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To cite this article: Rachel Ibreck (2023): Protecting Women from Violence in the United Nations Protection of Civilians Sites, South Sudan?, Journal of Intervention and Statebuilding, DOI: [10.1080/17502977.2023.2215604](https://doi.org/10.1080/17502977.2023.2215604)

To link to this article: <https://doi.org/10.1080/17502977.2023.2215604>



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Published online: 26 May 2023.



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Protecting Women from Violence in the United Nations Protection of Civilians Sites, South Sudan?

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ABSTRACT

This article explores the everyday politics of protecting women from war and atrocities, based on ethnographic work within the United Nations Protection of Civilians sites, South Sudan. It examines the heterogeneous ways that peacekeepers and displaced people conceptualised and enacted women's rights and protection inside the sites. Protection and gender were variously interpreted, resisted, and transformed. But sexual and gender-based violence remained rife in these makeshift 'safe havens'. These experiences demonstrate that international peacebuilders cannot impose gendered protection. They must engage with local authorities and activists to promote women, peace and security in warzones.

KEYWORDS

South Sudan; sexual violence; peacekeeping; civilian protection; women's rights

Introduction

What happens when international commitments to end sexual and gender-based violence hit the ground in war zones? Everyday experiences of 'women, peace and security' have thus far received 'scant attention' (Singh 2020, 504). Yet, like other global governance regimes, these are ultimately enacted in a set of practices – patterned 'ways of doing things' that produce inclusions, exclusions, and often contradictory effects (Pouliot and Thérien 2018). Examining these leads to an appreciation of the concrete meanings of international policies, and how they clash or interact with local norms and practices. This matters especially in relation to women's rights norms, since their adoption or rejection may largely depend upon who introduces them and how (Zwingel 2012, 115; 122). Global ideas about women's rights only resonate and take effect when local actors appropriate and remake them in vernacular cultural terms – especially in postcolonial settings (Merry 2009, 11; 1).

International efforts to combat sexual and gender-based violence in conflict are bound to be fraught. Most humanitarian and peacebuilding missions generate frictions, including with people they aim to assist. Victims of conflict typically re-purpose or reject assistance from peacebuilders when they assume superior expertise and discount local knowledge, as they frequently do (Autesserre 2014, 97–114). Similarly, refugees and

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displaced people act politically according to their specific conditions and histories, in ways that contradict representations of them as archetypal ‘mute’ victims (Malkki 1996, 378). Much evidence suggests that local social practices, and the associated ‘embedded’ rules, norms, and dispositions, persist – and even prevail – in conflict settings (Mac Ginty 2014, 550). This means that not only conflict perpetrators but also victims might influence international policies in multiple overt or more subtle ways at ground level.

It is therefore important to ask not only whether women, peace and security policies ‘work’ to protect women and girls, but also what sorts of other encounters, practices, and normative effects they engender. Women’s rights have a ‘social life’ (Wilson 2006) that is open to observation, even if it is neglected and difficult to study in extremely turbulent, risky settings. Peacebuilding categories and assumptions need to be explored in relation to the ‘life-worlds’ of conflict-affected people (Njeri 2022, 4; 7). Only by tracing how interventions are enacted, and interacted with, might it be possible to capture the nuances and ‘ambiguities’ of complex socio-political processes where norms and power relations may be either remarkably durable, or gradually shifting amid great uncertainty (Pendle and Cormack 2023).

This article applies an ‘everyday lens’ to women, peace and security in one of the world’s most conflict-affected countries, at a crucial moment. The war in South Sudan broke out in December 2013, a time when international protection regimes in general – and women, peace and security in particular – were expanding and being operationalised. An international peacekeeping force, the United Nations Mission in South Sudan (UNMISS), was already established and empowered to act. It was among the first peace missions to hold a mandate to protect women from conflict-related sexual violence, and later also gender-based violence. It was also the only mission to shelter civilians within its bases, creating makeshift camps that became known as the United Nations Protection of Civilians sites (PoC sites).

The PoC sites were the sole international protection mechanism that worked at scale to provide refuge and save lives during South Sudan’s atrocious war. Outside them, sexual violence by all warring parties ‘skyrocketed’ (Amnesty International 2017; HRW 2015; UNCoHRSS 2017, 7) displaying ‘genocidal’ features (Pinaud 2020). The sites were a reluctant achievement, established impromptu when civilians fled to UNMISS bases seeking sanctuary from massacres in the first days of the war. They ultimately sheltered around 200,000 people for more than seven years in six different locations. The result was an unprecedented experiment in protection, albeit one that was viewed by the internationals as ‘last resort’ and ‘temporary’ (Lilly 2014).

Furthermore, the PoC sites operated as the women, peace and security agenda was being rolled out and elaborated. In 2019, the UN Security Council adopted a new international resolution, recognising that women are exposed to multiple forms of violence during conflict, and a range of actors are relevant to prevention. The problem was no longer just sexual violence as a ‘a tactic of war’ – that states and parties to armed conflict were responsible for addressing (UNSCR 1820 2008) – but also plural forms of sexual and gender-based violence occurring ‘on a continuum of inter-related and recurring forms of violence against women and girls’ (UNSCR 2467 2019). This called not only for a strengthening of international responses, but also for attention to community and religious leaders and informal protection mechanisms at community-level.

How then did these international commitments to protect women and girls play out in South Sudan's PoC sites, and how can we examine and assess their effects? The article proceeds as follows. First, it turns to previous scholarship on women, peace and security, and gender and violence in South Sudan. Next, it discusses the research methodology and sources. Finally, it proceeds to analyse the case itself. Based on collaborative ethnography and documentary analysis, it finds a continuum of violence against women and girls in the camps. It also identifies multiple authorities, rules and judicial practices at work in protection efforts. It argues that the PoC sites became spaces of experimentation, where heterogeneous conceptions of sexual and gender-based violence and protection were invoked, contested, and negotiated over time – not only by peacekeepers, but also by displaced people. Experiences in the PoC sites demonstrate how and why international peacebuilders must engage with local authorities and learn from local activists to promote women, peace and security in warzones.

Women, peace and security: A review

The UN peacekeeping mission in South Sudan was informed by 10 United Nations Security Council resolutions (UNSCR) aimed at promoting gender equality and women's participation, protection and rights, during and after conflict. This 'women peace and security agenda' was fought for by women all over the world (Basu 2016, 368), yet many feminist scholars are critical of its effects. They argue the resolutions discursively reproduce gender stereotypes (George and Shepherd 2016, 302); further capitalist, imperialist interests (Pratt and Richter-Devroe 2011, 495); and perpetuate colonial tropes (Mertens and Pardy 2017). Moreover, its tangible impacts seem negligible – an evaluation suggested that there was little evidence of progress after 15 years (Coomaraswamy 2015).

Despite this, the agenda remains a work in progress, and a focus for feminist struggles, with the potential to be adapted, 'localised' (Coomaraswamy 2015, 15; 14) and re-legitimated (True and Wiener 2019). UN resolutions gain meaning and effect through their various interpretations in practice. Existing studies signal the limitations of top-down approaches and the power of local agency in effecting change. Women's groups and local organisations have creatively engaged with, and even reworked, global women, peace and security policies in post-conflict settings (Olonisakin, Barnes, and Ikpe 2011; Basini and Ryan 2016).

However, efforts to combat sexual and gender-based violence during conflicts are at the sharp end of the agenda. The problem is not only the broader context of violence and insecurity. It is also that norms and institutions are plural and contested, and global and local inequalities are reproduced. For instance, legal reforms are important, but even if it is possible to achieve these, they may turn out to be inaccessible to many women. In Afghanistan, the apparent success of translating gender equality into statutory legal frameworks, was undermined by the reality that religious and customary authorities, laws and norms governed most women's lives and their social relations (Singh 2020), and they now prevail (under the Taliban). Meanwhile, in the Democratic Republic of Congo, international actors imported their own (often racialised) prejudices and misconceptions, pursuing state-centric approaches and failing to appreciate local knowledge and norms (Mertens and Pardy 2017, 966–968). The potential to localise 'women, peace and security' evidently diminishes in war-torn states.

Violence against women and girls in South Sudan

South Sudan's conflict was an extremely harsh test for gendered protection, given that local gender norms had been socially constructed over decades of catastrophic violence. The 2013 war broke out just two years after independence in 2011. It was preceded by episodic intercommunal conflict, and two Sudanese civil wars (1983–2005 and 1955–1972), themselves layered upon the atrocities of colonialism and slavery.

Conflict-related sexual and gender-based violence was endemic during the second Sudanese civil war. Young men were inducted into a 'hypermasculinized and militarized world view' in internecine local conflicts that eroded traditional prohibitions on sexual violence (Jok and Hutchinson 2002, 101). Women's bodies were 'appropriated' for the war effort (Jok 2006, 69–76) and made to bear children for the nation (Jok 1999). Military leaders manipulated traditions of polygamy and bridewealth exchange, building power by making 'gifts of bridewealth and wives to their subordinates' (Pinaud 2014, 192). Women were routinely abducted or targeted as 'legitimate spoils' in intercommunal wars (Lacey 2013, 91). The legacies of militarised sexual violence compounded customary abuses (Jok 2006; Luedke and Logan 2017).

The only promising indicators were that women's rights and leadership were advancing in the run up to the 2013 conflict (Oosterom 2014; Soma 2020) and that the will and capacity of UNMISS to undertake gendered protection was unprecedented. UNMISS was among the largest and most expensive UN peacekeeping operations in the world and was one of only four missions equipped with mandates to protect civilians and to prevent and respond to conflict-related sexual violence (UN Peacekeeping 2021). To date, it remains the only mission that has directly sheltered civilians within its bases. As such, South Sudan was both an 'extreme' and a 'crucial' case (Flyvbjerg 2006, 231) – surely the peacekeepers could protect women and girls within the PoC sites, if anywhere?

Researching the everyday protection of women and girls

This study of everyday gendered protection is based on an ethnographic approach in line with parallel research in the PoC sites (Pendle and Cormack 2023) and past studies of refugee camps (Malkki 1996; Harrell-Bond 2002). It benefitted from working directly with community-based activists – learning from and *with* them, engaging with their concerns, and designing the research accordingly. Involving displaced people as participants and researchers on the issues that matter to them is productive and pragmatic (Harrell-Bond and Voutira 2007). In this case, it enabled study overtime during wartime, in a space to which access was tightly controlled. It also mitigated limitations and blind spots arising in my own 'outsider' positionality, reinforcing the insight that collaborative ethnography has ethical and scholarly value for external researchers working on issues of rights and justice in difficult political environments (Rappaport 2008, 8–9).

The collaborative strand involved six young men who had already been trained as volunteer paralegals within the Juba PoC site.¹ They were hired as researchers to document 400 customary court proceedings during 2015–2016. They continued to monitor justice practices as paralegals. They also participated in workshops between June 2015 and January 2020, a period when the PoCs were consolidated under UN authority, before their transition to 'Internally Displaced Persons camps'.

Additionally, the research included interviews and observations, which I either gathered either intermittently in Juba, or received from local researchers in Bentiu and Malakal.² I also reviewed extensive documentary sources, mainly UN and NGO reports. These multiple methods enabled me to build a three-dimensional picture of violence, various modes of protection, and the ways in which displaced people engaged with them.

International gendered protection?

UNMISS had the legal status and quasi-governmental responsibility to halt the unrelenting tide of violence against women and girls in the PoC sites, ‘with one of the strongest protection and human rights mandates in peacekeeping history’ (Paddon Rhoads 2019, 291). In 2014, its mandate specified the protection of civilians ‘within its capacity and areas of deployment, with specific protection for women and children’ and monitoring and reporting on sexual and gender-based violence (UNSC 2014, 5). In 2016, the mandate was strengthened to: ‘deter and prevent sexual and gender-based violence within its capacity and areas of deployment’. (UNSC 2018, 7). The sites were ‘inviolable and subject to the exclusive control and authority’ of the UN (UNSC 2019, 3). The mission had the legal authority to restrict entry and limit the enforcement of South Sudanese law and executive action within them (Stern 2015, 11).

At the same time, complications arose from UNMISS’s status of mission agreement with the host Government of the Republic of South Sudan (GoRSS). The UN had limited authority over residents of the camps, who remained citizens of South Sudan. This meant that the peacekeepers could defend the perimeters of the sites, but they had neither the mandate nor the personnel to police the displaced people within them. They could investigate ‘serious threats to peace and security’ but they lacked the legal authority to investigate and prosecute ordinary criminality (Paddon Rhoads and Sutton 2020, 386). These constraints and ambiguities, coupled with a new and volatile situation, meant that there was limited scope for planning, and incentives for caution.

Furthermore, UNMISS’s capacity to implement its women, peace and security mandate was undermined by its internal gender inequalities. The mission was overwhelmingly staffed by men; only seven per cent of uniformed personnel and 25 per cent of civilian personnel were women (UNMISS 2020), so there were few female police or troops who might ‘reach out to victims and survivors of sexual violence’ (UNSC 2016, 6). UNMISS had established guidelines for ‘gender mainstreaming’, ‘gender focal points’, and training, including on sexual exploitation and abuse (UNMISS 2021; UNDPKO 2018; UN Peacekeeping 2018). It also worked with humanitarians, through a multi-agency ‘protection cluster’ that prioritised sexual exploitation and abuse and offered documentation and medical support (SSPC 2020). Yet humanitarian budgets were stretched; and agencies were constrained by UNMISS’s privileging of basic emergency response, rather than ‘recovery’ – a strategy aimed at deterring people from seeking social and economic support, rather than political sanctuary, in the sites (Munive 2019, 1891–94). These various institutional constraints, gender inequalities and budget limitations surely undermined protection in practice.

A gendered ‘continuum of violence’

UNMISS manifestly failed to prevent violence – let alone to protect women and girls in particular – inside the PoC sites. Displaced people were shielded from the atrocities by warring parties, but experienced everyday insecurity to the point that the mission’s potential to deliver safety was blatantly ‘unfulfilled’ (Munive 2019, 1887). On rare occasions, armed groups breached the perimeters, sometimes killing civilians (Arensen 2016, 31–32; MSF 2016, 17). Frequently, violence erupted among the residents themselves, including several all-out clashes between clans that resulted in a handful of deaths. Murder, suicide, rapes, gang-violence, and criminality spiralled (Ibreck and Pendle 2017; Briggs and Monaghan 2017; Arensen 2016; Paddon Rhoads and Sutton 2020). Such incidents were exacerbated by the trauma of displacement, overcrowding, lack of privacy and limited sanitation – conditions described by one humanitarian organisation as the ‘most undignified... imaginable’ (MSF 2019).

The mission did not expect to host forcibly displaced and traumatised people over years, and many of its staff remained ‘openly against this development’ (Munive 2019, 1886). It opened its gates, rapidly adapted, and involved international humanitarian organisations and their local partners. But it was far from a success in terms of gendered protection: women and girls suffered all manner of abuses in the inhospitable environment of the PoC sites.

Although international commitments to gendered protection did not prevent abuses, they did provoke scrutiny, documentation, and calls for accountability, including within the UN. The number of victims who reported abuses was staggering. One horrifying estimate suggested some 70 per cent of women and girls in the Juba PoC site had been raped or sexually assaulted (OHCHR 2016).³ Some were targeted by warring parties or other actors in their home areas. But others were attacked when they left the PoC sites to look for basics like food, water or fuel – women tended to ‘accept’ the risk of rape and abduction, given that men were more likely to be killed if they ventured outside (SSPC 2017, 8; HRW 2015, 9).

In July 2016, clashes between the warring parties led to appalling incidents of sexual violence near the Juba PoC site (including in the Terrain hotel), leading to the establishment of a UN independent special investigation. The mission was condemned for failing to help civilians it was ‘mandated to protect’ (UNSC 2016, 1; 3-4); and the commander was eventually sacked. The failure was grievous and publicly acknowledged. But there was no justice or redress for the many victims of sexual violence and rape, estimated at around 100 women, 20 of them from the PoC site (Ibreck and Pendle 2016, 18). Among these, a 15-year-old girl reported (to a paralegal on our research team) that she briefly left the PoC site with a group of women because of a lack of food and drinking water, following four days of clashes between government and opposition forces. She was worried because her elder sister ‘was seriously sick... there was neither drinking water nor food... we were drinking dirty water from drainage’. Once outside the site she was captured by government soldiers and raped for more than four hours, leaving her unable to walk: ‘One soldier cocked his gun and pointed it on me with threat to kill me if I didn’t stop crying. I kept quiet and went with them... I was raped inside a shop by five soldiers with different ages’ (interview, Juba PoC3 site, July 2016).

In addition to these militarised rapes, there was extensive reporting to the UN and humanitarian agencies of domestic abuse and sexual assaults upon women inside the camps (SSPC 2015, 12; SSPC 2017, 17). In the Bentiu PoC site in November 2016, a safety audit found that women were regularly assaulted (including by armed youths) on their way to collect food or use the showers and latrines. Domestic violence also escalated in the crowded shelters (SSPC 2017, 13–14). There were accounts of forced and early marriage and sexual exploitation and abuse by community leaders. Even humanitarian actors were found to have taken advantage of women's desperation, giving them food or other goods in return for sex (Ellsberg et al. 2021, 3047). There were shocking reports of violations by aid workers in the Malakal camp, with limited investigations and weak accountability mechanisms (Mednick and Craze 2022). Even UNMISS personnel were accused of sexual exploitation and abuse inside the Wau PoC site (UN Peacekeeping 2018), as well as similar violations elsewhere in the country.⁴

In short, violence against women and girls in and around the PoC sites constituted a gendered 'continuum of violence', (Cockburn 2010, 148), in a form that was extraordinarily compressed. Structural and mundane violence – the 'routinised violence of particular social-political state formation' (Scheper-Hughes 1997, 471) – blended with the political terror and legacies of war.

International protection: Paternalist rulemaking

In liminal PoC spaces, UNMISS fashioned a series of arcane rules and bureaucratic procedures aimed at responding to violence and criminality and averting potential transgressions of international law. The principal conundrum was how to handle perpetrators of the most egregious crimes. There was a protocol to detain people for minor infractions, with the potential to turn them over to the community authorities for sanction. But in more serious cases, the peacekeepers detained suspects in temporary 'holding' cells, sometimes for months. When evidence of murder or rape looked strong, the UN reviewed the case at length before deciding whether to release the suspects, hand them over to the Government of South Sudan, or to expel them from the sites – a highly sensitive decision, given the political risks to the individual (see Hagemann 2023; McCrone 2016, 15–17). In 2018, UN-supported mobile courts were established to prosecute cases in the Malakal and Bentiu sites, a progressive attempt to ensure that 'that sexual violence and other serious violations will not go unpunished' (UNMISS 2019). However, these courts were a late and limited innovation, handling only a fraction of the cases. For the most part, the United Nations Police (UNPOL) were tasked with the challenge of applying a partial, improvised rulebook in an unfamiliar socio-cultural context.

Despite the legally ambiguous circumstances, UNMISS took a firm line on sexual and gender-based violence and insisted upon directly handling all rape charges. The mission also determined that adultery and abortion were legal within the sites, although both were criminalised under South Sudanese national law. These decisions were justifiable in relation to its mandate, in that South Sudanese laws and norms were well known to discriminate against women and girls. For example, rape crimes were punishable but had no minimum sentences under South Sudan's penal code, and customary laws sometimes forced women to marry the perpetrator. Sexual assaults might be treated as

‘impregnation’, ‘elopement’ and perceived as family matters. Adultery was heavily penalised for married women and the men involved in relationships with them, although polygamy was legal for men (Ibreck, Logan, and Pendle 2017, 11–14). Abortion was only permissible under South Sudanese law when a woman’s life was at risk, yet low use of contraception and unsafe abortions contributed to South Sudan’s exceptionally high rates of maternal mortality (Casey et al. 2021, 3).

The mission’s rules on violence against women were principled, but they were also selective and mostly unenforceable. They failed to confront the common problem of domestic violence, that was legal or tolerated under customary law, and they neglected the social and economic underpinnings of all the violations. Affected women themselves attributed ‘generalised impunity’ for rape and intimate partner violence in the Juba PoC site not only to a lack of access to justice, but also to a lack of educational opportunities and economic programmes (Ellsberg et al. 2021, 3056). Meanwhile, unintended pregnancies and unsafe abortions proliferated partly because the provision of reproductive health services was inadequate (Casey et al. 2021, 10–11).

As such, this legalistic effort to uphold the women, peace and security mandate within the sites, proved to be a veneer. UNMISS never managed to shake off its paternalistic posture in the ‘care and control’ mode that is characteristic of humanitarian governance (Barnett 2015, 216–217). It judged what was best for the welfare of the women of the PoCs, without sufficiently consulting them, and sought to impose its power in defining women’s rights, without having the means to actualise them. Its formal iterations of the rules were also in contradiction with aspects of its more informal practices, since UNMISS helped to establish some community-based authorities and tacitly relied upon others to administer forms of justice and security – it needed alliances with communities to ‘help to reduce violence’ in the camps (SSPC 2015).

International institutions, rules and practices formally governed the PoC sites, establishing the boundaries of protection. However, community-based authorities and rules shaped the norms and practices of daily life. In effect, two parallel sets of rules operated in the PoC sites (Gorur 2014, 12–13) – those established by UNMISS and those introduced by South Sudanese residents. The mission apparently grasped the need for pragmatism in this situation, given the differences and tensions between and among the international actors and residents in the sites. However, it was confronted by resilient customary rules and juridical practices that imposed order, but contradicted international concepts of legality, gender, and protection.

Community leaders: Patriarchal order-making

Community-based authorities profoundly shaped women’s vulnerabilities to violence and access to justice in the PoC sites. The leaders included ‘customary’ authorities, such as chiefs and clan leaders; and informal customary security mechanisms, such as the N4, comprising male youth volunteers from the four historic regions of the Nuer in the Juba PoC (Ibreck and Pendle 2017). There were also administrative positions established in conjunction with UNMISS camp management. These included block and zone leaders, responsible for areas of the camp; and community police, labelled the community watch group (CWG) – young volunteers given rudimentary training and liaising with the UN police (UNPOL) (Stern 2015, 16). But these positions were at times blurred – block and

zonal leaders, many of whom were women, frequently ‘took on roles akin to chiefs’ (Pendle et al. 2023); and camp and customary leaders might overlap or interact differently, given variations in the administrative structures of PoC sites.

Because of their historical and contemporary status in the administration of justice and security across South Sudan, customary chiefs and their courts were pivotal to the regulation of gender norms and relations within the PoC sites. Chiefs’ courts have served as the lowest tier of the country’s justice system since independence. For decades, they have been the only accessible justice mechanism for the majority, dealing with all manner of disputes at local levels. Our research mainly documented Nuer courts,⁵ but other ethnic groups in South Sudan held broadly similar civil procedures. Court panels would usually sit under a tree to hear the case, with an audience of community members gathered round. They would weigh up the probabilities based on the testimonies of the parties (without legal representation), referring mainly to unwritten customary laws and issuing judgements that blended restorative and punitive measures.

The PoC courts were functional, responsive, and popular order-making institutions, like customary courts elsewhere in South Sudan during the war (see Ibreck, Logan, and Pendle 2017). However, the courts were also notoriously patriarchal and responsible for ‘chronic miscarriages of justice’ in cases of violence against women (Mennen 2010). To ‘avoid conflict with UN standards’, UNMISS tried to restrict them to mechanisms for the resolution of minor disputes. It banned courts from handling sexual and gender-based violence, murder, and rape; it required them to add women to the panel of judges; it outlawed corporal punishment (Stern 2015, 11–12); it also tried to limit fees and compensation. This yielded some modifications, so court structures varied in their composition and writ between PoC sites, over time (Ibreck and Pendle 2017; Harragin 2020, 16–17; Conflict Research Programme workshop, January 2019). New sorts of courts also emerged, such as the ‘community watch group court’. Notably, courts often included one or two women to the panel, or accommodated chiefs from diverse ethnic groups. But fundamentally, from the perspective of the community and the chiefs, courts continued to operate according to established customary norms and procedures.

Custom was the basis of the courts’ authority and *raison d’être*, but it also privileged the interests of male elders and sustained the bride wealth economy. The norm was that women and girls were to be protected not as individuals, but according to the concerns of their husbands or families. They could be treated as property to be ‘owned’ or exchanged by male relatives or husbands, with negative implications for their reproductive choices and physical and sexual integrity (Ellsberg et al. 2021, 3047).

Court rulings on violence against women and girls

A snapshot of 63 cases relating to sexual and gender-based violence from our research bundle establishes the problem. Typically, husbands or male relatives brought cases against women or young men. Women also used the courts to brought divorce and domestic violence cases against their husbands – but most of these cases were resolved in favour of the male parties.⁶ Customary courts did criminalise many forms of violence against women, except marital rapes (Luedke 2016, 32), but they did so in accordance with a norm that male relatives and husbands held interests in and rights over

women's bodies. An assault upon a woman was treated as a crime against an extended family or clan – it would diminish a woman or girl's economic value and marriageability, given the centrality of bride wealth exchange to social reproduction and the increasing costs of marriage (inflated by military interventions) in this polygamous society. In short, court decisions frequently reinforced women's status as a resource within the bride wealth economy.

Many cases were brought to court by male relatives who sought to control women's conduct. Women faced charges of adultery and abortion before the courts, and they were caught up in cases with young men who were accused of 'elopement' (impregnating a girl). UNMISS had declared these local crimes had no legal standing within the PoCs, but this did not prevent them, instead it relegated them to 'community issues' (paralegal workshop, Juba, May 2017). Chiefs routinely welcomed such cases in the courts, and criminalised the women and men involved. So deeply entrenched were notions of women as property, that chiefs (correctly) interpreted such issues as security threats. Men might launch violent reprisals to assert their 'ownership' over women's bodies. At worst, inter-communal clashes and deaths could (and did) arise following cases of pregnancy outside of marriage. As a chief in Bentiu PoC put it, their rulings sought to prevent or 'bring an end to these clashes', and the loss of lives that could sometimes ensue (interview, June 2018; see also Ibreck and Pendle 2016, 17). Chiefs were even willing to licence families to discipline or 'beat up the girl' until she confessed who was responsible for the pregnancy (GP court report, September 2015). Customary settlements in such cases might involve fines, detention in makeshift prisons or corporal punishment. For example, a pregnant woman suspected of adultery was beaten by the community watch group on the orders of the chief (paralegal workshop, Juba, May 2017). UNPOL declared such punishments illegal, but they happened all the same. In such ways, the courts enforced gender hierarchies that defined women by their reproductive roles.

Customary courts also ruled on a catalogue of domestic abuses against women and girls. Some wives who were violently assaulted by their husbands appealed to the courts, but they rarely won the case. Chiefs often treated their petitions as threats to the unity of families and communities. In case after case, they would admonish the perpetrator but only grant a divorce if the wife could repay the bride wealth and had approval from her family. At best, they issued a small fine for the beating (court reports: GP, July 2015; WN, October 2015; GP, June 2016). In an appalling case, a woman claimed to have been beaten for years, eventually putting her in a coma until she 'nearly died'. Her parents supported the divorce stating that they had 'already forgiven the defendant three times, yet he still does not change'. Yet the defendant was unrepentant; he asked for a refund on his dowry of 40 cattle, to which the court and the family agreed. The court granted the divorce and fined the defendant a minor amount of compensation for the beatings, but he still disputed the judgement saying he 'cannot face compensation and fines while he was beating *his* wife, not the wife of somebody else' (WNR court report, July 2016).

Not only did chiefs often fail to protect women, but community security actors themselves administered abusive punishments on occasion, disciplining women deemed to be in breach of customary law or gender norms. A woman was beaten simply because she was late collecting her child from school, when the Juba PoC3 community watch group declared that: 'any child lost we have to beat [the mother] 50 canes; that is punishment

for negligence'. Even more disturbing was an incident in early 2017, when several women reported that the N4 and the community watch group had 'beat them almost to death'. Some were seriously injured and took their cases to the International Medical Corps (IMC): 'Two women lost abortion [miscarried] because of beating ... The women are brought and, if found guilty, then [they are] beaten ... punished seriously until they can't walk' (paralegal workshop, Juba, 18 May 2017).

Community-based authorities were clearly aware of international women's rights norms, but they paid lip service to them – sometimes explicitly. The point is neatly illustrated in the words of a chief, explaining his decision not to prosecute a man for domestic violence. He advised the sobbing female victim 'that wife beating is normal since it is a way of disciplining the women in our custom as Nuer'. He then turned to her perpetrator husband to warn him about 'the danger of physical fighting or beating' and that 'violence is no longer entertained by human rights actors' (GP court report, July 2015).

Claiming jurisdiction in rape cases

In defiance of the UN peacekeeping mission's rules, customary courts continued to handle rape cases, with their own definitions of the violation and the remedy. They typically believed the accusers (who included male relatives) and demanded that the perpetrator compensate the family. For example, a Juba PoC3 court handled the case of a man said to be a serial rapist who 'gets drunk, searches where the women are, then rapes them at night'. The rapist was brought to court by a husband, who had found him attacking his wife. The court sentenced the defendant to pay seven cows in compensation and serve three months in jail (NGD court report, August 2015). In a very different case, a court in Bentiu PoC handled a 'rape' charge brought by the father of an adolescent girl against an adolescent boy. The precise age of the two individuals and the relationship between them was not clearly established. A doctor's report was introduced as evidence that the girl had been raped, and after three hours of deliberation, the court panel convicted the boy and sentenced him to six months imprisonment and compensation of 'two big cows' (or monetary equivalents). The chief thanked the girl's father for dealing with this 'serious issue' 'without fighting' and 'urged the public to take his example' (JR court report, June 2018).

Chiefs consistently sought to resolve disputes in ways that would avoid violent retribution; their stated purpose was 'to avoid fighting between the two parties'. This explains why sexual violence victims might seek a settlement in the chiefs' courts, before (or instead of) reporting it to UNPOL. The UN process was seen as bureaucratic, and lengthy, with the risk of provoking violence, and losing customary compensation. For some victims, this meant being trapped between clashing legal systems. This was exemplified in a case involving the rape of an underage girl that was referred to UNPOL. The process dragged on for months with no action, and exacerbated tensions between families to the extent that a displaced lawyer who supported the girl described her as 'a victim of rape, Nuer culture and human rights laws' (meeting with GW, August 2017).

Women's rights were flouted every day in the courts. The reasons had to do not only with the bride wealth economy, but also with association between custom and dignity, moral order and autonomy. Chiefs and male elders in the PoC sites perceived international women's rights and protection as a dangerous threat to their authority and

culture (McCrone 2016, 37; Luedke 2016, 49–50). UNMISS's rules were felt as humiliations: 'We are still treated as a child with UNMISS' (cited in CIVIC 2016, 28). The rules were also resisted on pragmatic grounds, since human rights law was seen as abstract, while local laws 'are binding' (Luedke 2016, 50).

There were some hints that the courts might be open to engaging with international norms and adapting, providing they retained jurisdiction, and their authority was backed up. When UNMISS made its authority meaningful, adjustments could be made, as illustrated in a case concerning a 17-year-old girl's complaint of forced marriage. The girl was married under pressure from her parents, with a legal ceremony in church and the customary exchange of bride wealth. Days later, the girl fled from her husband and went to her boyfriend's home, causing 'an immediate escalation of violence' between the two men and their relatives. The court handled this as a crime of 'elopement' and demanded that the girl return to her husband, while the boyfriend was sentenced to detention and to pay eight cows in compensation to the husband. However, the girl appealed to a humanitarian organisation and UNMISS intervened to assist her and put her directly 'under protection'. At that stage, the chiefs' court sat again, and adapted its settlement to allow a divorce, provided the girl's parents repaid an expensive dowry to her husband (GW court report, September 2019).

While many community leaders tenaciously resisted UN definitions of gendered protection, they were also strategic actors who could make adaptations to customary laws and norms in efforts to retain their jurisdiction. Moreover, the PoC courts were not only patriarchal instruments; they were also sites of struggle in which displaced war victims were directly engaged.

Negotiating gendered protection

The patriarchal modes of governance in the PoC sites were often complied with, but were sometimes vigorously and creatively contested, mostly by displaced women and young men. There were also various women's groups or activists ready to support women facing injustices. These norm-entrepreneurs had learned the international language of women's rights but translated it into local terms, engaging with custom, and tentatively 'vernacularising' (Merry 2009) notions of gendered protection.

Women block and zonal leaders had unique opportunities to report cases of sexual and gender-based violence and to intervene to promote women's rights. A woman leader in Bentiu PoC spoke of her efforts to encourage girls to go to school, since 'uneducated girls and women survive on collecting firewood which cause risk to their lives' (interview, July 2018). In Malakal PoC, a women leader said she provided contraceptive education to women (interview, June 2019), believing it could help to stem rising numbers of underage and extra-marital pregnancies.

Victims of gender-based violence pushed the legal boundaries, with occasional victories, as exemplified by a courageous wife who took her husband to court for beating her, and (unusually) won the case (WN October 2015). Mostly such petitions failed, but it still mattered that women seized opportunities to report abuses and claim rights. Their complaints were implicit or explicit criticisms of the customary order. A woman who took her husband to court for drinking heavily and beating her on and off over three years expressed this clearly. When she failed to win a divorce, she boldly argued

that the court's decision was not based on fairness, but on 'outdated traditional rules that didn't respect the right of women' (GP court report 2, November 2015).

Gender norms were contested and evolving. As a businesswoman in Malakal summed up, the early days were 'hell', but women 'changed a lot' during their time in the PoC sites (interview, February 2019). Many women became highly aware of gender-based violence as a human rights issue and willing to report it (NPSS 2017, 28–29).⁷ Women's also received education and training in rights and protection from NGOs – indeed, a woman in Malakal PoC site called for these programmes to go further and involve men: 'it is really a disaster that we are used like property ... [but] men require this education [on gender-based violence] more than the female' (interview, June 2019).

Young men also suffered injustices because the customary system was not only patriarchal but gerontocratic – and some actively tried to change it. Community paralegals and lawyers in Juba PoC (including the court observers who participated in the research) used their knowledge of human rights law to press for change, arguing that 'our sisters are not resources' and 'our daughters [should] be free from harmful traditional practices' (paralegal workshop, Juba, January 2016). They understood the plural international and customary laws that operated within the sites and sought to rein in abuses by monitoring the courts and advocating for reforms. Strikingly, they even worked on a constitutional proposal to amend the *Fangak* customary laws of the Nuer, aiming to bring them into closer line with South Sudan's Bill of Rights (see Ibreck 2019, 133–145).

The methods of the paralegals relied on dialogue, networking and negotiation. They organised workshops with women and girls to inform them of their rights, and to discuss solutions, including on the issue of unsafe abortions (paralegal workshop, Juba, September 2019). They held similar forums with community leaders; supported the election of a women chief (Ibreck 2018); and forged alliances with some 'modern chiefs' who 'know the law'. In one case, they engaged the chiefs in dialogue to reduce the bride price in the sites – a modest measure to curtail the intensity of the commodification of women's bodies (paralegal workshop, Juba, September 2019).

In such forums, community leaders reflected upon their reasoning and attitudes towards women's rights and protection. They pointed out that they were also victims of multiple violations associated with war and displacement; in the words of one: 'human rights issues are affecting chiefs themselves; their human rights are also denied. Human rights issues are also part of the cases they are involved in'. However, chiefs depended on elders to underpin their decisions and change was often resisted: it is 'complex to manage and balance human rights expectations ... People get angry when you handle a case according to human rights and ignore traditional values and customs'. Moreover, chiefs worked voluntarily and lacked basic resources – some had neither pens and paper nor sufficient literacy to document cases. They sought education and support on their own terms, including access to equipment and basic 'incentives' to support their work. They insisted that their aims were to contribute to 'peace, justice and change in their country' (Chiefs' forum, Juba PoC3, February 2020).

South Sudan's PoC sites exemplified social complexity and normative flux in microcosm. Community leaders and elders relied on custom to promote social order. But amid great insecurity, people also strived to transform and empower themselves (Munive 2019), acting autonomously or engaging with international actors and norms. Women seized opportunities to claim rights, challenging customary masculinities and

hierarchies. Young men also confronted the constraints of the bride wealth system in various ways – not only by joining gangs (Felix da Costa 2023) but also by promoting women's rights. Culture is never static, and conditions of war and displacement may prove catalytic – opening the way to normative and social changes (Grabska 2014).

UNMISS exempted itself from many of these local contestations, trying to impose – rather than to negotiate – women's rights and protection. This contrasted with how the UN Special Representative of the Secretary-General on Sexual Violence in Conflict approached the government of South Sudan. They signed a joint communiqué with the government promising to halt conflict-related sexual violence, and the UN to 'mobilise assistance' in return (UN and GoSS 2014) – even as government forces continued to kill and rape civilians.

Conclusion

The PoC sites set a precedent in the implementation of the protection agenda by saving thousands of people's lives and sheltering them from the militarised sexual violence that was (and remains) rampant across South Sudan. At the same time, women and girls were exposed to a continuum of sexual and gender-based violence within the sites. Although, UNMISS peacekeepers and humanitarians worked in extraordinary proximity to displaced people in these enclosed spaces – shaping the social and political terrain – they did not manage to protect them from violence in their everyday lives.

There were notable achievements within the PoC sites, as women became increasingly aware of their rights and tried to claim or report them, leading to a wealth of documentation. But resistance to international conceptions of gendered protection was widespread and tenacious. The rules and administrative procedures devised by UNMISS were paternalistic, bureaucratic and alien, compounding the sense of uncertainty, as well as the humiliations associated with structural violence and aid encounters (see Uvin 1999). The mission's stance was also inconsistent or opaque: it actively engaged community volunteers to resolve disputes and police the sites, but the mechanisms it promoted tacitly relied upon customary authorities and courts that were patriarchal, reproducing gender inequalities, discrimination and violence.

Through judicial practices, community leaders intensively enacted their own rules and concepts of gender and protection. They worked hard to prevent conflict, settle cases and to promote a sense of dignity and belonging that was necessary for social repair in a traumatised community under existential threat. But they did so partly by exerting control over women's bodies. The result was that dual and competing masculinist protection regimes (international and local) prevailed, alongside a process of ongoing contestation.

Manifestly, UNMISS operated under uniquely difficult conditions, but it fell short partly because it acted in line with its state-building origins (Pendle and Cormack 2023) and tended towards the coloniality common to many international peacebuilders (Mertens and Pardy 2017). It neglected local autonomy, culture, and expertise, and the power and resilience of customary norms, that were fundamental to order and dignity in the PoC residents' daily lives. The mission operated at some distance from customary authorities, presumably to avoid being tainted by breaches of international human rights (UNMISS HRD 2015, 30), and in turn chiefs would have no

say when international humanitarian workers or peacekeepers were accused of exploiting or abusing women.

To assume the pre-eminence of international norms in this war-torn state – the so-called ‘fallacy of terra nullius’ (Schia and de Carvalho 2016, 2–3) – is also to ignore the contingency of custom, its relations to elite and popular agency, and its historical tenacity in ‘dealing with’ colonial and governmental interventions (Leonardi 2013). The possibilities for custom to evolve were being explored by some displaced people who acknowledged the jurisdictions of customary authorities. They seized the chance to test boundaries and make new rights and protection claims in internationalised spaces. Adaptation was being pushed further forward by community activists, who engaged with both customary and international regimes in efforts to ‘vernacularise’ international norms of women’s rights and protection, and to negotiate change. Such endeavours needed greater understanding and support.

An everyday lens on women, peace and security reveals the messy ways in which interventions are enacted, resisted, and transformed. It illuminates peacebuilding governance alongside the situated agency of displaced war victims. The lesson is that the protection of women from sexual and gender-based violence cannot be imposed from above. It requires dialogue with local authorities and collaborations with local norm-entrepreneurs, adept in both human rights and local laws and cultures. They can and should inform responses – even if they are displaced victims of atrocities in a war-torn state.

Notes

1. Court reports are attributed to the researchers by initials to maintain anonymity.
2. I visited Juba PoC site in July 2015 and convened five workshops in Juba between then and September 2019. LSE Conflict Research Programme *Bridge Network* researchers visited Malakal and Bentiu sites in 2018–2020, and we met in Nairobi twice during this period. In late 2020, the UN re-designated the sites as IDP camps (UN Peacekeeping 2020).
3. The OHCHR figure is based on a UN Population Fund survey in June 2016. See Ellsberg et al. (2020) for a similarly high estimate.
4. There are 16 substantiated allegations of sexual and gender-based violence against UNMISS civilian or military personnel (five rape or sexual assault), 33 unsubstantiated and 15 others/pending. The database does not specify which occurred in the PoC sites (UN 2023).
5. Most people in the Juba PoC3 site and in Bentiu defined themselves as Nuer, although most were Shilluk in Malakal.
6. These included five rape cases, 27 divorces, three ‘elopements,’ 18 adulteries, eight domestic violence and two cases of pregnancy in unmarried girls.
7. 92.9 per cent of women in the sites had heard of gender-based violence and over half would report it (NPSS 2017).

Acknowledgements

I am grateful to the South Sudanese court observers in Juba PoC3 who inspired and richly contributed to this research. Thank you to researchers in the *Bridge Network*, Naomi Pendle, Zoe Cormack, and three anonymous reviewers.

Disclosure statement

No potential conflict of interest was reported by the author(s).

Funding

The research was supported by the Conflict Research Programme, led by the London School of Economics and Political Science, and funded by UK aid from the UK government; however the views expressed do not necessarily reflect the UK government's official policies. It was also enabled by a small grant from Goldsmiths, University of London, and by the UKAID-AHRC funded Safety of Strangers project at the Firoz Lalji Institute for Africa, LSE (AHRC grant – AH/T007524/1).

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