



**Ana Carolina Macedo Abreu**

**Camps of Protection, Spaces of Exception: a reading of the  
United Nations Protection of Civilians Sites in South Sudan**

**Dissertação de Mestrado**

Thesis presented to the Programa de Pós-graduação em  
Relações Internacionais of PUC-Rio in partial fulfillment of the  
requirements for the degree of Mestre em Relações  
Internacionais.

Advisor: Prof. Máira Siman Gomes  
Co-advisor: Prof. Roberto Vilchez Yamato

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## Abstract

Abreu, Ana Carolina Macedo; Gomes, Maíra Siman (Advisor); Yamato, Roberto Vilchez (Co-advisor). **Camps of Protection, Spaces of Exception: a reading of the United Nations Protection of Civilians Sites in South Sudan**. Rio de Janeiro, 2019, p. Dissertação de Mestrado – Instituto de Relações Internacionais, Pontifícia Universidade Católica do Rio de Janeiro.

This thesis analyses different approaches to the protection of civilians (PoC) as mobilized by police/military and humanitarian actors in contexts of armed conflict and humanitarian emergencies where a United Nations peacekeeping operation is deployed. Inspired by the strategies of post-structural discourse analysis, the thesis focuses on the PoC sites in South Sudan, which have sheltered civilians fleeing from violence and persecution since armed conflict broke out in that country, in December 2013. These protected sites have been an integral part of protection strategies and practices advanced by both humanitarian actors present in the country and the United Nations Mission in South Sudan (UNMISS) and are taken here as a privileged analytical microcosm for assessing protection discourse(s) due to the colocation of different protection rationales that characterizes those spaces. Grounded on a Foucauldian theoretical-conceptual framework, this work mobilizes the concepts of sovereign power, governmentality and biopolitics developed by Michel Foucault and employed by critical literature on peacekeeping operations and humanitarian action. It is argued in the thesis that the rationales of protection advanced by both the humanitarian and security sectors work according to the rationality of police power, understood as an ensemble of technologies and techniques that maintains order and protects life among populations but also decides on the suspension of law. Pointing to the particular relationship between protection, policing and exceptionality unraveled in the context of PoC sites, these spaces will be treated as Giorgio Agamben's "camps": as spaces of normalized exceptionality where "bare life" is managed.

## Key-words

protection of civilians; peacekeeping operations; humanitarianism; PoC sites; South Sudan; police power; exceptionality; camp.

## Resumo

Abreu, Ana Carolina Macedo; Gomes, Maíra Siman (Orientadora); Yamato, Roberto Vilchez (Co-orientador). Campos de Proteção, Espaços de Exceção: **uma leitura dos *Protection of Civilians Sites* das Nações Unidas no Sudão do Sul**. Rio de Janeiro, 2019, p. Dissertação de Mestrado – Instituto de Relações Internacionais, Pontifícia Universidade Católica do Rio de Janeiro.

Esta dissertação procura analisar as diferentes abordagens à proteção de civis (PoC, da sigla em inglês) mobilizadas por agentes policiais/militares e humanitários em situações de conflito armado e emergências humanitárias onde há presença de operações de paz das Nações Unidas. Inspirada pelas estratégias de análise de discurso pós-estrutural, a dissertação se concentra nos “PoC sites” no Sudão do Sul, espaços que abrigam civis deslocados pela violência e perseguição desde a conflagração do conflito armado em curso, em dezembro de 2013. Tais espaços de proteção têm integrado as estratégias e práticas de proteção avançadas tanto por humanitários quando pela Missão das Nações Unidas no Sudão do Sul (UNMISS) e são tomados como um microcosmo privilegiado para a análise do(s) discurso(s) de proteção, dada a coexistência de diferentes racionalidades de proteção que os caracteriza. Orientada por um arcabouço teórico-conceitual foucaultiano, a dissertação mobiliza os conceitos de poder soberano, governamentalidade e biopolítica desenvolvidos por Michel Foucault e trabalhados por literaturas críticas às operações de paz e ao humanitarismo. Defende-se que as racionalidades de proteção avançadas pelos setores humanitário e de segurança seguem a racionalidade do poder policial, entendido como um conjunto de tecnologias e técnicas quem mantêm a ordem e protegem a vida no nível da população, mas também decidem sobre a suspensão da lei. Apontando para a relação entre proteção, policiamento e excepcionalidade desenvolvida nos PoC sites, tais espaços serão analisados a partir do conceito de “campo” de Giorgio Agamben: espaços de normalização da excepcionalidade em que a “vida nua” é governada.

## Palavras-chave

proteção de civis; operações de paz; humanitarismo; PoC sites; Sudão do Sul; poder policial; excepcionalidade; campo.

## Abbreviations

<b>ACTED</b>	Action for Technical Cooperation and Development
<b>CCCM</b>	Camp Coordination and Camp Management
<b>DDR</b>	Disarmament, Demobilization and Reintegration
<b>DFS</b>	United Nations Department of Field Support
<b>DPKO</b>	United Nations Department of Peacekeeping Operations
<b>DRC</b>	Danish Refugee Council
<b>DSS</b>	Department of Safety and Security
<b>FPU</b>	Formed Police Unit
<b>HCT</b>	Humanitarian Country Team
<b>HRC</b>	United Nation Human Rights Council
<b>IASC</b>	Inter-Agency Standing Committee
<b>IDPs</b>	Internally Displaced Persons
<b>IOM</b>	International Organization for Migration
<b>IHL</b>	International Humanitarian Law
<b>MSF</b>	Médecins Sans Frontières
<b>NFI</b>	Non-Food Items
<b>NRC</b>	Norwegian Refugee Council
<b>OCHA</b>	United Nations Office for Coordination of Humanitarian Affairs
<b>PoC/POC</b>	Protection of Civilians
<b>RRP</b>	Relief, Reintegration and Protection
<b>SPLM/A</b>	Sudan's People Liberation Movement/Army
<b>SPLM/A-IO</b>	Sudan's People Liberation Movement/Army in Opposition
<b>UN</b>	United Nations
<b>UNHCR</b>	United Nations High Commissioner for Refugees
<b>UNMISS</b>	United Nations Mission in South Sudan
<b>UNPOL</b>	United Nations Police



**UNSC**

United Nations Security Council

**WASH**

Water, Sanitation and Hygiene

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## 1

**Introduction**

For the past five and a half years, the United Nations Mission in South Sudan (UNMISS), along with humanitarian agencies, has been providing protection to the South Sudanese displaced by conflict in the so-called “Protection of Civilians Sites” (PoC sites). These spaces emerged in December 2013 when, following the outbreak of civil war in the country, civilians sought protection in UNMISS bases. Having developed without previous planning and encompassing a wide range of protection actors, these spaces are marked by co-location, intersection and overlap between different protection rationales, specifically those of humanitarian and peacekeeping actors.

This thesis takes the PoC Sites as a microcosm of analysis through which to assess the protection of civilians discourse(s) which is/are mobilized and operationalized in these spaces. This will be done through a Foucauldian lens, focusing specifically on the concepts and practices advanced by security and humanitarian actors. The understanding that the afore mentioned co-location and overlap between different protection rationales lead to an “encroachment on humanitarian space” (Bellamy and Hunt 2015, 1291) renders a spatial dimension to the disputed field of civilian protection in contexts of armed conflict. The ensuing discussion will be guided by Michel Foucault’s (1978; 2007) technologies of power, especially his genealogical recovery of the 17<sup>th</sup> century European “police” as a technological ensemble responsible for the whole art of governing the processes of populations.

Aiming to destabilize what is perceived here as a predominant, depoliticizing account of the PoC sites, in this thesis I use the terms “PoC sites”, “protection camps” and “camps” interchangeably. As is the case with the UN avoidance of the term “camp”, the choice to employ it here is also political. Using the concept of “camp” developed by Agamben (1998; 2000), that is, the camp understood as a space of permanent realization of the state of exception that opens a zone of indistinction between norm and exception, and where sovereign power manages life as bare life, I aim to politicize the analysis of such spaces in drawing attention to the practices of spatial ordering and population management carried out

in those sites, which point towards the normalization of exceptionality in spaces designated for the protection of life and safeguarding of fundamental rights.

This is also part of a dual effort to, on the one hand, distance the present analysis from official (UN and humanitarian) discourse as well as from rather technical, problem-solving assessments of these spaces<sup>1</sup>, and, on the other, to establish a dialogue between our reading of the PoC sites, with all the specificities and particularities carried by these spaces, and a wider literature on refugee camps and other contemporary spatial modalities of managing migration which, whether serving the purpose of protecting or containing people on the move, produce and perpetuate conditions of exceptionality and disenfranchisement (Elden 2006; Hyndman 2000; Hyndman and Giles 2017; Johnson 2013; Rajaram and Grundy-Warr 2004).

Before presenting the research problem, that is, the protection of civilians discourse(s) and the analytical strategies that will guide its analysis throughout the thesis, in the following section I propose a brief contextualization to the South Sudanese conflict that has led to the emergence of the PoC sites.

### 1.1.

#### **The South Sudan “problem”**

When Sudan became independent in 1956, the relationship between the political elite centered in the capital, Khartoum, and the South was already marked by tensions and conflicts. The differences between the two regions are sometimes attributed to the Anglo-Egyptian colonization (1899-1956), whose activities were concentrated in the North, keeping the territory that today makes up South Sudan in relative political and structural isolation (Bhusal 2014). Other narratives point to the participation of Northern merchants in the enslavement of Southern Sudanese as the starting point for southern resentments toward the North (Johnson 2016).

The conflict known as the First Sudanese Civil War began in 1955 and lasted until 1972, when the Government of Sudan (GoS) and Anya-Nya, the main liberation movement in the South, signed the Addis Ababa Peace Agreement. The

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<sup>1</sup> See, for example: Dönges, H. (2016). “Protection of Civilians needs to be understood as a collaborative strategy and not a campsite”. *Global Peace Operations Review*. URL: <https://peaceoperationsreview.org/thematic-essays/protection-of-civilians-needs-to-be-understood-as-a-collaborative-strategy-and-not-a-campsite/>.

Agreement, which ensured administrative autonomy for the South, was not properly implemented. The region remained marginalized by the central government, apart from political participation and civil service, and with limited access to basic services. The integration of former Anya-Nya combatants into the military did not occur as stipulated, and the discovery of oil in the South in 1978 aggravated the situation, with Khartoum trying to redefine the North-South “borders”.

In 1983, President Jaafar Nimeiry imposed Sharia law in the national territory. The Islamic religion, prevalent in the North, was then being used by the government in Khartoum as a discrimination mechanism against the South, whose population practices mainly Christianity or traditional, regional religions. According to Bhusal, the imposition of Sharia law was the trigger for the resumption of armed conflict. In the same year, Southern soldiers organized a mutiny in the Bor region (see Annex 1), and John Garang de Mabior, an army Lieutenant Colonel born in the Southern region of Upper Nile, was sent to suppress the uprising. Garang, however, joined the rebels in what became known as the Bor Mutiny, marking the beginning of the Second Civil War.

Garang then fled to Ethiopia, where, uniting with other Southern leaders and with the support of the Ethiopian government, he founded the Sudan People's Liberation Movement/Army (SPLM/A), a movement that had as declared aims the secularization of the Sudanese State, extinction of Sharia law, and promotion of national unity. The movement was described as a liberation movement not only for the South, but for all marginalized groups in Sudan. However, the SPLM/A was marked by sectarianism since its inception, and the early years of the civil war were of intense hostility between SPLM/A and Anya-Nya II, the successor of the Anya-Nya that had resumed the latter's secession project in 1978. The conflict between the two groups paved the way to ethnic violence, as SPLA fighters were mostly Dinka, and Anya-Nya II members were predominantly Nuer – thus involving the two ethnic majorities of the South.

In the early years of the Second Civil War, Anya-Nya II fighters would attack SPLA recruits, mostly from the Dinka and Nuba ethnic groups, who passed through the Upper Nile region, of Nuer majority, on their way to the SPLM training camps in Ethiopia. SPLA Dinka and Nuba members, in turn, looted, murdered and raped Nuer civilians on their return to southern Sudan – war crimes that were not punished by the movement's leaders (Hutchinson 2001, 311-14). Thus, violence in

the South already mobilized the affections of the two major ethnic groups of the before independence.

The military superiority of the SPLM/A would soon lead to the disintegration of the Anya-Nya II. By the time Omar al-Bashir came to power in Khartoum and took steps to increase the centralization of power and ensure the implementation of Sharia law, the Garang's had already prevailed in the South. However, the SPLM/A suffered a split in August 1991, when Riek Machar, SPLA Commander of Nuer ethnicity, broke away from Garang's leadership and founded the SPLM/A-Nasir, which advocated for Southern independence. In October and November of that year, Machar-led troops stormed the region of Bor, John Garang's place of residence and a Dinka-majority territory, killing about 2000 civilians in what became known as the Bor Massacre.

Much of the 1990s were marked by South-South conflict and sedition in the different armed groups, whose military leadership, particularly Garang and Machar, capitalized on the rivalries between Dinka and Nuer ethnic groups in order to galvanize support for their respective movements (*ibid.*, 319). These hostilities, in turn, were capitalized by the GoS, which, following a divide-and-conquer strategy, fomented rifts in the South to control oil reserves in the Upper Nile.

The first attempts to achieve a ceasefire began in 1992 in Abuja, but negotiations mediated by Nigeria stalled in 1993. Later that year, further attempts were made by the Intergovernmental Authority on Development (IGAD)<sup>2</sup>, with the subsequent participation of the Troika, composed of the United States, United Kingdom and Norway. Negotiations continued troubled and intermittently for the next twelve years until a Comprehensive Peace Agreement (CPA) was signed in 2005.

The strengthening of the SPLM/A and the recovery of relative unity in the armed struggle against the North had been further advanced in 2002, when, in the face of GoS attacks on the Upper Nile, Riek Machar and his troops were reincorporated into SPLM/A-Mainstream, led by John Garang. Ceasefire negotiations were already underway at that time and, due to its international recognition, the reunified SPLM/A was the only Southern group to take part in the

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<sup>2</sup> IGAD is a trade bloc formed by governments of the African Horn and Great Lakes regions. It currently has eight members, including Sudan and South Sudan. Other members are Somalia, Kenya, Djibouti, Ethiopia, Eritrea and Uganda.

CPA. By 2005, when the agreement was signed, the civil war had resulted in at least 2 million deaths, 4.8 million IDPs and 800,000 refugees (Bhusal 2014, 38).

The terms of the CPA stipulated that the status of the South would be decided by a referendum, which would be preceded by a six-year interim period, during which time the region would acquire a semi-independent government and the SPLM/A would participate in central government in Khartoum. During this time, Northern and Southern authorities should make the union attractive to the population. However, shortly after the start of the interim period in July 2005, John Garang, then Sudan's vice president, died in a helicopter crash. On January 7, 2011, 98.83% of the Southern population voted for independence, and on July 9, South Sudan became a Sovereign State. The result of the referendum is attributed by some observers to the lack of commitment to national unity by both al-Bashir and Salva Kiir, Garang's successor and current president of South Sudan (de Waal 2014; Johnson 2016).

In March 2013, members of the SPLM Political Committee, led by Riek Machar, opposed Salva Kiir's candidacy for the 2015 elections and declared themselves SPLM/A In Opposition (SPLM/A-IO). The following months were of deep tension and hesitation between Kiir and his opponents. In December, the dispute culminated in an armed struggle, and, as a consequence of the SPLM/A's own polyvalent character, "within two days of the whole edifice of government, party, and army was blown apart" (de Waal 2014, 366).

As its predecessors, the South Sudan conflict has continued intermittently for the past five and a half years despite the signing of repeated ceasefires. The antagonism between the Nuer and Dinka majorities, which had already been mobilized since the Second Civil War, has been exploited by both Riek Machar and Salva Kiir – who belong to the Nuer and Dinka ethnic groups, respectively. With less financial and military resources, Machar resorted to the ethnic rivalry between the groups early on in the conflict, mobilizing the Nuer White Army and commanding attacks in the cities of Bor, Bentiu, Malakal and Renk. Moreover, following a strategy similar to the one adopted by Khartoum in the 1990s, both parties have been waging a war of militias and paramilitary groups. In a March 2017 report, the United Nations Human Rights Council pointed to that "a process of ethnic cleansing was under way in the country" (HRC 2017). The actions reported in the document include attacks on civilians, mass rape, famine, forced

displacement and village destruction. Of the estimated 1.7 million internally displaced persons (IDPs) produced by the conflict, the PoC sites currently harbor 182.026 (IOM 2016, 7; UNMISS 2019).

## 1.2.

### **The problem of protection: emergence, development and implementation of the “Protection of Civilians in Armed Conflict” agenda in UN peacekeeping**

While it is currently considered one of the core concepts and objectives guiding UN peacekeeping, protection of civilians in armed conflict (PoC) has a somewhat recent history in the doctrine and practice of peace operations. The concept was first introduced in the UN security and peacekeeping agenda in 1998, through the Secretary-General report “The Causes of Conflict and the Promotion of Durable Peace and Development in Africa”. Pondering on the well-known peacekeeping debacles of the 1990s such as those in Somalia (1992) and Rwanda (1994), then Secretary-General Kofi Annan draws attention to a shift in the conflict and post-conflict scenarios that peacekeepers are expected to address, namely: “[although] the United Nations was intended to deal with inter-State warfare, it is being required more and more often to respond to intra-State instability and conflict” (UN Secretary-General 1998, 3), of which a defining trait has been the purposeful targeting of civilians. Faced with this new reality, Annan identifies the protection of civilians in situations of conflict as a humanitarian imperative to be fulfilled by humanitarians and the international community at large, calling for “a coordinated approach to humanitarian assistance”, and stressing that “[adherence] to international humanitarian and human rights norms by all parties to a conflict must be insisted upon, and I intend to make this a priority in the work of the United Nations” (*ibid.*, 11).

After an initial debate on the protection of civilians was held in February 1999, the topic was officially included in the Security Council’s international peace and security agenda through the passing of Resolution 1265 later that year, through which the Council condemned the targeting of civilians during armed conflict, called upon “all parties concerned to comply strictly with their obligations under



international humanitarian, human rights and refugee law” (UN Security Council 1999, 2) and declared “its willingness to respond to situations of armed conflict where civilians are being targeted or humanitarian assistance to civilians is being deliberately obstructed” (*ibid.*, 3), including the possibility of attuning peacekeeping mandates to that end<sup>3</sup>. In 2000, the now seminal “Report of the Panel on Peace Operations”, widely known as the “Brahimi Report”, reassessed the peacekeeping disasters of the 1990s and proposed a path to reforming the UN regime of peace operations. The report dealt extensively with the protection of civilians as a mission objective and, according to Marc Doucet (2018, 8), it marked the introduction of PoC into the post-Cold War reforms to the peacekeeping regime. In this sense, the Panel stated that:

United Nations peacekeepers — troops or police — who witness violence against civilians should be presumed to be authorized to stop it, within their means, in support of basic United Nations principles. However, operations given a broad and explicit mandate for civilian protection must be given the specific resources needed to carry out that mandate (United Nations 2000, x).

It also stated that Rules of Engagement should authorize peacekeepers to answer effectively to acts of aggression against civilians, and that missions mandated to protect civilians should be equipped accordingly, so that operations’ capabilities are able to meet the expectations set by a “blanket” protection mandates (*ibid.*, 9; 11). This recommendation was implemented through the 2002 “Provisional Guidelines for the Development of Rules of Engagement for UN Peacekeeping Operations” developed by the UN Department of Peacekeeping Operations (DPKO), which postulated that operations should be authorized to use force, including deadly force, to protect civilians from physical violence (Blocq 2006, 205 apud Bellamy and Hunt 2015, 1279).

In the two decades that have passed since PoC was included in the UN peace and security agenda, the concept has become central to the peacekeeping regime. On one hand, this trend can be observed in the number of operations mandated to protect civilians: most peacekeeping operations established since 1999 have had a civilian protection mandate, beginning with the United Nations Mission in Sierra Leone (UNAMSIL). Of the fourteen missions being currently deployed,

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<sup>3</sup> More recent Security Council resolutions on protection of civilians in armed conflict include Resolution 1674 (2006) and Resolution 1894 (2009). See: [https://www.securitycouncilreport.org/un\\_documents\\_type/security-council-resolutions/?ctype=Protection%20of%20Civilians&cbtype=protection-of-civilians](https://www.securitycouncilreport.org/un_documents_type/security-council-resolutions/?ctype=Protection%20of%20Civilians&cbtype=protection-of-civilians).

eight are mandated to protect civilians (OCHA 2019, 41). On the other hand, PoC has been accompanied by a “robust turn” in UN peacekeeping (Bellamy and Hunt 2015). In this context, the authorization to employing all means necessary, including the use of force, in self-defense and in defense of the (protection) mandate, has become a common clause in Security Council resolutions – so much so that Bellamy and Hunt estimated that over 100.000 peacekeepers were deployed with a Chapter VII<sup>4</sup> mandate to protect civilians (*ibid.*, 1277).

Protection of civilians was consolidated as a core principle and purpose of UN peacekeeping in the 2008 “United Nations Peacekeeping Operations: Principles and Guidelines” elaborated by the DPKO in partnership with the Department of Field Support (DFS). This document, which lays the foundation for the Capstone Doctrine of peacekeeping, includes protection of civilians among the core activities of contemporary peace operations, stressing that protection requires coordination among the operation’s military, police and civilian personnel, as well as among those and humanitarian agencies both inside and outside the UN system.

Since then, this centrality has also been ratified in recent analyses of peace operations in general and PoC specifically. The “Report of the High-Level Independent Panel on United Nations Peace Operations” identified PoC as “a core principle of international humanitarian law and a moral responsibility for the United Nations” (HIPPO 2015, 22), also stating that 98% of peacekeepers operating at the time were acting with a protection mandate (*ibid.*, 24). Furthermore, the 2019 annual Report of the Secretary-General on PoC observes that protection has become “the yardstick” through which peacekeeping operations’ performance is measured. (Secretary-General 2019, 4), a perception that was echoed by the UN Office for Coordination of Humanitarian Affairs (OCHA) in a recent report on the twenty years of Security Council engagement with the issue of civilian protection since Resolution 1265 was passed (OCHA 2019, 6).

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<sup>4</sup> The roles, responsibilities and mechanisms concerning international peace and security under the UN system are defined in Chapters V, VI and VII of the UN Charter. While Chapter V ascribes the primary responsibility for maintenance of international peace and security to the Security Council, Chapter VI lays down the mechanisms for peaceful resolution of controversies, which include mediation, negotiation, resource to regional arrangements, among others. Chapter VII, on the other hand, sets the actions to be taken in cases of “threats to the peace, breaches of the peace and acts of aggression”. Those include the imposition of sanctions, blockades and the use of armed force as a last resource (United Nations 1945). In the context of UN peacekeeping, Chapter VII mandates are usually related to the authorization to use force. Missions deployed under Chapter VII of the Charter are considered to have a “robust” mandate.

Even while it grew in importance to and became intertwined with the use of force in peacekeeping mandates, early developments of the PoC agenda were directed towards the mainstreaming of a “culture of protection” across different mission components as well as between the mission and other actors operating in the same context, such as humanitarian agencies and development programs. This approach was meant to promote a “common ground” upon which the myriad of protection actors deployed to contexts of conflict, post-conflict and humanitarian emergencies could carry out their mandates and coordinate their activities, thus creating an “umbrella concept” spanning the terrain of human rights and humanitarian law, military action and humanitarian assistance (OCHA 2007 apud Carvalho and Lie 2010, 62). However, as Benjamin de Carvalho and Jon H. S. Lie observed, such “culture of protection is heterogeneous with few common denominators shared by involved actors” (2010, 73). In this perspective, the authors argue, the absence of a clear conceptual definition and formal guidance to PoC at the United Nations seriously compromised the implementation of protection mandates, especially since each protection sector (security/military, humanitarian and development) advances different conceptions and articulations of the PoC discourse, hindering the capacity to coordinate which the UN posits as central to effective civilian protection.

This problem of undefinition was also highlighted in an independent study on the implementation of protection mandates in the context of peacekeeping operations commissioned by DPKO and OCHA. The study, conducted by Victoria Holt and Glyn Taylor, pointed to the lack of clarity surrounding the Security Council’s understanding of PoC in noting that:

The Council has used this terminology to refer to the *broad normative framework* that prohibits violence against civilians in some instances; the full range of humanitarian and peacebuilding *activities* in which the UN system engages in others; and the narrower *concept of ‘physical’ protection* supported by the peacekeeping mission overall, but with a presumptive focus on actions by its military and police assets. The Council has also employed the language of ‘protection of civilians’ in mandates to describe *mission objectives*, as well as to identify specific *tasks* (Holt and Taylor 2009, 6, italics added).

Such versatile usage of the term, the study concluded, resulted in confusion inside the UN, both at Secretariat and mission levels, regarding the purpose of PoC mandates. This, in turn, led to a “lack of policy guidance, planning and preparedness” (*ibid.*, 7), undermining the implementation of the mandate. In this

perspective, it was recommended that the DPKO developed an operational concept to serve as guidance to the operationalization of PoC mandates, and also that peace operations mandated to protect civilians develop a mission-wide protection strategy to serve as guidance for action and coordination among mission components (*ibid.*, 10-14).

This diagnosis and recommendation were closely followed by the elaboration of a “Draft DPKO/DFS Operational Concept on the Protection of Civilians in United Nations Peacekeeping Operations”, through which the Secretariat endeavored to advance a shared understanding of PoC as well as “[identifying and organizing] the range of POC mandated tasks undertaken by missions into a clear conceptual framework to support their practical implementation (DPKO and DFS 2010, 2). Instead of trying to reconcile different protection paradigms, the DPKO and the DFS attempted to provide a framework through which the overall tasks and capabilities of peacekeeping operations could be attuned to the protection of civilians. In this sense, the document stated that PoC exceeds mere protection from physical violence and the activity of an operation’s military component: PoC requires the engagement of and coordination between different mission components and is also promoted through support to the political process, promotion and protection of human rights, addressing displacement, promoting rule of law, development of disarmament, demobilization and reintegration (DDR) programs, among others.

This Draft Operational Concept was also where the UN first presented the three protection tiers that should henceforth feed into DPKO-level policy and guidance-making as well as mission-level operationalization and implementation of PoC mandates, guiding different protection actors in the process of “[identifying] practical tasks and techniques, [assigning] roles and responsibilities and [examining] innovations for overcoming identified challenges at the operational and tactical levels” (*ibid.*, 7). The three tiers focus on: 1) protection through political process – later redefined as “protection through dialogue and engagement” (DPKO and DFS 2015b, 8); 2) provision of physical protection; and 3) establishment of a protective environment. They encompass a wide range of protective tasks such as those mentioned above and are meant to be implemented “simultaneously, in accordance with mission mandates and in light of the circumstances on the ground” (*idem* 2010, 7).

The years 2009-2010 thus witnessed a shift in the development of the PoC agenda in UN peacekeeping. The last decade has been marked by the development of what Doucet has referred to as a “PoC assemblage” at micro-level composed by “policy documents, directives, guidelines, operating procedures, field manuals, training documents, and audits authored primarily by UN units” (2018, 110-111), including the DPKO, DFS, OCHA and the Office of Internal Oversight Services. In Doucet’s categorization, this “micro level” is met at the macro level reports prepared by the Secretary-General, special commissions and panels, which

lay out broad trends, principles, and objectives whereas the micro level documents, most often authored for UN personnel or practitioners in the field, are intended to provide guidance for the planning, implementation, conduct and reporting of peacekeeping operations mandated to protect civilians (*ibid.*, 111).

The micro level assemblage, in sum, provides the framework through which the general principles and objectives pertaining to PoC that are laid out in the macro level can be translated into practice. Key micro level documents issued in the last few years include, among others<sup>5</sup>: the 2012 DPKO/DFS “Infantry Battalion Manual”, which postulates that peacekeepers may use force, including against national armed forces, in order to protect civilians (DPKO and DFS 2012, 102 apud Doucet 2018, 112); the DPKO/DFS “Protection of Civilians: implementing guidelines for military components of United Nations peacekeeping missions” (DPKO and DFS 2015a); the DPKO/DFS “Policy on the Protection of Civilians in United Nations Peacekeeping Operations” (DPKO and DFS 2015b); and the DPKO/DFS “Guidelines on the Role of United Nations Police in Protection of Civilians” (DPKO and DFS 2017), all of which build upon the DPKO/DFS Operational Concept and further elaborate the three-tier approach.

In this respect, the 2015 Policy explains the three tiers in the following terms:

- Tier I – “protection through dialogue and engagement”: includes activities such as conflict resolution and mediation, public information and reporting on civilian protection, and direct engagement with relevant actors such as the host government;

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<sup>5</sup> For a further understanding of the “micro level PoC assemblage”, see: Doucet, M. *Reforming 21<sup>st</sup> Century Peacekeeping Operations: governmentalities of security, protection and police*. London and New York: Routledge, 2018, p. 111-118.

- Tier II – “provision of physical protection”: entails the “show or use of force to prevent, deter, pre-empt and respond to situations in which civilians are under threat of physical violence”; tier II activities are carried out mainly by police and military sectors in close coordination with relevant civilian sections;
- Tier III – “establishment of a protective environment”: this tier accommodates diverse programs which may not be primarily conceived as protection-oriented, such as DDR, supporting the political process, security sector reform (SSR), promoting rule of law, demining, creating conditions for the safe and voluntary return, resettlement of local integration of refugees and IDPs, among others (DPKO and DFS 2015, 8-9).

The Policy reinforces that the three tiers are “mutually accommodating”, to be implemented simultaneously without sequencing, and that all mission components (civilian, police, military) have a role to play in each tier. Tier III in particular demands coordination between relevant mission actors and programs carried out by the UN Country Team (UNCT) and/or the Humanitarian Country Team (HCT)<sup>6</sup>. Furthermore, the tiers are connected to four protection phases: prevention, preemption, response and consolidation. As occurs with the tiers, the document stresses that the four phases “do not necessarily occur in sequential order and may be undertaken simultaneously or independently” (*ibid.*, 9). PoC thus accommodates both past and future-oriented practices, that is, both preventive and remedial measures, pointing to a “temporal-hinge” (Doucet 2018, 57) which will be further explored in the next chapters.

Despite extensive work of providing guidance to the operationalization of the PoC concept in the last decade, the study of protection discourse(s) and the PoC sites developed in this thesis points to an enduring lack of consensus regarding implementation, especially in integrated missions in which the peace operation must coordinate protection efforts with other protection actors, which are represented by the HCT and UNCT. Even if in principle the PoC agenda has

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<sup>6</sup> The United Nations Country Team (UNCT) corresponds to the ensemble of UN agencies, funds and programs operating in the country where the mission is deployed but are not part of the operation per se. The Humanitarian Country Team (HCT), on the other hand, is composed by the ensemble of humanitarian actors, both UN and non-UN, participating in the humanitarian response in a given country (POTI 2014).

become increasingly structure, in practice the multiplicity of protection agents – each one of them following their own understanding of protection and consequently carrying out different protection tasks – has resulted in political and operational disputes. The following section further elaborates on the contested character of civilian protection as principle and as practice.

### 1.2.1.

#### **A tale of two discourses: staking a claim on a contested concept**

Different meanings can be ascribed to the same word in different spaces and at different times, and even in the same spatiotemporal context, as it is mobilized by different actors, following the different institutional cultures and discursive fields through which the term is interpreted and mobilized. This is the case of *protection*. While analyzing different protection narratives advanced by the French security sector, Didier Bigo observed that “the same term can move in opposite directions, from helping someone, to indefinite detention and to monitoring and surveillance mechanisms” (2006c, 89). As will be argued throughout this thesis, such malleability of protection is not limited to the French context: it is, in fact, a fundamental trait of the PoC discourse(s) that grant legitimacy to and guide contemporary international interventions in the peripheral spaces of the global south.

Although Security Council and DPKO/DFS documents pertaining to protection of civilians set a tone of complementarity with the humanitarian approach to protection (UN Secretary-General 1998; UN Security Council 1999; DPKO and DFS 2008; 2010; 2015b), peacekeepers and humanitarian actors subscribe to different definitions and practices of PoC. While the security sector’s approach to protection entails essentially protection physical violence is central to the PoC agenda in UN peacekeeping, the humanitarian sector adopts a broader understanding of protection, encompassing

protection against physical assault, encroachment of material goods and rights, and injustice, and access to basic services as important. It elevates the provision of individual security through establishing a secure human environment that does not contain the possibility or fear of physical violence (Carvalho and Lie 2010, 77)

This practical-conceptual discrepancy has been the source of attrition between these actors at the points of implementation of their respective protection mandates, that is, in the locations where UN peacekeeping operations and humanitarian missions are deployed and where their fields of action overlap. In this perspective, civilian protection has been described as “a discursive battlefield of knowledge in which different actors vie over its meaning and moral affiliation” (Lie 2012, 142) and as “a highly contested and challenging concept” (Carvalho and Lie 2010, 82).

As has been observed here, the trajectory of PoC as a guiding principle for the United Nations peacekeeping agenda is a somewhat recent one. As a legal principle, on the other hand, civilian protection has a longer history, with early developments of the concept being located as far back as in the European just war tradition of the 12<sup>th</sup>-15<sup>th</sup> centuries. In this vein, according to Elisabeth Ferris, “the principle of protecting noncombatants was firmly fixed in the canon law of the Roman Catholic Church” by the 13<sup>th</sup> century (2000, 11). The contemporary (legal) formulation of protection of civilians in armed conflict is set out by international humanitarian law (IHL), specifically by the 1949 Fourth Geneva Convention Relative to the Protection of Civilian Persons in Time of War and the two 1977 Additional Protocols to the 1949 Geneva Conventions<sup>7</sup>. Besides these two formulations of PoC, that is, PoC as a principle of IHL and as a principle of UN peacekeeping operations, Lie (2012) identifies a third “ideal-typical version” of the concept: civilian protection as “guidelines for humanitarian organizations’ provision of humanitarian protection” (143), which has evolved alongside IHL.

The more recent development of the civilian protection as a principle of UN peacekeeping has built upon the humanitarian discourse advanced by IHL, international human rights law and the field of humanitarian practice (Carvalho and Lie 2010, 67). However, as the Security Council and the DPKO have become the “center of gravity” for PoC in the UN system to the detriment of organs such as OCHA, security-centered and politically-oriented approaches to protection have prevailed in the UN PoC agenda (*ibid.*, 147). According to Bellamy and Hunt, protection tasks carried out by military peacekeepers entail essentially

one or more of three types of activity. The first and most common type involves the positioning of military forces to deter attacks on civilians. The second, less frequent, type involves measures

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<sup>7</sup> For further information, see: <https://www.icrc.org/en/doc/war-and-law/treaties-customary-law/geneva-conventions/overview-geneva-conventions.htm>.



designed to eliminate or restrict the activities of armed groups that threaten civilians. The third, least frequent of all, is the interposition of peacekeepers between civilians and their armed tormentors (Bellamy and Hunt 2015, 1280).

Because humanitarians have been providing protection for at least a century and a half – since both IHL and the International Committee of the Red Cross (ICRC), which assumes the post of non-state guarantor of IHL, started to develop in the second half of the 19<sup>th</sup> century –, they often act as gatekeepers of protection and “standard [bearers] of the humanitarian imperative” (Carvalho and Lie 2010, 75), assuming an ambiguous position in relation to the spillover of civilian protection into the UN security and peacekeeping agenda. Humanitarian activity is guided by the principles of humanity, neutrality, impartiality and independence (Ferris 2000, 11), which “help to create ‘space’ (both physical and political) for humanitarian work” (Bellamy and Hunt 2015, 1287). Thus, while it is recognized that PoC should be mainstreamed across the different sectors, the humanitarian community is also concerned about the inclusion of other segments under the protection umbrella, as having their work associated with those of military and political structures might negatively affect the perception of neutrality, impartiality and independence of humanitarian action – thus threatening the preservation of humanitarian space (Carvalho and Lie 2010, 65; 77; Bellamy and Hunt 2015, 1288; 1291)<sup>8</sup>.

However central PoC has become to the peacekeeping regime, then, its implementation has been marked by a great amount of conceptual confusion and practical disputes both within peace operations and between peacekeepers and other, mainly humanitarian actors. This is due in part to the fact that, as a field of action, protection is delivered by a myriad of actors whose understandings of PoC may differ and whose fields of action may overlap. While Carvalho and Lie also attributed the confusion surrounding PoC to the United Nations’ earlier choice of promoting a crosscutting culture of protection instead of advancing a clear, unequivocal operational concept and guidance, the analysis of the PoC sites to be developed in this thesis shows that conceptual differences and practical disputes

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<sup>8</sup> Carvalho and Lie (2010, 76) identify another approach to protection, advanced by those actors in the development sector that understand development to be protection in the long term. This conceptualization will not be explored in the thesis, however, as development agencies and programs do not play a role in the PoC sites since a defining trait of those spaces, as will be argued in Chapter 4, is the prevalence of short-term approaches to protection.

have persisted even after more recent UN efforts at developing a “micro-level PoC assemblage” (Doucet 2018).

Beyond such antagonistic dynamics between humanitarians and peacekeepers, however, this thesis aims to point to the commonalities and points of convergence between these protection rationalities. The present account of the development of PoC in the context of UN peacekeeping as well as of its reception on the field, especially among traditional protection actors, points to contentious dynamics between humanitarians and security actors involved in peace operations. However, the spillover of PoC to sectors other than the humanitarian is also symptomatic of a more general line-blurring between the activities of humanitarian and security agents (Fassin and Pandolfi 2010), which is marked not only by confusion and contestation, as argued by Carvalho and Lie (2010; Lie 2012), but also by complementarity and continuity (this point will be further explored in the following chapters).

### 1.3.

#### **Analytical strategy: protection of civilians as discourse(s)**

This thesis subscribes to the idea that, besides being systems of social signification, discourses are *productive* of the way we see the world as well as of the world itself, producing and reproducing social identities, structures and practices, on the one hand, and establishing limits to the ways of being and knowing, on the other (Milliken 1999; Hansen 2006; Malmvig 2006). In this sense, the analytical paths taken throughout this work will be underpinned by post-structural discourse analysis. Following the understanding of some voices of poststructuralism, according to whom “[raising] methodological discussions and demands are seen as ‘police work’, undertaken in order to discipline and control scientific borders” (Malmvig 2006, 23), this thesis refers to “analytical strategies” instead of methodological considerations.

The idea of analytical strategies is advanced by Helle Malmvig in her book “State Sovereignty and Intervention: a discourse analysis of interventionary and non-interventionary practices in Kosovo and Algeria”. According to her, talking about analytical strategies – not methodology – makes it clear to the reader the criteria and processes adopted throughout discourse analysis, while avoiding

framing the research in a disciplinary and ontologizing methodological rigidity.

Malmvig explains that the idea of analytical strategies aims to:

direct attention to the fact that *how* objects of investigation are studied is an analytical choice – strategy – made by the analyst. It is not the objects of observation in themselves, which tell us how they are (wish) to be studied, but the analyst who makes objects appear, who constructs the objects of investigation. Therefore, discourses *do not exist* prior to our investigations of them, as it sometimes unfortunately seems to be implied. It is the analyst who constructs them through the analytical choices and definitions made in order to identify them in the first place. This awareness of the construction involved in any study safeguards us from the implicit ontologization made by positivist methodologies (ibid., 24, italics in original).

The analytical strategies that guide this thesis follow a Foucauldian conception of what discourse is and how it should be analyzed. According to Foucault, discourse consists in “a group of statements that are linked to one another by those general *rules* that govern the production of object, subject and concepts” (ibid., 15, italics in original). Thus, it will be argued that the protection discourse is productive (and reproductive) of a core concept (PoC) and of different identities (protection agents/actors and civilians), which are conceived either as agentic subjects or as objects of protection.

These identities are, moreover, produced and reproduced by both discursive practices and material structures (Hansen 2006, 20; 22). Therefore, the analysis proposed here should not exclude the assessment of policies and practices. As noted by Jennifer Milliken (1999), Foucault's work on the development of the prison system and the disciplinary society draws attention to both the process of definition and categorization and the implementation of policies through the organization of space in prisons and practices of surveillance (241). Similarly, Hook maintains that Foucauldian discourse analysis calls us to “step out of the text”:

Remaining ‘within the text’, to be preoccupied only with the contents of discourse means that analysts of discourse will be insufficiently aware of how discourse is instrumentalized precisely because they will lack reference to a broader perspective where material and institutional instances of power come to be intimately connected to textual elements (Hook 2005, 9).

What, for the sake of simplicity, will be referred to here as non-discursive, that is, the protection actors, the humanitarian NGOs, the civilian bodies (humanitarian and otherwise) linked to UNMISS, the subjects of protection and the practices produced, reproduced and legitimized by the protective discourse, is not

extra-discursive in this post-structural perspective. In agreement with Lene Hansen, it is understood here that materiality is mediated by discursive practices (2006, 22). It is argued here that, in the context of PoC sites, the protection discourse acquires materiality through a spatial ordering that allows for the surveillance, containment and management of populations, with protection practices ranging from latrine distribution to indefinite detention.

The analytical strategies used throughout the research will allow:

to investigate carefully how — that is, thanks to *what juridical procedures* and *political devices* — human beings could have been so completely deprived of their rights and prerogatives to the point that committing any act toward them would no longer appear as a crime (Agamben 2000, 41, italics added)

In this thesis, henceforth, the study of the research object will be developed through a range of sources – the selection of which aimed to take into consideration both the discursive and non-discursive practices of protection carried out in peace operations by both peacekeeping and humanitarian personnel. Through this strategy, we aim to draw attention, as proposed by Malmvig, “to the politics involved in what often appear as innocent and self-evident discursive practices – be they scientific discourses, the drawing of a map, or legitimations of intervention” (2006, 5). Drawing attention, finally, to the ways in which the discursive establishment of legitimate protection practices produce boundaries between possible and impossible, acceptable and unacceptable “protection practices”.

### 1.3.1.

#### Sources

The present analysis will focus on the humanitarian and UN/security protection discourses. The analytical choice is justified by a rift identified between peacekeeping missions and humanitarian agencies regarding the protection of civilians in general and PoC sites in particular (Bellamy; Hunt 2015; NRC 2017). However, the research will not take the “military” and “humanitarian” categories as monolithic and homogeneous actors. The complexity of the United Nations – which includes political, military, humanitarian and other actors – and the variety of humanitarian NGOs working in situations of conflict will be considered. Nonetheless, given the need to make this research feasible within time constraints,

these two categories will be taken as ideal types that are produced by and which in turn (re)produce intersecting and overlapping discourses.

In this regard, and agreeing with Hansen, who adopts a relational and discursive conception of identity – in the sense that identities are discursively constructed through processes of linking and differentiation – I understand that the *boundaries between the two discourses are fluid*, and that the relationship between them contributes to the production of police/military and humanitarian identities. In this perspective, while the identities of the protector and the protected are being constantly and relationally constituted within these discourses, the boundaries between the discourses are also “spaces” of identity construction, through security-humanitarian interchanges.

The multiplicity of actors involved in protection activities in the PoC sites is reflected in a substantial ensemble of relevant protection guidelines, policies and manuals, accompanied by response strategies dedicated to South Sudan and/or PoC sites specifically, as well as reports on how actors have responded to protection needs in the sites – the latter includes both periodic updates and “situation reports” (sitreps) and more extensive, analytical or evaluative reports. Given the material and time constraints of writing a thesis, an exhaustive coverage of this “protection assemblage” proved to be an unachievable task. In this perspective, the humanitarian approach to protection in the PoC sites will be based on the following:

- Guidelines: OCHA Guiding Principles on IDPs (OCHA 2004); Camp Management Toolkit (IOM, NRC and UNHCR 2015);
- Strategies: CCCM 2018-2019 Strategy for South Sudan; IOM 2018-2019 Strategy;
- Reports: IOM 2016; NRC 2017; DRC 2017 as well as CCCM Service Mapping and Site Profiles (CCCM 2019a; 2019b; 2019c; 2019d; 2019e)

Besides the UN framework for protection of civilians in peacekeeping operations mentioned above (1.2), UNMISS-specific strategic and operational guidance relating to the PoC sites is laid out by the following:

- Security Council Resolutions, particularly Resolution 2155 (2014);

- UNMISS PoC Strategy (2014a);
- Guidelines on Civilians Seeking protection in UNMISS Bases (UNMISS 2013a) as well as subsequent supplements to those guidelines (*idem* 2013b, 2014b, 2015);
- Periodic UNMISS PoC Updates.

#### 1.4.

#### Chapter structure

The thesis is divided in three core chapters. Chapter 2 introduces the conceptual-theoretical framework, which is centered on Foucault's technologies of power as well as on a Foucauldian literature dedicated to civilian protection, peacekeeping and humanitarian action, with particular attention to the work of Marc Doucet (2018). This chapter aims to trace the security and humanitarian approaches to protection, pointing to the relationship between protection, policing and exceptionality within them. Chapter 3 deals with the emergence and political-judicial structure of the PoC sites, mapping protection actors and analyzing the strategies and practices of protection advanced in these spaces. Finally, Chapter 4 focuses on Agamben's (1998; 2000) notion of "camp", pointing to the temporality of emergency and the spatiality of exception that are at work in the sites, particularly through the practice of indefinite detention in so-called "holding facilities".

## 2

### **A call for politicizing “police work”: the Protection of Civilians agenda as an apparatus for governing the life of populations**

The discourse on the “Protection of Civilians in Armed Conflict” in the context of UN peacekeeping, as has been analyzed in Chapter 1, is productive of both subject positions: the subjects of protection, referred to as “protectors” or protection agents/actors; and the objects of protection, also referred to as civilians or protected bodies/populations. The protection of civilians (PoC) discourse also works to produce and sustain a complex set of legitimate practices of protection and an array of power relations, both between protection actors (the military, the uniformed police, humanitarians and other civilian protectors) and between protection actors and those who are the object of protection: the civilians. This chapter lays the theoretical ground upon which such agencies, subjectivities, relations and practices will be investigated in relation to the PoC sites in the remainder of this thesis. More specifically, the analysis of the PoC discourse to be developed in this chapter is built upon Michel Foucault’s three technologies of power: sovereign power, governmentality and biopolitical power.

#### **2.1.**

#### **Foucauldian technologies of power: sovereignty, governmentality and biopolitics**

In the first volume of *The History of Sexuality* (1978), Foucault advanced a definition of power according to which power is relational in its essence,

in the first instance as the multiplicity of *force relations* immanent in the sphere in which they operate and which constitute their own organization; as the *process* which, through ceaseless struggles and confrontations, transforms, strengthens, or reverses them; as the support which these force relations find in one another, thus forming a *chain or a system, or on the contrary, the disjunctions and contradictions* which isolate them from one another; and lastly, as the *strategies* in which they take effect, whose general design or institutional crystallization is embodied

in the state apparatus, in the various social hegemonies (92, italics added).

Thus understood as multiple force relations which are never fixed – which are, indeed, always available to contestations, displacements and reconfigurations –, power can assume the form of grand strategies, of a system of force relations or disjunctions thereof<sup>9</sup>.

Foucault describes sovereignty as a form of power whose emergence can be traced back to the grand institutions of order that started to develop in the Middle Age and culminated with the formation of the modern state. These institutions, he argues, found their legitimacy in, identified themselves with, and acted through the law. The rationality of sovereignty is therefore of a circular nature (2007, 98) and is intimately associated with a political-juridical discourse. It is a centralizing, centripetal and negative form of power, founded in the “right of seizure: of things, time, bodies, and ultimately life itself” (1978, 136). The most important and radical formulation of this sovereign prerogative is crystallized in “the right to *take* life or to *let* live” (*ibid.*, 136, italics in original), which is enacted whenever there is a perceived threat (internal or external) to the sovereign itself, when its subjects are either executed or sent to war. Hence, it is the sovereign, whether in its personalized formulation (the monarch), or in institutional form (the state), that must be secured. Finally, it is a mark and prerogative of sovereignty “to draw the line that separates the enemies of the sovereign from his [sic] obedient subjects” (*ibid.*, 144).

From the 18<sup>th</sup> century onwards, however, Foucault identifies the development of novel technologies of power, which he associates with the emergence of the “problem of population” experienced in Europe by that time as a consequence of demographic expansion. Those were centrifugal, regulatory forms of power that found in the population their point of reference and object of

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<sup>9</sup> Importantly, resistance appears as immanent to relations of power in Foucault’s conceptualization, in the sense that every relation of power is also constituted by points of resistance. This thesis focuses on the PoC discourse and the technologies and assemblages of power mobilized by it. While protector-protected relations of power are an integral part of the analysis developed in this and the following chapters, those will be assessed through protectors’ discourse and official narrative. It should be noted, however, that the absence of engagement with the idea of resistance is a consequence of limited time and resources rather than the researcher’s ascription to a totalizing understanding of power.



intervention: governmentality and biopolitics. Foucault describes governmentality as the rationality of government that regulates men in their relationship with “things”, that arranges and disposes of “things” such as wealth, resources, territory and its borders, and utilizes tactics and techniques – as opposed to law. But beyond this understanding of the population as a relative reality, considered in relation to forces and processes that are external to it, the population is now understood as a force in itself, as an entity endowed with its own processes and developments, which are not determined nor controlled by the state. This new rationality of government aims not so much to control as to manage processes, movements and relationships of/in the population (2007, 351-2). While the sovereign holds the monopoly over the right to take life, governmentality is concerned with “the knowledge of things, of the objectives that can and must be attained, and the “disposition (*disposition*)” one must employ in order to attain them” (*ibid.*, 100).

It was, the argument goes, the interaction between a new science of government, the problem of population and political economy – a new modality of knowledge that came about when the center of economic rationality was displaced from the family to the population – that allowed the emergence of an art of government which found in the population its end and field of action, on the one hand, and “apparatuses of security as its essential mechanism” (*ibid.*, 108), on the other. In this context, statistical knowledge about the population, the quantification of the governed and the measurement and calculation of the regularities and the phenomena that are particular to it, gained a new centrality for this modality of power whose ultimate goal is “to improve the condition of the population, to increase its wealth, its longevity and its health” (*ibid.*, 105). There is here, therefore, an intimate relationship between knowledge (about the governed) and power. In governmentality, the governed population becomes both object and subject as “it is the subject of needs and aspirations, but also the object of government manipulation; vis-à-vis government, [population] is both aware of what it wants and unaware of what is being done to it” (*ibid.*, 105).

Foucault advances a threefold definition of governmentality that, due to the centrality of this concept to the discussion to be developed throughout the present chapter, deserves to be quoted at length:

First, by “governmentality” I understand the ensemble formed by institutions, procedures, analyses and reflections, calculations, and tactics that allow the exercise of this very specific, albeit very

complex, power that has the population as its target, political economy as its major form of knowledge, and apparatuses [*dispositifs*] of security as its essential technical instrument. Second, by “governmentality” I understand the tendency, the line of force that for a long time, and throughout the West, has constantly led towards the pre-eminence [...] of the type of power that we can call “government” and which has led to the development of specific governmental apparatuses (*appareils*) on the one hand, [and, on the other] to the development of a series of knowledges (*savoirs*). Finally, by “governmentality” I think we should understand the process, or rather, the result of the process by which the state of justice of the Middle Ages became the administrative state in the fifteenth and sixteenth centuries and was gradually “governmentalized” (*ibid.*, 108-9).

Governmentality is therefore not external to the modern state. Insofar as it acts in the level of populations, governmental power operates at once inside and outside the state, demarcating what is within and what is beyond the state’s authority.

Around the same time as this new art of government was developing, Foucault identifies the emergence of biopower or biopolitical power, a modality of regulatory power that also finds its field of intervention in the level of population. Differing from governmentality, however, biopolitics is centered upon

[...] the species body, the body imbued with the mechanics of life and serving as the basis of the biological processes: propagation, births and mortality, the level of health, life expectancy and longevity, with all the conditions that can cause these to vary (1978, 139).

Biopolitics takes the life processes of the social body as its object of intervention, and the management and preservation of life as its ultimate goal. It is exercised through political techniques and technical knowledge as well as through norms – again to the detriment of law. Biopolitical power is normalizing in its exercise and in its effects: it is continually measuring, calculating, hierarchizing and evaluating in order to regulate and control, so that fields of knowledge about life processes as well as statistical assessments and demography are coupled with political interventions.

As in governmentality, then, biopolitics works through a knowledge-power nexus. According to Foucault, it was the improvement of the conditions of life some time before the French Revolution that allowed death to give way to life in the center stage of modern politics. With the disappearance of the plague and of starvation as a generalized social issue,

Western man was gradually learning what it meant to be a living species in a living world, to have a body, conditions of existence, probabilities of life, an individual and collective welfare, forces

that could be modified, and a space in which they could be distributed in an optimal manner. [...] part of [the fact of living] passed into knowledge's field of control and power's field of intervention. Power would no longer be dealing simply with legal subjects over whom the ultimate dominion was death, but with living beings, and the mastery it would be able to exercise over them would have to be applied in the level of life itself (*ibid.*, 142-3).

In a reversal of the sovereign right to take life and to let live, biopolitics is described by Foucault as the “power to *foster* life and or *disallow* it to the point of death” (*ibid.*, 138, italics in original). Ultimately, sovereign power is the power to decide upon and to promote death. To the extent that it acts upon the life of its subjects, this takes place in negative terms, when the sovereign abstains from sentencing them to death or sending them to war. Conversely, biopower finds its purpose and legitimacy in the protection and regulation of life, occupying itself with the problems of life, from public health to migration and housing, to the point where death appears only as “power's limit, the moment that escapes it” (*ibid.*, 138). According to Foucault, biopolitics blurred the classic, Aristotelian distinction between biological life (*zoé*) and political life (*bíos*) by bringing the biological life to the realm of politics. In his words, “modern man is an animal whose politics places his existence as a living being in question” (*ibid.*, 143). While sovereign power is, first and foremost, founded upon and exercised over the territory (2007, 96), governmentality and biopower find their referent and horizon of action in the population, in their activity and their relationship with the other “things” that constitute the state in the case of governmentality, and in their biological processes in the case of biopolitics.

Yet these technologies of power are not mutually exclusive and do not operate in a vacuum. Political life in the modern west is marked by the juxtaposition of different technologies of power. The power to take life does not disappear with the emergence of more diffuse, regulatory technologies of power centered on the promotion of life and the well-being of the population. On the contrary, not only was sovereignty not erased by the emergence of governmentality but also the “problem of sovereignty” gained increasingly centrality beginning in the 18<sup>th</sup> century. Where up to the 17<sup>th</sup> century the art of government was derived from the theories of sovereignty, from then on the question shifted to how and where to locate the foundations of sovereign power given the existence of an art of government geared towards promoting the well-being of the population (Foucault

2007, 106-7). As to biopolitics, Foucault reminds us that from the 19<sup>th</sup> century onwards the west witnessed ever more destructive wars as well as other modes of mass violence – among which genocide is the most extreme. The power of death did not wane, but now it appears as a means to preserve and secure life:

the principle underlying the tactics of battle – that one has to be capable of killing in order to go on living – has become the principle that defines the strategy of states. But the existence in question is no longer the juridical existence of sovereignty; at stake is the biological existence of a population (1978, 137).

Foucault's theory of power centers on the modern state as the locus of power and politics *par excellence*, as providing the institutional and discursive context in which these technologies of power are developed and mobilized. While he speaks of the biopoliticization and governmentalization of the state, this chapter will employ the concepts of sovereign power, governmentality and biopolitics as a grid of intelligibility through which to assess how power is codified and exercised in the context of what has been referred to in this thesis as an international "protection of civilians discourse". Building on the work of Foucauldians such as Marc Doucet (2018), Giorgio Agamben (1998; 2000), Didier Bigo (2006a; 2006b; 2006c), Didier Fassin and Mariella Pandolfi (2010) among others, what follows – in this chapter and in the thesis in general – is an analysis of the relations and assemblages of power (De Larrinaga and Doucet 2008) which are produced and sustained by the protection of civilians in international peacekeeping.

## 2.2.

### **Policing the protected: codifying the assemblages of power engaged in civilian protection**

Foucault (2007) advances a definition of police power that extrapolates our common usage of the term, that is, in reference to the uniformed police officer. Recovering the various usages of the term from the 15<sup>th</sup> century onwards, Foucault concentrates on the meaning attributed to it between the early 17<sup>th</sup> and the end of the 18<sup>th</sup> century: police as the ensemble of "means by which the state's forces can be increased while preserving the state in good order" (313). Thus conceived, "police" is a great technological ensemble of an art of government that operates in a relational field of forces: in a word, governmentality. As an ensemble of controls, institutions and techniques that are embedded in a mentality of government that, as

we have seen, was undergoing deep transformations in the 18<sup>th</sup> century, police power takes as its object the population. Specifically, police power regulates and controls the population insofar as they pursue activities that contribute to the good functioning and development of the state: the object of the police is the modern subject in its utility to the modern state.

Police power then depends on and is a condition of possibility for statistical knowledge regarding the state of a state's forces: the levels of its population, resources, production, commerce and growth. Foucault (*ibid.*, 323-6) lists the following as the main preoccupations of police: a) the number of inhabitants, not in absolute terms, but relative to the other elements of the state such as territory and natural resources; b) caring for the necessities of life, ensuring their access to basic needs such as food and housing through instruments that range (in the case of foodstuffs) from an agricultural policy to the control of product quality, circulation and marketing; c) the permanent care for the health of the population, working not only for the treatment of diseases but also for their prevention, which entails sanitation and urban planning; d) seeing to the population's activity, "preventing idleness" through making sure that all the healthy are put to work and caring for the necessities of life of the disabled (poor) alone; and e) controlling the circulation of "things" and of people, both facilitating and restricting mobility: developing and maintaining roads, bridges etc., imposing restrictions and regulations, and also creating incentives and encouragements for mobility. In sum,

what police thus embraces is basically an immense domain that we could say goes *from living to more than just living*. I mean by this that police must ensure that men live, and live in large numbers; it must ensure that they have the wherewithal to live and so do not die in excessive numbers. But at the same time it must also ensure that everything in their activity that may go beyond this pure and simple subsistence will in fact be produced, distributed, divided up, and put in circulation in such a way that the state really can draw its strength from it. [...] Police is the set of interventions and means that ensure that living, better than just living, coexisting will be effectively useful to the constitution and development of the state's forces (2007, 326-7, italics added).

Police power then ranges from controlling the conditions of life within the state (guaranteeing that people are alive, fed and healthy) but also promoting the conditions for more than just living: the police must ensure that people lead an amenable (even happy) existence, that they coexist, communicate and have their circulation either restricted or facilitated. In a word, "everything from being to well-

being” (*ibid.*, 328) makes the objective of police power. Also, police should be able to employ “whatever is necessary and sufficient” (*ibid.*, 322) for meeting its ends, which, as will be seen below, entails a certain flexibility in the fulfilling of its functions (Doucet 2018).

In that moment in time (17<sup>th</sup> and 18<sup>th</sup> centuries) and space (Europe), Foucault points out, police power was not held as an instrument of justice or judicial power. Rather than upholding law, police power was, then and there, the technological ensemble through which *sovereign power* intervened directly on its population:

Police consists therefore in the sovereign exercise of royal power over individuals who are subjects. In other words, police is the direct governmentality of the sovereign qua sovereign. Or again, let’s say that police is the permanent *coup d’État*. It is the permanent *coup d’État* that is exercised and functions in the name of and in terms of the principles of its own rationality, without having to mold or model itself on the otherwise given rules of justice (2007, 339).

Police power as an instrument of both governmentality and sovereignty, as a coupling of one and the other, holds discretionary power at the point of its exercise, being able to exceed the law while maintaining order. This is because “[the] things of the police are *things of each moment*, whereas the things of the law are definitive and permanent” (Catherine II 1769 *apud* Foucault 2007, 340, italics added). Police, Foucault argues, entails a certain specificity as opposed to the generality of the law, and it acts predominantly through regulations: it does have a juridical form and a relationship with the law, but it is “law as it functions in a mobile, permanent and detailed way in the regulation” (2007, 340).

In the second half of the 18<sup>th</sup> century, however, modifications in the art of government contributed to the receding of the police state. As political economy developed and advanced the idea of the “naturalness of society” (*ibid.*, 349), according to which human coexistence unfolds in accordance with its own rules, as civil society appears as the object of scientific knowledge and political intervention, as the production of knowledge was emancipated from (but still informed) the art of government, as the “problem of population” appeared – in a word, as governmentality developed into its contemporary form and “the population as a collection of subjects [was] replaced by the population as a set of natural phenomena” (*ibid.*, 352) that should be accounted for and managed instead of regulated, the state of police receded and police power acquired a new meaning.

From that moment on, the role of government would be “to ensure that the necessary and natural regulations work, or even to create regulations that enable natural regulations to work” (*ibid.*, 353). Regulatory power does not disappear, being rather transposed to a new rationality of government: no longer the instrument of an early-modern *raison d’État*, regulations then acquire a veneer of naturality and scientificity. In this perspective, fields of knowledge such as public hygiene, demography, economy and social medicine gain a new centrality. Simultaneously, the once all-encompassing police power that cared for the living and the well-being of the population is reduced to a *security* apparatus:

with simply negative functions, there will be the institution of police in the modern sense of the term, which will simply be the instrument by which one prevents the occurrence of certain disorders. Growth within order and all positive functions will be assured by a whole series of institutions, apparatuses, mechanisms, and so on, and then the elimination of disorder will be the function of the police. [...] In brief, the new governmentality, which in the seventeenth century thought it could be entirely invested in an exhaustive and unitary project of police, now finds itself in a situation in which it has to refer to the economy as a domain of naturalness (*ibid.*, 354).

It is in this context that police power is reduced to its current, negative form as a security device whose objective is to avert and manage disorder.

Following Foucault’s genealogical recovery of the different historical forms assumed by police power in modern Europe, Marc Doucet (2018) argues that contemporary UN peacekeeping operations are underpinned by the “security project of the police” (43). In analyzing the UN’s efforts at reforming its regime of peace operations over the last two decades, Doucet identifies a growing centrality of rationalities of security and protection, which, he argues, are most clearly recognizable in the policies of security sector reform (SSR) and the conceptual-practical framework that comes under the banner of “protection of civilians in armed conflict” in UN official discourse – or, as Doucet calls it, the UN PoC agenda. According to him, one of the crucial implications of framing peacekeeping in terms of security and civilian protection is that intervention is invoked “in the name of providing assistance to civilian populations faced with chronic conditions of violence and insecurity” (2018, 3-4) and as a means of managing order/disorder. At first glance, two marks of police power can be recognized here: peace operations entail a modality of power that finds in the population its purpose and field of intervention, and it is preoccupied with the order/disorder binary.

Three observations regarding Doucet's reading of Foucault and his understanding of police power are in order. First, it should be noted that while Doucet uses the term "police power" in its post-18<sup>th</sup> century, security-oriented form, he also maintains the earlier coupling of governmental power, on the one hand, and sovereign power, on the other. Police is then a "dual modulation of power" (*ibid.*, 42). While it operates mainly through governmental, regulatory power, it also retains the prerogative to exceed the law in order to maintain order and manage disorder. Second, to the extent that Doucet understands police as a security apparatus, he does not reduce police power to the image of the uniformed police, stressing that the protection of civilians agenda underscores the deployment of military personnel for the police functions of managing public order and protecting civilians rather than defeating an enemy or responding to existential threats against the state.

And finally, it should be noted that the meaning of sovereignty in his account of police power comes awfully close to Carl Schmitt's definition of the sovereign as "he [sic] who decides on the exception" (2005, 5), which cannot be codified in law and can only be concretely determined by the sovereign. In a sense, it is the very governmental character of police power, its task of administrating human relations and human processes in their concreteness and "everydayness" (which nevertheless entails dealing with the unexpected), that demands a certain room for acting outside the generalizing, abstract content of the law. In this case, however, the law that serves as the foundation and frame of reference for civilian protection and indeed peacekeeping operations are international humanitarian law (IHL) and international human rights law. In this sense, the DPKO/DFS 2008 "United Nations Peacekeeping Operations: Principles and Guidelines", which provides the normative and implementational framework for the Capstone Doctrine of peacekeeping, places IHL and human rights as part of the normative framework for peacekeeping along with the UN Charter and Security Council mandates and resolutions on civilian protection. According to the Capstone, IHL informs both UN's responsibilities towards civilian protection and the activities of peacekeepers on the ground (DPKO and DFS 2008).

Doucet points out that while police power embodies sovereign power in its exercise of discretionary power, including power to exceed the law, therefore "[enabling] a certain diffusion and anatomization of sovereign power" (2018, 50),



the police act primarily through administrative, regulatory power. Its security project, oriented as it is to the management of order/disorder and certainty/uncertainty, provides the rationality for a regime of intervention that is occupied with the maintenance of international order, but also, and primarily, with the internal order of non-Western, often African, states. Understanding PoC as informed by a police security project is not the same as arguing that the questions of life and death, or friend and enemy that animate the security project of the military are absent in peace operations with protection mandates. As will be argued throughout this thesis, these are very much present in the PoC agenda in general, and particularly in the South Sudan PoC sites, where friend/enemy, vulnerable/threatening distinctions are continually drawn, sustaining practices such as the use of lethal force and indefinite detention.

However, placing police power centerstage in a discursive ensemble that “has become the benchmark against which today’s UN peace operations are judged” (Bellamy and Hunt 2015, 1279) is a means of drawing attention to the role of peacekeepers and indeed the UN in maintaining social order (as opposed to political change) in marginalized places, to a particular understanding of legitimate and illegitimate forms of violence and to the temporal frame of action which informs protection mandates. Doucet argues that

the protection of civilians is amenable to a governmentality that rationalizes intervention on the grounds of protecting the life of those on behalf of whom the intervention has been mounted. This rationalization begins from the premise that protection from large-scale threats of physical violence (military), the protection of security of person from social and civil disorder (police) and the provision of the basic necessities needed to sustain life (humanitarian) is a universally recognizable good that *need not be activated with the consent or agency of those on behalf of whom protection is offered* (2018, 8, italics added).

Thus understood, civilian protection is embedded in a governmental rationality insofar as the exercise of power it sustains is centrifugal and grounded on the best interest of the population over whom power is to be exercised, regardless of their consent. As has been noted before, the governed appear as both objects and subjects before governmental power: they are subjects, whose needs and desires governmental power aims to attend to, but as objects of such power they do not forcibly have a say in how they are governed. Indeed, once the legitimacy of international intervention is framed in terms of protecting populations, the principle of consent of the parties to the conflict as a prerequisite for the use of force,

including lethal force, gives way, if not in practice at least in principle, to the imperative of action where the life of civilians is threatened.

Doucet argues that, as a governmental technological ensemble, police power couples a particular (double) temporality with a particular (mobile) spatial horizon of action. Spatially, its field of intervention is determined by the civilian population it is meant to secure rather than by the territorial state. Even though police power is centrifugal, international policing as a means of protection is limited to populations living under unstable and violent conditions in the “disorderly spaces” of the global south. Temporally, it engages in both future and past-oriented endeavors, both preventing atrocities and assessing risks, on the one hand, and punishing culprits and (re)establishing order, on the other (*ibid.*, 57). For Doucet, this flexible spatiotemporal configuration helps to understand why police rationality has become prominent in a regime of international intervention that is increasingly directed towards the protection of civilians, since having “[grounded] itself in the biopolitical terrain of protection, human rights and humanitarian law, interventions can be rationalized along the police axis of punishment for past atrocities and prevention of future violations” (*ibid.*, 57).

Police temporality, as proposed by Doucet, can be identified in the four PoC operational phases of prevention, pre-emption, response and consolidation (DPKO and DFS 2010; 2015b). As has been discussed in Chapter 1, the four phases include activities ranging from monitoring violations of human rights and humanitarian law and monitoring vulnerabilities to the (gradual and proportionate) use of force; from providing physical security to endangered civilians to securing their movement to safe areas; from disarmament, demobilization and reintegration (DDR) activities to assistance in the safe return or reallocation of internally displaced persons (IDPs). As an ensemble, the protection practices laid down by the DPKO and the DFS refer to a police power in its preoccupation with managing movement and circulation as well as in its “flexibility and mobility that makes of police power a form of power that can respond to changing demands related to maintaining the proper flow of circulation upon which order relies” (Doucet 2018, 55). The following recommendation for activities carried out under the pre-emption phase provides an example of how the implementation of PoC mandates demands flexible and tactical deployment of available means:

Commanders should, where appropriate, consider the use of alternatives to the use of force. Those may include (but are not limited to) deception, psychological methods, negotiation, rapid deployments and reinforced military and/or police presence and patrolling, including the protection of key sites, facilities (including prisons), areas or goods; cordon and search operations; counter IED [improvised explosive devices] activities; interposition and show of force/manoeuvre of larger forces to demonstrate resolve (DPKO and DFS 2015b, 11).

As the embodiment of sovereign power that circulates at the level of population, the police have the authority to employ “all necessary means, up to and including the use of deadly force, aimed at preventing or responding to threats of physical violence against civilians” (ibid., 4). Importantly, the calculation and establishment of necessity is made at the moment of action by the police officer – a figure that, in the present discussion, includes but is not limited to the uniformed police. Police, Doucet argues,

can be seen as the corporal expression of sovereign authority. He embodies sovereign power’s particular relationship to the law [...] The police officer holds a form of power that retains a necessary relationship to the law as law’s enforcement arm at the very same time that he retains the discretionary power to exceed the law even within the heavy legal frameworks of liberal societies. His is a form of power that may employ exceptional measures and that can ultimately make use of deadly force to secure compliance *without the act of killing necessarily constituting a homicide or a sacrifice* (ibid., 48, italics added).

Being able to kill without committing homicide or a sacrifice, the police have as their underside “bare life”, defined by Giorgio Agamben (1998) as a form of life that is destitute of political, juridical and theological subjectivity. Inspired by the figure of the *homo sacer* in ancient Roman law, bare life can be killed but its death cannot constitute homicide or sacrifice: as in life, its death has neither juridical nor religious meaning. Once it is put beyond the domain of the normal juridical-political order, the bare life of the contemporary *homo sacer* is abandoned to sovereign decision. This is a form of life that is produced by and amenable to the decision of sovereign power and must not be confused with pure, pre-political, biological life (zoé): neither political life proper (bíos) nor zoé, bare life is “caught in a sort of legal and political vacuum or no-man’s land: a zone of indistinction between law and non-law that is conducive to exceptional practices characteristic of sovereign power” (Vaughan-Williams 2009, 24).

One instance of such exceptional practices can be found in the UN military rules of engagement and police directive on the use of force, which provide that

even in the absence of an executive mandate peacekeepers “may use force, including to apprehend and temporarily detain hostile persons or groups and, where appropriate, hand them over to the national authorities” (DPKO and DFS 2015b, 14). This provision allows police and military personnel to exceed not only their mission’s mandate, but also the Universal Declaration of Human Rights, according to which “no one shall be subjected to arbitrary arrest, detention or exile” (United Nations 1948, Article 9). Thus placed in a zone of indistinction between legality and illegality, the practice of detention in the absence of an executive mandate will be the object of Chapter 4, which focuses on the UNMISS holding facilities. It should be noted, however, that extralegal exercise of power is not a novelty to the postcolonial spaces in which peace operations are deployed, since, as Achille Mbembe (2003) points out, the bond between sovereign power and law did not hold in the colonies, where the “right to kill” which represents the pinnacle of sovereign power was exercised outside the scope, constraints and guarantees of the law.

As protection of civilians grounds the legitimacy and measures the credibility of peacekeeping according to its capacity to protect and secure civilian lives in the biological sense of the term, PoC is also a biopolitical discourse in which the population appears as both the referent and the object of intervention. In the PoC agenda, the life of the civilian becomes the referent according to which legitimate and legal armed conflicts are distinguished from illegitimate and illegal ones:

it is the intentional targeting of civilians more than any other offense which has come to define when a conflict can be deemed illegitimate and illegal. The protection of civilians is, therefore, constitutive of the dual process of criminalizing certain forms of political violence and providing the legal justification for the use of international force against these forms of violence, which has been at the heart of the evolution of international humanitarian law, international human rights law and their surrounding norm-making frameworks (Doucet 2018, 99).

This is in contrast with other (bio)political efforts at developing a conceptual and normative framework for UN intervention which, in the final analysis, remain grounded in the discourse of state sovereignty. That is the case, as has been argued more than once, of the Responsibility to Protect<sup>10</sup> principle, which reifies the state’s

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<sup>10</sup> The Responsibility to Protect was elaborated by the International Commission on Intervention and State Sovereignty (ICISS) in a 2001 report that states that it is primarily the state’s responsibility to provide protection and security to its citizens. However, the report goes on, whenever a state is either incapable or unwilling to provide such protection the international community has a

role as the primary instance of protection even as it redefines state sovereignty in biopolitical terms, grounding state authority in its capacity and willingness to protect its population (Doucet and Larrinaga 2008; Doucet 2018; Wilcox 2015). However, the state does not disappear in the civilian protection agenda: the principle of consent and the recommendation of cooperation and coordination with local state authorities are present in UN policies and guidelines for PoC. The fundamental shift here lies in that the field of operation of civilian protection lies in the relationship between international interveners/protectors and the protected population. As will be argued in the remainder of this chapter, the consequence of such a shift is the depoliticization of intervention.

In stating that a regime of intervention centered in the figure of the civilian and the civilian-intervenor relationship is depoliticizing I am not adhering to a state-centric perspective according to which politics can only unfold in and through the state. However, as will be further discussed in the following section, the life of the protected civilian is accounted for in apolitical terms. It is the bodily existence of the civilian instead of their existence as qualified subjects capable of acting politically that is amenable to protection. For the security sector especially, being able to protect civilians ultimately means having the authority to provide direct *physical* protection to civilians under threat of *physical* violence. In fact, the DPKO/DFS Capstone Doctrine for peacekeeping operations states that missions with a PoC mandate are meant “to protect civilians under imminent threat of physical violence” (DPKO and DFS 2008, 24), and that peacekeepers deployed with robust mandates are authorized to “use all necessary means” in defense of their mandates, including to “protect civilians under imminent threat of physical attack” (*ibid.*, 34). In a similar vein, the DPKO/DFS 2015 Policy on PoC takes “threats of physical violence” and “PoC threats” as equivalent concepts, defining them as “[encompassing] all hostile acts or situations that are likely to lead to death

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responsibility to intervene in order to protect the endangered population. Such responsibility is threefold, encompassing the responsibility to prevent armed conflict and humanitarian catastrophes, the responsibility to react to immediate threats including through the use of force when needed, and finally the responsibility to rebuild in the aftermath of an armed conflict or humanitarian emergency (ICISS 2001). The R2P concept was adopted by the United Nations General Assembly in 2005 and, as has been argued by Orford (2011), it is a novelty in that it seeks to provide a normative account of the exercise of international authority – mainly in the form of policing and administration practices – in the decolonized world.

or serious bodily injury, including sexual violence, regardless of the source of the threat” (DPKO and DFS 2015b, 5).

It is argued here that, if the fundamental relationship in PoC is the one between intervener and civilian, and if PoC as a discursive ensemble does not account for the political agency of the civilian, then intervention is portrayed as a neutral, even moral, course of action instead of a political practice informed by political decisions. And if, for protection ends, certain rules of international humanitarian and human rights law can be exceeded – and in the PoC sites this is most expressly manifested in the holding facilities –, then the civilian is, in practice, closer to Agamben’s bare life than to the modern political subject – even if, in principle, they are construed as subjects bearing inalienable rights and therefore entitled to international protection. In this perspective, the biological life that must be protected from physical harm is not natural life in the pre-political sense of the word: it is life made apolitical through a depoliticizing discourse that is underpinned by the mentality of police power.

Consequently, it may be argued that civilian protection is a political discourse that underscores a set of practices, institutions and relationships which carry out the work of police in the sense that Jacques Rancière (1999) attributes to “politics” and “police”. According to Rancière, a police regime is “the set of procedures whereby the aggregation and consent of collectivities is achieved, the organization of powers, the distribution of places and roles, and the systems for legitimizing this distribution” (28). Police is, therefore, “an order of bodies” that effects and maintains their distribution “within the space of their visibility or their invisibility, and aligns ways of being, ways of doing and ways of saying appropriate to each” (*ibid.*, 29; 28). Whereas police logic is associated with producing and maintaining order, politics is that which breaks with and destabilizes the order of bodies and the configuration of space, that which questions and defies the established distribution of bodies between those who are deemed capable of being and acting politically and those who are not.

To use Rancière’s terms, the PoC discourse is political in that it performs such a break in dislocating the fundamental protector-protected relationship, which has provided the foundation for the authority of the modern sovereign state at least since Thomas Hobbes wrote the *Leviathan* (Orford 2010; 2011): through PoC, the fundamental protector-protected bond shifts from the one between the state and its

subjects/citizens to the one between the international intervener and civilians. But PoC also carries out *police* work insofar as it legitimizes and maintains an order of bodies in which the protected civilian is assigned a role and a place destitute of political capacity. Within this particular policing regime, the protected civilian is the party without a part in politics and is, therefore, protected as bare life.

Yet, as Doucet points out, “life rationalized biopolitically cannot be fully secured in any real sense” (2018, 61), not even as bare life. In this perspective, Doucet argues that the PoC agenda relies on the coupling of biopolitics with a particular form of necropolitics (*ibid.*, 4), the latter understood as a set of efforts for managing death and counting the dead. It is in this sense that he understands the civilian as a specter that haunts UN peacekeeping: there is, on the one hand, the specter of the dead civilian, the images of dead civilians that were widely circulated in the past or that can be produced and circulated in the future as a reminder of the UN’s failures to protect; and, on the other hand, the civilian as the spirit that drives reforms in peacekeeping, reforms which have at their center the goal of keeping civilians alive.

Taking his argument a step further, it could be argued that the PoC discourse encompasses the more radical definition of necropolitics developed by Mbembe as “subjugation of life to the power of death” (2003, 40): not only does the protection discourse entail the recognition that not all civilians can be protected through tactics of “expectations management” (Doucet 2018, 116-8), it also allows and indeed makes imperative the use of lethal force whenever it is deemed a necessary means to protecting the lives of civilians. At the same time that PoC aims to make lives livable it also construes some forms of life as killable. Though death is not a desired outcome of protection, it is framed as something inevitable in the process of accounting for the necessary limits of a politics of preserving (bare) life, thus producing a particular form of bio/necropolitics<sup>11</sup>: a power to take life and let die in order to make live.

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<sup>11</sup> The idea of a bio/necropolitics is inspired by Berenice Bento’s “necrobiopower” (2018), a concept she develops in an effort to codify the relationship between the Brazilian state and the marginalized sectors of its population which are construed as the internal other and become the object of a politics of death. As stressed by the author, the order of terms (necrobiopower instead of bionecropower in her analysis, bio/necropolitics instead of necro/biopolitics in the present discussion on civilian protection) is not accidental. Bento is referring to a politics of inclusion in the nation-state and promotion of life for some segments of the Brazilian population whose very condition of possibility is a deliberate politics of “taking life and letting die” which is directed towards other (racialized, impoverished) groups. These are, in turn, excluded and marginalized from the politics of promoting

The assessment of contemporary UN peacekeeping operations through the lens of Foucault's genealogical recovery of police power and the identification of a "police security project" in recent reforms to the peacekeeping regime leads Doucet to advance a decoupling between police power/rationality, on the one hand, and state sovereignty, on the other. However, his analysis is centered upon the contemporary understanding of police as a security apparatus. To the extent that he understands that actors other than the uniformed police follow a police rationality in peacekeeping, he remains focused on the security sector and consequently on actors who undertake the negative efforts of preventing violent death and maintaining order. While strongly influenced by Doucet, the present research follows the understanding that such a narrow definition of police power and police logics obfuscates the critical value of the earlier, more comprehensive understanding of police identified by Foucault, according to which the police are responsible for the positive task of promoting both the conditions of living and "more than just living" among the population.

Such a broad definition of police power, it is argued here, paves the way for a critical assessment of the humanitarian sector, which can be understood as performing the police work of providing and regulating access to the means of "living", such as foodstuffs, medical supplies and medical assistance, but also of regulating the movement of things and people, and promoting (the liberal version of) "good life" among the assisted population in facilitating access to education and property, for instance. Because there is a wide range of UN and non-UN "humanitarian partners" (to employ UN language) working alongside UN peace operations in contexts of armed conflict and humanitarian emergencies, the "humanitarian approach" to protection should not be taken as a monolithic corpus of goals and practices. In this vein, the comparative analysis developed by Didier Fassin (2010) between the aidist, emergency-oriented approach of Médecins du Monde to humanitarian action, on the one hand, and the human-rightist approach of Médecins Sans Frontières (MSF), on the other, is symptomatic of the plurality which can be found in the humanitarian sector.

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life by the Brazilian state. In the present research on the protection of civilians in armed conflict, on the contrary, we are confronted with a politics of preserving life and making live that allows and legitimates the management and even the promotion of death as a means of recognizing its inevitable (though undesired) limits.



Unlike what has been referred to here as the peacekeeping doctrine or the UN regime of peace operations, therefore, the humanitarian sector is constituted by different organizations carrying out different missions, which precludes both the definition of a “humanitarian perspective” to protection beyond the principles of neutrality, impartiality, independence and humanity, and an extensive account of humanitarian responses. While a more nuanced analysis of humanitarian actors and strategies implicated in the South Sudan PoC sites will be developed in the following chapter, a glimpse at the global strategies of MSF and the United Nations High Commissioner for Refugees (UNHCR) is illustrative of the range of activities fulfilled by the humanitarian sector, as both agencies are part of the humanitarian response in the PoC sites. While MSF is one of the many non-governmental service providers operating in the sites<sup>12</sup>, the UNHCR is part of the UN system and co-leader to the Camp Coordination and Camp Management Cluster (CCCCM) in South Sudan along with the International Organization for Migration (IOM)<sup>13</sup>.

The *Chantilly Principles*, which set the normative framework of action for the Médecins Sans Frontières (MSF), posit the provision of preventive and curative medical care to endangered populations as the core mission of the organization, but also foresees as secondary activities the provision of other essentials such as water, sanitation, food and shelter (MSF 1995, 1). Legally grounding MSF’s mission in international human rights and humanitarian law, the Principles also stress “the duty to respect the fundamental rights and freedoms of each individual, including the right to physical and mental integrity and the freedom of thought and movement” (*ibid.*, 2).

In a more holistic approach, the *UNHCR Emergency Handbook* organizes UNHCR’s Protection Responses under a number of endeavors which include but are not limited to: advocacy; transitional justice; education; mental health and psychosocial support; monitoring the in/acceptability of detention and the observation of the freedom of movement of asylum seekers and refugees; preventing and responding to sexual and gender-based violence; child protection; and house, land and property (HLP) responses, which concern “the right to adequate housing and property ownership” but “may encompass enjoyment of the

<sup>12</sup> MSF is operative in Bentiu and Malakal PoC sites. See: <https://www.humanitarianresponse.info/en/operations/south-sudan/camp-coordination-and-camp-management>.

<sup>13</sup> See: <https://www.globalccmcluster.org/field-support/active-missions/south-sudan>.

right to food, privacy, education and political participation, for instance” (UNHCR 2015).

As the MSF and UNHCR global strategies indicate, the goals and practices envisaged by humanitarians are biopolitical and governmental in character, spanning from the provision of emergency relief in order to preserve the essential conditions of living to promoting the conditions for “more than just living” in the short and even the long run: caring for public sanitation, providing education, defending the rights to property, movement and political participation. In sum, humanitarianism undertakes to manage both the processes of life and the processes of population. At the receiving end of humanitarian assistance is bare life, which is to be preserved as such and (where sustainable, rights-based strategies are advanced) guided in the way of being realized as modern subjects, thus pointing to the aporetic character of humanitarian intervention, which, while being founded upon and legitimated through human rights and IHL, does not recognize the bodies it is meant to save, and whose rights it is meant to uphold, as bearers of juridical or political subjectivity.

As the 17<sup>th</sup>-18<sup>th</sup> century police power, then, humanitarian actors assume the governmental practices of distributing food, managing public health and sanitation as well as controlling/allowing movements and flows. As in that formulation of police, too, there is here a margin for discretionary exercise of power, which permeates UNHCR’s decision over the legality or illegality of detention but is also, and most important, inherent in the nature of humanitarian government: it is in the context of humanitarian discourse that intervention is construed as an exceptional measure for preventing deaths and mitigating human suffering, and that some scenarios of conflict and instability become the object of such intervention while others do not. Furthermore, the grounding of such power in the best interest of the population that is subject to it and the dual temporality of police are present in humanitarian discourse, the last one exemplified both in the MSF’s preventive and curative medical care and in the UNHCR tactics for preventing and responding to sexual and gender-based violence.

Understanding humanitarian protection as policing is a means of problematizing a set of practices and institutions which, as has been repeatedly argued, are embedded in a discourse of neutrality, technicity and even morality (Del Vecchio Good et al. 2010, 242; McFalls 2010, 317; Fassin 2010, 269-286).

Humanitarianism is commonly framed as a non-political endeavor answering to the overarching principle of humanity which takes human life as its supreme value. As Fassin (2010) points out, protection of the right to life is considered a first-order principle in the moral economy of humanitarianism, trumping even the guiding principles of neutrality, impartiality and consent:

The fundamental value that forms the basis for humanitarian government is human life. The highest justification of humanitarian government's intervention in this context is saving life. It is in this framework that the military can call its intervention 'humanitarian' (275).

Both military and humanitarian operations embrace human life as their primary value and ultimate goal. In fact, Fassin and Mariella Pandolfi (2010) stress that, even though military and humanitarian logics/agents are not one and the same, there is a “blurring of lines” between them which is observable in their strategies of legitimation of intervention, their exercise of (extraterritorial, mobile, exceptional) power in intervention sites, the temporality of emergency in which their actions are framed, and their mutual, though asymmetrical, dependency: “the military increasingly calling on humanitarians to legitimize their interventions and the latter needing the former to ensure their safety” (15).

In spite of adopting different tactics, diverging (marginally) on intervention goals while keeping the protection of human life as a sacred value, and recurring complaints on the part of humanitarians on how the neutrality and independence of humanitarian action is compromised by the “encroachment on humanitarian space” (Bellamy and Hunt 2015, 1291), it has been argued that

the two share many more realities and values than they believe or admit to themselves. Their temporalities are linked in the period of emergency, and humanitarian organizations usually leave shortly after the military. They share a habitus, even in their way of isolating themselves from the surrounding population in their separate, guarded living quarters. [...] Even their vision of the world, and particularly the way they think of local societies as undifferentiated, treat the sovereignty of national states, and consider their own role above the common law there, are not without unexpected similarities. [...] Ultimately, the relations between the two worlds are not just circumstantial and related to the conflict, but essentially structural – the product of intervention itself and the sign of its ambiguities (Fassin 2010, 284).

It is in this perspective that various critics of contemporary humanitarian intervention, including military intervention founded on humanitarian ends, have written about “humanitarian-military apparatuses” (Makaremi 2010, 119), of a

“military-humanitarian nexus” (Fassin 2010, 284), as well as the “complementariness between the military and the humanitarian” which form “a ‘gray zone’ [...] where the different moments of military intervention, humanitarian operations, security concerns, and foreign investments are seamlessly implicated in one another” (Pandolfi 2010, 162; 163).

Nodding to such mutual implication between the logics and practices of humanitarian actors, on the one hand, and security agents (encompassing both the uniformed police and the military), on the other, it can be argued that the civilian protection discourse(s) work(s) through humanitarian-security assemblages which, their heterogeneity notwithstanding, are underpinned by a police rationality that operates through a combination of sovereign, governmental and bio/necropolitical mechanisms of control. Both the humanitarian and the security approaches to protection operate through police power insofar as they entail past and future-oriented practices, demand flexible deployment of available means in order to respond to “things of each moment” (Foucault 2007, 340), mobilize a centrifugal and diffuse exercise of power, ground their legitimacy in the best interest of the population they propose to protect, and in turn proceed to order, manage and monitor the processes of life and coexistence of this same population. In an oversimplification, police power permeates both the negative function of avoiding violent death undertaken by the security sector and the humanitarians’ positive mission of providing the means of living and, in some cases, coexisting and living a good life.

It should be noted, however, that the division of labor between negative and positive approaches to protection is not as impervious as implied by such an oversimplifying analysis. Despite its focus on physical protection, the three tiers of protection envisaged by the DPKO and the DFS and their accompanying four response phases include a variety of practices and objectives which are closer to the management of life processes and the movement of people than to the management of the threshold between life and death – closer, in other words, to the promotion of living than to physical protection from physical violence (DPKO and DFS 2010; 2015b). These include, for instance, “[supporting] the establishment of key infrastructure, including roads, transport and communications in remote and inaccessible areas”, “[coordinating and cooperating] with humanitarian and development actors to promote income generation activities for youth in areas

where conflict may arise” (DPKO and DFS 2015b, 10) and working for the reintegration of former combatants. Likewise, the provision of emergency medical care by organizations such as MSF does not go beyond efforts to prevent violent death.

Neither should the categories “humanitarian” and “security” be considered as monolithic discursive/professional ensembles. The notion of heterogeneity in the security sector can be found in the distinctions and parallels drawn by Doucet (2018) between the security projects of the police and the military, or in Doucet and Miguel De Larrinaga’s (2015) argument that liberal intervention strategies centered on security such as security sector reform (SSR) are implemented through “complex military:police assemblages” suggest a differentiation in the logics, rationalities and modes of operation within the security sector. Furthermore, as proposed by Didier Fassin (2010) in relation to humanitarianism and Didier Bigo (2006a) on the security sector, the ways in which humanitarianism and security are enacted bring them closer to Pierre Bourdieu’s concept of “field”<sup>14</sup> than to Weberian ideal types.

According to Fassin, humanitarianism functions as a field insofar as “its actors are committed to competing definitions of the issues involved in humanitarianism and the best way to meet them” (2010, 279). It is in this sense that, in assessing the globalization of (in)security in the post-9/11 era, Didier Bigo (2006a) makes sense of the complex web of professionals of (in)security and processes of (in)securitization as a field of management of unease, defining field in the following terms:

First, the field as a field of force, or a magnetic field, a field of attraction that polarizes around the specific stakes of the agents involved; second, the field as a field of struggle, or a battle-field, that enables us to understand the “colonizing” activities of various agents, the defensive retreats of others and the various kinds of tactical algorithms that organize bureaucratic struggles; third, the field as a field of domination vis-à-vis another field, the field as a positioning inside a larger political and social space permitting the possibility of statements making truth claims on the basis of knowledge and know-how; and fourth, the field as a transversal field, the trajectory of which reconfigures formerly

<sup>14</sup> According to Bourdieu, social space is structured by “fields”, that is, by markets of struggle between different forms of capital – social, economic, cultural and symbolic. For a deeper understanding on the concept of fields as developed by Bourdieu, see: Bourdieu, P. and Loïc J. D. Wacquant (1992), *Réponses: pour une anthropologie réflexive*. Paris: Le Seuil; Lima, R. C. P. and Pedro H. F. Campos (2015), “Field and Group: a conceptual approximation between Pierre Bourdieu and the social representation theory of Moscovici”, *Educação e Pesquisa*, 5 (1), p. 63-77.

autonomous social universes and shifts the borders of these former realms to include them totally or partially in the new field (21-2).

Thus understood, the concept of field, as the idea of complex assemblages, is instrumental for escaping both a monolithic understanding of humanitarian and security rationalities, and binary thinking which would lead to an either/or reading of protection practices and technologies. Humanitarian and military/police interventions are intertwined from the moment where intervention is decided upon to the everyday practices of actors in both fields, their operations being alternately complementary, competing or simply duplicated. As in Bigo's formulation, these fields are heterogeneous in that different actors advance their own stakes, truth-claims and techniques, they are permeated by internal struggles, but they also engage in relationships with one another in such a way that the border between humanitarian and security practices are perpetually (re)negotiated.

Protection discourse(s) is/are thus productive not only of the subject positions of protectors and protected (and consequently of relationships between them) but also of a complex web of protection agents and rationalities which engage in complex relationships with one another. While the next chapter will further explore the functioning of these humanitarian-security assemblages in the context of the PoC sites, what follows is an analysis of how the relational categories of protectors and protected are construed, how life is rationalized in protection discourses – in other words, how that distribution of ways of being that Rancière identifies as police work is effected in the PoC agenda.

## 2.3.

### **Relations of power/violence: understanding agency and the processes of subjectification/objectification of “protectors” and “civilians” in the PoC discourse**

It has been argued thus far that the discourse on civilian protection depoliticizes intervention and treats the intervened as bare, disqualified life. It still remains, however, to understand how the civilian is construed as a discursive category that is both the referent and object of police intervention. According to Doucet (2018, 101-2), the figure of the civilian is evoked in relation to three discursive and practical strands in peacekeeping literature: a) humanitarian action;

b) police/military operations; and c) as a rationality of governance, usually designating a form of government in which civilians have control over military and police authorities. Focusing on the first two strands – which we are referring to as the fields or assemblages of humanitarian and security professionals –, Doucet argues that the civilian appears as the object of biopolitical intervention and humanitarian/military/police government, in the sense that it is the insecure, vulnerable life of the civilian that must be protected by humanitarian, military or police actors:

The figure of the civilian summons a form of life that is constituted from the onset as insecure and subject to violence. When civilians are the objects of care, protection, and relief from insecurity it is the very sustenance of life that becomes the primary terrain of government. In this, the figure of the civilian plays an important role in rationalizing human subjectivity in a form that is amenable to intervention [...] It is life qualified in biopolitical terms, but along a continuum of life and death that can, if needed, limit *international* governmental intervention to the provision of life as an object of protection from violence and insecurity (Doucet 2018, 101, italics in original).

Conceived of and governed in a “continuum of life and death”, the civilian is, as has been argued here, the object of a particular coupling of biopolitics and necropolitics.

A common ground for the mobilization of the “civilian” in the context of military/police and humanitarian intervention can be found in the negative definition of the civilian and in its universal character as a fundamental category in the discursive fields of international intervention. As argued by Doucet, the PoC agenda, founded as it is on international humanitarian law<sup>15</sup>, follows the definition of “civilians” and “civilian population” laid out in Article 50 of the 1977 Additional Protocol I to the Geneva Conventions of 1949, where “civilians are defined in the negative in that they are individuals who are ‘non-combatants’ and are recognized as not being members of armed forces, militias or volunteer corps” (*ibid.*, 102). Lacking any positive distinctive trait, the civilian is nevertheless coupled, in IHL, with the principles of non-combatance, innocence, distinction, restraint, immunity and protection, both negative and positive – that is, the principle that civilians must not be targeted during armed conflict and that they must be actively protected by state authorities and armed forces in general (*ibid.*, 103; Carvalho and Lie 2010,

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<sup>15</sup> See Chapter 2.

67). This negative definition of the civilian is reproduced in the DPKO/DFS Policy on PoC, which defines civilians as

Any person who is not or is no longer directly participating in hostilities or other acts of violence shall be considered a civilian, unless he or she is a member of armed forces or groups. In case of doubt whether a person is a civilian, that person shall be considered a civilian (DPKO and DFS 2015b, 5).

The same logics of negative definition and coupling of the civilian with the principle of protection can be observed in our case at hand, insofar as the 2013 Guidelines on Civilians Seeking Protection at UNMISS Bases and its Supplemental Guidance No. 3 determine that,

For the purpose of these guidelines, a civilian is a person who is not a member of the [Government of the Republic of South Sudan] security forces or armed group, and who is not taking a direct part in hostilities. Armed civilians that have abandoned their weapon(s) and have sought protection at an UNMISS base should also be provided with protection (UNMISS 2013a, 7).

In line with the [DPKO/DFS] Policy [on Protection of Civilians in United Nations Peacekeeping], in cases of doubt whether a person is a civilian, UNMISS will consider him/her a civilian, but will focus on possible activities that are attributed to combatants (e.g., recruitment, fighting) and take action accordingly to expel the person should they engage in any such activity (*idem* 2015, 2).

The civilian is also a universal category (*ibid.*, 98; 101) in the sense that “anyone” can be a recipient of humanitarian assistance regardless of gender, race, ethnicity, national identity, or socioeconomic and political status. Such universality, Doucet argues, also opens political space for military and police personnel to be deployed in foreign territory in the name of securing lives, regardless of citizenship status and national identity. If, in principle, the threatened civilian could be “anyone” and “anywhere”, in practice, on the other hand, protection of civilians is only evoked in reference to vulnerable, endangered bodies in the global south. And, as a vulnerable category, the civilian is often accompanied by and even conflated with other groups considered vulnerable, such as women and children:

[...] dehistoricized and depoliticized, the civilian acts as the universal image of the innocent child, woman (Carpenter 2006) or elderly who, as a non-combatant, is not engaged openly or actively in hostilities. The life of the civilian is rendered as a form of life that is knowable and recognizable immediately in terms of living in a moment of conflict, violence and insecurity which is lived on a day-to-day basis. The life of the civilian is a life that is also precarious and often held in the hands of others (Carpenter 2006 *apud* Doucet 2018, 98).



The image of the civilian is therefore associated with the concepts of precarity and vulnerability. As far as ideal types go, it is argued here that the civilian as the universal, dehistoricized and depoliticized victim mirrors the universal, dehistoricized and depoliticized “universal man” which is the bearer of universal human rights.

According to Jennifer Hyndman (2000), the UN embraces a discourse of “universal humanism”<sup>16</sup> which, despite more recent efforts at accounting for gender and cultural differences, is still embedded in the post-World War II European humanism which informed the development of international humanitarian and human rights instruments, and finds in the excluding identity of the *white, western man* the frame of reference for conceiving the liberal, sovereign subject that embodies universal human rights. In the context of contemporary humanitarian action, then, the purportedly “abstract, race-neutral, gender-blind concept of humanity” (Hyndman 2000, 69) advanced in the Universal Declaration of Human Rights is invoked in in order to save “the voiceless subjects of these [dominant] discourses” (*ibid.*, 64) of universality. As Hyndman states:

Human rights instruments, which espouse the legal entitlements of universal subjects [...] may on paper apply equally to all countries that are signatories, but the outcome of such measures is uneven because individual nations and groups of people within them are unequally positioned in relation to one another (*ibid.*, 62).

In light of Hyndman’s critique of the universal humanist discourse espoused by the UN and the *de facto* inequality inherent to the international law of human rights, it can be argued that, while international instruments of human rights find in the liberal (white, male, western) subject their frame of refence for conceiving the “universal man”, these same instruments serve to activate a language and a discourse of protection that finds in the *universal victim* (that is, non-white women and children in the disorderly spaces of the global south) its object of intervention. This duality between *de jure* equality and *de facto* inequality can be identified in the UN protection of civilians agenda.

United Nations documents pertaining to the peacekeeping doctrine in general and the PoC agenda in particular mobilize the language of universal rights and freedoms while simultaneously setting aside vulnerable groups as priority

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<sup>16</sup> While Hyndman’s critique is directed specifically at the strategies developed by the UNHCR for managing crises of forced displacement, she does extrapolate her analysis to the UN system as a whole, delving into how difference is managed “within a discourse of UN humanism” (2000, 67).

targets of humanitarian action. In this sense, the Capstone Doctrine “emphasizes that human rights and fundamental freedoms are universal and guaranteed to everybody”, but also lists the protection of civilians, women and children as cross-cutting tasks for peacekeeping mandates (DPKO and DFS 2008, 14; 16), determining that missions “should be careful to ensure that [their] differential impacts on men and women, as well as children and vulnerable groups, are considered” (*ibid.*, 82). In the same vein, the 2015 Policy on the Protection of Civilians in United Nations Peacekeeping defines harm as “potential negative consequences to the dignity, safety and security of *civilians, in particular of women and children*” (DPKO and DFS 2015b, 11, italics added), urges that a gender perspective be included in all policies, planning, action and reporting, so as “to address the disproportionate impact of conflict and post-conflict situations on girls and women” (*ibid.*, 8). In the case of South Sudan specifically, Security Council Resolution 2155 lists as a UNMISS PoC task

To protect civilians under threat of physical violence, irrespective of the source of such violence, within its capacity and areas of deployment, *with specific protection for women and children*, including through the continued use of the Mission’s Child Protection and Women Protection Advisers (UN Security Council 2014, 4, italics added).

As will be pointed out in Chapter 3, the prioritization of vulnerable groups, with specific reference to women and children is echoed both in UNMISS Protection of Civilians Strategy (2014), as well as on the Guidance on Civilians Seeking Protection in UNMISS Bases (2013). While the prioritization of women and children as protected groups is part of an effort to account for *de facto* inequalities, it is also symptomatic of a discursive schism between the universal subject of human rights and the particular recipient of humanitarian assistance, which is materialized in the image of the universal victim: the woman and child affected by conflict in the disorderly spaces of the global south.

Such schism can be identified in the protector/protected dualism produced by the PoC discourse. Fixing the protection of civilians as a goal and a practice of international intervention implies that at least two subject positions are designated: the protectors – that is, military, police, humanitarian and other civilian personnel that represent the “international community” – and the civilian that must be protected. While the first are conceived as agentic, sovereign subjects, the latter are treated as passive, depoliticized bodies whose bare lives must be saved. As Lauren

Wilcox (2015) points out in her critique of the Responsibility to Protect, discourses of protection conceive the “protected” not as agentic subjects but as “bodies of protection”, as feminized, infantilized “bodies that breathe, suffer, and die, who are ‘just bodies’” that “can then become civilians who are killed accidentally, because they are always already lost” (176).

The protector, on the other hand, is conceived as an “*agent* of protection, empowered to use force in order to eradicate violence – that is, a sovereign subject who designates who must live and who must therefore die” (*ibid.*, 176, italics added). Finally, Wilcox argues, such agency is conceived as located in an invulnerable, disembodied subject in the sense that the “[individual] bodies that represent the “international community” may be killed in such interventions, but the subject of the “international community” is constituted as a sovereign subject that can never be killed” (*ibid.*, 178). It is in the international community, and not in its representatives on the ground, that agency is located. In the production of a coherent “subject of invulnerability” endowed with the responsibility to protect others – endowed, indeed, with the sovereign prerogative to decide who must be protected and who can be legitimately killed in the process of saving others – the constitutive vulnerability of this subject is erased:

While such subjects may not be, strictly speaking, invulnerable in terms of imperviousness to violence, in this scheme their vulnerability in terms of their formation in and through social relations is denied. Such subjects are formed in a history that they did not choose, but are formed nonetheless (*ibid.*, 179-80).

Wilcox is here referring to Judith Butler’s notion of an ontological vulnerability or the precariousness of the embodied subject. Butler (2004, 28-32) argues that embodied life is fundamentally social and, as such, it is inherently dependent of and vulnerable to the other. This generalized, “primary human vulnerability to other humans” (*ibid.*, 28) precedes even the process of individuation and subject formation: it is linked with bodily vulnerability, with the fact that all bodies can be injured or destroyed by violence, but also with the fact that “we are, from the start, given over to the other”, that we are, upon birth, “laid bare” to other forms of human touch that can either sustain life or put an end to it (*ibid.*, 31).

This is accompanied by yet another form of generalized vulnerability. Referring to the embodied subject specifically, Butler distinguishes the historically contingent, politically induced and differentially distributed condition of “precarity” from a generalized condition of “precariousness” which, she argues, is a

consequence of the (violent) process of being constituted and recognized as an embodied subject. In this perspective, there is no autonomous, invulnerable subject as the “protector” of PoC, since the embodied subject “is always given over to others, to norms, to social and political organizations that have developed historically in order to maximize precariousness to some and minimize precariousness to others” (Butler 2009, 2). Hence, the embodied subject is vulnerable to normative as well as to physical violence as it is constituted and apprehended through gender, racial and other norms that “organize visual experience” and “generate specific ontologies of the subject” (*ibid.*, 3). Being essentially a social entity, the possibility of realization of the embodied subject also depends on how (and if) it is apprehended by others:

The body, in my view, is where we encounter a range of perspectives that may or may not be our own. How I am encountered, and how I am sustained, depends fundamentally on the social and political networks in which this body lives, how I am regarded and treated, and how that regard and treatment facilitates this life or fails to make it livable (*ibid.*, 53).

Thus, when Wilcox states that, “[to] take Butler’s thesis of bodily [precariousness] seriously is to challenge the designation of some populations as vulnerable and others as invulnerable” (2015, 178), she is referring to this idea of ontological vulnerability that stems from a shared physical vulnerability to violence but also from how dependent on normative frameworks and social relations/recognition we all become in the process of being formed as embodied subjects. In this perspective, Wilcox argues,

locating vulnerability to violence “elsewhere”—and presenting the question of “responsibility” as located in a more secure, “invulnerable” subject of the state or the international community—is to neglect how the subject that is presumed to provide security in the event of state failure is also, by definition, a vulnerable subject. This “invulnerable” subject is not literally impermeable to violence; rather, I use the term *invulnerable* in this sense to indicate a denial of the embodied subject’s constitutive vulnerability not only to violence as we commonly understand it, but also to normative violence in the social and political formation of the subject. This invulnerable subject is a fully agentic subject whose violent formation is obscured (*ibid.*, 178, italics in original).

Building on her critique of RtoP, it is argued here that the protection of civilians discourse frames certain forms of life as either vulnerable or invulnerable, either disposable or worthy of protection, assigning them to the subject positions of “protectors” and “protected” – a binary which, also following Wilcox, is

accompanied by a third, implicit category of the “abject”, the (illegal, illegitimate) combatant that targets civilians in violation of IHL, who must be kept at bay and ultimately killed. This abject is therefore dehumanized and assigned to the subject position of “outlaw of humanity” (Schmitt 2007, 54). At this juncture, we are reminded of Schmitt’s guarding against those waging war in the name of humanity since, according to him,

[to] confiscate the word humanity, to invoke and monopolize such a term probably has certain *incalculable* effects, such as *denying the enemy the quality of being human and declaring him to be an outlaw of humanity*; and a war can thereby be driven to the most extreme inhumanity (*ibid.*, 54, italics added).

Employing Koselleck’s idea of “asymmetric counterconcepts”, Schmitt (1987 apud Yamato 2018, 1) argues that humanity works as an asymmetric counterconcept since it “[functions] denying the reciprocity of mutual recognition, thus structuring an *asymmetric* opposition” (Yamato 2018, 2, italics in original). In contrast to the friend/enemy counterconceptual that Schmitt posits as the defining mark of the political – and that implies a symmetry and a pact of mutual recognition between friend and enemy –, the human/inhuman pair entails a fundamental inequality in which the human and humanity are posited as the positive counterconceptual position that “[authorizes] the absolute negation of its counterconceptual ‘other’” (*ibid.*, 2).

Because the enemy of humanity is not the public enemy against whom (regular, inter-state) war is waged in the international system, the notions of “humanity” and “inhumanity” carry the possibility of unlimited violence. When the international community, represented “on the ground” by the security-humanitarian assemblages of protection, assumes the purportedly neutral, apolitical position of protector of humanity – or at least of upholder of *universal* human rights and humanitarian law –, it can afford to “all necessary means” to protect humanity from the outlaw of humanity. In this perspective, it could be argued that the “abject” against whom civilians must be guarded works as “the historical (ontic) pirate” (Yamato 2018, 10) in PoC discourse<sup>17</sup>: the implied “enemy” in PoC is placed *beyond the line* of the international system that has criminalized war and legalized

<sup>17</sup> Yamato (2018) seconds Schmitt in arguing that the pirate has been commonly and systematically posited as “‘the enemy of the human species’ (*hostis generis humanis*)” (12) in the history of international law and international politics. While understood in these terms, Yamato argues, the pirate marks the outer limit of the international and “conceptually names and works as a *constitutive outsider of the international*” that “[demarcates] a zone beyond the line where exceptional rules apply and abject forms of violence are legitimized” (*ibid.*, 8; 11, italics in original).

humanity (*ibid.*, 2; 9), inhabiting “the space of exception that marks the ‘outer limit’ of the international” (Walker 2016, 10 apud Yamato 2018, 3), beyond the scope of international law where inhumanity is justified.

The mobilization of “humanity” and the criminalization of certain forms of violence through the human/inhuman distinction thus works to legitimize (international) exceptionality and “abject forms of violence” (Yamato 2018, 1). In PoC, the need to protect civilians from the “inhuman” perpetrator of crimes against humanity legitimizes intervention, the use of (lethal) force and extralegal, indefinite detention by the international. The abject that is implicitly sustaining and legitimizing international intervention, as the outcast and the enemy of humanity, is the life that can (and in some cases, must) be killed in order to protect civilians. Wilcox’s “abject” is included in the bio/necropolitics of protection through its very exclusion: it is life that can be disposed of and even killed so that others are made to live. PoC is a discourse centered upon protecting human life that allows taking life. At this point, we start to unravel the aporetic nature of a discourse that, being grounded on international human rights and humanitarian law and on the preservation of life, also legitimizes, in the name of “necessity”, *international* exceptionality.

To summarize, the objectification and/or dehumanization of some forms of life paves the way for the legitimization of certain forms of violence. On the one hand, there is the inhuman perpetrator of crimes against humanity and other crimes under international human rights and humanitarian law, who is derealized as a human being and can therefore be killed without being murdered: indeed, they must die so that others are made to live. On the other hand, there is the protected civilian that is derealized as a properly political, agentic subject at the same time that they are produced as an object of care. This, however, is not a deviation but a direct consequence of a discourse that is geared towards the preservation and management of life. As Edkins and Pin-Fat argue, “life constituted within biopolitics cannot be a political life” since “[in] the face of a biopolitics that technologises, administers and depoliticises, and thereby renders the political and power relations irrelevant, we have all become *homines sacri* or bare life.” (2005, 9; 11). In this context, properly political relations of power give way to relations of violence (*ibid.*, 3).

For Agamben (1998), in fact, there is a continuity between the inscription of natural life in the political-juridical order of the state that is effected through

declarations of rights, and particularly through the “right to life” – in the context of modern democracies but also in the proliferation of international declarations of human/humanitarian rights in the second half of the 20<sup>th</sup> century –, and the isolation of naturalized bodies that are stripped off of all political-juridical subjectivity. In other words, there is a continuity between the biopolitical foundation of modern politics, on the one hand, and the depoliticization of life and its reduction to a bare form of life which is then managed – included in the political-juridical order through its very exclusion – in camps, on the other:

One of the essential characteristics of modern biopolitics (which will continue to increase in our [20<sup>th</sup>] century) is its constant need to redefine the threshold in life that distinguishes and separates what is inside from what is outside. Once it crosses over the walls of the oikos and penetrates more and more deeply into the city, the foundation of sovereignty – nonpolitical life – is immediately transformed into a line that must be constantly redrawn. Once zoe is politicized by declarations of rights, the distinctions and thresholds that make it possible to isolate a sacred life must be newly defined (131).

In the remainder of this thesis, I aim to trace, through the analytical microcosm offered by the Protection of Civilians Sites, the particular practices and relationships that are brought to the realm of possibility and legitimacy when this exercise of line-drawing between political/nonpolitical, vulnerable/invulnerable, disposable/securable lives is coupled with the police rationality and the temporality of emergency through which humanitarian-security assemblages of protection operate.

## 3

### Protecting/policing civilians “*in extremis* situations”: unravelling the Protection of Civilians sites

The United Nations Mission in South Sudan (UNMISS) was established through Security Council Resolution 1996 on 8 July 2011, one day before South Sudan became an independent state. Acting under Chapter VII of the UN Charter, UNMISS would have a mandate to perform three core tasks, as determined in Resolution 1996: a) support peace consolidation and foster the processes of statebuilding and economic development in South Sudan; b) support the Government of the Republic of South Sudan in its responsibilities towards conflict prevention, resolution and mitigation, and the protection of civilians; and c) to support the national government “in developing its capacity to provide security, to establish rule of law, and to strengthen the security and justice sectors” (UN Security Council 2011, 4).

The mission’s original mandate was, in other words, centered upon post-conflict peacebuilding, with special attention to institution-building activities. Even though PoC was an important part of the mission’s original mandate, it was intertwined with the language of supporting national authorities, as the predominating tone of Resolution 1996 was one of collaboration with the security sector of the newborn state. Protection activities therefore included: a) establishing and implementing a mission-wide early warning system; b) “advising and assisting the Government of the Republic of South Sudan, including military and police at national and local levels as appropriate, in fulfilling its responsibility to protect civilians” (*ibid.*, 4); c) monitoring, reporting and investigating potential and actual threats to civilians and violations of international humanitarian and human rights law, communicating national authorities when necessary; and c) “detering violence including through proactive deployment and patrols” in order to protect “civilians under imminent threat of physical violence, in particular when the Government of the Republic of South Sudan is not providing such security” (*ibid.*, 4).

However, the operation’s mandate and stance towards the national government would suffer an inflexion after 15 December 2013, when the armed conflict broke out in South Sudan and thousands of civilians sought protection in



UN compounds in the capital, Juba, and in other locations throughout the country. The instructions on protecting civilians inside bases in vogue at the time were established by the April 2013 “Guidelines on Civilians Seeking Protection at UNMISS Bases”, which established a desired limit of 72 hours for civilians staying in UN compounds (UNMISS 2013a, 6). Even after the crisis broke out, the mission expected that its bases could be evacuated in a few weeks (IOM 2016, 19). But with the continuation of fighting and recurring violations of human rights and humanitarian law by both parties to the conflict, including purposeful targeting of civilians and “ethnic violence” (HRC 2018), it was soon clear that the displaced population would not leave UNMISS bases in the immediate future.

Over the following months, the protected spaces that are now known as “PoC sites” were demarcated and erected in areas reserved to UNMISS (both inside and in the immediate vicinity of mission bases), in the following locations:

- a) Juba, where the first influx of IDPs took place in 15 December 2013, being the first base to receive civilians after the conflict started. While some IDPs are still living inside the UN House compound (PoC 1), most civilians under UNMISS protection in Juba have resided in a site constructed in the adjacent area (PoC 3) since 2014<sup>18</sup>. The combined population of PoC 1 and 3 is currently at 30.272 IDPs (see Annex 1 and 2);
- b) Bentiu, located in Unity state, is the most populous PoC site, sheltering 100.441 IDPs (see Annex 3);
- c) the Malakal base, in the Upper Nile<sup>19</sup>, currently provides shelter to a population of 29.190 civilians (see Annex 4);
- d) Bor, located in Jonglei state, with a population of 2.061 IDPs (see Annex 5);
- e) the Area Adjacent (AA) to UNMISS in Wau, in Western Bahr El Ghazal, which harbors a population of 19.132 IDPs (UNMISS 2019; see Annex 6).

<sup>18</sup> UN House PoC site 2 was closed in 2015, when the evacuation of its population to PoC 3 was completed. It was located in the Tongping base, near Juba airport and in the opposite side of the capital to where PoC 1 and 3 are located (IOM 2016, 54-5).

<sup>19</sup> During the first years of conflict, there was a second PoC site in Upper Nile state, located in the UNMISS base in Melut, but it was closed in December 2017. See: <https://unmiss.unmissions.org/first-protection-civilians-site-successfully-closed-south-sudan-families-choose-return-home>.

With the exception of Wau, where civilians first sought protection in UNMISS compounds in April 2014, most bases have been sheltering IDPs since the first weeks of armed conflict, in December 2013 (IOM 2016, 11-2). According to the most recent “PoC Update” released by UNMISS, the PoC sites shelter a total 181.096 civilians at the time of writing (UNMISS 2019), corresponding to approximately 10% of the estimated 2 million internally displaced persons (IDPs) produced by the conflict in South Sudan (OCHA 2018, 2).

This was not the first time that violence and insecurity led South Sudanese to seek protection at UNMISS compounds, since civilians had fled to the UN bases in Wau and Pibor (Jonglei state) in different occasions in 2012 and 2013 (UNMISS 2013a, 3). However, this was the first time that protecting civilians inside bases became an operational issue to UNMISS. Faced with the new humanitarian and security environment, the Security Council decided, in the first weeks of conflict, to temporarily increase the mission’s authorized military and police capacity from the original 7.000 military and 900 police personnel to a military component of 12.500 troops and 1.323 police officers, including Formed Police Units (FPUs)<sup>20</sup>, with a view “to support its protection of civilians and provision of humanitarian assistance” (UN Security Council 2013, 2).

A few months later, in May 2014, the Council passed Resolution 2155, which adjusted UNMISS’ mandate to the new environment, redirecting it to the following goals: a) protection of civilians; b) monitoring and investigating human rights; c) creating conditions for the delivery of humanitarian aid; and d) supporting the implementation of a Cessations of Hostilities agreement which had been reached on February 2014. In this occasion, the Security Council also decided to maintain the force capacity that had been temporarily increased in December 2013<sup>21</sup>, authorizing UNMISS to “use all the necessary means” (*idem* 2014, 4) to fulfill the mandate.

<sup>20</sup> The UN describes Formed Police Units (FPUs) as “specialized, cohesive, armed mobile police units, providing security support to United Nations operations by ensuring the safety and security of United Nations personnel and assets; contributing to the protection of civilians; and supporting police operations that require a formed response” (DPKO and DFS 2016, 3). FPUs were first created in 1999, they have an order management role and are associated with the turn to more robust policing in UN peacekeeping, having been compared to the riot squads and militarized police in western countries (Doucet 2018, 45).

<sup>21</sup> This ceiling has been reviewed ever since. Following Security Council Resolution 2406 (2018), the authorized capacity of UNMISS at the time of writing consists of 17.000 military and 2.101 police personnel. Alterations to mission mandate after Resolution 2155 (2014) have been limited to the fourth mission objective, that is, support to the implementation of the Cessation of Hostilities

Resolution 2155 gave a renewed focus to the centrality of PoC to UNMISS' mandate, stressing that "protection of civilians [...] must be given priority in decisions about the use of available capacity and resources within the Mission" (*idem* 2014, 6). Given the centrality of the mission's approach to protection to our own analysis, the objectives and practices laid out as part of its PoC mandate deserve to be quoted at length:

- (i) To protect civilians under threat of physical violence, *irrespective of the source of such violence*, within its capacity and areas of deployment, *with specific protection for women and children*, including through the continued use of the Mission's Child Protection and Women Protection Advisers;
- (ii) To deter violence against civilians, including foreign nationals, especially through proactive deployment, active patrolling with *particular attention to displaced civilians*, including those in protection sites and refugee camps, humanitarian personnel and human rights defenders, and identification of threats and attacks against the civilian population, including through regular interaction with the civilian population and closely with humanitarian, human rights and development organizations, in areas at high risk of conflict including, as appropriate, schools, places of worship, hospitals, and the oil installations, in particular when the Government of the Republic of South Sudan is unable or failing to provide such security;
- (iii) 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 prepare for further potential attacks on United Nations personnel and facilities;
- (iv) *To maintain public safety and security within and of UNMISS protection of civilians sites;*
- (v) To exercise good offices, confidence-building, and facilitation in support of the mission's protection strategy, especially in regard to women and children, including to facilitate inter-communal reconciliation in areas of high risk of conflict as an essential part of long-term State-building activity;
- (vi) To foster a secure environment for the eventual safe and voluntary return of internally-displaced persons (IDPs) and refugees including, where compatible and in strict compliance

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reached in January 2014. This pillar has been altered as the peace process unfolds and new agreements are reached. At the time of writing (July 2017), the most recent Security Council Resolution regarding UNMISS is Resolution 2459 (2019), which renewed its mandate until March 2020 and lists support to the peace process and the Revitalized Agreement on the Resolution of the Conflict in the Republic of South Sudan, of September 2018, as a mission objective. Other mission objectives, including the protection of civilians, remain unchanged since Resolution 2155, which, for this reason, will be used as reference for understanding UNMISS' PoC mandate in this chapter. For further information, see: <https://unmiss.unmissions.org/mandate>.

with the United Nations Human Rights Due Diligence Policy (HRDPP [sic]), through monitoring of, ensuring the maintenance of international human rights standards by, and specific operational coordination with the police services in relevant and protection-focused tasks, in order to strengthen protection of civilians (*ibid.*, 4-5, italics added).

The post-2014 PoC mandate points, on the one hand, to an inflexion in the relationship with the Government insofar as it orients peacekeepers to protect civilians “irrespective of the source” of violence. On the other hand, Resolution 2155 marks the inclusion of the PoC sites as an integral part of UNMISS protection mandate. This redefinition was followed by a revision of the operation’s PoC Strategy, which reflected the new environment and mandate. While operational guidance regarding the PoC sites will be explored in the following sections, it should be noted that the changing relationship with the national government and its armed forces is palpable in the new PoC Strategy, which postulates that

the Mission will not provide direct support to the SPLA and will conduct thorough risk assessments before providing support to other security forces given the impact this would have on its impartiality as well as implications for the implementation of the UN Human Rights Due Diligence Policy (HRDDP) (UNMISS 2014a, 21).

In practice, however, this reorientation was not effective immediately, since the mission still worked in a logic of cooperation with the government in the beginning of the crisis, to the discontentment of humanitarian actors (NRC 2017, 88). In fact, the very existence of a mandate to facilitate the peace process means that the mission must act politically, raising one of the multiple points of concern for humanitarians trying to safeguard the principles of independence and distinction while acting alongside UNMISS in PoC site contexts.

Indeed, humanitarian-military relations are an integral part of PoC site routines. As determined in Resolution 2155, peacekeepers are responsible for guaranteeing the safety and security of PoC sites, a function that is carried out by state security forces in more conventional spaces of protection such as refugee and IDP camps. This, coupled with the fact that the sites are located in spaces under the responsibility and authority of UNMISS, has meant that even if humanitarian agencies and clusters are providing assistance in the sites, management and organization functions are shared with the mission. This occurs in contrast with traditional camps, where administration is usually handled by humanitarians alone.

These particularities setting the PoC sites apart from other camp-like environments are due in part to the inviolability clause included in the Status of Forces Agreements (SOFAs) which are signed by the host state and the United Nations prior to the deployment of a peace operation. According to such clause, state authorities (security forces included) cannot enter UN bases without the authorization of UN officials. In this sense, it is stated in Article V, paragraph 16 of “The Status of Forces Agreement between the United Nations and the Government of the Republic of South Sudan Concerning the United Nations Mission in South Sudan”:

The Government shall provide without cost to UNMISS and in agreement with the Special Representative [of the Secretary-General] for as long as may be required such areas for headquarters, camps or other premises as may be necessary for the conduct of the operational and administrative activities of UNMISS [...] Without prejudice to the fact that all such premises remain territory of South Sudan, they shall be inviolable and subject to the exclusive control and authority of the United Nations. The government shall guarantee unimpeded access to such United Nations premises (UNMISS 2011, 6).

Furthermore, Article VI, paragraph 48, item (iii), provides that “the Government shall establish [...] crimes under its national law”, among others, violent attacks on “the official premises, the private accommodation or the means of transportation of any member of UNMISS or its associated personnel” as well as threats “to commit any such [attacks] with the objective of compelling a physical or juridical person to do or to refrain from doing any act” (*ibid.*, 11). The existence of these provisions has meant that UNMISS has been in a privileged position to provide immediate (physical) protection to civilians displaced by an armed conflict in which state armed forces are implicated, engaging in human rights abuses and deliberately targeting civilians.

Besides such practical and legal specificities, the PoC sites are also set apart from traditional refugee and IDP camps in official discourse. Following Jennifer Hyndman’s understanding that “one’s choice of words is intensely political” (2000, 81), it is argued here that the designation “PoC site” and the avoidance of the term “camp” in official UN documents is symptomatic of an effort to dissociate such spaces from international norms and practices, as well as political and academic debates, concerning the rights of refugees and forced migrants more generally. This, we argue, is embedded in a tendency – which, as has been discussed in

Chapter 2, is ingrained in the protection of civilians discourse(s) – to *depoliticize* intervention practices.

As a depoliticizing and depoliticized category, the “PoC site” reinforces the UN’s tendency to treat problems pertaining to the doctrine and practice of protection as technical or operational challenges instead of normative and political issues that require normative, political solutions. This tendency is recognizable in UN efforts to emphasize that sheltering civilians inside bases should be considered only as a “last resort” (UNMISS 2013a, 4) to be employed “in extreme” or “*in extremis*” situations (*ibid.*, 4; DPKO/DFS 2015, 12) as a *response* to “civilians seeking protection” (UNMISS 2013a), and even so, only “once other preferred options to prevent such a situation from occurring have been exhausted” (*ibid.*, 4). In this vein, it is established in the outset of the 2013 “Guidelines on Civilians Seeking Protection at UNMISS Bases” that:

These guidelines address the specific situation when civilians seek protection at UNMISS bases and the preferred options of deterring the violence or facilitating protected passage for civilians to move away from danger to another location are not feasible. They [...] provide guidance for managing a situation when civilians come to an UNMISS base *of their own accord* (*ibid.*, 2, italics added).

In this vein, a researcher recounts that one UNMISS official stated during an interview that “[the] POC was forced upon us due to the circumstances. What was the alternative? Their lives were in danger...” (Munive 2019, 14). The idea of civilians turning to mission bases “of their own accord” and that PoC sites were “forced upon” UNMISS implies, on the one hand, that there was no decision-making space for the mission and, on the other, a voluntary movement of displaced civilians, in stark contrast to the violence to which the concept and lived experience of forced migration is attached.

Interestingly, this rhetoric and understanding can also be found in humanitarian discourse. “Protection of Civilians Sites: lessons from South Sudan for future operations”, a report produced by the Norwegian Refugee Council (NRC), one of the many humanitarian agencies integrating the long list of PoC sites’ service providers, points out that: “Most POC sites will emerge spontaneously, meaning the question of whether they are good or bad becomes somewhat irrelevant, as humanitarians and peacekeepers may have little ability to influence their creation in the first place” (NRC 2017, 21). Intentionally or not, this

language of spontaneity and voluntariness works to reduce the accountability of protection agents, dislocating the “moment of decision” to those civilians fleeing from violence, persecution and severe insecurity.

Another element of UN and humanitarian discourse that we aim to navigate carefully is the language of *innovation*, *novelty* and *uniqueness* that usually comes attached to the PoC sites. According to the UNMISS PoC Strategy, “activities related to the PoC sites are precedent-setting and must continue to be specifically tailored to that *unique* legal scenario” (UNMISS 2014a, 11, italics added). In a report, the International Organization on Migration (IOM) has referred to the sites as a “completely new experience of organizing a humanitarian response within a military framework” (IOM 2016, 24). Likewise, in the 2017 NRC report mentioned above it is stated that PoC site contexts “present a unique environment when considering approaches to protection” (NRC 2017, 10). In fact, twenty-three out of the twenty-seven times that the words “unique”, “uniquely” and “uniqueness” appear in this report are in relation to the PoC sites: to the operational and coordination challenges, legal context, risks and constraints, administration of services and rule of law, security, among other “unique” aspects that make up the problématique of the PoC sites. While recognizing that these sites have their own particularities and indeed present “novel” elements in relation to other protection spaces, the objective here is to point not only to the “newness” and the ruptures introduced by the PoC sites but also to the continuities and similarities to other spaces, to other forms of managing displacement and mainly to already established, normalized practices and rationales of protection.

Regardless of their level of uniqueness, the PoC sites have indeed become precedent-setting. As has been noticed here, the UNMISS 2013 Guidelines stress the temporary and last resort character of sheltering civilians in mission bases. After the outbreak of conflict, however, an Additional Guidance recognized that it had

become clear that civilians are unlikely to remain in the PoC bases temporarily (i.e. 72 hours) and, therefore, UNMISS needs to work with humanitarian agencies to ensure that an adequate response is provided to avert any humanitarian crisis (UNMISS 2013b, 3).

And, in 2015, the legal, spatial and operational configuration of the PoC sites was crystalized as part of the “DPKO/DFS Policy on the Protection of Civilians in

United Nations Peacekeeping”, which advanced the following guidance for the protection of civilians in situations of forced displacement:

Contingency plans must be in place to afford physical protection in areas of displacement and accommodate internally displaced people (IDPs), in order of priority:

1. Outside UN premises, including in IDP camps or with host communities;
2. In areas adjacent or close to existing mission premises identified for that purpose;
3. *In extremis situations*, including due to lack of preparedness, or where the mission has insufficient military or police capacity to secure a site outside the mission compound, in ‘POC sites’ within existing mission premises. This option will be enabled for the minimum duration possible, and the decision to relocate IDPs shall lie with the mission leadership, acting in close consultation with the Humanitarian Country Team (HCT) (DPKO/DFS 2015, 12).

On a footnote to item (3) above, it is clearly established that “further information and guidance” (*ibid.*, 12) on PoC sites could be found in UNMISS Guidelines and lessons learned from the South Sudan experience. The remainder of this chapter focuses precisely on how this (initially unintended) experiment has unfolded in the last few years: on what actors are engaged in the sites, what practices and techniques of protection they advance, and how the IDPs are conceived and managed in those spaces.

One observation is in order before moving on to our analysis of the PoC sites. As has been observed before, this thesis aims to assess the protection rationales of humanitarian and security actors as well as the power technologies according to which these actors operate. While resistance is not dealt with here, it should be noted that IDPs are not passive to what takes place in the sites. “If we leave we are killed”, a 2016 IOM report on the PoC sites which is extensively used in this chapter, is named after the testimony of a South Sudanese living in the Malakal PoC site, who stated: “The PoC is hot, but it is better than death—if we leave we will be killed” (IOM 2016, 49). Perceptions regarding the site and dynamics between “protected” and “protectors” in the camps are diverse, ranging from resignation, as expressed in the statement above, to manifestations of discontent, such as the following (radical) instance of confrontation: “In Juba, there has been violence against humanitarians and UNPOL, who have been chased out of the PoC site and had to renegotiate access” (*ibid.*, 53). Furthermore, the sites have their own camp leadership structures integrated by IDPs which are selected by the



displaced population, but since decision-making powers remain ultimately in the hands of “protectors” instead of the IDPs, these structures will not be explored in this chapter.

### 3.1.

#### **A division of (protection) labor: mapping agents, responsibilities, rationalities and temporalities**

As has been mentioned here, the legal status of UNMISS bases and the particular spatial, operational and humanitarian circumstances in which the Protection of Civilians sites emerged has resulted in a heterogeneous organizational and management arrangement in relation to more conventional protection camps. Regarding the presence of humanitarians in UN compounds, the 2013 “Guidelines on Civilians seeking protection at UNMISS bases” stipulated that, in case of South Sudanese being protected in situ, the provision of humanitarian relief would be carried out by peacekeepers alone and humanitarian organizations should therefore stay out of mission bases:

Even if humanitarian organizations are present [at the area], they should not be expected to provide assistance in or around UNMISS bases as this would undermine the distinction between humanitarian and military actors, required by international humanitarian law. Therefore, while UNMISS is not specifically mandated to provide humanitarian assistance, the Mission must be prepared to provide minimal relief assistance, especially water and medical treatment (UNMISS 2013a, 8-9).

With the formation of PoC sites and the eventual acknowledgement that this modality of protection would not be of a temporary character, the December 2013 Additional Guidance postulated that the mission should work in cooperation with humanitarian actors with a view

to ensure that an adequate response is provided to avert any humanitarian crisis. For this response it [is] the Humanitarian Coordinator and the Humanitarian Country Team<sup>22</sup> that is the

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<sup>22</sup> The Humanitarian Coordinator is part of a peacekeeping operation leadership and is responsible for coordinating the humanitarian response among mission components and the Humanitarian Country Team when a UN mission is operating in the context of a humanitarian emergency. In South Sudan, as in other missions, the same person assumes the “triple-hatted” post of Deputy Special Representative of the Secretary-General, Resident Coordinator and Humanitarian Coordinator (DSRSG/RC/HC). The post of the DSRSG/RC exists in integrated missions, with the

lead, not UNMISS. Contrary to the original guidelines, humanitarian agencies have accepted to provide assistance at UNMISS bases (UNMISS 2013b, 3).

This new arrangement was officialized in 2014 through a Roles and Responsibilities document jointly elaborated by UNMISS and the South Sudan Camp Coordination and Camp Management (CCCM) cluster<sup>23</sup>, which had been established in response to the upsurge of internal displacement leading to the emergence of PoC sites. This document delineated a division of labor in which the CCCM fell responsible for coordinating the humanitarian response in the sites while the mission “would be responsible for ‘providing security, maintaining law and order and guaranteeing the civilian character of the IDP settlements/POC areas’” (UNMISS/CCCM 2014 *apud* NRC 2017, 36).

In practice, however, the co-location of peacekeeping and humanitarian work in a space that is legally (and de facto) under the authority of the peace operation has been a source of confusion, frustration and dispute due to the overlap of authorities, hierarchies, logistics as well as different understandings as to how camps should be structured and managed. PoC site contexts consequently create a strong demand for coordination, not only between UNMISS and the humanitarian sector but also between mission components and among humanitarian agencies and clusters.

In this regard, the 2013 Guidelines on Civilians Seeking Protection determines that mission response must be overseen by State Coordinators, County Support Base (CSB) County coordinators and the Military Commander (UNMISS 2013a, 13), with the Joint Operation Center (JOC) as the military focal point for coordination with humanitarian partners through the UN Office for Coordination of Humanitarian Affairs (OCHA) and already established civil-military coordination

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Resident Coordinator being responsible for representing and coordinating with the UN Country Team (POTI 2014; IOM 2016).

<sup>23</sup> Humanitarian clusters are groups composed by both UN and non-UN humanitarian agencies, designated by the Inter-Agency Standing Committee (IASC), which is integrated by the UN, the World Bank, humanitarian agencies and the International Organization for Migration (IOM). Their function is to coordinate humanitarian response in the context of humanitarian emergencies, and they are divided according to response sectors: health, education, shelter, logistics, protection, nutrition, food security, emergency telecommunications, early recovery, water, sanitation and hygiene (WASH) and camp coordination and camp management (CCCM). At the global level, the CCCM is co-led by IOM and UNHCR, and it is a cross-cutting cluster, meaning that it engages with other clusters/sectors in order to enhance coordination and avoid duplication of protection and assistance activities at camp-level (IOM, NRC and UNHCR 2015, 19-20. See also: <https://www.humanitarianresponse.info/en/coordination/clusters>).

mechanisms (*ibid.*, 9). Regarding the mission's role to facilitate the provision of humanitarian assistance, the Relief, Reintegration and Protection (RRP) section was designated as the civilian focal point for coordinating with humanitarian agencies and clusters on issues pertaining to assistance and camp management, with the PoC Unit liaising on protection-related issues (*idem* 2013b, 3; NRC 2017, 42).

On the humanitarian side, OCHA functions as the focal point for civil-military coordination, while camp management agencies coordinate with the RRP (*ibid.*, 42). However, the presence of the CCCM cluster, led by IOM and UNHCR, working as the instance responsible for coordinating the humanitarian response in the camps created a problem of duplication, especially since:

Although the Cluster System existed in South Sudan prior to the December 2013 crisis, the CCCM Cluster did not – there previously had not been any large IDP camps in the country. Many humanitarian actors were less familiar with the relationship between the Cluster System and traditional camp management approaches, and when OCHA reinforced their static presence in the state capitals (now POC sites), very quickly, two parallel systems began to emerge: one led by the newly appointed camp management agencies, and one led by OCHA that replicated the national level clusters. In theory, the OCHA-led coordination structure was intended to cover the whole state, while the camp management meetings were designed to address issues at site level. In practice, however, the initial insecurity and fact that the POC sites emerged in state capitals meant that state level and site level coordination mechanisms significantly overlapped. The co-location of humanitarians (including OCHA and Cluster state focal points) inside the UNMISS bases meant that much of the state level discussion focused on what was occurring inside the POC sites. These meetings did not replace the site level meetings led by camp management, but rather led to increased duplication (*ibid.*, 55).

In this perspective, one of the main organizational conundrums presented by the PoC sites lies not only in the co-location of civilian, military and police components of UNMISS, on the one hand, and humanitarian agencies and clusters, on the other, but also on coordination *within* the humanitarian sector.

Even in the face of a strong coordination demand, therefore, the PoC sites have been criticized for having “too many coordinators” (IOM 2016, 40). Besides, the sites have been described as spaces where “too many humanitarian organizations” (*ibid.*, 40), and indeed “too many protection actors with similar mandates” (NRC 2017, 93), converge, creating an environment prone to potentializing humanitarian concerns over the establishment and safeguarding of a “humanitarian space” (Bellamy and Hunt 2015, 1291; IOM 2016, 24), which refers

to both political and physical space for humanitarian action. The co-location of and interdependence between humanitarians and UNMISS in the PoC sites can affect the perception of humanitarian action as neutral, independent and distinct from military and political activities. In fact, because the camps predominantly shelter Nuer IDPs – with the exception of Malakal, whose population is of Shilluk majority, followed by Nuer, Dinka and Darfuri IDPs (IOM 2016, 11) –, the perception of impartiality in the provision of humanitarian relief has been adversely affected<sup>24</sup>, raising further concerns for humanitarians (NRC 2017, 56).

This imbroglio is further compounded by the fact that, even if humanitarians and peacekeepers see their respective duties as protective, these actors follow fundamentally different understandings of protection. As has been discussed in Chapter 2, the UN protection of civilians agenda is centered upon providing physical protection in order to prevent violent death and injuries. In this vein, the UNMISS PoC Strategy reinforces that, in the context of UN peacekeeping, PoC means acting in a way to prevent, preempt and respond to physical threats against civilians, deploying all necessary means to such an end, including the use of (deadly) force (UNMISS 2014a, 1). In the same breath, the document sets a tone of complementarity with the humanitarian concept of protection, defined by the Inter-Agency Standing Committee (IASC) as “[encompassing] all activities aimed at obtaining full respect for the rights of the individual in accordance with international humanitarian, human rights and refugee law” (IASC 1999, 4 apud UNMISS 2014a, 2). Following this broad definition, the humanitarian approach to protection can extend over a wide range of activities, from the provision of food and medical treatment to the promotion of certain livelihood standards. In this perspective,

protection means upholding all rights of the individual, not just ensuring physical security. *Education* is protection. The threat of indictment by the International Criminal Court is protection. Training programs on human rights is protection. The *placement of latrines, the provision of reproductive health services, and livelihood projects* all are protection. Handbooks have been

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<sup>24</sup> In the context of UN peacekeeping, impartiality means that peacekeepers must act in an unbiased manner, without favoring any party to the conflict. As a guiding principle for humanitarian action, on the other hand, impartiality dictates that actors provide needs-based assistance, without discrimination of race, gender, nationality, religion or political opinion. In the context of humanitarianism, it is the principle of neutrality that dictates that humanitarian conduct should be unbiased towards parties to the conflict (POTI 2014, 20; Ferris 2011, 11).

developed, conferences organized, and policy guidelines formulated on incorporating protection into every aspect of humanitarian response (Ferris 2011, 17, italics added).

The encounter of what we have referred to as the “two discourses” of protection in the PoC sites has created friction between their respective champions, especially since the Guidelines in place for UNMISS in December 2013 recommended peacekeepers to “avoid providing any *unwarranted incentive* that might lead to a long-term presence of the civilians or induce a pull factor for further civilians to come to the base” (UNMISS 2013a, 4, italics added), going to the extent of stating that “UNMISS should not provide food as this would make it very hard to encourage the civilians to leave the base” (*ibid.*, 9). Such orientation is in direct contradiction of both OCHA’s “Guiding Principles on Internal Displacement” and the “Camp Management Toolkit” prepared by the UNHCR, IOM and NRC. “Principle 18” of the former document provides that “all internally displaced persons have the right to an adequate standard of living”, which includes the provision, by competent authorities, of “(a) essential food and potable water; (b) basic shelter and housing; (c) appropriate clothing; and (d) essential medical services and sanitation” (OCHA 2004, 9-10). According to the latter, “the overall goal of Camp Management actors is to improve living conditions during displacement, while advocating and preparing for durable solutions and planning for the closure of camps” (IOM, NRC and UNHCR 2015, 2), and protection should include the provision of physical, legal and material security to IDPs (*ibid.*, 118).

Although a “Roles and Responsibilities” agreement has been reached since the 2013 Guidelines were devised, and humanitarians have been admitted to UN premises, the divergence in conceptions of protection has led to conflicting understandings of how the PoC sites should function. As Munive observes,

UNMISS is pushing to offer as few services as possible and is focusing on the delivery of traditional humanitarian assistance to encourage return. Conversely, the humanitarian community is pushing for the expansion of services and to building up the capacity among Internally Displaced People (2018, 2).

In fact, even the provision of basic services and the establishment of minimal space per person have been objects of contention between the mission and humanitarian actors. There are several accounts of disputes regarding site capacity and distribution of space inside the sites, with humanitarians pushing for compliance

with international standards<sup>25</sup>, while UNMISS strives to maintain the provision of services at a minimal level and reinforce the short-term character of services provided therein. The following excerpts help to draw a picture of camp routines as well as mission-humanitarian dynamics:

One humanitarian explained that it was the State Coordinator, not camp management or a technical expert, who decided how many people would live in Malakal Sector 1. “We said that it could hold no more than 10,000 people safely, but eventually we had 12,500 people there because of UNMISS pressure. Over subsequent years the Malakal POC experienced repeated fires, in part due to the level of overcrowding and the absence of adequate fire breaks. Humanitarians repeatedly requested the Mission to ask for more land from the government, but the Mission appeared reluctant to do so *lest this lead to the camp becoming more permanent* (NRC 2017, 38, italics added).

Three months after the renewed outbreak of fighting in July 2016, humanitarians and UNMISS once again reinitiated conversations about contingency areas in UNMISS bases. Humanitarians used a planning figure that matched the number of IDPs who had arrived into the base in July, but the space allocated by UNMISS was so small that even if total space per person was reduced to only 10m<sup>2</sup> (one third of the internationally recognized emergency standard), the site could still only hold half the number of people humanitarians were using as a contingency figure. Humanitarians expressed concern that a larger influx would likely mean that IDPs would once again self-settle haphazardly within the base (as they had done in July) and that humanitarians would not be equipped to support them. Nevertheless, no additional space was allocated (*ibid.*, 39).

In Wau, [...] humanitarian partners are still required to truck water to the POC site every day rather than drill a borehole, an approach that cost tens of thousands of dollars more and is far more vulnerable to changes in the security environment. A senior humanitarian official [...] lamented that although it was clear early on that the POC sites were here to stay, humanitarians have nevertheless not been permitted to adapt the response accordingly, and predictably, funding is now starting to wane. By the time UNMISS concedes to using more sustainable materials, there may no longer be the funds available to do so (*ibid.*, 40).

<sup>25</sup> According to the “Camp Management Toolkit”, there is a variety of standards and reference documents that a Camp Management Agency should seek to apply, among which the most important are the Sphere Project’s “Humanitarian Charter and Minimum Standards in Disaster Response”. Others include the UNHCR “Handbook for Emergencies”, the Minimum Standards of the International Network for Education in Emergency (INEE), the Livestock Emergency Guidelines and Standards (LEGS), the “Minimum Standards for Child Protection in Humanitarian Action” of the Child Protection Working Group, and IASC “Guidelines for Gender-based Violence Interventions in Humanitarian Settings” (IOM; NRC; UNHCR 2015, 9; 15).

In Juba's Tongping, the IDPs were contained to an area with 4 m<sup>2</sup> per person, far below international standards of 45 m<sup>2</sup> per person [Footnote: 45 m<sup>2</sup> per person might seem like a large amount of space, but it includes the space needed for services such as latrines, distribution points, medical facilities, schools and even roads and drainage]. Finding space for latrines and distribution points became extremely challenging. The driest parts of the bases were already used by UNMISS for accommodation and offices, leaving highly dense populations on land vulnerable to flooding for two thirds of the year. The solution to decongest was the creation of a large area at UN House. Construction began in early 2014 but was not completed until June, with the relocation exercise taking another six months. Tongping stayed congested for almost one year, with literally no humanitarian standards achieved (IOM 2016, 59).

The original creation of the PoC extensions did not consider international standards, increasing public health and protection challenges in particular. In the Malakal PoC site, staff members of UNMISS Mission Support Unit claimed they were only informed about these standards after the first expansion area had already been built and were told that the space created was only enough for 30 per cent of the IDPs within the base. In the end, the majority of IDPs moved to the new site with less than 12 m<sup>2</sup> per person. Additional sections were built afterwards by humanitarian organizations to further decongest the site (*ibid.*, 59).

These dynamics point not only to different rationales of managing space, but to different *temporal frames* through which protection is conceived: while humanitarians aim to promote more sustainable living conditions in the camps, peacekeepers seek to guarantee that PoC sites remain a temporary, emergency solution to forced displacement. Even though IDP camps are likewise described as a temporary protective measure and “an option of last resort” in the humanitarian Camp Management Toolkit (IOM, NRC and UNHCR 2015, 14), this manual also lays down an array of services to be provided and standards to be met by camp authorities, encompassing: access to food and non-food items as required for the survival and well-being of IDPs; water, sanitation and hygiene (WASH) services; development and implementation of an appropriate shelter program; needs-based health care services; and provision of livelihood opportunities such as access to markets, availability of raw materials and possible sources of income.

Having outlined the division of protection roles and responsibilities in the PoC sites, as well as the dynamics created by the co-location of humanitarians and peacekeepers, we now turn to the questions of how, and by what actors, life and livelihoods are managed in the PoC sites.

### 3.1.1.

#### **Between coordination, complementarity and conflict: humanitarian and security “policing” strategies**

[...] police must ensure that men [sic] [...] have the wherewithal to live and so do not die in excessive numbers. But at the same time it must also ensure that everything in their activity that may go beyond this pure and simple subsistence will in fact be produced, distributed, divided up, and put in circulation in such a way that the state really can draw its strength from it (Foucault 2007, 326).

The state’s policing powers are often made most evident in instances when ‘law and order’ are said to have broken down such as during declared states of emergency. Police is the means by which the state can (re)institute its order by assuming the force that law normally carries but in moments marked by the suspension of the rule of law (Doucet 2018, 48).

It has been argued in Chapter 2 that international intervention in the context of humanitarian emergencies is carried out by complex humanitarian-security assemblages which, despite being heterogenous ensembles encompassing different protection rationales, assume a certain degree of concertedness in their spatiotemporal frames of action and in a shared police rationality. “Police” should be understood here in broad terms, in reference to the 17<sup>th</sup>-18<sup>th</sup> century police that Foucault (2007) describes as the ensemble of institutions, regulations, procedures and techniques that attended to the conditions of living and “more than living” of a population, as well as the contemporary form of police power as a security apparatus responsible for upholding the law and maintaining order. It was also argued that there is a division of labor between humanitarian and security actors in these protection assemblages, whereby the former are primarily responsible for the “positive” task of providing the conditions for living and well-being among the protected population, and the latter undertakes the “negative” role of avoiding violent death and upholding public order and security in “disorderly” spaces of the global south.

In the PoC sites, this can be observed in the CCCM/UNMISS “Roles and Responsibilities” arrangement, according to which the mission is responsible for maintaining “law and order” inside the camps and guaranteeing internal safety and security, while the humanitarians is responsible for the delivery of humanitarian assistance – which, according to the Camp Management Toolkit, encompasses (in



principle if not in practice) the promotion of “living” through WASH services, health care, shelter and distribution of food and other essential items, but also of “more than living”, that is, the provision of “livelihood opportunities”. In this perspective, the division of protection labor in the sites also entails a division of “police work”.

On the one hand, humanitarian “policing” is carried out and overseen by a wide ensemble of actors, and it is divided along “key areas of intervention”, “sectors”, or “clusters”, and these may vary marginally from site to site<sup>26</sup>. While a detailed mapping of sectors, service providers and services provided in all the PoC sites would be a long and repetitive, tiresome task for writer and reader alike, an outlining of sectors, organizations and some of their activities in Juba PoC 1 and 3 can be revealing of how the conditions of life and coexistence are managed by the humanitarian sector in these camps:

- a) CCCM – Action for Technical Cooperation and Development (ACTED) undertakes coordination among humanitarians at site level, engagement with community leadership, site maintenance (building and repairing infrastructure, fencing, bridges and drainage), information management and service monitoring;
- b) Protection – organizations include NRC, Humanity and Inclusion, UNHCR, Whitaker Peace & Development Initiative, HelpAge International, Humanitarian and Development Consortium (HDC), South Sudan Red Cross, Initiative for Peace Communication Association (IPCA); activities developed include the provision of legal aid, protection training, psychosocial support and rehabilitation services for Persons with Special Needs (PSNs), protection monitoring and risk assessments, recreational activities, “restoring family links”, “life skill sessions for youth”, among others.
- c) Child Protection – Child Rehabilitation Organization (CRO), Terre des Hommes (TDH), INTERSOS and Sustainable Children Aid;

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<sup>26</sup> While CCCM, Education, Health, Nutrition, Protection, WASH and Non-Food Items (NFI) are listed as key areas for all the PoC Sites (that is, in Juba, Bentiu, Malakal, Bor and Wau), some sectors vary from site to site, such as Information, Food Security, Food/Livelihood, Shelter, Security, Child Protection, Gender-Based Violence and Psycho Social Support (CCCM 2019a; 2019b; 2019c; 2019d; 2019e). For more information, see: <https://www.humanitarianresponse.info/en/operations/south-sudan/camp-coordination-and-camp-management>.

- d) Protection from Sexual and Gender-Based Violence (SGBV) – Nonviolent Peaceforce (NP) and International Rescue Committee (IRC)
- e) Education – NRC, DMI, INTERSOS, Agape Mission South Sudan and CMCM; services include basic and secondary education, teacher training, distribution of school supply and teaching material, skills training for youth, “emergency education” and construction of temporary learning spaces;
- f) Health – International Medical Care (IMC);
- g) WASH – Peace winds Japan, The Health Support Organization (THESO), Nile Sustainable Development Organization (NSDO), United Nations Children’s Fund (UNICEF) and Nile Hope;
- h) Food Sustainability and Livelihood (FSL) – World Vision International (WVI), Galaxy, Foundation for Democracy and Accountable Governance (FODAG) and the World Food Program (WFP); these undertake food distribution, distribution of vouchers and cash for milling machines, skills training for SGBV survivors, among others;
- i) Nutrition – Concern Worldwide
- j) Information – Internews and IOM
- k) Shelter and Non-Food Items (SNFI) – Concern Worldwide is responsible for the rehabilitation of shelters and delivery of shelter materials for registered IDPs (CCCM 2019d, 2-3).

On the other hand, UNMISS policing functions are centered on the provision of physical security: both protecting camp perimeters from outside threats and dealing with “criminality” (UNMISS 2014a, 5) within them. The maintenance of safety and security in PoC sites is part of tier two (provision of physical protection) of the UNMISS PoC Strategy, and it falls under the responsibility and authority of UNPOL. In this context, the function of “law enforcement” is carried out primarily by FPUs (UNMISS 2013b, 1), which also assist the mission Department of Safety and Security (DSS) in providing robust access controls for the sites (*idem* 2014a, 19). UNPOL is supported in its policing functions by the military component, which “[patrols] the PoC areas where civilians are located in order to provide deterrence” (*idem* 2013b, 1).

Besides community policing and patrols, the techniques and devices developed by UNMISS for maintaining order and upholding rule of law in the camps include:

- a) community watch groups (CWGs), unarmed groups integrated by IDPs and trained by UNPOL that carry out monitoring and patrolling activities in the sites. CWGs are meant to provide further deterrence to violence and criminality in the camps and report incidents to UNPOL;
- b) an Informal Mitigation and Dispute Resolution Mechanism (IMDRM), a reparations system inspired in South Sudanese customary court system, to where UNPOL refers minor cases such as theft and domestic disputes to this mechanism, which are not deemed to pose a threat to camp security. The IMDRM is integrated by community leaders, members of the CWGs and the parties involved in the dispute, with humanitarian actors and UNMISS representatives participating only on an unofficial basis<sup>27</sup>;
- c) holding facilities, a sort of improvised detention center where UNPOL holds serious offenders who are deemed to pose a threat to camps security as well as to the safety of other IDPs (IOM 2016, 51; NRC 2017, 74-9)<sup>28</sup>.

In light of this account of the roles and activities assumed by humanitarian agencies and UNMISS, there seems to be a division of labor between, on the one hand, the negative tasks of enforcing rule of law, maintaining order and preventing violent or otherwise imminent death – and, in this sense, UNMISS Guidelines and Additional Guidance to protecting civilians inside bases include, besides military and police protection, the immediate provision of *minimal* food and water relief as well as medical care (UNMISS 2013a; 2013b) – and, on the other, the positive tasks

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<sup>27</sup> Outside the IMDRM, traditional courts often function on an unofficial basis. While the lines between the two mechanisms are often blurred, especially since the same persons often compose the two mechanisms, there are some differences to the informal mechanisms designed by UNMISS, particularly in the types of cases received and penalties established, which include transgressions such as adultery and penalties such as payment of dowry, which are not recognized by UNMISS. These mechanisms are, however, unofficially recognized by UNMISS and humanitarian officials due to their perceived effectiveness (NRC 2017, 77-8).

<sup>28</sup> We will return to this practice/spatiality in Chapter 4.

of promoting living and even “more than living” conditions in the PoC sites: the former carried out by UNMISS and the latter by humanitarians<sup>29</sup>.

In this perspective, and despite the above mentioned divergences and disputes between actors and sectors, it can be argued that both the security and humanitarian approaches to protection operate according to a police rationality, seen as: a) both operate within the order/disorder binary, aiming to maintain a certain version of order (even if each actor embraces different ideals of order) and preventing disorder; b) both take the (displaced) population as the object of intervention of a centrifugal form of power that claims to act in best interest of the intervened; and c) humanitarians as well as UNMISS incorporate the double temporality of police power (Doucet 2018). If UNMISS, in performing its “law and order” responsibilities, strives to both prevent criminality and insecurity through patrols and CWGs and to remedy offenses through the IMDRM and incarceration, humanitarians also engage in preventive and remedial tasks of, for example, preventing and treating diseases (WASH and Health sectors), or preventing and responding to starvation and malnutrition (Nutrition, Food Sustainability and Livelihood).

And, in this sense, the division of protection labor in the camps is also a division between positive and negative functions of police power – even though the line dividing these sets of functions is not a stringent one, since humanitarians also do “life-saving assistance” (DRC<sup>30</sup> 2017, 15) and UNMISS is supposed to liaise with authorities and humanitarians on the arrangement of durable solutions (UNMISS 2013a, 13). To a certain extent, the PoC sites couple the contemporary formulation of police power, that is, police as a security and order-maintenance technological ensemble, with the “utopia of a police state” envisaged by Turquet de Mayerne in the 17<sup>th</sup> century, which would encompass the whole art of governing the population, assuming the instruction of children and youth, making sure that “able-bodied” have an occupation, assisting the “disabled poor”, undertaking

<sup>29</sup> It should be noted that part of the services provided by humanitarians in the sites are also geared towards maintaining order and preventing idleness. This is the case of skills training and promotion of income generating activities, as it is understood that “a large share of the crime in the PoC was attributed to frustration, idleness and alcoholism amongst male youth. [...] Youths who have few constructive venues for coming together end up gathering wherever they can find space and with no meaningful activities to engage in start to involve themselves in [...] risky and aggressive behaviors” (DRC 2017, 23).

<sup>30</sup> The Danish Refugee Council (DRC) integrates the Malakal camp management and coordination cluster (CCCM 2019e).

efforts to both prevent accidents such as floods and fire, and repair the damage caused by them, as well as lending money to enable laborers to pursue their profession (Foucault 2007, 319-20).

### 3.2.

#### **Assessing protector-protected relationships through three accounts of protection**

The remainder of this chapter is dedicated to assessing the strategies, practices and techniques of protection/policing carried out in the PoC sites. The analysis will be grounded on the understanding that this complex ensemble of practices and techniques embody elements of the three contemporary rationalities of protection identified by Didier Bigo (2006c) in his assessment of the struggles over the definition of protection that mark the distribution of roles and responsibilities inside the French “field of (in)security professionals”, particularly between the gendarmerie and the French Army. Drawing these different conceptions from three etymologies of “protection” (*tegere*, *praesidere* and *tutore*), Bigo posits that each narrative is related to a Foucauldian technology of power (sovereign power, disciplinary power<sup>31</sup> and biopolitics, respectively) and connected to an ensemble of social and discursive practices that produce particular relationships between protectors and the protected.

It is argued here that the three narratives and technologies of protection outlined by Bigo are useful for making sense of the security and humanitarian rationalities of protection as they are implemented in the South Sudan PoC sites, even if these are spatially distant and socially heterogenous in relation to the European context that inspired his categorization. While one of his central goals is “to show that the concept of protection is contested in the field of security professionals” (Bigo 2006c, 84) inside one specific state, our main purpose here is

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<sup>31</sup> In volume I of *History of Sexuality*, Foucault describes the “disciplines” as a technology of power aimed at controlling the human body that started to develop in the 17<sup>th</sup> century and, along with the “biopolitics of the population” that appeared by the mid-18<sup>th</sup> century, formed “clusters of relations” (1978, 139) that exercised power over life. While biopolitics focused on the “species body” and on regulating the processes of life on the level of populations, the disciplines established “an anatomo-politics of the human body” which “centered on the body as a machine: its disciplining, the optimization of its capabilities, the extortion of its forces, the parallel increase of its usefulness and its docility, its integration into systems of efficient and economic controls” (*ibid.*, 139).

to point out how the concept and practice of protection is an object of contention between the two different fields implicated in contemporary military-humanitarian interventions – while not neglecting that these are not monolithic fields and that their protection rationalities can intersect.

The first narrative identified by Bigo is *tegere*, which portrays “protection as a sacred duty” (*ibid.*, 84) and “as the differentiation between a sacred and a profane space” (*ibid.*, 95). From this prism, protection means shielding the territory and those who inhabit it from outside threats. *Tegere* is connected to the sanctuary, to “the idea of a specific place where you can hide or where you cannot be chased” (*ibid.*, 90), thereby entailing the existence of an inside that is clearly separated from the outside as well as protected from it. In *tegere*, state and population are conceived as a single unit forming the collective body of the nation-state, whose territory is in turn conceived as a sacred space whose borders must be protected: enemies must be kept on the outer side of the border while the infiltrated enemies are monitored inside (*ibid.*, 88). In this perspective, it is both “the physical body of one individual and the political body of the nation” (*ibid.*, 90) that is the object and referent of protection. This nexus between a sacred place and the safety of the “people inside” is also present, albeit in a less state-centric logic, in the principle of inviolability of UN bases which, through the UNMISS SOFA, provides the juridical foundation to the PoC sites as protected areas in which civilians are placed beyond the reach of their persecutors precisely because the “enemy” – in this case, parties to the conflict, including members of the South Sudanese armed forces – is blocked from entering.

*Tegere* is also connected to the military notion of bodily combat and to bodily vulnerability. As such, it is best expressed in the technology of the shield, which is “a way to avoid the sword and to block the enemy” (*ibid.*, 90). The shield is an active modality of protection in the sense that it allows the protector to attack and even kill the enemy while being protected by the shield. In this formulation of protection, “the protector is related to the protected and to a place”, and the protected is conceived as agentic, as “an active subject” that is “not totally dependent on the protector” (*ibid.*, 90). The protected embodies the sovereign subject and, as such, they are conceived as equal to the protector.

As has been pointed out before, the way the protected is conceived both in the UN PoC agenda and in humanitarian approaches to protection tends to produce

a hierarchical, unequal protector-protected relationship instead of a horizontal one in which protectors and protected are conceived as equal sovereign subjects<sup>32</sup>. However, the technological ensemble mobilized in the PoC agenda does include, on the one hand, the possibility of face-to-face armed combat between peacekeepers and persecutors targeting civilians and, on the other, the shield as a technology that allows protectors to protect themselves while exercising their protective functions. What is absent in PoC in relation to *tegere*, then, is the agency of the protected civilian. This can be seen in the fact that the non-use of force as a guiding principle of peacekeeping does not stand where either the peacekeepers or the peacekeeping mandate is under immediate physical threat. In this sense, Resolution 2155 stresses the Council's commitment to the principle of "non-use of force, *except* in self-defence and [defense] of the mandate" (UN Security Council 2014, 1, italics added) and "*authorizes* UNMISS to use all necessary means" (*ibid.*, 4, italics in original) to implement the mandate, including to protect civilians.

Following Resolution 2155, the revised PoC Strategy for UNMISS reinforces that:

The protection of civilians in the context of United Nations peacekeeping is defined as all necessary action, including the use of [force] up to and including lethal force, aimed at preventing, pre-empting and responding to physical violence or threats of physical violence against civilians (UNMISS 2014a, 2).

The use of force as part of preemptive tools of protection resonates with Bigo's understanding that nowadays the shield appears in virtual form, especially in the notion of "preemptive attacks as protection" (2006c, 91). The mission's strategy further states that, under the second tier of protection (provision of physical protection), the mission "will act independently and impartially to protect civilians under threat of physical violence, including, if necessary, through the use of force up to and including lethal force" (UNMISS 2014a, 10). Concerning the PoC sites specifically, the first Additional Guidance on civilians seeking protection in UNMISS bases establishes that:

In those bases with a UNMISS military presence and civilians already taking refuge the military component will take all necessary measures to defend the base. This requires having a clear procedure for the graduated use of force – up to and including deadly force – to defend the base from any threat. (UNMISS 2013b, 1).

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<sup>32</sup> See Chapter 2, section 2.3.

The shield, the possibility of physical combat and the intricate relationship between protection of space and protection of the (physical) body, all of those stemming from a particular understanding of protection (*tegere*) are therefore part of the complex assemblage of practices, techniques and relations that mark the PoC agenda in general and the PoC sites in particular, although restricted to the tasks and responsibilities carried out by the security sector – that is, by military and police personnel. It should also be noted that *tegere*, as a technique of protection, relies on the (Foucauldian) technology of sovereign power, that is, with the right to take life and let live, which can also be observed both in the authorization to use lethal force: to take life in order to protect life<sup>33</sup>.

The second narrative pointed out by Bigo is *praesidere*, in which protection is defined as interposition (2006b, 84). In this conception, as in *tegere*, protection is related to military action and to a secure space, but this is an enclosed space such as a military garrison, a border or camp, protected through the positioning of a third party between the enemy and the protected population. As consequence, the main relationship in protective rationales and routines informed by *praesidere* takes place between the protector and the enemy. Conceived as a third party, as “someone else guaranteeing security and survival” (*ibid.*, 91), the protector is no longer equal to the protected: unlike the sovereign subject of *tegere*, the protected is reduced to a position of vulnerability while “the protector supervises and monitors the protected which (or who) is dependent on the protector for the assumption of its sovereign autonomy” (*ibid.*, 91). In this context, “the protected is objectified as a subject” (*ibid.*, 91) and sacredness is transferred from the protected (place) to the protector.

This is an understanding of protection that combines “confusion between projection and protection”, “militarization of protection” and “depoliticization of the agency” of the protected (*ibid.*, 96). In this sense, *praesidere*:

is still about territory but less about threats and battles against an *enemy*. It is a more inward-looking narrative *about vulnerability*. As the danger is not clearly identified and as it is difficult to anticipate it, the best solution is to reinforce protection by limiting the vulnerability of infrastructures, *by prioritizing specific zones of high and low surveillance, and by differentiating inside the territory between what is important and what is not* (*ibid.*, 89, italics added).

<sup>33</sup> Thus pertaining to the “necro” side of what we have referred to as the bio/necropolitics of protection.



*Praesidere* is therefore accompanied by a narrative of vulnerability that allows protectors to distinguish between vulnerable and stable areas and prioritize the latter through the designation of “safe areas”. Its technology is the camp, a militarized space where the protected are controlled and contained for their own good. The shield is also present here insofar as “the camp organizes the shields and involves more strategic analysis” (*ibid.*, 91), but *praesidere* is best represented in the topology of the container or the cylinder than in a line of protection: it is “as if there was a collective body enveloped by a container differentiating one polity from another” (*ibid.*, 94).

In South Sudan, this technology of protection through interposition and an enclosed, militarized space that depoliticizes the agency of the protected population has gained materiality in the PoC sites<sup>34</sup>. In this sense, the 2013 Guidelines on Civilians Seeking Protection in UNMISS Bases dictates that, when demarcating an area for protection outside mission bases, there should be clearly defined perimeter and physical barrier to protect civilians from bullets and crossed fire, controlled entry and exit (UNMISS 2013a, 7). Also, as determined by the mission PoC Strategy, UNPOL and the DSS provide “robust access controls” in the PoC areas (*idem* 2014a, 19).

It should be noted, however, that the PoC sites are guided less by a rationality of containment than by one of regulating movement, both restricting and facilitating it. Different to what happens in refugee camps, where the host state imposes restrictions on the movement of refugees and protection and containment are intertwined<sup>35</sup>, the IDPs living in PoC sites are allowed to leave the camps during the day. In fact, it is reported that, “[at] certain UNMISS PoC sites (e.g., Juba) some IDPs [...] habitually circulate in the urban area and to their homes into the daytime but return to the PoC site at night for greater security” (UNMISS 2014a, 13). As fostering freedom of movement and creating the conditions for safe and voluntary

<sup>34</sup> It should be noted that aid distribution has also been militarized in the PoC sites. According to the NRC, distributions have been accompanied by force protection since min-2014 in the Juba PoC site “due to crowd control issues” (NRC 2017, 96).

<sup>35</sup> See, for example: Bigo, D. “Protection: security, territory and population”. In: Huysmans et al (Eds.). *The politics of protection: sites of insecurity and political agency*. London and New York: Routledge, 2006c, p. 84-100. Hyndman, J. *Managing Displacement: refugees and the politics of humanitarianism*. Minneapolis and London: University of Minnesota Press, 2000. Johnson, H. *Borders, Asylum and Global Non-Citizenship: the other side of the fence*. Cambridge: Cambridge University Press, 2014. Hyndman, J. and Wenona Giles. *Refugees in Extended Exile: living on the edge*. London and New York: Routledge, 2017.

return of IDPs is part of UNMISS protection objectives (*idem* 2013a; 2014a), the mission is supposed to “create a secure environment” (*idem* 2013a, 7) for the safe circulation of the displaced population under its protection, implying that the permeability of the sites is restricted only by outside threats:

Because of these threats faced *outside* the POC site [daily assaults and presence of government armed forces directly outside], and as part of communities’ maladaptive attempts to self-protect, men rarely exit the POC sites, and severe restrictions have been placed by both the army and UNMISS on the ability of IDPs to move in and out of the sites themselves (NRC 2017, 97, *italics added*).

Thus, UNMISS PoC sites give way not so much to the “disciplinarization” and containment of protected bodies as to protection through governmentality. In this perspective, these spaces work according to a more contemporaneous technology of *praesidere*: “the grid and mapping of vulnerabilities” (Bigo 2006a, 96). Bigo argues that while the container materializes the old version of protection advanced by the military, aiming to “to create a strong border between inside and outside, to exclude what is dangerous inside by expelling them or by putting them into camps and jails, and to prepare to fight the external enemy” (*ibid.*, 96), the calculus and prioritization of vulnerabilities is more in tune with the work of police and the gendarmerie, allowing “the differentiation of surveillance inside the population with the normalization of movement for some but not for others” (*ibid.*, 96).

The language of vulnerability and the practice of designating and prioritizing the groups and/or spaces considered to be the most vulnerable among that protected place/country and population are present both in security and humanitarian approaches to protection. In the case of UNMISS, this vulnerability-centered approach is observable in the following:

- UNMISS guidelines for harboring civilians inside its bases include the elaboration of a contingency plan covering a *threat and vulnerability analysis* and the “identification of an area [...] very close, and ideally adjacent, to the UNMISS base where arriving civilians can be received and provided with physical security by the military component”, going on to recommend “[the] development of procedures on how to receive arriving civilians, including the identification of the most vulnerable

individuals (e.g. women, children – particularly those who are unaccompanied – the elderly, sick and disabled).” (UNMISS 2013a, 6);

- In defining UNMISS’ PoC mandate, the Security Council determines that “specific protection” be provided “for women and children, including through the continued use of the Mission’s Child Protection and Women Protection Advisers” (UN Security Council 2014, 4).
- In the 2014 UNMISS PoC Strategy, it is determined that “the mission must prioritize those threats of physical violence that [affect] the greatest number [of] people, and taking into consideration the severity of those threats”, also recommending that particular attention be paid to protecting IDPs, women, children and “*other groups in a vulnerable position*” (UNMISS 2014a, 5, italics added)<sup>36</sup>;
- The same document provides that “high visibility patrolling activities” be carried out in “vulnerable/susceptible areas” and establishes that the mission must focus its protection efforts on the PoC sites, and other locales that function as “concentration points of IDPs and refugees [...] or other civilians under threat of physical violence” and in areas of high risk of conflict (*ibid.*, 10).

This movement of identifying and prioritizing groups and/or spaces deemed most vulnerable is also present in humanitarian strategies and routines:

- Humanitarians have prioritized so-called persons with special needs (PSNs) in the distribution of humanitarian aid. This effort has been lauded by the DRC, which recognizes in the PSNs “a catchall category of vulnerability” that “appears to have undercut the conventional focus on the gender-related vulnerabilities of women and girls” (DRC 2017, 25)
- Two of the four thematic areas identified in the South Sudan CCCM Strategy for the years 2018-2019 concern the prioritization of vulnerable groups and vulnerable spaces through: a) to “improve engagement with and be responsible to vulnerable populations with priorities for addressing protection gaps and building resilience”; and b)

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<sup>36</sup> As pointed out in Chapter 2, women and children of those spaces of the global south which are considered insecure and disorderly have incorporated the “universal victim” in (western) universalizing discourses of protection and human rights.

to prioritize attending “new sites and hard to reach areas” (CCCM 2018, 5; 2).

If, in general, the PoC sites reflect the more governmental, mobile approach to *praesidere* advanced by the French police, the holding facilities are closer to the disciplinary approach of the military, that is, to the topology of the container that implies a clear-cut distinction between inside and outside as well as the containment and control of the dangerous insiders. Not by accident, *praesidere* is etymologically related to *praesidium*, and, as Bigo argues, leads to a version of protection that “may also be a way of controlling the protected, to monitor him or her under the ‘necessity’ of purification and to homogenize the protected group by looking at the infiltrated enemies” (2006c, 91).

As the third and final etymology traced by Bigo, *tutore* frames protection as caring for and looking after, not only in a spatial but also in a temporal dimension: the aim here is “to help in the present and for the future” (2006c, 92), anticipating threats and preventing their materialization. As population or as individuals, it is people instead of places that constitute the referent and object of protection in this perspective. *Tutore* entails imposing order as well as “filtering, channeling and surveillance of individuals for the purpose of their own protection” (*ibid.*, 84), thus finding in data banks its technology of protection since they allow “the monitoring of the present” and “the morphing and profiling of the future” (*ibid.*, 94).

Here, the agency and subjectivity of the protected is denied, they are made passive, infantilized and put under tutelage: their existence is reduced to bare life (Agamben 1998 apud Bigo 2006c, 92) and the protector speaks for them. The protector must know the population, its needs and patterns: indeed, protection relates to “the capacity [...] to know better than the protected what he [sic] needs, what he [sic] wants” (*ibid.*, 92). The enemy disappears and protector and protected enter an unmediated relationship in which the protected is made obedient to and dependent on the protector. In this context, the practice of interposition can be dispensed with: protection no longer relies on keeping the enemy outside (of the camp, for instance), but on managing and controlling the *movement* of the protected population – not to enclose them but to allow, channel and regulate their circulation. It is not only the enemy that is monitored, as happens in *tegere*, but also the protected that is surveilled “in the name of love” (*ibid.*, 92). As a narrative of protection whose field of operationalization is essentially biopolitical, *tutore* entails

a knowledge-power nexus – protection, in this case, is intimately related with knowledge on the protected population:

The protector *needs to know who the real population is and who is opposed to it*. A process of *normalization* is necessary. Protection [...] monitors how [people] move, who they meet and more importantly what they like and how to open up some movement corridors that they will be happy to use (*ibid.*, 89, italics added).

As the following examples illustrate, the protected population of the PoC sites is subject to a variety of monitoring, filtering and surveillance mechanisms and techniques, undertaken by a variety of actors:

UNMISS and humanitarian actors that have experience with the identification of combatants in camps for internally displaced persons and refugees would implement screening measures to better protect the civilians in the sites and ensure that they are not used as a refuge for those involved in hostilities. To be effective, such measures must be supplemented by improved perimeter protection in order to keep out combatants who might seek to circumvent screening (UN Security Council 2016b, 11)<sup>37</sup>.

UNPOL and DSS should establish entry/exit procedures (para 32), including screening arrangements, for civilians as they arrive at the UNMISS bases. Given that civilians need to come and go during the day these procedures should be maintained, regardless of gender and age, to allow for the organized and controlled movement of people in and out of the base. It is advisable to establish hours during which civilians can come and go, with a cut-off point to ensure that there is no movement during the night-time (UNMISS 2013b, 2)<sup>38</sup>.

In relation to gender-based violence (GBV) monitoring, it has been observed by a specialist that

in POC sites “survivors are even more under the microscope than they would be in a normal IDP camp.” Whereas in a traditional IDP camp there may be a small number of peacekeepers protecting the perimeter of the camp, in POC sites it is not uncommon to have United Nations Police (UNPOL) Individual Police Officers, Formed Police Units (FPU), Human Rights Division (HRD), and multiple other sections inside the POC site on any given day. Each of these sections have mandated tasks in the POC sites relating to the peace, security, and well-being of the IDPs, and as a result, survivors are sometimes interviewed by multiple different sections, each using the information for slightly different purposes. “Survivors are treated as passive subjects” in POC sites, said the GBV specialist (NRC 2017, 37).

<sup>37</sup> Here, screening/filtering is also related to the *tegere* rationale of keeping the enemy, that is, the combatant, outside, as well as to *praesidere* insofar as screening is coupled with perimeter protection (protection through interposition).

<sup>38</sup> This passage points towards a *regulated permeability* of the PoC sites.

Offering another example of monitoring tasks, the first pillar of the “CCCM Cluster South Sudan Strategy (2018-2019)” is “to ensure equal access and needs-based assistance to improve quality of services for populations affected by displacement” (CCCM 2018, 4), which is to be achieved through the *management of information* (in order to ensure that responses are effective and attend to actual needs), on the one hand, and service monitoring, on the other. The techniques of information management outlined in the Strategy include: a) a complaints and feedback mechanism (CFM) for the protected population; b) registration of new arrivals to the PoC sites, “with priority activities aligning with demographic tracking systems and improving the quality of data collected” (*ibid.*, 4); c) a regularly updated site profiling; d) surveys regarding residents’ perception and intentions, to guide programming in the PoC sites and other settlements; e) movement track trending/flow monitoring, tied with camp registration systems; and f) contingency planning in close consultation with UNMISS and humanitarian partners.

Other monitoring resources include UNMISS PoC updates, which are released every two-three months and inform current PoC site population<sup>39</sup>, IOM Biometric Registration exercises and IOM Displacement Tracking Matrix<sup>40</sup>. The protected population has, in a word, their every movement monitored *for their own sake*. In its “2018-2019 Migration Crisis Operational Framework”, IOM South Sudan included tactics of “displacement tracking and monitoring” (DTM), which are thus outlined:

Flow monitoring will be scaled-up to track groups and individuals (IDPs, asylum seekers and refugees) through key points of origin, transit locations and points of destination and provide a better understanding of mobility patterns. Rapid or in-depth intentions surveys will capture return or movement intentions of IDPs and drivers and barriers to movements to inform local or overall humanitarian strategies. To provide a better picture of the protection concerns and major risks of [gender-based violence], human trafficking, or child protection, protection indicators have been incorporated into DTM data collection tools (IOM 2017, 18).

Monitoring the present, in this perspective, is also a means for protecting the future. DTM is, then, a mechanism of “remote control or policing at a distance”, which Bigo lists as a mark of *tutore*, in which context the protector endeavors “to

<sup>39</sup> See: <https://unmiss.unmissions.org/unmiss-update>.

<sup>40</sup> See: <https://iomsouthsudan.org/tracking/>.

anticipate the actions and the movements of individual or of groups at risk. This policing at a distance is policing outside of territory but it is also policing the future, policing time through the profiling of groups at risk” (2006c, 98). According to the IOM, information gathering through DTM enhances its capacity to assess and answer the needs of the displaced population. This also holds true to practices of surveillance carried out inside the POC sites, which are justified and legitimated by the need to protect the IDPs:

UN police (UNPOL) individual police officers and formed police units (FPU) maintain a 24/7 presence in the POC sites, including static presence at gates and at sentry posts, as well as patrolling inside the sites. UNPOL officers are the primary focal points for any disturbances, and they may request support from FPU depending on the nature and severity of the incident (NRC 2017, 75).

Also, the 2014 PoC strategy determines that, when setting protection priorities (a practice associated with *praesidere*), the mission should assess the “[actual], or potential, gravity of the attacks against civilians, including the real or potential scale of deaths and injuries”, consider the “potential for UNMISS to avert the greatest loss of life and injury to civilians” and analyze “the Mission’s resources and capabilities in relation to the potential threat” (UNMISS 2014a, 8) – in other words, police the future in the name of care, as in *tutore*. Also present here is the notion that protection means, in the final analysis, governing the threshold between life and death, since providing protection depends on calculating the possibility of lives being lost.

Another mark of *tutore*, tutelage can also be identified in some practices of protection developed in the sites. In its strategy for South Sudan, the CCCM undertakes upon itself to advocate for the contemplation of Persons with Specific Needs (referred to as PSNs) in the common services provided in and out of the sites, such as latrines, roads and bridges (CCCM 2018, 5). This pillar also entails engagement with PSNs, particularly “disillusioned and idle youth in the camps” in order to “[enhance] resilience and coping mechanisms”; women, through programming with a view to enhance their inclusion and protection in camps, particularly through prevention of GBV; the elderly and persons with disabilities, whom should be included in decision-making mechanisms; and working for “age, gender, diversity mainstreaming”, advocating for inclusion and paying attention to specific needs (*ibid.*, 5).

Before moving on to the debate on exceptionality, some remarks regarding how the rationalities identified by Bigo intersect in the “law and order” mechanisms adopted by UNMISS in the PoC sites. First, the CWGs, which function as an ancillary security mechanism in which members of the protected population are responsible for monitoring their peers and reporting disruptions to UNPOL. This device incorporates techniques associated with both *tutore* – monitoring and surveillance – and *praesidere* – these can be found in the deployment of (uniformed) police to the gates and sentry posts, but also in the practice of detention in the holding facilities which can be perceived as a screening mechanism through which the protected population is divided between those who are at risk and those who present a risk to others’ safety. In turn, this coupling between punitive (detention) and preventive (monitoring and risk assessment) practices points to a temporality of police which, according to Doucet, presents a particular appeal for UN peacekeeping, since:

Once the language of protection grounds itself in the biopolitical terrain of protection, human rights and humanitarian law, interventions can be rationalized along the police axis of punishment for past atrocities and prevention of future violations through projects of reform (Doucet 2018, 70).

The practice of detention in the PoC sites and its particular spatiality (holding facilities) arguably mark the pinnacle of the combination of protection techniques related to *tegere*, *praesidere* and *tutore* in the camps. According to Bigo, the camp is a modality of protection that

encloses [an individual, a group or a population] to save them, as a front or as locks filtering and controlling who is inside and who is outside. [...] Afterwards it refers not only to the struggle against the enemy but to the relation with the population inside to be sure that no outsider is inside. Protection has a strong link with the metaphor of the body in politics as a route to not being harmed. Protection, finally, is linked with management, with monitoring, with surveillance and the creation of profiles about who is at risk or who is a risk and with the movement of population without too much risk (2006c, 89-90).

A line of continuity can thus be traced between the screening at the point of entry to the sites, surveillance of those who have entered, and detention, which is the mechanism through which those “who are a risk” are isolated from their peers. Detention occurs at the exceptional moment in which the police – the same police that filters and monitors – exercises its discretionary power to act outside the law in



order to maintain order and security in the camps – and protect civilians. This moment of decision will be further discussed in Chapter 4.

## 4

## Entrenchment of emergency responses and “encampment” of protection: theorizing the PoC Sites

As has been discussed thus far, PoC sites are operated by humanitarian-security assemblages integrated by a long list of protection actors, each one of them with their own protection mandates. For this reason, one of the key elements of the “PoC site problématique” we have been attempting to unravel is the overlap of protection rationalities, leading to relations of confrontation among actors (as observed in the struggles over camp capacity and infrastructure that unveil conflicting temporalities of protection), but also in relations of complementarity leading to the emergence of a “police state” in the sites. Having discussed the heterogeneous and heterodox character of these camps, we now return to the common thread that, as pointed out in Chapter 2, permeates both the humanitarian and security sector logics of intervention on a global, structural level.

We are here following Fassin and Pandolfi (2010, 15) in their understanding that, besides a sense of mutual dependency, humanitarians and the military are united by the *temporality of emergency*, the overruling of state sovereignty in the name of a moral imperative to intervene, as well as the exercise of “mobile sovereignty” in an extralegal, extraterritorial field of action. According to the authors, the last few decades have witnessed the globalization of a state of exception, which

forms the basis for a government that is at once military and humanitarian, resting on a logic of security and a logic of protection, on a law external to and superior to law, rooted as it is in the legitimacy of actions aimed at protecting life. This state of exception is inscribed in a temporality of emergency, which may become perennial [...], and in a spatiality of exclusion manifested in relief corridors and protected enclaves within territories that are no longer subject to a state monopoly of legitimate violence (*ibid.*, 15-6).

In light of this (structural) common thread, in this chapter I advance the idea that the *protraction of emergency* and the *spatiality of exclusion* that often accompany humanitarian-military government are also present in the response to internal displacement in South Sudan and, alongside the (circumstantial) dynamics created by co-location that we have assessed so far, determine the topology of the PoC sites.

Even if, as noticed above (3.1), humanitarians have pushed for more sustainable structures and better livelihoods in the South Sudanese protection camps, humanitarians also regard camps as a “last resort” and a “temporary response to a situation of displacement” that must be succeeded by “durable solutions”<sup>41</sup>. Likewise, the bulk of documents and manuals listed as reference for humanitarian action in the “Camp Management Toolkit” advance guidelines for responding to emergencies, such as the UNHCR Emergency Handbook (IOM, NRC and UNHCR 2015, 9; 19). In this perspective, the conflict of temporalities we have pointed out earlier is better described as a clash between different understandings of how emergencies should be managed than as a clash between short and long-term responses – as these tensions have been described both by those engaged in the sites and by observers who “read” these spaces from a technical perspective.

And while humanitarians have advocated for coupling immediate, needs-based assistance with development strategies that “promote long-term recovery of the population and reduce peoples dependency on UNMISS and humanitarian agencies” (DRC 2017, 31), UNMISS’s conservative approach has prevailed over both humanitarian camp management standards and the promotion of any long-term solutions besides camp closure. As noticed before (3.1), the humanitarian-peacekeeping dynamics (re)produced in the PoC sites and the refusal, particularly on the part of UNMISS, to promote sustainable structures in the camps or even to uphold international (emergency) standards in those spaces has negatively affected the livelihoods of PoC residents. In this scenario, people who have already been displaced by violence and insecurity are living in congested, overcrowded spaces as camps fail to provide adequate space to accommodate them, with already precarious camp structures being constantly threatened by weather changes and fires provoked by overcrowding.

Such conditions have led to a high incidence of mental disorders, deterioration of physical health and aggravation of trauma among PoC residents. In the Malakal PoC alone, MSF has received an average of 18-20 new cases of serious

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<sup>41</sup> The term “durable solutions” refers to an agreed frame of reference for developing long term solutions for persons who have been forcibly displaced. In the case of refugees, durable solutions include voluntary repatriation, local integration and resettlement in a third country. For the internally displaced, IASC’s “Framework on Durable Solutions for Internally Displaced Persons” advances three durable solutions: reintegration in the place of origin (return), sustainable integration in the place of protection, and integration/settlement in another region of the country (Betts and Loescher 2011; IASC 2010; IOM, NRC and UNHCR 2015).

mental disorders per month. In 2017, there were 31 suicide attempts in the same site. According to the organization, the high incidence of mental health cases is related to the trauma caused by violence experienced in the past or by the constant threat of violence in the camps as well as to the “difficult living conditions, the loss of hope, feelings of enclosure as well as limited livelihood opportunities” in the PoC sites (MSF 2018). Also in Malakal, a report produced by the DRC (itself integrating the humanitarian response in that site) has painted a daunting picture of that particular camp:

The issues related to the limitations in service provision with the dearth of physical humanitarian space in the Malakal PoC are having a noticeable influence on peoples’ health and mental well-being. Not being able to access suitable services is adding to the feelings of disempowerment and the loss of control that people feel in their lives being trapped in the PoC and being able to do little about their situation given the security conditions outside. When asked about the impact of congestion on peoples’ health specifically, many PoC residents referenced the ease with which diseases, particularly communicable diseases spread both within and between households, as well as the impact of the lack of ventilation in the shelters, which was contributing to respiratory infections (DRC 2017, 32).

In separate research on the PoCs in Bentiu, Bor and Juba, numerous respondents explained that it was not just the events of the war and their displacement that had led to trauma, but also the nature and duration of their displacement into the PoCs. The report found that it was not always the process of being driven from their homes as such that had contributed to trauma, but instead, the sensation of being stuck in one location without being able to leave. When asked how the lack of space was impacting their own and other peoples’ lives in the Malakal PoC, those interviewed for the research described how they felt trapped in a prison, likening their situation to animals, or livestock waiting in a pen to be slaughtered if they leave, which seemed to be a factor influencing feelings of idleness, frustration, anger and aggression. [...] It is not just feeling hemmed into this geographically confined space that is affecting individuals, families and communities in the PoC. There are also the more indirect impacts of the lack of space. People are not able to cope with the stress of normal circumstances and are constantly coming into confrontation with their family members and their neighbors with no physical space for themselves to get away from the strains and anxieties linked to their current situation (*ibid.*, 34).

Unlike WASH that is essential to the survival of displaced persons, especially during the beginning stages of an emergency, the educational needs of displaced persons can sometimes be overshadowed by space and other-related considerations. If and

when space has been allocated for the construction of schools, or temporary learning spaces (TLS) in the Malakal PoC, the lack of physical room makes it near impossible to integrate the very real child protection concerns that come with sending children from one sector to another. Prior to the conflict, Upper Nile was actually one of the most literate areas in South Sudan. Now, peoples' education has come to a screeching halt in the PoC. After the December 2016 verification and registration exercise in the Malakal site, only forty-six per cent of school aged children were said to be able to access education programmes in the camp. In the most populated sector, sector one only sixteen per cent of children were going to school. Due to overcrowding in the classrooms, the number of children per classroom was also well above the preferred thirty to forty pupils per teacher in a chronic crisis, leading to an associated decline in the quality of education for the already limited number of children who are able to access education, with some classrooms purportedly containing over one hundred children (*ibid.*, 30).

In this context, it has been pointed out that UNMISS and humanitarians alike “act as if the PoC sites are temporary facilities, even though there is good reason to believe that some of those sites, in particular Malakal and Bentiu, will be in existence for several years” (IOM 2016, 12). Such complicity in the provision of minimal protection has been summarized in the following terms:

The pragmatic responsibility for UNMISS is the physical protection of civilians, and, for humanitarians, the responsibility is the provision of *life-saving services* (*ibid.*, 40, italics added).

The United Nations mission protects civilians from armed attack, while the humanitarian agencies provide assistance to ensure people have what they need to stay alive. Physical survival is the top priority. POC sites are depicted as the antithesis of a space of empowerment and skills-building. Instead, they are suspended in time, and human improvement is relegated to the future, once a peace agreement is reached by the warring parties (Munive 2019, 15).

Conceived as a space for protecting vulnerable bodies, then, the PoC sites are managed in a manner that further maximizes precariousness (Butler 2009) for those who take refuge in it.

In this aspect at least, we can trace a continuation between the PoC sites and more conventional IDP and refugee camps – as opposed to the often-repeated narrative of rupture surrounding the former. As pointed out by Hyndman and Wenona Giles (2017, 1-5), situations of protracted displacement in campsites are bound together by the derealization of the legal-political subjectivity of persons living in such spaces, that is, the abrogation of all rights beyond the right to life and the provision of minimal protection. In such contexts, the displaced “are not treated

as fully endowed rights-bearing subjects, ostensibly because their situation is temporary” (*ibid.*, 12), and are subsequently denied access to livelihoods bearing any resemblance to “normalcy”. Once the political potential and legal guarantees of assisted persons are effaced of humanitarian discourse, humanitarian assistance can be restricted to addressing basic needs through short-term responses which gain a permanent character for those in long-term exile: “in short, the international humanitarian regime risks producing conditions and subjects of displacement that it seeks to redress” (*ibid.*, 13). In this perspective, the precarious living conditions (re)produced in the PoC sites are not simply a consequence UNMISS overruling humanitarian demands and standards: in fact, humanitarian protection discourse is implicated in the process of derealization of political subjectivity that paves the way for a minimal approach to protection.

In light of this continued provision of emergency, life-saving assistance in the past five and a half years, it is argued here that the PoC sites are underpinned by what Bigo (2006b) refers to as the “governmentality of unease”, meaning precisely “this *normalization* of emergency as a technique of government by unease” (63, *italics added*), in which emergency is perpetuated and exception is banalized. Also in this sense, the PoC sites present traces of continuity with more traditional spaces meant to provide temporary protection such as refugee camps, which have been criticized for assuming a character of “permanent temporariness” (Bailey et al. 2002 apud Hyndman and Giles 2017, 18) in which immediate conditions of survival can be provided for years and even decades while questions such as legal status and socioeconomic conditions in the long run remain unaddressed<sup>42</sup>.

The suspension of fundamental human rights has therefore become part of the everyday in the PoC sites, bringing such spaces close to Agamben’s definition of “camp” as

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<sup>42</sup> This recurring problematic of disenfranchisement and negation/suspension of rights in contexts of protracted displacement has led some authors to draw parallels between protection spaces and camp-like scenarios which are designed to contain people on the move. While comparing refugee camps in Tanzania with the detention centers where “irregular” asylum seekers are kept in Australia, Heather Johnson (2013) observes that, at first sight, the two belong to different regimes: the first, to a humanitarian, protection regime, and the second to a border control regime. She argues, however, that the two spaces are strikingly similar both in the way they are perceived by the interns (whether they are conceived as protected refugees or detainees) and in the way the political agency of interns is conceived: “In both, political agency and the possibility of agency are tightly circumscribed, if not denied, and where they are recognized it is only as dangerous and unwelcome” (Johnson 2013, 126).

the space that opens up when the exception starts to become the rule. In it, the state of exception, which was essentially a temporal suspension of the state of law, acquires a permanent spatial arrangement that, as such, remains constantly outside the normal state of law (2000, 39).

In the state of exception, bare life is “captured outside” the normal political-juridical order by the sovereign that decides on (and is sustained by) the exception. Stripped of legal guarantees and political prerogatives, bare life is included in the (international) juridical-political order through its exclusion from the protection of universal human rights. It then enters a relation of exception – or a relation of ban – with sovereign power (*idem* 1998, 28).

Although Agamben draws this definition of “camp” from the Nazi concentration and death camps<sup>43</sup>, it has been pointed out elsewhere that

we can draw from Agamben’s reading without necessarily subscribing to its starker dimensions. Refugee camps, export processing zones, shanty towns or extralegal detention centres such as Camp Delta model death camps to the extent that they tend to reduce the lives that they contain to bare or politically unqualified life. The lives lived in such places may appear in shaded forms of bare life; such lives need not necessarily be killed in order to demonstrate sovereign power as a form of power that renders life bare. Although the lives that are lived in sites that model the camp can be killed or allowed to die, what constitutes sovereign power is the zoning of life reduced to its biological minimum rather than the killing of life as such (Doucet and Larrinaga 2008, 521).

Besides, while analyzing the contemporary materializations of the camp, Agamben himself argues that what connects these heterogeneous spaces is that

an apparently anodyne place [...] delimits instead a space in which, for all intents and purposes, the normal rule of law is suspended and the fact that atrocities may or may not be committed does not depend on the law but rather on the civility and ethical sense of the *police that act temporarily as sovereign* (2000, 42, italics added).

In this perspective, it is argued here that PoC sites are spaces where life is protected as bare life. While this does not necessarily lead to (physically) violent practices against interns, these are always a possibility because the protected population has already been stripped of legal guarantees. As will be argued in the next section, the violent, exceptional potential of the PoC sites is fully realized in the practice of

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<sup>43</sup> In fact, the first historical appearances of the camp traced by Agamben are the late nineteenth-early twentieth century concentration camps created by European colonial powers in Cuba and South Africa, both of which promoted “the extension to an entire civilian population of a state of exception linked to a colonial war” (2000, 38). Even though it is unclear whether he recognizes the topology of the sovereign camp in these early concentration camps, it is interesting to note the colonial origins of the camp as a space of exceptionality and disenfranchisement.

indefinite detention and ultimately materialized in the holding facilities<sup>44</sup>. It should be noticed, however, that the structure of the camp, as envisaged by Agamben, is further “complicated”<sup>45</sup> in the PoC sites due to the heterogeneous (and heterodox) authority and power formations through which these spaces are organized – due to the presence of complex humanitarian-security assemblages whose operations are underpinned by a police mentality and technological ensemble that draws from elements of sovereign, governmental, biopolitical and bio/necropolitical technologies of power.

Before moving on to the holding facilities, a second distinction in relation to Agamben’s camp should be pointed out: not even as bare lives the protected are secured in the PoC sites, as these spaces are constantly disturbed by both internal and external threats (Bellamy and Hunt 2015, 1291)<sup>46</sup>. The inviolability clause of the UNMISS SOFA has been repeatedly breached and mission compounds have suffered multiple attacks over the years. In one single occasion, in April 2014, an attack by Dinka militias to Bor PoC resulted in 47 deaths, 2 abductions and dozens of injuries among the protected population (IOM 2016, 10). Internal security issues have included theft, physical violence, sexual assault and rape (DRC 2017, 23; UNMISS 2013b, 3). In this perspective, the preference for the language of protected/protection sites could be described as an expectations management tactic, since, as UNMISS explains, the notions of “safe havens” or “safe areas” “convey the unrealistic expectation that UNMISS will be able to guarantee safety of civilians which is not the case as its ability to do so is constrained by the Mission’s means and capabilities” (2013a, 6).

#### 4.1.

<sup>44</sup> The idea that PoC sites assume the topology of Agambian camps finds resonance in Munive (2018).

<sup>45</sup> In this sense, Ophir (2010) has elaborated on the displacement of sovereign power’s monopoly on the declaration of exception and the governmentalization of the decision on the threshold between norm and exceptionality in the context of complex humanitarian emergencies. Doucet and de Larrinaga (2008) also “complicate” the relationship between sovereign power and the decision on exception, but in the context of the biopoliticization of such decision through the human security discourse.

<sup>46</sup> The argument here is not that, in Agamben’s formulation, bare life is safe and secure in the camp. The difference in relation to Agamben is that loss of life in the sites is not an *intended consequence* of how these spaces are structured. Not a direct consequence of sovereign decision, death in the PoC sites is more often the result of the internationals’ inability to protect all lives under their tutelage.



## When the threatened life becomes the threat: assessing the aporia of PoC through UNMISS holding facilities

The camp for refugees is very easily transformed into a detention camp. The protector has the keys of the locks. The protected may even become dangerous for the protector in its confrontation with the enemy and the protected has sometimes to worry that the protector and the enemy will have an agreement transforming him into an enemy already in detention. As long as the protected is the political body, it is not so much at risk, but when the arrangement has differentiated specific groups, the minority at risk may be transformed into a dangerous minority for the ‘rest’ of the population (Bigo 2006c, 92).

In Chapter 3, it was observed that UNPOL, alongside other mission components and the displaced population, has developed an ensemble of mechanisms and techniques for maintaining internal peace and security in the PoC sites. These are: UNPOL patrols, training IDPs in community policing and establishing community watch groups as an ancillary patrolling device, an informal mitigation and dispute resolution mechanism inspired by local customary courts, transitional justice and detention in so-called “holding facilities” – the latter being restricted to the PoC sites in Juba, Bentiu and Malakal. In the absence of an executive mandate, UNMISS is not invested with legal authority to perform state functions such as arresting, filing a judicial process, prosecuting and judging (suspected) criminals. However, as it is responsible for guaranteeing internal security and maintaining law and order in the camps, UNMISS does detain PoC residents who are suspected or known to have committed a serious offense and are therefore deemed to pose a threat to other IDPs. Even as it constitutes unlawful detention (NRC 2017, 80), keeping people in holding facilities is considered a protective measure – not only to the actual and potential victims but to so-called “holdees” themselves – when compared to the alternatives of allowing aggressors to circulate freely in the camps or handing them over to state authorities, which are often the reason why those persons had to resort to UN protection in the first place.

It is argued here that UNMISS holding facilities are the most extreme realization of the relations of exception and the topological structure of Agamben’s camp that, as has been argued here, are the underlying matrix of the PoC sites. But also, as has been argued in Chapter 3, these facilities mark the pinnacle of the combination of Bigo’s (2006c) three rationalities of protection (*tegere, praesidere, tutore*) in the PoC sites. In this perspective, the holding facilities are also a radical

expression of the aporia of PoC as a discourse that upholds *and* suspends rights, that maximizes precariousness (Butler 2009) while aiming to preserve life and promote livelihoods.

#### 4.1.1.

#### **From upholding rights to holding civilians: indefinite detention as a technique of protection**

No one shall be subjected to arbitrary arrest, detention or exile (United Nations 1948, Art. 9).

Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his [sic] rights and obligations and of any criminal charge against him [sic] (*ibid.*, Art. 10).

the task of UN peacekeeping personnel is to uphold International Humanitarian Law and international human rights law in a conflict zone (POTI 2014, 139).

1. Every human being has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention.

2. To give effect to this right for internally displaced persons, they shall not be interned in or confined to a camp. If in exceptional circumstances such internment or confinement is absolutely necessary, it shall not last longer than required by the circumstances (OCHA 2004, 7).

The UNMISS holding facilities were first operationalized in May 2014 in the UN protected sites located in Bor, Malakal, Bentiu and in the capital, Juba. The holdee population has oscillated to varying degrees over the years. In February 2017, for example, there was a total of 2.930 detained persons in Juba, Bentiu and Malakal, a sharp increase from the 37 holdees of June 2016 (UN Secretary-General 2017a, 9; 2016, 8). In November 2017, the incarcerated population had fallen back to 29, and in February 2018 UNMISS counted 25 holdees (*idem* 2017b, 9; 2018, 8). According to the latest Secretary-General Report on South Sudan, 146 IDPs “suspected of involvement in serious security incidents were detained” in these facilities as of 23 May 2019 (*idem* 2019, 9).

Being located in camps of protection in which different rationalities, narratives and agencies of protection converge, and enclosing protected persons, these holding facilities are problematic in at least two senses. First, these detentions are extralegal due to the absence of a mandate investing UNMISS with state

prerogatives to lead a judicial process, not even inside its bases, where, under the SOFA, it is allowed to exercise police functions (NRC 2017, 76). Precisely because the mission is not able to carry out a judicial process, holdees are denied access to legal representation, due process or the right of appeal. As the following passage of the 2017 NRC report shows, this has been a source of concern for both humanitarian and peacekeeping personnel:

Perhaps the greatest concern for many humanitarian and UNMISS officials is the absence of due process for individuals in the holding facilities. In a DPKO lessons learned paper in 2016, the authors noted “there is perhaps no issue where the tension between Mission practice and normative standards is as clear as in the challenges surrounding detention.” While cases are reviewed regularly during Case Review Conferences, accused parties do not have the opportunity to have representation or defend themselves. “Holdees do not have legal representation since there is no trial,” explained one UNPOL officer. UNMISS makes a determination of whether the individual continues to pose a threat to the POC site, and if so, there are three options available: the individual can be handed over to the government (provided a risk assessment has concluded that they will not be subjected to persecution or cruel, inhuman, or degrading treatment), they can be expelled from the site, or they can continue to be detained (*ibid.*, 79).

However problematic arrest and detainment in these arbitrary circumstances may be under international human rights law, the UN seems to authorize such practices as a *temporary* resource in its policies and guidance for civilian protection in peacekeeping. In this sense, the DPKO/DFS PoC Policy determines that

*even in the absence of an executive mandate, the military ROE [rules of engagement] and the police DUF [directives on the use of force] describe the circumstances under which peacekeepers may use force, including to apprehend and temporarily detain hostile persons or groups, and, where appropriate, hand them over to the national authorities (DPKO and DFS 2015b, 14, italics added).*

Furthermore, the NRC points out that “pre-existing SOPs [standing operating procedures] on detention presumed an environment in which a detainee would be remanded to government custody within 48 hours” (2017, 78). In the context of the PoC sites, the envisaged temporary character of detention and possibility of transfer to state authorities has often been curtailed by the fact that state security forces are often the reason why PoC residents resorted to UNMISS protection in the first place. In this sense, both detention and transfer raise problems in relation to international human rights and humanitarian law, especially since the latter practice has been described as analogous to *refoulement* (*ibid.*, 80; DRC

2017; 24), that is, the involuntary repatriation of refugees<sup>47</sup>, a critique that, it is argued here, can also be directed to expulsion from the PoC site.

This means that not only peacekeepers are exceeding the legal authority conferred to them through the SOFA when incarcerating IDPs, but also, the decision to detain also entails a decision on “which right to violate” (NRC 2017, 80), that is, whether the right to a fair trial and legal representation or the right not to be returned to the authority of persecutors. Such decision is based on a risk-assessment on the security threats and rights violations that suspected or confirmed aggressors may be exposed to at the hands of state authorities:

UNMISS considers not only the potential security risks to the individual, but also whether they would be granted livable conditions in a government jail, and whether they will have access to due process before the law. As one UNMISS official pointed out, however, there is irony that “We are not upholding the same standards [in UNMISS holding facilities] that we demand of the South Sudanese government.” (*ibid.*, 79).

Beyond the irony of such a calculus, the decision on which right to violate is interesting to us for a number of reasons. First, however prejudicial and violating unlawful detention may be to the holdee, the decision to derogate their rights is steeped in a mentality of protection: based on a risk-assessment, that is, on the monitoring of the future that is part of *tutore*, UNMISS may decide to detain and restrict the movement of IDPs (*praesidere*) lest they suffer abuses and possibly death at the hands of the state.

And second, when deciding between detention and transfer, peacekeepers (particularly UNPOL) are assuming the prerogative to decide on the exception that is at the heart of Schmitt’s (2005) definition of sovereignty. However, instead of assuming the position of a Schmidtian sovereign, which is supposed to be an indivisible, centralizing and primary (non-derivative) instance of power, “deciding peacekeepers” act as “petty sovereigns”, a term coined by Butler Butler (2004) to designate small public servants who are invested with the power to decide on extralegal measures. Although not real sovereigns, these characters are

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<sup>47</sup> The practice of *refoulement* is prohibited by the international law of refugees. In this sense, it is stated in Article 33 (1) of the 1951 Convention Relating to the Status of Refugees that, “No Contracting State shall expel or return (“refouler”) a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion” (UNHCR 1951, Article 33). The principle of *non-refoulement* is also considered *jus cogens*, that is, a non-derogable principle of international law which cannot be violated even in contexts of emergency.

delegated with the power to render unilateral decisions, accountable to no law and without any legitimate authority. The resurrected sovereignty is thus not the sovereignty of the unified power under the conditions of legitimacy, the form of power that guarantees the representative status of political institutions. It is, rather, a lawless and prerogatory power, a “rogue” power *par excellence* (56).

Butler clarifies that “these are not true sovereigns: their power is delegated, and they do not fully control the aims that animate their actions” (*ibid.*, 62). She describes contexts in which “petty sovereigns abound” as those of waning sovereignty, where centralized power and rule of law have receded and given way to decentralized tactics of governing populations, and sovereignty nevertheless reemerges “within the field of governmentality” (*ibid.*, 56). Delving into Agamben’s (1998) understanding of how contemporary forms of sovereignty intertwine with governmentality, Butler draws the following scenario:

*legal protections are withdrawn*, and law itself withdraws from the usual domain of its jurisdiction; this domain thus becomes opened to both governmentality (understood as an extra-legal field of policy, discourse, that may make law into a tactic) and sovereignty (understood as an extra-legal authority that may well institute and enforce law of its own making) (*ibid.*, 60).

This configuration of power is not foreign to the security project of police, which, as argued by Doucet (2018) and concurred in this thesis, is at the center of the security stance on civilian protection. As the embodiment of sovereign power that circulates at the level of population, police power operates primarily through centrifugal, decentralized governmental techniques for regulating the movements and processes of the population. While it is responsible for upholding law and maintaining order, police power holds the sovereign prerogative to exceed law as a means for maintaining order. Far from constituting a deviation or a distortion of PoC, thus, holding facilities are a consequence of the protection of civilians agenda. Peacekeepers’ capacity to act as a “rogue power” and unlawfully detain civilians is brought to the realm of possibility because the PoC mandate which they are supposed to implement in South Sudan is underpinned by the rationality of a police power whose repertoire encompasses the suspension of the same (humanitarian and human rights) law it is meant to uphold.

As an *unexceptional exceptional practice* that sits in a zone of indeterminacy between the exception and the rule, unlawful detention has acquired a semi-permanent character in the PoC sites. Given the limitations on transfer to state prisons and the range of offenses committed by holdees, duration of detention

has varied significantly, sometimes far exceeding the 48 hours envisaged in the SOPs:

As one UNPOL officer explained, “there is no standard with regards to length of detention since IDPs are held based on an assessment of the extent to which they pose a threat to the security of the POC site”. [...] Individuals are held until they are deemed to no longer pose a threat to the community, or until such time as they can be handed over to the national authorities or expelled. The majority of persons are released within a few days or weeks, but a smaller number of individuals are held for months or even years (NRC 2017, 79).

In cases where handover or expulsion is deemed unviable, individuals may be *detained indefinitely*, despite never receiving a trial. In the Juba POC holding facility alone, there are two individuals who have been detained for over two years (*ibid.*, 80, italics added).

Thus, protected offenders are subject to *both* unlawful and indefinite detention in the PoC sites. In this perspective, it could be argued that UN’s choice of words to designate these practices and the spaces and subjects associated with them – “holding facility” instead of “prison” or “detention center”, “holdee” instead of “prisoner” or even “detainee” – points to yet another *political* tactic of depoliticization surrounding the PoC sites – and indeed the PoC agenda.

On the one hand, it can be argued that the avoidance of terms such as “prison”, “incarceration” and “prisoner” serves to reinforce the official position that “[being] held in the holding facility is not a punitive measure, but is rather designed as a mechanism for maintaining the security of the site” (NRC 2017, 79). And, on the other, this could be a tactic for avoiding the “lawfare” that has surrounded extralegal incarceration of suspects of terrorism by the United States in the extraterritorial prisons of the war on terror, such as those in Guantanamo Bay and Abu Ghraib<sup>48</sup>. In fact, this linguistic resort resembles the United States government’s refusal to refer to the prisoners of the war on terror as such, opting instead for the term “detainees” as a means of deflecting from its responsibilities under international humanitarian law, specifically relating to the rights of prisoners of war.

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<sup>48</sup> It is precisely in her analysis of extralegal, indefinite detention in the context of the “war on terror” led by the United States that Judith Butler refers to the emergence of “petty sovereigns” (2004, 50-100).

The second critical aspect of the holding facility we are trying to pinpoint pertains to the physical conditions of detention, which have been thus described by the NRC:

Conditions in the holding facilities were initially very problematic, with repeated cases of minors being held together with adults and standards of living inside the cells that bordered on being hazardous to the health of the detainees. Although there was improvement over time, many humanitarian and UNMISS officials expressed concern during interviews that even two and a half years after their initial inception, conditions remain far below acceptable international standards. “Conditions are barely ok for 72 hours, much less months or years,” said one UNMISS official. The holding facilities are *constructed out of shipping containers* with a few small windows cut into the sides, and while this allows for some minimal ventilation, it does not prevent the containers from reaching upwards of 45 degrees Celsius. Detainees must be escorted from the containers each time they want to use the toilet, which has led to attacks on corrections staff as well as escapes. The perimeter around the holding facilities is weak and easily breachable, and has resulted in numerous escapes over the past three years – including 20 individuals in one month alone in 2014 (*ibid.*, 79, italics added).

Thus, in the holding facilities more than anywhere else in the PoC sites, UNMISS and humanitarians (who deliver assistance to holdees) are maximizing precariousness for those they are supposed to protect. Such precarious conditions resemble Wilcox’s definition of torture as an “attempt to maximize bodily pain on one who is already ‘unreal’ as an embodied subject” (2015, 9)<sup>49</sup>. In this perspective, the “holdees” can only be subjected to such degrading conditions because, as previously argued, they have already been denied their political-juridical subjectivity and their bodies have accordingly been reduced to bare life by the civilian protection discourse.

The body of the holdee is therefore a deviant body which must be detained in order to safeguard the other, normal bodies that inhabit the PoC sites. There is here a double move of insulation which is associated to what Laurence McFalls and Mariella Pandolfi (2015) have referred to as the “political rationality of regulated chaos”, through which “different forms of knowledge-power and technical expertise [...] isolate “vulnerable” individuals and populations who require warnings about and protection from predators, catastrophes, or themselves” (84). Those vulnerable bodies are isolated from political and social existence as bare

<sup>49</sup> It is interesting to note that the prohibition of torture is among the fundamental human rights which are considered *jus cogens*, that is, a non-derogable principle of international law which cannot be suspended even in a state of exception or emergency (Wilcox 2015, 21).

lives who can nevertheless *become the enemy* against which the other *homines sacri* who inhabit the camp must be protected. The holdee, as bare life that had already been isolated/protected in the PoC site, is once more removed from social (co)existence. However, they are not yet the asymmetrical enemy of humanity that marks the outer limit of the international as the (killable) abject that must be kept outside the camps. Not having their humanity completely negated (in fact, there is some humanity to be protected even if under precarious conditions), the holdee does not inhabit the space beyond the line<sup>50</sup> to which the abject is relegated. Rather, they *inhabit the line* that demarcates the international from its constitutive outside, which is also the line demarcating the limits of humanity, separating humanity from its constitutive, inhuman, other.

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<sup>50</sup> See Chapter 2.



## 5

### Conclusion

The research developed throughout the present thesis grew out of some questions and discomforts raised by my first contact with the “PoC site problématique”, especially regarding the practice of unlawful detention under the auspices of a UN peacekeeping operation whose very existence is grounded on the language of protection of persons and of universal human rights. A further immersion in the recent yet burgeoning literature on the PoC sites – initially almost exclusively limited to UN official documents and humanitarian reports – led me to an understanding of the wide range of actors engaged in the management of such spaces and the relations among them, often portrayed as marked by tension and conflict. In this literature, the commotion caused by the “novel”, “unique” and “unprecedented” aspects of the PoC sites, particularly the imperative of security-humanitarian coordination presented by them, favored more technical, problem-solving analyses of these spaces and further reinforced the narrative of two impervious, conflicting protection rationales: on the one hand, the traditional, humanitarian approach to protection of civilians, and, on the other, the UN PoC agenda – which has grown to become one of the central benchmarks for evaluating contemporary peacekeeping operations.

Faced with this initial literature and problematic, the assessment of the PoC discourse(s) developed in the thesis was grounded on a Foucauldian conceptual-theoretical framework, which allowed us to trace a common thread permeating both the humanitarian and the UN/security understandings of the concept and implementation of protection: it was proposed that *both* approaches to protection are underpinned by a police rationality. The definition of police adopted in the thesis encompasses but is not restricted to the contemporary understanding of police as a security apparatus. Following Foucault’s (2007) genealogical recovery of the different meanings ascribed to police power in the course of modern European history, the term “police” was employed to designate a governmental technological ensemble that operates in the level of the population, regulating the processes and movements of such population while claiming to *know* and act in its best interest. Such version of police power also retains the right to take life and let

live” as well as the prerogative to exceed the law that are associated with sovereign power.

It was further argued that, when mobilized by and underpinning a depoliticizing protection discourse centered on preventing death and regulating the processes of life conceived as “bare life” (Agamben 1998, 2000), such police power also works through a combination of biopolitical and necropolitical techniques. In this perspective, it was proposed that PoC is grounded on a *bio/necropolitics of protection*, that is, on a politics of preserving life and making live that allows and legitimates the management and even the causation of death as a means of recognizing its limits, which are, in turn, framed as undesired yet inevitable: it is impossible to save all lives. Then, the protected civilian is also policed.

Parting from this understanding of a common police mentality underpinning both humanitarian and peacekeeping protection rationales, we attempted to circumvent the humanitarian/peacekeeping binary, especially through the notion of heterogeneous protection “fields”, with actors engaging in complex relations within and between fields to form humanitarian-security protection assemblages. Through the analysis of practices and strategies of protection employed in the PoC sites, it was argued that, to a certain extent, there is a division of protection labor in which the police and the military undertake the negative functions of police power – that is, preventing people from dying a violent death and in large numbers, and maintaining law and order –, while humanitarians assume the positive tasks of promoting livelihoods. Bigo’s three narratives of protection (*tegere*, *praesidere* and *tutore*), on the other hand, were instrumental for assessing how security and humanitarian rationalities of protection intersect in counterintuitive ways that go beyond the division of labor between negative and positive functions of police power – through common monitoring activities and tutelage rationales, for example.

As the microcosm offered by the PoC sites suggests, the coupling of such police mentality, related as it is with sovereign power, with a *temporality of emergency* creates political and discursive space for opening a *spatiality of exception*. In this perspective, it was argued that the suspension of rights, the establishment of relations of violence (Edkins and Pin-Fat 2005) and the adoption of exceptional practices such as unlawful, indefinite detention in so-called holding

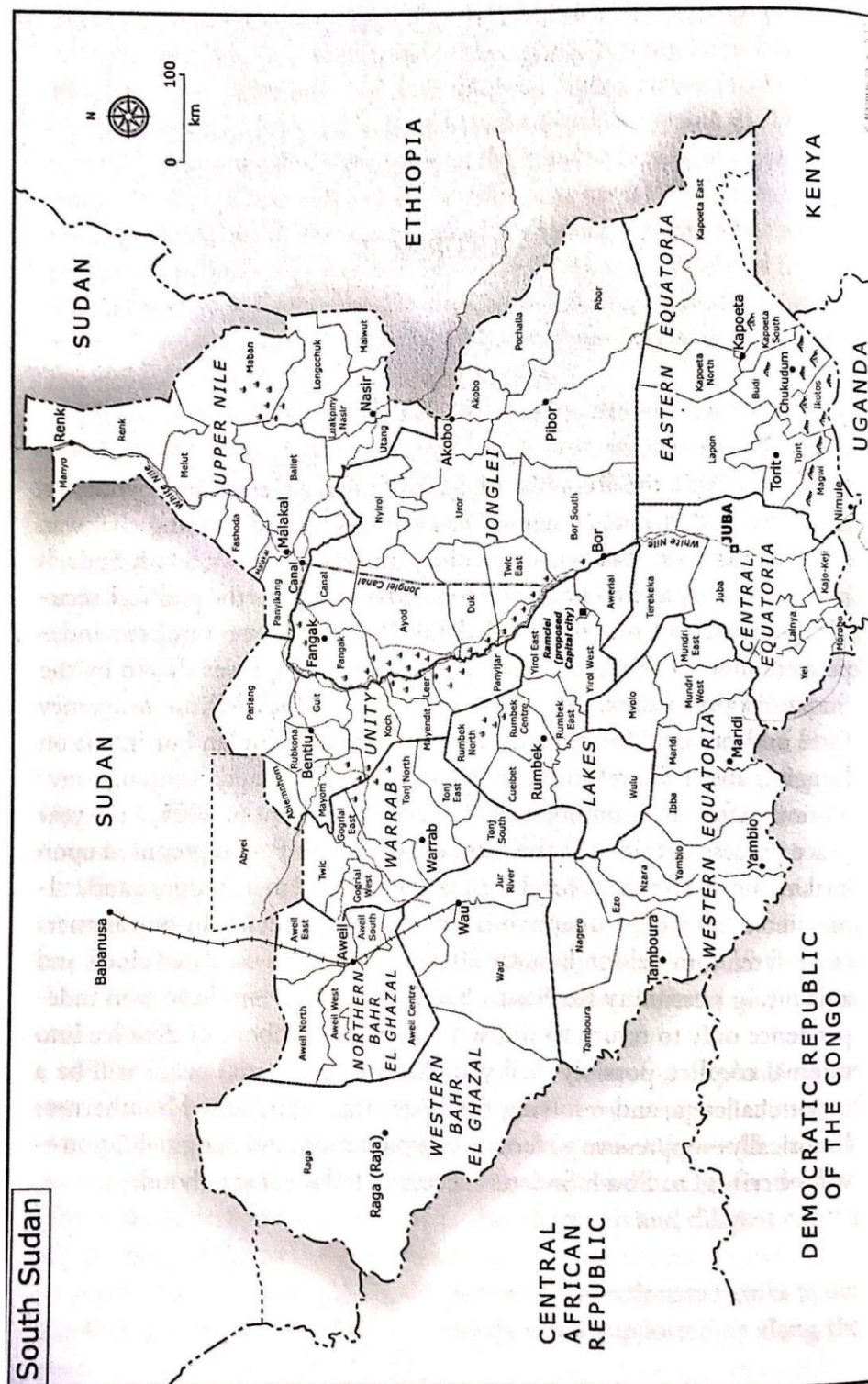
facilities is a radical expression instead of a deviation of a protection discourse that takes bare, naturalized life as its object.

As Agamben (1998) argues, the rendering of life as bare life is made possible by the inscription of life in the terrain of sovereign power through declarations of rights, of which the sovereign is the guarantor. In other words, the same legal-political devices that qualify life as rights-bearing and politically agentic, paves the way for its disenfranchisement in the state of exception. Likewise, the fact that protected IDPs become *holdees* in the PoC sites is not a deviation of the protection rationalities operating in the sites: rather, it is the extreme realization of protection discourses which are centered on saving and promoting the life of civilians as bare, disqualified life, that these lives may be indefinitely detained with no rights nor guarantees, for they had already been stripped of those before entering the sites, when they were made into the beneficiaries of a protection mandate.

## 6

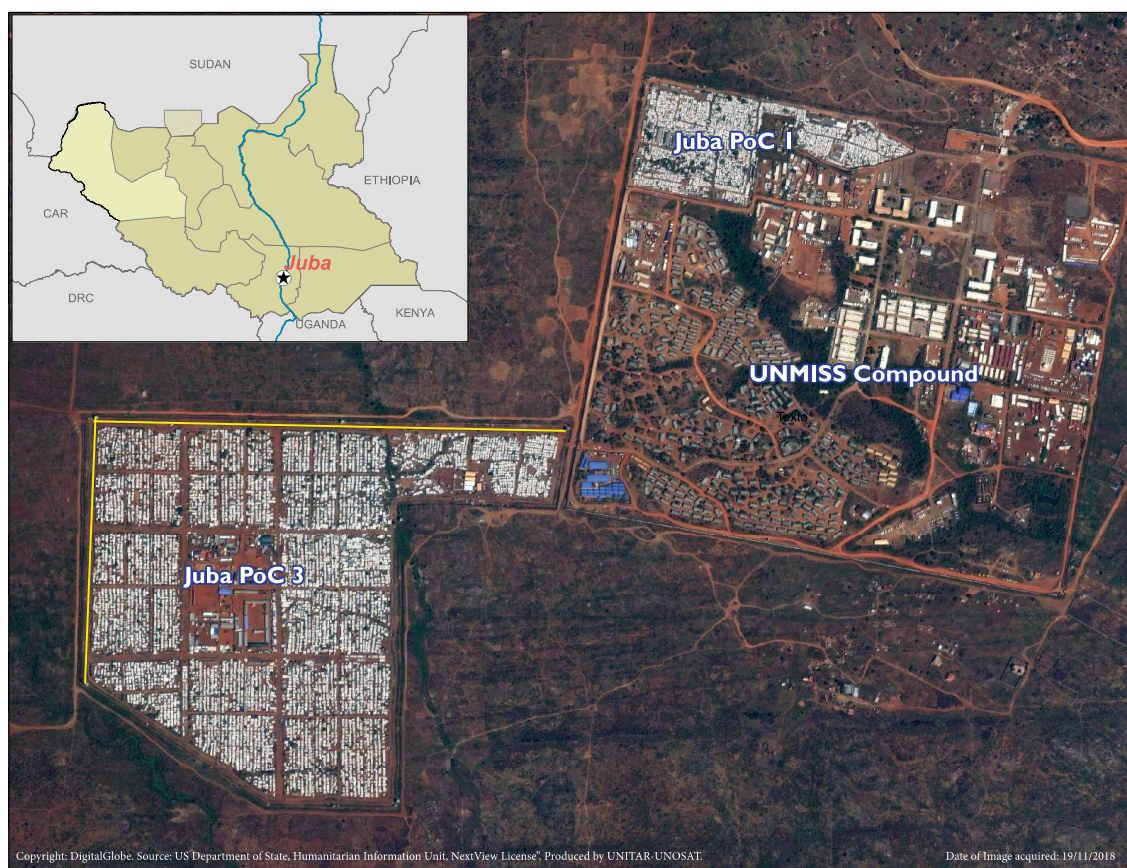
## Annexes

## Annex 1 – South Sudan



Source: Arnold and LeRiche 2013

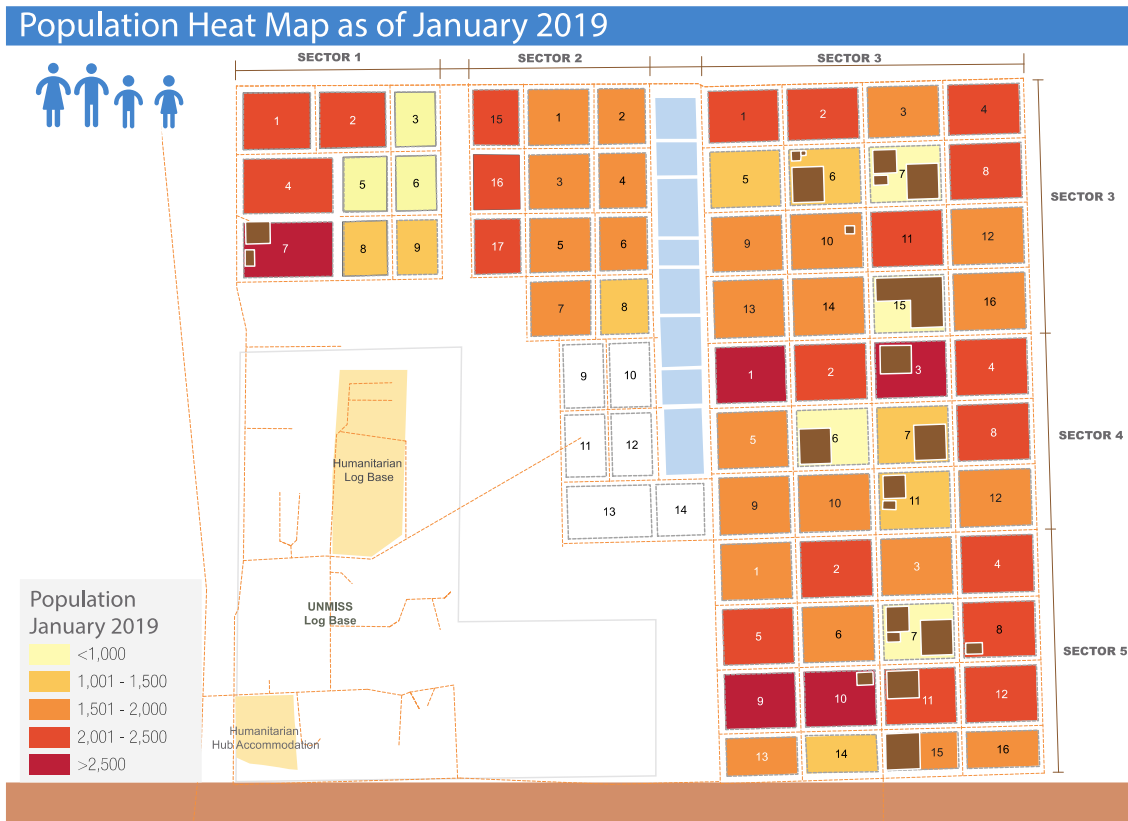
## Annex 2 – PoC Site (Juba)



Source: CCCM 2019d



### Annex 3 – PoC Site (Bentiu)



Source: CCCM 2019a

## Annex 4 – PoC Site (Malakal)



Source: CCCM 2019e



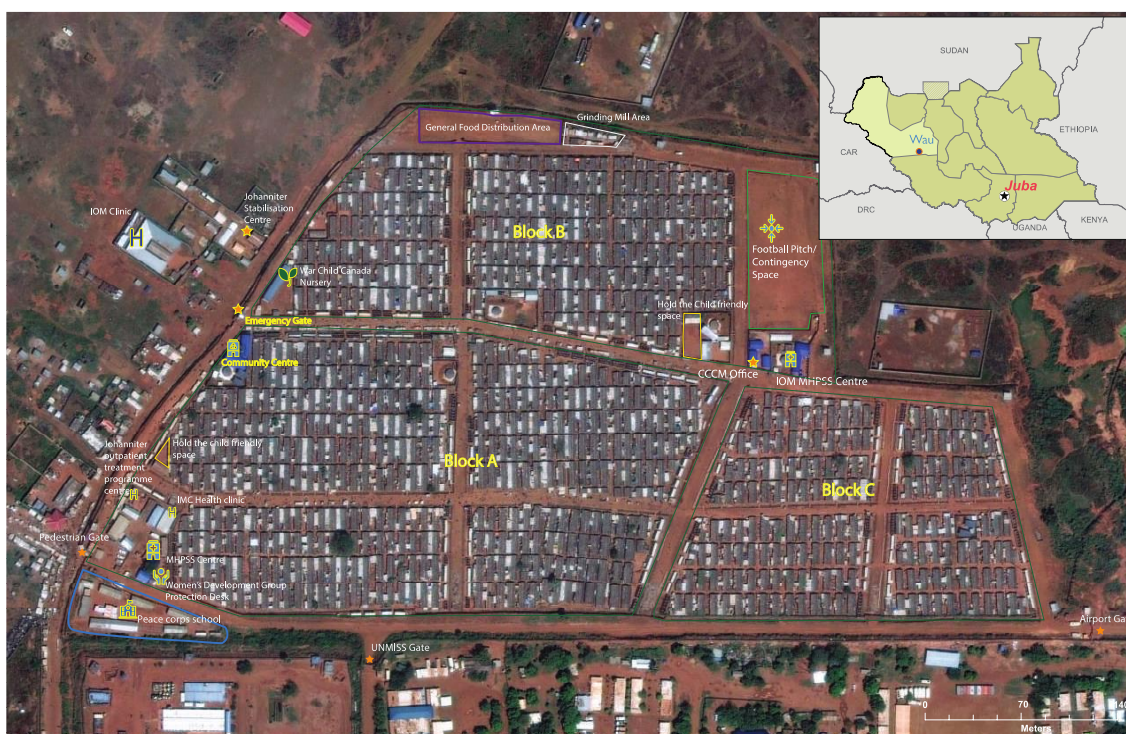
## Annex 5 – PoC Site (Bor)



Source: CCCM 2019c.



## Annex 6 – PoC Site (Wau/AA)



Source: CCCM 2019b.

## 7

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