

Recommended Phases for the Transition of Malakal POC Site form a POC Site to Other Type of Civilian Settlement: (Draft)

1. Background of the Malakal POC Site

The Malakal POC Site came into existence when armed conflict broke out in December 2013. At the time, civilians were fleeing from imminent threats of physical violence and their only place of safety was the UN Base in Malakal. The Mission responded within its capacity and mandate to protect civilians and opened its gates to the fleeing civilians and provided immediate protection within its Base as a last resort.

The presence of civilians inside the Base, whose number was in excess of 40 000 was initially envisaged as a temporary measure to afford protection inside the UNMISS Base in the hope that the security situation would stabilize and the civilians would go back to their homes in the near future. Unfortunately, with the continuing clashes in and around Malakal town, the civilians felt unsafe to leave the UN Base. Over time, the number of civilians in the Malakal POC Site continued to increase due to the frequency with which the control of Malakal town exchanged hands as well as ongoing clashes on the west bank of the Nile. At the peak of the conflict in 2015, Malakal POC Site was home to more than 50 000 displaced persons comprising the main tribes in the region: Shiluk, Dinka and Nuer.

Following the attack on the Malakal POC Site in February 2016, Dinka IDPs left the POC site to go and live in Malakal town. Members of the Shiluk and Nuer ethnic groups who remained in the POC site perceived the State government at the time to be pro-Dinka and this seemed to fuel animosity between the Dinkas on one hand and the Shiluks and Nuers on the other. To date, the demographic composition of the Malakal POC Site population remains predominantly Shiluk and Nuer. Currently there are around 27 000 IDPs residing in the Malakal POC Site with the majority being Shiluk.

2. Rationale for the existence of UNMISS POC Sites

As already mentioned, the primary reason for which the Malakal POC Site came into existence was the existence of imminent threats of physical harm from which civilians were fleeing. The Field Office allowed the fleeing civilians into its Base as an *in extremis* measure to allow them temporary refuge, until such time when the threats no longer existed.

It is common cause that since 2017, the local government has demonstrated that it is able, capable and willing to protect all citizens including those in Malakal POC Site. The steps taken by the government in this regard include measures enumerated below. Since these measures were implemented, there are no longer threats of physical harm to POC site residents. It is therefore a reasonable assertion that there has been a fundamental change of circumstances which requires the Field Office to re-evaluate the continued deployment of resources towards the POC site and determine whether the deployment of the resources is in line with the letter and spirit of the Mission's mandate in light of the improved security situation. Otherwise the continued deployment of scarce resources in the absence of threats of physical violence to POC site residents has the potential to undermine the initial rationale of the existence of the POC site generally in terms of best practice in the rational and appropriate use of Mission resources at the expense of other civilians in the Field Office's AOR.

3. Security Outside Malakal POC Site

Since the beginning of 2017 the CUNS Government effectively re-assumed its primary role to create a safe environment and to protect its own citizens and has taken tangible steps in addressing the security concerns of Malakal POC Site residents. For instance, when the previous Governor issued an order for the demilitarization of Malakal town in 2017, the directive was immediately implemented. This resulted in the significant decrease of soldiers from the streets and the dismantling of all roadblocks and military checkpoints on the route between the POC site and Malakal town. With improved security, trading activities picked up in the town market and POC site residents started to visit the town in ever increasing numbers.

Additionally, in order to improve the security in town, the Central Upper Nile Government authorities dismantled all military check points and introduced night patrols in Malakal town in 2017 from 23:00 to 06:00 daily. The security situation continued to improve to the extent that currently between more than 5000 POC site residents go to spend the day in Malakal town. Because of growing confidence in the measures put in place by the government, there has been a significant increase in the number of criminal cases reported by Malakal POC Site residents themselves directly or through UNPOL to SSNPS in Malakal town. For instance, the number of cases reported between February 2019 to February 2020 was 28 compared to 05 during the same period the previous year.

The new Governor who assumed office in June 2019 committed to further improve security outside the POC site to enable POC site residents to return to their homes in Malakal town. Malakal POC Site residents however continue to live in the POC site with no sign that they will be leaving soon. The fact that POC site residents continue to live in the POC site despite the government's efforts at improving the security environment is indicative of the fact that there are other considerations for the continued presence of IDPS in the POC site.

For its part, UNMISS has continued to provide static and mobile security along the perimeter fence. Up until May 2019, approximately 60% of the Field Office's troop strength was dedicated to protecting the POC site. Protection by the military was mainly through static duties at observation posts around the POC site as well as mobile patrols around the POC site. Malakal POC Site is home to only 3% of the whole of the Upper Nile region's population, 964 353 (2008 census). Essentially, from a protection of civilians' perspective, this meant that because of the commitment of these troops to the POC site, 93% of the region's population was not covered by the Field Office.

However, after a thorough security and threat re-assessment of the environment outside the POC site in October/November 2019, the Field Office was satisfied that, although some IDPs, particularly Shiluks, continue to claim that they cannot return to live in their houses in Malakal town because of insecurity, there were in fact no more threats of physical harm to POC site residents warranting the continued deployment of a large number of troops around the perimeter.

As a sign that security in and around Malakal has significantly improved, it is worth noting that since November 2019, within the backdrop of claims of insecurity in Malakal town by some POC site residents, UNMISS has facilitated the voluntary return of 40 individuals - at their own request - from Juba POC Site back to their homes inside Malakal town. All the 40 individuals are Shiluks. Suffice to highlight that the return of these individuals into Malakal town was conditioned upon a full and thorough assessment of the appropriateness of the return process by the Upper Nile Protection Cluster which was itself satisfied that the security environment was safe for these individuals to return to their homes in Malakal.

As a result of the significant security improvement outside the POC site, static security arrangements were scaled down and the Field Office has since increased its troop strength for outreach patrols to places in Upper Nile such as the south-eastern corridor, the west bank of the Nile which require regular UNMISS visibility and situational awareness and other locations.

4. Security inside the POC

The prolonged stay of the IDPs inside the UNMISS premises has created unanticipated challenges. With the passage of time, the IDPs have been gradually becoming despondent and most seem to have lost hope and prospects for individual prosperity, self-development and other life expectations. As a result, the POC site has literally become a sub-urban slum settlement with no direct control by the State and characterized by the social complexities and vices that such settlements bring with them.

Illegal and criminal activities that have presented the most challenges for UNMISS include recruitment, breaching of the perimeter fence (mostly at night), incitement to commit acts of violence, hostility towards peacekeepers - usually seen through throwing stones and other objects at patrol units.

Following the signing of the peace agreement in September 2018 and the resumption of freedom of movement across the region, recruitment inside Malakal POC Site has been on the increase under the guise of voluntary military service. Ex-combatants that had been accepted into the POC site as civilians over the years on condition that they would not rejoin the conflict have also been leaving the POC site, sometimes with sizeable numbers of young men seemingly with the objective to increase troop numbers in the ongoing registration exercise for the formation of unified forces.

The activities of criminal elements, including the 2018 incitement of youths threatening physical harm to humanitarian workers originating from outside the Upper Nile region, coupled with the continuing commission of a wide array of other criminal acts has sometimes negatively impacted the Mission's relationship with the local authorities. It is also worth noting that criminal elements within the POC site have in the past taken an aggressive stance and literally hijacked mechanisms/structures that were set up to facilitate and ensure effective communication between the communities residing in the POC site and UNMISS as well as humanitarian service providers.

In order to manage the above internal challenges UNPOL are deployed inside the POC site. Of the 90 individual police officers (IPOs) who are always on duty, 60 are committed to the POC site while the remaining 30 perform support duties. The 60 IPOs conduct static duties such as manning the entry points into the POC site and patrolling inside showing their presence and responding to incidents that breach peace and public order inside the POC site. In performing their duties inside the POC site, IPOs are supported by a contingent of 240 FPU officers. Essentially, except for three IPOs co-located with SSNPS in Malakal town and two deployed to Kodok, the whole UNPOL and FPU component is devoted to the POC site.

5. Internal inter/intra-ethnic dynamics in the POC site

Since the departure of the Dinka IDPs from Malakal POC Site in February 2016, two predominant ethnic groups - Shiluks and Nuers remain in the POC site. These communities continue to peacefully co-exist due to the apparent political dynamics that bring together their political leaders as members of the Opposition. This is likely to continue for as long as the Opposition political leadership remains united. With over 90% of supporters, the SPLM-IO has the biggest political base in the POC site which includes both Nuers and Shiluks. As already mentioned, this cohesion is grounded on the continued unity of the mainstream SPLM-IO with Aguelek Movement of Johnson Olony which has a following of approximately 80% of the Shilluk community in the POC site. The remaining 20% of Shiluks appear to support the National Democratic Alliance (NDA). As for the Nuers, the SPLM-IO is their only vanguard they count on to keep at bay what most Nuers perceive to be an existential threat from the current government.

In terms of ethnic composition, the Shiluks form approximately 85% of the Malakal POC Site population. The majority (approx 60%) of the Shiluk population in the POC site fled from Malakal town. The next largest Shiluk group came from Makal County and the third group came from Ogod County which includes Wau Shiluk, Detang, Lelo and Ogod (under the 32 States arrangement) while the fourth/last group came from the rest of the villages on the west bank of the Nile.

The different sections that make up the Shiluk community in the POC site have always peacefully co-existed and seem united. As things stand, the majority of the Shiluk population (those who came from Malakal town and those from Makal County villages on both the eastern and western side of the river) do not seem eager to permanently leave the POC site and go back to their homes in and around town despite the improvement in the security situation, the main reasons being the unresolved land dispute with the Dinkas and the political uncertainty with the implementation of the peace agreement. The SPLM-IO/Aguelek alliance and the NDA seem to hold the key to whether POC site residents, particularly the Shiluks, continue to reside in the POC site or go back to their places of origin. It will take only an announcement from these forces to empty the entire POC site within weeks if not days. It remains to be seen if such a decision will depend on the resolution of land disputes with the Dinkas or based on the full implementation of a genuine political process. Both ethnic groups are likely to continue to peacefully co-exist even if the POC site becomes an IDP site or other settlement.

6. Findings of past Intentions-perceptions surveys in the POC

In April/May 2019, humanitarian partners conducted an intentions-perceptions survey in the Malakal POC site. The survey established that 44% of those interviewed (statistically almost half of the POC site population) intended to leave the POC site, one third of them within the next three months. The majority indicated they would only leave the POC site permanently if there is going to be evidence of full commitment in the peace process and that ancestral land have been addressed. The most preferred areas of return for these individuals are all around Malakal and include Malakal North, Malakal South, Malakal East and Malakal West. Also significant from the findings was the fact that 73% of those who claimed to be undecided on leaving the POC site cited “good conditions” and easy “access to services” as the main reason for their continued stay in the POC site – which is a clear indication of the comfort levels and the dependency syndrome that has been nurtured by their prolonged stay in the POC site.

The intentions survey also established that 21% of those interviewed indicated that more family members will be coming to join them in the POC site. These anticipated new arrivals are presumed not be coming to the POC site for physical protection but for family re-union and access to services – and that is not the *raison d’être* for POC sites. A real challenge therefore exists, that for as long as conditions

in the POC site are good and services continue to be provided, there is a significant number of individuals who are likely to remain in the POC site indefinitely even if there is going to be genuine peace.

7. Recommended transitional arrangements for Malakal POC Site to other form of civilian settlement

The foregoing is evidence that Malakal POC Site residents are generally not at risk of physical harm since 2017. As earlier mentioned, since 2017 the government has adequately demonstrated that it is willing and capable to protect its own civilians, Malakal POC Site residents included. The question that arises for UNMISS is whether or not Malakal POC Site should remain in its current form and within UN premises, with the bulk of the Field Office's resources deployed to protecting only 3% of the whole population of the region at a time when there are no threats of physical harm to the individuals being "protected". Another serious consideration is the likely impact such practice would have on the concept of protection of civilians and the implementation of POC mandates in UN peacekeeping operations worldwide in terms of best practice. In the circumstances, UNMISS should consider ways to support the government efforts, particularly through capacity building particularly in the areas of rule of law, including in all the institutions involved in the delivery of justice.

In deciding the way forward, IDPs should be allowed and supported under any of the three options for durable solutions. For those Malakal POC Site residents wishing to continue living in the POC site, local integration would be their option because it would allow them to remain and continue with life where they currently are. This scenario is likely because many residents may have forged relationships and camaraderie over the years which would be difficult to break and separate. In addition, many youths grew up in the POC site and they may not know any other way of life or human settlement other than the POC site. Over the past seven years, the POC site has evolved from a temporary displacement settlement into a township within the UN Base and it has turned out that for some of the residents, the POC site probably provides a better life different from the villages they originated from. Not all IDPs will choose to remain in the POC but others might choose to move into Malakal town in order to remain in close proximity with friends and relatives that would have chosen to remain in the POC site. And many more might choose to go further afield.

Below are the recommended transitional steps to be taken in graduating Malakal POC Site from what it currently is to either an IDP camp or other ordinary civilian settlement.

i. Phase 1: Consultations between UNMISS and Humanitarians

In consulting with humanitarians, the objective will be to seek consensus in order to come up with a common position that the rationale for which the Malakal POS Site was established no longer exists. In this regard, the main messages from UNMISS shall highlight:

- the conceptual and operational difference in protection of civilians under peacekeeping *vis-a-vis* the IASC approach;
- the objective reality that since 2017, the Government has assumed its primary responsibility to protect its citizens by taking all the necessary measures to make the environment outside the POC site safe for everyone;

- that SSNPS is now deployed in full force in Malakal town and the force itself is ethnically balanced;
- confirmation that the Field Office has exercised due diligence by conducting thorough security and threat assessments (as outlined in the Security Risk Assessment for Malakal POC Site) and that the document was shared with the humanitarians for their review;
- that there is nothing UNMISS will do to hinder the delivery of services to those that will choose to remain in the POC site;
- that apart from minor cases of criminality in Malakal town, there are no threats of physical violence warranting the deployment of troops around the POC site. Further that there is no evidence that the acts of criminality committed in Malakal town target a specific ethnic group;
- that once the multi-layered security arrangements for the POC site have been removed, UNMISS/UNPOL will co-locate with SSNPS inside the new settlement as an initial transitional arrangement and that such an arrangement will continue to create a safe environment for humanitarian operations;
- that UNMISS shall, at all times, have a standby QRF to immediately respond to emergency security situations, including extracting UNPOLs and humanitarian personnel from the new settlement should there be any disturbances necessitating such extraction.

ii. Phase 2: Consultations between UNMISS, Humanitarians and the Government

In consultations with the Government and humanitarians, UNMISS shall:

- obtain the reassurance from the Government that it will exercise its primary responsibility to protect all civilians under its jurisdiction;
- agree with government on transitional policing arrangements in the new settlement, including co-location with UNPOL at all the police posts that would have been agreed to be established inside the new township;
- UNMISS to offer to increase the number of UNPOLs co-located with SSNPS in town;
- UNMISS to offer increased capacity building of SSNPS and the local Corrections/Prison Services
- request the ethnic balancing of SSNPS Officers to reflect the ethnic realities in the new settlement;
- agree with the government for the co-location of UNMISS Corrections Officers at Malakal Prison;
- UNMISS to leave it to humanitarians and the Government to agree on the designation of the new settlement;
- that UNMISS shall, at all times, have a standby QRF to immediately respond to emergency security situations, including extracting UNPOLs and humanitarian personnel from the new settlement should there be any disturbances necessitating such extraction.

iii. Phase 3: Consultations between UNMISS, Humanitarians, the Government and POC site Community Leaders

Deliberations during this phase will encompass all the issues raised in **Phases 1-2**. Additionally, the following shall be discussed and agreed upon:

- listening to the concerns IDPs might have with the proposed arrangement and obtaining responses from the government as to what arrangements it will put in place to address those concerns;

- getting humanitarians to confirm the nature of services that will be provided to those who wish to continue residing in the new settlement, including what support humanitarians will provide to those wishing to return to their places of origin;
- agree on messaging modalities and the time frame for UNMISS to start removing all security infrastructure around the POC site;
- agree on modalities for the handover of security arrangements to SSNPS;
- agree on the documentation modalities for UNMISS to cede back the land to the rightful owners;
- agree to form an internal Security Committee comprising UNMISS, SSNPS, community leaders (and Protection Cluster lead if they so wish) to monitor and bring to the attention of the internal police posts any breaches of peace, tranquility and public order in the new settlement;
- that UNMISS shall, at all times, have a standby QRF to immediately respond to emergency security situations, including extracting UNPOLs and humanitarian personnel from the new settlement should there be any disturbances necessitating such extraction.