be a “release valve if things go wrong. If it’s so bad that they have to get out, let them get out.”<sup>139</sup> For the Dinka IDPs, the release valve was the enormous breach in the perimeter fence cut in Block P, from which they fled the POC site and went toward Malakal town; for the Shilluk and Nuer IDPs, however, no release valve existed—as fleeing outside the POC site would put them at risk of being targeted by SPLA or militia.

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135 CIVIC interview, Malakal, March 2016.

136 CIVIC interviews with witnesses from the IDP community, Malakal, March 2016; and with UNMISS military and civilian officials, Malakal, March 2016.

137 CIVIC interviews, Malakal and Juba, March 2016.

138 CIVIC interview, Malakal, March 2016.

139 CIVIC interview, New York, March 2016.

Key questions for the UN to investigate and answer include:

- **Was the decision to keep Charlie Gate closed throughout much of the fighting appropriate based on the information available at the time, including, as seen in the TTX scenarios, that it was foreseen that IDPs would try to enter the UN base in such a situation?**
- **Should Malakal or another POC site face a future attack, are there contingency plans in place to ensure that IDPs can move to where they feel safer and receive protection from UNMISS?**

### *Allegations that UNMISS Forces Shot IDPs*

IDPs within the POC site overwhelmingly believe that forces from one of the TCCs were responsible for shooting and killing or injuring several civilians. This belief indeed underlies much of the anger that the Shilluk and Nuer populations now direct toward that TCC, with many people demanding its removal from Malakal.

CIVIC interviewed four people who claimed to be direct witnesses to UNMISS soldiers firing upon a group of IDP youth, including a victim who had been shot and seriously wounded. The witnesses provided highly corroborating accounts, indicating that the alleged shooting took place in the early afternoon, around 1 or 2 p.m. They also all indicated that the gunfire came from near the food distribution area, which sits between blocks M and U and is next to the road from Delta to Foxtrot Gate, and struck people who were in or near the ditch on the other side of that road, near Sector 1. Three of the four witnesses said that at least one soldier fired from a gunhole in the APC.<sup>140</sup>

“I was shot on the 18th in the ditch, in sector 1... around [1 or 2 p.m],” recalled a 23-year-old man who was shot and wounded. “[UNMISS] was in a vehicle in the street, [near the food distribution area]. They did not try to warn us, one of them just shot out of the [gun]holes in the APC.”<sup>141</sup>

Several UNMISS military officials in Malakal questioned the veracity of the stories. They noted, first, that it was after this time that at least certain TCCs were asking for it to be in writing that they could use lethal force—raising doubt, in their mind, that the soldiers would have fired on a group in civilian attire at that point.<sup>142</sup> But, it is also possible that the TCC sought out written authorization as cover for an incident that had already transpired. Second, the UNMISS military officials stressed that gunfire was still going from Sector 2 to Sector 1 at this time, so what the witnesses may have thought was gunfire from an UNMISS APC in their line of sight could have been from SPLA or Dinka fighters.<sup>143</sup>

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140 The information in this paragraph is based on CIVIC interviews with four witnesses, including one alleged victim, Malakal, March 2016.

141 CIVIC interview, Malakal, March 2016.

142 CIVIC interviews, Malakal, March 2016.

143 CIVIC interviews, Malakal, March 2016.

Based on its investigation, CIVIC cannot rule out that the gunfire came from behind the APC, rather than the APC itself—although the highly consistent accounts of witnesses certainly lend weight to their credibility. Moreover, even if the gunshots came from the APC, CIVIC cannot determine that it was an unlawful use of force. One of the four witnesses interviewed admitted that his group of youth possessed machetes, spears, and weapons crafted from the metal siding of the POC site shelters.<sup>144</sup> By this time of day, most civilians in the camp had fled toward Charlie Gate and entered the old POC area. It therefore seems likely that at least some of the people in the area allegedly fired upon were armed and appear to have been moving toward the Dinka area of the camp. The UNMISS forces may well have been within their rights to engage them, though likely should have issued warnings and used deterrent force before firing upon any individuals.

Key questions for the UN to investigate and answer include:

- **Did UNMISS soldiers fire shots that wounded or killed people in civilian attire, including from among the Shilluk or Nuer population? If so, did the soldiers follow their ROEs, including by verbally warning and/or firing warning shots before firing directly on individuals?**
- **How can the UN respond most appropriately (e.g., through recognition, apology, community engagement, amends, or other gestures meant to signify an understanding of the harm suffered) if it is determined either that: (a) the soldiers did not follow their ROEs in this circumstance; or (b) the use of force was lawful and appropriate, but also caused incidental harm to civilians not participating in the hostilities?**

### *Civilian Leadership in Juba*

As the attack unfolded, the response from senior-level leadership in Juba was slow. Multiple UNMISS officials told CIVIC that the Crisis Management Team (CMT) did not meet until around 3 p.m.—some 16 hours after the violence started.<sup>145</sup> As one official said, “Why not a meeting first thing in the morning of the 18th? Juba getting involved is key... [and yet] instead of immediately warranting a crisis management meeting, it happened... after the majority of the incident took place.”<sup>146</sup> Several people said that a key focus of the CMT, which met again around 6 p.m., was the IDPs having pushed in to the UN base area.<sup>147</sup>

Whether quicker and more decisive leadership from Juba would have had an impact on the outcome is unclear, given how rapidly events unfolded in Malakal, particularly once fighting restarted on the morning of February 18. UNMISS Force leadership in Juba was monitoring and responding to the situation at least at times, as it issued at least one FRAGO (fragmentary order) during the fighting.<sup>148</sup>

Key questions for the UN to investigate and answer include:

- **Should the CMT have met earlier on February 18, and was it sufficiently engaged in ensuring a robust response to protect civilians in the POC site?**
- **How, in such an emergency situation, should the response best be coordinated between Juba and the field?**

144 CIVIC interview, Malakal, March 2016.

145 CIVIC interviews, Juba, March 2016. Several people within and outside the Mission noted that the attack occurred at a moment when the Special Representative of the Secretary-General (SRSG) was out of the country on leave. CIVIC interviews, Juba, March 2016

146 CIVIC interview, Juba, March 2016.

147 CIVIC interviews, Juba, March 2016.

148 CIVIC interviews with UNMISS military officials, Juba and Malakal, March 2016.



*IDPs in Malakal POC begin to reconstruct latrines in Sector 1 of the camp, after the area was burned to the ground, March 2016*

*Image by: Matt Wells, CIVIC*

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## CONCLUSION

As both government and opposition forces repeatedly harmed civilians throughout the conflict, around 47,000 people sought protection in the UN base in Malakal, part of more than 200,000 total IDPs who have lived within six UN POC sites across the country. The February violence in Malakal POC, and in particular the actions of the attackers who entered the camp on February 18, demonstrate yet again that many fighters see civilians and civilian property as legitimate targets. The incident also represents a continued lack of respect for the UN mission, including through government forces' frequent and often serious violations of the Status of Forces Agreement (SOFA).

Through opening its bases and protecting civilians within, UNMISS has saved lives and built considerable goodwill among many people in South Sudan. However, the Mission's problematic response to the Malakal violence has damaged that trust, particularly among the Shilluk and Nuer communities. People in Malakal POC often spoke of the UN's actions on February 17 and 18 with an anger hardly different from that which was directed toward the SPLA. They expected the POC site to be a refuge from the horrors outside, where UNMISS would intervene quickly and robustly to protect them. That did not happen.

At least several POC sites, including Malakal, are likely to shelter IDPs for the foreseeable future—even if the Transitional Government of National Unity is formed. It is therefore essential that the Mission learns from what happened in Malakal and addresses any security weaknesses. The establishment of a Board of Inquiry is a positive sign. But to ensure the BOI's work helps to spur needed change and to restore trust with the civilians the Mission is mandated to protect, it is critical that the UN ultimately speak openly about the BOI's findings—preferably by making a redacted version public, though at minimum by publicly addressing its conclusions and recommendations.

Following the HIPPO report and other notable reform efforts in 2015, UNMISS's response to the violence in Malakal POC represents a key test case for UN peacekeeping. If the BOI finds that particular units failed to intervene effectively to protect civilians within the camp, the Secretariat, with the support of Member States, needs to ensure there is accountability. Such action would send a strong message that important reforms are being incorporated into decision-making and that performance is demanded in fulfilling a protection of civilians mandate.

**RECOGNIZE. PREVENT. PROTECT. AMEND.**

## **ABOUT THE REPORT**

*A Refuge in Flames: The February 17-18 Violence in Malakal POC* examines how a United Nations base in South Sudan, in which around 47,000 displaced persons were sheltered, became the site of violence that left at least 30 people dead and much of the camp in ashes. The report describes how the violence unfolded, including the involvement of soldiers from the country's military among attackers who shot at civilians and deliberately burned down specific parts of the camp. It also looks at key aspects of the UN mission's response, which, despite the challenges it faced, appears to have fallen short in protecting civilians under threat.

The report is based on field research in South Sudan in March 2016, including more than 90 interviews in Malakal and Juba. To rebuild trust with communities in South Sudan and to ensure that it is better prepared to respond to a similar attack in the future, the UN needs to speak openly about what went wrong and hold accountable any units that failed to perform in protecting civilians from harm.

## **ABOUT CENTER FOR CIVILIANS IN CONFLICT**

Center for Civilians in Conflict (CIVIC) works to improve protection for civilians caught in conflicts around the world. We call on and advise international organizations, governments, militaries, and armed non-state actors to adopt and implement policies to prevent civilian harm. When civilians are harmed, we advocate the provision of amends and post-harm assistance. We bring the voices of civilians themselves to those making decisions affecting their lives.

The organization was founded as Campaign for Innocent Victims in Conflict in 2003 by Marla Ruzicka, a courageous humanitarian killed by a suicide bomber in 2005 while advocating for Iraqi families.