UN POLICE, JUSTICE AND CORRECTIONS PROGRAMMING IN SOUTH SUDAN
A COMPACT CASE STUDY[1]

1. FRAMEWORK FOR ENGAGEMENT

UNMIS was established in 2005 as an integrated multidimensional peace support operation with a mandate to support the implementation of the Comprehensive Peace Agreement (CPA) and assist in the reform of Sudan's security sector. During the first years of the Mission's deployment, the Darfur crisis drew much of its resources away from supporting the CPA. Several leadership gaps—notably, UNMIS was without a Special Representative of the Secretary-General in-mission between late October 2006 and late October 2007—and persistent staffing shortfalls reduced the Mission's effectiveness. UNMIS concluded its operations with the completion of the CPA on 9 July 2011, the same day South Sudan declared its independence. A successor mission, UNMISS, was established also on 9 July.[2]

1.1 Concise responsibilities of the mission related to rule of law

1.1.1   Security Council mandates

1.1.1.1 UNMIS: from March 2005 through July 2011
- Support the implementation of the CPA;
- Assist in restructuring the police service in Sudan, consistent with democratic policing; developing police training and evaluation; and assisting in the training of civilian police;
- Assist in the promotion of the rule of law, including through support for an independent judiciary and protection of human rights through a comprehensive and coordinated strategy and ending impunity;
- Assist to develop and consolidate the national legal framework;
- Assist in restructuring the correction services throughout Sudan and in the training of corrections officers[3]

1.1.1.2 UNMISS: from July 2011 to present
Acting under Chapter VII of the Charter of the United Nations,

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[1] UNMIS, 24 MARCH 2005–JULY 2011; **UNMISS, 9 JULY 2011–PRESENT.**
Case studies on police, justice and corrections programming for nine UN complex operations and special political missions were developed by Stimson's Future of Peace Operations Program at the request of the Office of Rule of Law and Security Institutions (OROLSI) of the UN's Department of Peacekeeping Operations. They are descriptive rather than analytic documents that help to organize, by mission, the issues and activities that the main study, *Understanding Impact of Police, Justice and Corrections in UN Peace Operations*, treats functionally, across cases, and are summarized in the study's annexes.

[2] Bennett et al., "Multi-donor Evaluation of Support to Conflict Prevention and Peacebuilding Activities in Southern Sudan 2005-2010", 2010, p. 111;A/64/566, 11 December 2009, p. 2; A/65/630, 15 December 2010, p.2; A/65/752, 23 February 2011, p. 2, 12.

[3] Mission mandate set out in SCR 1590 (2005), supplemented by 1812 (2008), 1919 (2010) and 1997 (2011). SCR 1590, at paragraph 16, sets out a mandate for "UNMIS…forces" under UN Charter Chapter VII "to protect civilians under imminent threat of physical violence." The prevailing view is that this task did not apply to UNMIS police component. For further discussion, see Holt and Taylor, "Protecting Civilians in the Context of UN Peacekeeping Operations" (an independent study jointly commissioned by DPKO and OCHA), pp. 322, 324.

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- Support Government of South Sudan (GoSS) in developing strategies for security sector reform (SSR), rule of law, and justice sector development, including human rights capacities and institutions
- Strengthen South Sudan Police Service (SSPS) capacity through advice on policy, planning and legislative development, as well as training and mentoring in key areas;
- Support GoSS in developing a military justice system that is complementary to the civil justice system[4]

1.1.2 Relevant terms of peace agreements

1.1.2.1 Comprehensive Peace Agreement (CPA), January 2005
- Set out the structure of a new Judiciary of Southern Sudan
- Provided for exclusive legislative and executive powers of the GoSS over areas including police, prisons and judicial institutions, with devolution of competencies over state police, prisons, judiciary and certain laws to control of individual states.
- Set out a process of incorporation of members of 'other armed groups' where they are interested and qualify into the ranks of the Sudanese Armed Forces (SAF), Sudan People's Liberation Army (SPLA) or Police, Prisons, and Wildlife Services.
- Requested that a United Nations Peace Support Mission be constituted to monitor, verify, and support the implementation of the Agreement.
- Set out a policing and domestic security plan to complement the ceasefire that calls for the international community to assist with training and capacity building of police and other law enforcement agencies.[5]

1.2.1 Politics (level of cooperation from government and between government and its opposition/rivals/co-signatories)

1.2.1.1 Pre-referendum/Implementation of CPA
In 2005, the Government of Sudan and the Sudan People's Liberation Movement (SPLM) signed the CPA, formally ending Africa's longest-running civil war. The CPA established a six-year interim period, de-fact autonomy for southern Sudan, and a unity government in Khartoum, and set out provisions on wealth-sharing from southern oil fields, the status of contested regions, and armed forces integration. Under a new constitution that emerged from the CPA, the South could hold a referendum on independence in 2011. A lack of a clear border definition and the National Congress Party's use of 'divide-and-rule' and 'delay-and-distract' tactics, however, impeded CPA implementation and fostered an environment of mistrust and insecurity at the local and national level.[6]

1.2.1.2 Post-referendum
Despite setbacks in CPA implementation during the interim period, southern Sudan held a referendum in January 2011 in which 98 percent of votes favored independence. Southern Sudan seceded on 9 July 2011, becoming the Republic of South Sudan. Continued conflict between Sudan and South Sudan stemmed from the CPA's unimplemented provisions, particularly regarding transitional financial arrangements, citizenship, and trade. South Sudan itself faced several internal political issues. The SPLM remains the dominant force in South Sudan politics and government but is losing strength as it transitions from a more military-focused organization into a political party.[7]

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[4] SCR 1996 (2011).

[5] Comprehensive Peace Agreement Between The Government of The Republic of The Sudan and The Sudan People's Liberation Movement / Sudan People's Liberation Army (2005).

[6] Conciliation Resources, "A Summary of the Comprehensive Peace Agreement," 2006, pp. 1-2; International Crisis Group, "Sudan's Comprehensive Peace Agreement: Beyond the Crisis," 13 March 2008, pp. 7-8.

[7] Crisis Group, "Politics and Transition in the New South Sudan," 4 April 2012, pp. 12–14; Crisis Group, "Preventing Full-Scale War between Sudan and South Sudan," 18 April 2012.

1.2.2 Society (loyalty structures, literacy, public security, informal criminal justice systems)

1.2.2.1 Ethno-linguistic and religious diversity
South Sudan has an estimated population of 7.5–9.7 million that includes about 200 ethnic groups. 'Southern Sudan is different culturally and religiously from the northern part of the country, a contrast between Arab and Muslim influences in the north and animist and Christian beliefs in the south.'[8]

1.2.2.2 Informal justice system in South Sudan
Customary courts handle about 90 percent of cases in South Sudan and are regarded as 'largely legitimate.' Customary law is an integral part of South Sudanese identity: a point of friction between North and South had been the South's efforts to defend customary law against the threat of Islamization and the imposition of Sharia. Customary law is projected as 'an important source of legislation, constitutionalism, and the rule of law for the government of Southern Sudan.' However, integrating customary law and practices into its justice system will be challenging given the diversity of at least 60 customary law systems, and conflicting value sets.[9]

1.2.3 Environment (geography, climate, topography, natural resources)

1.2.3.2 Oil
Both Sudan and South Sudan are highly dependent on oil revenues, which fund 98 percent of South Sudan's budget. Around 75 percent of the oil is located in landlocked South Sudan but all the pipelines run north. In the post-referendum period, Sudan and South Sudan continued to contest oil field ownership, south-north border demarcation, oil revenue sharing and distribution of state-owned oil assets. After revenue-sharing negotiations stalled in early 2012, Khartoum blocked around $140 million in oil shipments. South Sudan, in response, shut down oil production in January 2012. These actions hurt both Sudan's and South Sudan's economies.[10]

2. ILLUSTRATIONS OF COLLABORATION AT MISSION LEVEL AND BEYOND, RELATED TO RULE OF LAW

2.1 Collaborative inputs towards outcomes

2.1.1 Collaboration within UNMIS

2.1.1.1 Lack of intra-mission coordination on Protection of Civilians (POC)
Differing interpretations of UNMIS' Chapter VII mandate for the protection of civilians (POC) created 'serious confusion' for the Mission and its partners throughout the CPA interim period. Within the mission, there appeared to have been limited coordination and cooperation on POC, with the different sections working on protection in isolation. Several attempts were made to clarify the Council mandate and systematize the Mission approach, notably the decision in early 2010 to 'mainstream' POC and abolish the Mission's Protection Section.[11]

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[8] Luka B. Deng, "The Challenge of Cultural, Ethnic and Religious Diversity in Peacebuilding and Constitution-Making in Post-Conflict Sudan." Civil Wars 73 (2005): 262; BBC, "South Sudanese refugees begin journey to Juba," 12 May 2012.

[9] Francis Deng, "Customary Law in the Modern World: The Crossfire of Sudan's War of Identities," 2009, pp. 4-5; USIP, "Customary Law and Criminal Justice in South Sudan," September 2010.

[10] BBC, "Sudan: Why Abyei is crucial to north and south," 23 May 2011; Jill Shankleman, "Oil and State Building in South Sudan," USIP, July 2011, pp. 4-5; Crisis Group, "Preventing Full-Scale War between Sudan and South Sudan," 18 April 2012; Crisis Group, "China's New Courtship in South Sudan," 4 April 2012, p. 29.

[11] UNMIS internal document, 2011; NUPI, Challenges to Protection of Civilians in South Sudan, 2011, p. 17.

2.1.2 Collaboration with donors, other UN agencies, and regional partners

2.1.2.1 Mission-UN Country Team (UNCT) Collaboration

An Office of Internal Oversight Services (OIOS) programme evaluation report concluded that integration and coordination between the mission and UNCT had generally been weak and that the Mission lacked both integrated strategic planning and integrated programme implementation. Its first integrated implementation plan was developed in 2008. A 2008 technical assessment mission (TAM) and a 2009 DPKO-led interagency visit both found that UNMIS lacked a coordinated approach to justice and security sector support in Southern Sudan. Structural issues arising from UNMIS and UNCT having different areas of responsibility further complicated coordination and integration and the "2010 elections highlighted that the UN had not acted 'as One' in Sudan" before then, but coordination improved thereafter (see 2.2.1).[12]

2.1.2.2 Lack of effective donor coordination

In South Sudan, numerous aid coordination mechanisms have been tested, including the Joint Assessment Mission (JAM) process, the Multi-Donor Trust Fund and the Joint Donor Team in Juba. However, donor support remains poorly coordinated and comes with lengthy procedures and preconditions, creating a support environment characterized by overlaps and gaps. This environment hurt UNMIS rule of law components' work; UNMIS police, for instance, have noted that support to police programs was often truncated or delayed due to funding problems.[13]

2.1.2.3 Intermittent coordination with regional states' police and corrections support programmes

In response to a request by UNMIS, Ghana and Kenya have assisted in training South Sudan prison staff since 2007, with UNMIS facilitation. Ghana and Kenya have also been active in training SSPS personnel. However, training assistance from these regional partners has largely been conducted without significant coordination or consultation with other donors.[14]

2.2 <u>Notable changes in levels of collaboration in past few years</u>

2.2.1 Improved coordination from 2010

The OIOS evaluation report for UNMIS, based on research done in fall 2010, noted that several 'positive steps' had been taken to improve coordination and integration during the previous year: expanded UNCT meetings, the establishment of the UN Integrated Referendum and Electoral Division, and the creation of working groups and the Integrated Planning Coordination Team under the 2010 UNMIS-UNCT Integrated Action Plan.[15]

2.2.2 'Significant improvements' in information management

The 2011 South Sudan Integrated Technical Assessment and Planning Team (ITAPT) reported that 'UNMIS initially suffered from systemic problems in information flow, including stovepiped information channels, multiple layers of hierarchy, compounded by weak or non-existent structures for gathering and analyzing data. There was no clear system for translating raw information into timely recommendations for senior management.' The ITAPT noted that UNMIS had made 'significant' improvements to information management over time such as the establishment of an integrated Joint Operations Center, Regional Operations Center and State equivalents.[16]

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[12] UNMIS internal document, 2009; A/65/752, 23 February 2011, pp. 2, 7-10.
[13] UNMIS internal documents, 2007, 2009, 2011.
[14] S/2007/500, p. 11; Lokuji et al., "Police Reform in Southern Sudan," 2009, p. 27.
[15] A/65/752, 23 February 2011, pp. 7-10.
[16] UNMIS internal document, 2011.

2.3 <u>Role of headquarters guidance/advice in achieving outcomes</u>

2.3.1 Assessment and planning missions and delegations

The 2008 TAM found that UNMIS's work in the justice sector had been 'hampered by a shortage of staff, an over-ambitious programme, [and] insufficient synergy and complementarity with UNDP.' Its observations were echoed by a DPKO-led inter agency support visit in 2009. Both recommended that a Justice and Security Sector Advisory and Coordination Cell and a joint justice programme between UNMIS and UNDP be established. UNMIS implemented both recommendations. The Standing Police Capacity (SPC) in the UN Police Division also deployed assessment and support missions in 2010 at the Mission's request (see notes to sections 3.1 and 3.2.)[17]

2.3.2 Justice and Security Sectors Advisory and Coordination Cell (JSSACC)

Established in February 2010 with the support of the Office of the Rule of Law and Security Institutions (OROLSI), the JSSACC is intended to coordinate and provide policy guidance to UN actors in the justice and security sector. It has assisted in coordinating different actors involved in SSR during the elections and referendum, and conducted an initial review of the justice and security sectors and a mapping exercise of international assistance activities to inform future mission planning.[18]

3. ILLUSTRATIONS OF PARTICULAR SUCCESSES AND SHORTCOMINGS IN POLICE, JUSTICE AND CORRECTIONS COMPONENTS' WORK:

3.1 <u>Cross-cutting issues</u>

3.1.1 Collaboration with each other or with implementing partners

3.1.1.1 Collaborative relationship between UNDP and UNPOL
UNPOL has had a generally positive working relationship with UNDP, with reports noting increased levels of coordination and cooperation over time. UNDP has provided institutional support to numerous UNPOL projects, including in basic police training and community policing; however, a 2010 biannual report noted that delays by UNDP in procurement and transfer of funds hampered police training programs.[19]

3.1.1.2 UNMIS-UNODC collaboration in corrections
UNMIS worked in close coordination with the UN Office on Drugs and Crime (UNODC) on prison reform in Southern Sudan. UNODC and the UNMIS Corrections Advisory Unit were co-located at the UNMIS team site in Juba, an approach that was 'very successful in strengthening relations between UNMIS and UNODC.'[20]

3.1.2 Independent positive/detrimental effects on the other components' work

3.1.2.1 Limited geographic presence in Southern Sudan
UNMIS's original configuration in Southern Sudan—three large mission sectors, each headquartered in a major Sudanese Armed Forces (SAF) garrison town—was well-suited to monitoring and verification of the CPA security arrangements, but less appropriate to supporting the establishment of rule of law institutions throughout the ten states of Southern Sudan. UNMIS in the South was directed centrally from Khartoum until

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[17] UNMIS Technical Assessment Mission Report, 2008; UNMIS internal document, 2009.

[18] UNMIS internal document, 2010; A/65/752, 23 February 2011, p. 15; UNMIS internal document, 2011.

[19] UNMIS internal document, 2006; UNPOL Bi-Annual Report, January-June 2010; UNMIS internal documents, 2010.

[20] DPKO/OROLSI, "Corrections Update", October 2010, p. 25; UNMIS internal document, 2011.

the creation of a regional coordination center in Juba in 2010. Not until 2009 were senior UNMIS coordinators deployed to each state (though many substantive units did not deploy below the sector HQs level); before then, UNMIS representatives at the state level were P3s or UNVs. The presence of senior UNMIS coordinators at the state level was noted to have 'helped improve representation and coherence, and to facilitate cooperation with UN Agencies, funds, and programs.'[21]

3.1.2.2 Lack of coordination among GoSS security institutions
'Within the GoSS itself, there is a palpable absence of a coordinating mechanism which could serve as a single focal point for integrating SSR support by external actors and within the GoSS.'[22]

3.1.3 HQ role in promoting collaboration/coherence in components' work.

3.1.3.1 Police Division guidance
In the run-up to the 2010 national elections, Police Division responded to requests from UNMIS police for personnel with experience in election security training. In 2010, at UNMIS request, Police Division deployed a team of the Standing Police Capacity in June to provide support and technical assistance, and another in September to enhance the police component's capacity to support referendum security arrangements.[23]

3.2 Police component

Six years after establishment of UNMIS, SSPS capacity remained extremely limited; the SPLA, not the SSPS, were still considered the primary provider of internal security in South Sudan. UNMIS police component seems to have had limited impact on SSPS capacity. Positive relations between UNPOL and SSPS leadership did not translate into substantive engagement; the SSPS were keen on receiving basic training and election security training but were less enthusiastic to address non-training issues key to police reform and restructuring.

3.2.1 Operational support for host state police, or direct law enforcement

UNMIS police component did not provide significant operational support to the SSPS.

3.2.2 Police development (mentoring, advising, reform, restructuring, and rebuilding)

3.2.2.1 SSPS personnel registration database
UNPOL collaborated with SSPS to develop a registration database and identity card scheme and provided training for its use. In 2010, over 34,270 SSPS personnel were registered in the database, up from 18,000 in 2008.[24]

3.2.2.2 Performance and issues in training and/or reforming the SSPS
UNPOL conducted mostly basic police training of SSPS personnel due to lack of basic training infrastructure and equipment and low rates of literacy among the SSPS, which limited the number of qualified trainees. A 2010 SPC report noted that the police training programs '[did] not seem to address coherently the overarching SSPS police reform needs and lacked a systematic approach to identify SSPS performance gaps'. The impact of

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[21] Bennett et al., "Multi-donor Evaluation of Support to Conflict Prevention and Peacebuilding Activities in Southern Sudan 2005-2010", 2010, p. 13; UNMIS internal document, 2011.

[22] UNMIS internal documents, 2009, 2010; Abatneh and Lubang, "Police reform and state formation", March 2011, p. 95.

[23] UNPOL Bi-Annual Report, January-June 2009; UNMIS internal document, 2010.

[24] S/2007/500, p. 10; UNMIS Technical Assessment Mission Report, 2008; UNPOL Bi-Annual Report, January-June 2009; UNPOL Bi-Annual Report, January-June 2010; UNMIS internal document, 2011.

training on the SSPS is 'something that has never been objectively evaluated' although UNMIS police periodically assessed SSPS performance through a self-developed democratic policing index.[25]

3.2.2.3 Election and referendum security training

The performance of the SSPS during the elections was offered as an example of training having had a positive impact. From late 2009 to the 2010 elections, UNPOL trained more than 10,000 SSPS in election security. SSPS leadership 'acknowledged the key role played by UNPOL in training their police personnel in election security duties', which ultimately 'contributed to the generally smooth conduct of elections'. In the run-up to the referendum on independence, UNPOL, with UNDP support, trained over 23,000 SSPS in referendum security. Yet a 2011 OIOS report noted that, the large number of trainees notwithstanding, 'the SSPS remained inadequately equipped and trained for undertaking the responsibility of securing the referendum'. [26]

3.2.2.4 Promotion of community policing

UNPOL has promoted community policing in South Sudan since 2006, when it established the first Police Community Relations Committee (PCRC) in Central Equatoria state. UNPOL developed a community based policing model for South Sudan which was approved by SSPS leadership and the GoSS in 2009. Following the model additional PCRCs were established in 30 locations throughout South Sudan. The model takes into account traditional dispute resolution mechanisms.[27]

3.3 <u>Criminal justice/judicial affairs component</u>

The Judicial System Advisory Unit (JSAU) had limited capacity in Southern Sudan, hamstrung by slow recruitment and a high rate of vacancies. JSAU's Southern Sudan staff was based in Juba but by 2010 had begun recruiting staff to be deployed to field locations in Malakal and Wau.[28]

3.3.1 Justice system direct support

The justice component did not offer direct support to Sudan's justice system.[29]

3.3.2 Justice system development

3.3.2.1 Support for national legislative reform process

The Rule of Law, Judicial System and Prison Advisory Section contributed to the development and adoption of legislation related to the CPA, such as the Political Parties Act, Penal Code, the Code of Criminal Procedure, the Judiciary Act, the Judicial Service Council Act, the Child Act and the Local Governance Act, and the Southern Sudan Police Bill.[30]

3.3.2.2 Training and workshops

The justice component organized workshops and seminars for Southern Sudanese justice sector professionals on the administration of justice, legislative reform, and traditional justice dispute resolution mechanisms.[31]

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[25] UNMIS Technical Assessment Mission Report, 2008; UNPOL Bi-Annual Report, January-June 2009; UNMIS internal documents, 2010, 2011; A/65/752, p. 14.

[26] S/2009/545, p. 21; UNPOL Bi-Annual Report, January-June 2010; UNMIS internal documents, 2010; S/2010/681, p. 8; S/2011/239, p. 12; A/65/752, p. 14.

[27] UNMIS internal document, 2008; UNPOL Bi-Annual Report, January-June 2009; UNMIS internal documents, 2010, 2011.

[28] UNMIS internal documents, 2010, 2011.

[29] UNMIS Technical Assessment Mission Report, 2008; S/2009/545, p. 12; A/65/752, p. 14.

[30] UNMIS Technical Assessment Mission Report, 2008; S/2009/545, p. 12; S/2010/31, p. 14; UNMIS internal document, 2010; A/65/752, 23 February 2011, p. 14.

[31] UNMIS Technical Assessment Mission Report, 2008.

3.3.2.3 UNMIS-UNDP Joint Justice Program in Jonglei State
In 2009, UNMIS and UNDP conducted a comprehensive needs assessment of the justice sector in Jonglei State. Based on this assessment, a Joint UNMIS-UNDP Justice Programme was developed in consultation with the national authorities. The joint program 'aims at developing the capacities of judicial and corrections authorities, with a focus on Akobo and Pibor counties, to combat impunity, enhance access to justice at county and state levels, and empower communities and civilians to claim and exercise their rights through peaceful conflict-resolution mechanisms through both the formal and the traditional justice system.' Movement on the program stalled due to disputes at the UN DPKO / UNDP HQ level over who would provide project oversight and management, but agreement was reached between UNMIS and UNDP on the Joint Chapeau/Program document in October 2010. Implementation began in 2011.[32]

3.4 Corrections component

UNMIS initially did not have a corrections presence; first mention of corrections is in SCR 1812 (2008). The Mission's support to the prison sector was limited by the continued problem of obtaining visas for the rotation of advisers; seconded corrections officers were accommodated under the overall number of authorized police personnel.[33]

3.4.1 Corrections system direct support

UNMIS did not provide operational support for the corrections system.

3.4.2 Corrections system development

UNMIS's Corrections Advisory Unit (CAU) developed 'strong working relationships' with the Prisons Directorate of Southern Sudan. From 2007, corrections advisers were co-located with prison staff at the state level. CAU taught courses on basic prison management and human rights principles and helped to develop a joint prison reform strategy and a jail manual. UNMIS provided support to the drafting of the 2010 Prisons Bill, which incorporated recommendations from UNMIS.[34]

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[32] Joint Donor Team, "Joint Donor Team Annual Report 2010", p. 17; UNMIS internal document, 2011.

[33] UNMIS Technical Assessment Mission Report, 2008; UNMIS internal documents, 2010, 2011; S/2011/239, p. 17.

[34] UNMIS Technical Assessment Mission Report, 2008; S/2010/31, pp. 14, 19; S/2010/681, p. 12; A/65/752, p. 14; UNMIS internal document, 2011; S/2011/230, p. 17.