

UNITED NATIONS



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**United Nations Mission in the Republic of South Sudan**

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**Attacks on Civilians in Bentiu & Bor**

**April 2014**

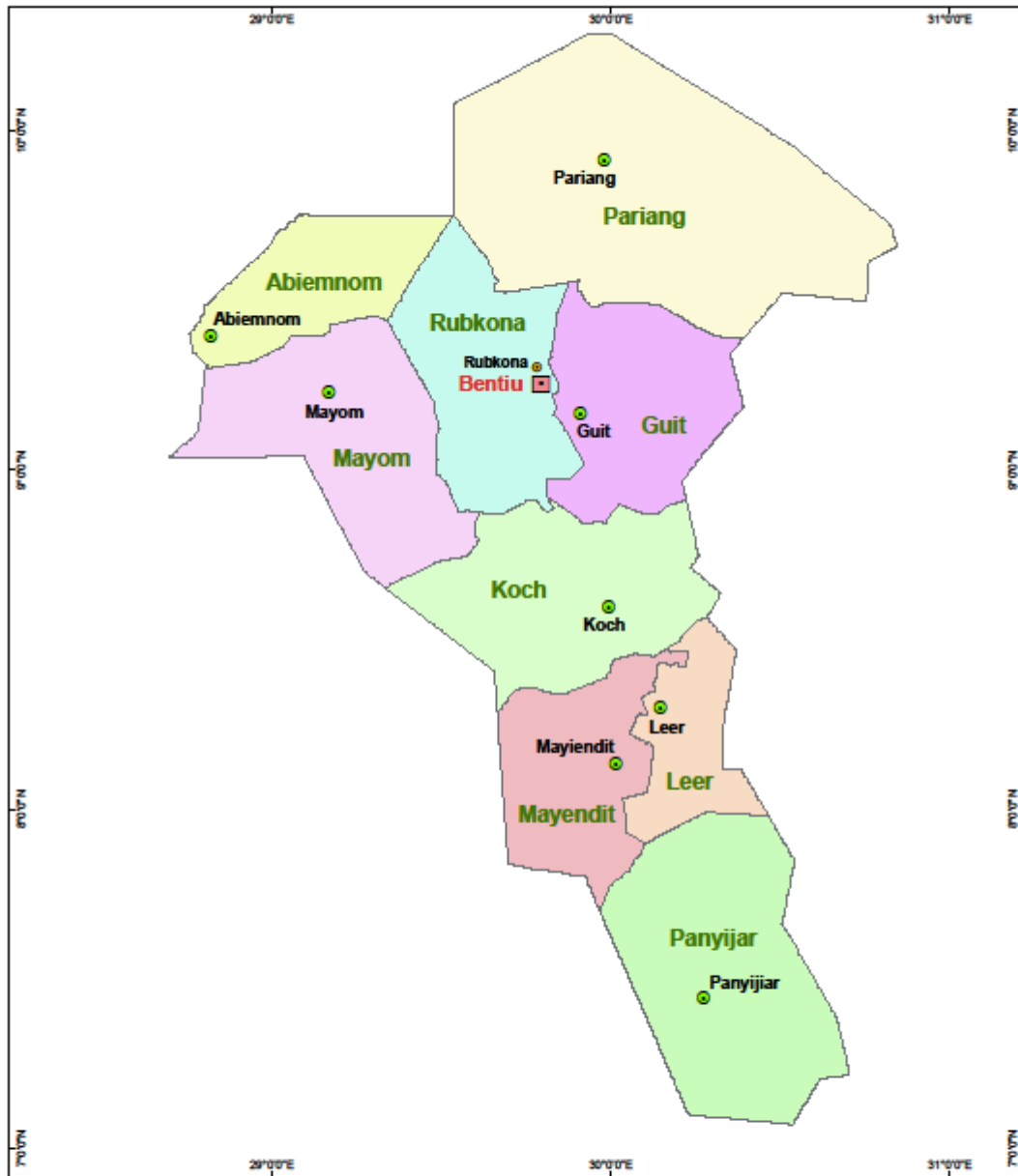
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9 January 2015

## **Executive Summary**

1. On 15 April 2014, Bentiu town, Unity State, was attacked by Sudan People's Liberation Army in Opposition forces. Horrific massacres of civilians were committed during the attack. Two days later, an angry mob attacked the United Nations Mission in the Republic of South Sudan (UNMISS) base in Bor town, Jonglei State, where thousands of internally displaced persons were seeking protection. Hundreds of civilians lost their lives in these two attacks.
2. The sheer gravity of these two incidents, which seemed to be a new nadir in the violence that has afflicted South Sudan since December 2013, drew widespread international condemnation. In reaction, the United Nations Security Council requested an investigation to be followed by a report of its conclusions. That is the purpose of this report.
3. Based on the substantial body of information collected, including interviews with 142 sources, the UNMISS Human Rights Division finds that there are reasonable grounds to believe that at least 353 civilians were killed, and at least 250 wounded, in the attacks on Bentiu and Bor. At least 19 civilians were killed at the Bentiu Civil Hospital and approximately 287 civilians were killed in a mosque in the Kalibalek area. The attack on the UNMISS Bor protection of civilians site resulted in at least 47 civilian deaths. Perpetrators intentionally targeted civilians, often based on ethnicity, nationality, or perceived support for the opposing party to the conflict. In both Bentiu and Bor, attacks took place against protected objects – a hospital, a mosque, and a United Nations base – which may amount to war crimes.
4. UNMISS is gravely concerned by these acts, and calls upon both the Government of the Republic of South Sudan and opposition forces to end hostilities and put an end to gross abuses and violations of human rights and serious violations of international humanitarian law. The parties must immediately undertake comprehensive and credible investigations into alleged violations in order to hold perpetrators to account. The Mission also calls upon the international community to support South Sudanese efforts to protect civilians and to assist with accountability efforts.




# UNITY STATE

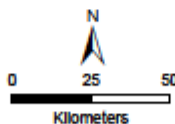




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	State capital
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	Payam capital



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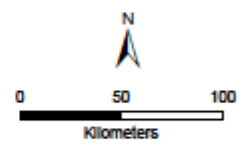
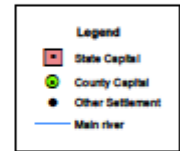
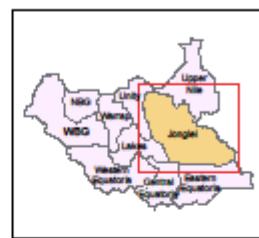
**Map Location**



### JONGLEI STATE



#### Map Location



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## **I. Introduction**

1. Four months into the conflict in South Sudan, appalling attacks against civilians took place in Bentiu, Unity State, and Bor, Jonglei State. On 15 April 2014, the Sudan People's Liberation Army in Opposition (SPLA/IO) attacked and took control of Bentiu and Rubkona towns and, in the process, perpetrated horrific massacres of civilians. Two days later, on 17 April 2014, an angry mob attacked the United Nations Mission in the Republic of South Sudan (UNMISS) base in Bor, where thousands of internally displaced persons (IDPs) were seeking protection, killing at least 47 civilians.

2. Although the conflict has been marked throughout by gross abuses and violations of human rights and serious violations of international humanitarian law, these two events seemed to represent the nadir of the conflict. They laid bare its worst elements, including the continuing and systematic targeting of civilians, the widespread and cyclical nature of the violence, the indiscipline of soldiers, and the extent to which anger has seeped into communities. The profound gravity of the two incidents drew international condemnation and moved the Security Council to request an immediate investigation, on 24 April 2014, to be followed by a report of its conclusions.<sup>1</sup> That is the purpose of this report.

3. This report presents the findings of investigations conducted by the UNMISS Human Rights Division into these two attacks. While initial findings were included in an UNMISS public report issued in May 2014,<sup>2</sup> time was insufficient to complete full inquiries.

4. Based on all the information available, the Human Rights Division has found reasonable grounds to believe that at least 353 civilians may have been killed, and at least 250 wounded, in the incidents described in this report. There are also reasons to believe that civilians were deliberately targeted and killed, often based on their ethnicity or nationality, in both Bentiu and Bor. Civilian objects were also targeted, including a hospital and a mosque in Bentiu, and a United Nations base in Bor.

5. No one has yet been held accountable for either of these attacks.

6. The following report provides a background to the attacks in Bentiu and Bor in April 2014, a detailed description of those attacks based on the findings of the Human Rights Division's investigations, as well as findings concerning the human rights and humanitarian law abuses and violations that may have been committed. The report closes with an examination of the steps that have been taken towards accountability and provides some recommendations for the way forward.

## **II. Methodology**

7. Information included in the present report was gathered in accordance with human rights monitoring and investigations methodology developed by the Office of the United Nations High Commissioner for Human Rights (OHCHR). Information was obtained from victims, witnesses, and other sources; visits to incident sites; analysis of physical evidence, with the assistance of experts in forensic analysis when possible; and review of available documentation, including medical records, death certificates, and reports by external actors as well as other UNMISS components.

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<sup>1</sup> Security Council Press Statement on South Sudan, 24 April 2014, *available at* <http://www.un.org/press/en/2014/sc11363.doc.htm>.

<sup>2</sup> UNMISS, Conflict in South Sudan: A Human Rights Report, 8 May 2014.

8. The UNMISS Human Rights Division has offices in all 10 States of South Sudan, including the State capitals of Bentiu and Bor. As such, Human Rights Officers were able to begin documenting and investigating human rights violations associated with the April 2014 attacks on Bentiu and Bor almost immediately. In Bentiu, Human Rights Officers visited sites of attacks within days; in Bor, Human Rights Officers were present in the protection of civilians (PoC) site when it was attacked and began their work as soon as the assault ended.

9. Between 20 and 25 April 2014 in Unity State, as security conditions permitted, Human Rights Officers documented the collection of 128 dead bodies from the Bentiu Civil Hospital, mosque, and Kalibalek areas. The location of each body was marked on a map and GPS coordinates and photographs of the condition of the bodies were taken; this documentation and related analysis is on file with the Human Rights Division. In addition, Human Rights Officers ensured the burial of these bodies to facilitate future investigations. For instance, the 37 bodies collected at the mosque were buried in a specific grave in Bentiu. A specific grave was also dug for the bodies collected in the Kalibalek area outside of the mosque.

10. In the aftermath of the attack in Bor on 17 April 2014, UNMISS facilitated the treatment of wounded IDPs at its military clinics in Bor. It was immediately clear that medical evacuations would be required as, at the time, there were no surgical capabilities at the UNMISS clinics in Bor. UNMISS therefore also arranged medical evacuations to Juba, Wau, and Lankien.

11. On the afternoon of 17 April 2014, Human Rights Officers participated in and documented the collection of 46 bodies in the UNMISS Bor compound. The following day, Human Rights Officers, humanitarian actors, and UNMISS military doctors systematically documented the bodies, photographing each individual's face and clothing, and marking each body bag with a number that was later matched to the photographs.

12. Humanitarians and UNMISS staff buried the 46 bodies in a mass grave about 100 metres east of the UNMISS compound, marked by four wooden crosses. Due to the grave's location outside of the UNMISS compound and on-going security threats against the IDPs, members of the IDP community, including relatives and friends of the victims, could not attend the burial. To this day, only a few have ever visited the grave.

13. Between 21 April and 17 June 2014, Human Rights Officers worked to identify the victims. Based on physical descriptions, the locations where they were killed, family identifications of photographs, and other details, Human Rights Officers matched the victims' names with the photographs of the bodies taken on 18 April 2014.

14. In total, 142 interviews were conducted with first- and second-hand sources, including Government and opposition officials. The Human Rights Division assessed the credibility and reliability of witnesses, sought corroboration where possible, and considered whether, in all the circumstances, there was sufficient information for it to report. Information gathered is considered confidential and reported only if informed consent is obtained and documented in writing. Information was not reported if a protection risk was posed by its disclosure and, in addition, the principle of "do no harm" was observed.<sup>3</sup>

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<sup>3</sup> The principle of 'do no harm' means that Human Rights Officers will refrain from collecting information in cases where the risks to an interlocutor's physical safety, psychological well-being, or other risks from interaction with Human Rights Officers might outweigh any benefit offered by the information gathered.

15. The Human Rights Division employed a ‘reasonable grounds’ threshold in making factual determinations. There are ‘reasonable grounds’ to believe that an incident or pattern of conduct has occurred when the Human Rights Division is satisfied that it has obtained a reliable body of information, consistent with other material, based on which a reasonable and ordinarily prudent person has reason to believe that such incident or pattern of conduct has occurred. This threshold is lower than the standard of proof required in criminal proceedings to sustain an indictment, but is sufficiently high to call for further investigations into the incident or pattern of conduct and, where available, initiation of the consideration of a possible prosecution.

16. Several challenges were encountered in investigating the incidents described in this report, most related to security concerns. Human Rights Officers’ movement was often limited due either to United Nations security restrictions or access denials by Government actors, opposition forces, or others. In some cases, this led to delays in visiting incident sites or accessing witnesses and sources. In addition, protection concerns and unwillingness of some interlocutors to provide information posed a challenge to the conduct of investigations.

### **III. Background**

17. Following its violent and rapid outbreak in December 2013, the conflict in South Sudan had largely stabilized by April 2014. Concentrated in three States – Unity, Jonglei, and Upper Nile – the intense fighting which characterized the first months slowly tapered off. While the SPLA/IO initially made quick gains, the Government of the Republic of South Sudan (Government) regained control of State capitals within months, taking control of Bentiu, Unity State, on 10 January 2014, and of Bor, Jonglei State, on 18 January 2014. Malakal, in Upper Nile State, was fiercely contested, with the Sudan People’s Liberation Army (SPLA) recapturing the town on 19 March 2014, after multiple changes of control.

18. In the face of this widespread violence, civilians fled their homes. Tens of thousands of people streamed into PoC sites in UNMISS bases. By 22 April, over 78,000 IDPs were being sheltered at UNMISS bases, out of an estimated over 1,000,000 displaced across South Sudan and to neighbouring countries. In mid-April 2014, approximately 12,000 people were hosted in the PoC site in Bentiu, and 4,800 in the Bor PoC site.

19. Although skirmishes continued in all conflict-affected States, the relative lull in the fighting allowed a slight return to normalcy. In Bentiu, for instance, as of February 2014, there was an influx of Darfuri and other Sudanese traders who came to start businesses in the ruined town. Despite persistent insecurity in February and March 2014, commercial activities slowly increased, particularly in the Suk Saba and Kalibalek markets in Bentiu.

20. Similarly in Bor, Human Rights Officers observed the arrival of mostly Dinka civilians in town in mid-February, beginning to number in the low thousands by March. These were reportedly not only newly displaced persons from other counties of Jonglei State, but also civilians returning home from areas of displacement such as Mingkamman, Lakes State. Commercial activities increased through March, though public administration and education were slow to follow, and a relative lack of governance was seen as an obstacle to the return of a greater number of IDPs.

21. On 14 April 2014, the lull was broken, with the SPLA/IO launching a multi-pronged attack from the northern part of Unity State. The first axis targeted Torabeit, 60 kilometres northwest of Bentiu; a second axis targeted the Mayom junction area and the oil fields in Rubkona County, 35

kilometres north of Bentiu, which resulted in the SPLA/IO overrunning the local oil refinery; and a third axis went through Guit County. On that day, opposition forces reportedly took control of Torjak, Torabeit, Unity Oil Field, and Mayom Junction.

22. With little resistance from Government forces, Bentiu and the nearby town of Rubkona quickly fell under the control of opposition forces. By 09.00 on 15 April 2015, the SPLA/IO controlled the towns, moving into key locations by mid-morning. High-ranking opposition officers entered Bentiu in the late afternoon. At 15.00, General James Koang Chol was named as the Governor of Unity State on Radio Bentiu FM. He announced that Bentiu was under the control of the SPLA/IO and presented the chain of command. Later on the same day, individuals claiming to be affiliated with opposition forces addressed listeners, inciting violence against Dinka individuals, including sexual violence against women from other communities.<sup>4</sup>

23. Casualties, including civilian casualties, were extensive. That same day, Human Rights Officers began receiving reports of gross human rights abuses being committed by opposition forces, including allegations of the killings of civilians at the Bentiu Civil Hospital, the Kalibalek mosque, and elsewhere in the Kalibalek area.

24. Two days later, the Bor PoC site was attacked by a large group of armed individuals, causing heavy casualties including a significant loss of life. While tensions in Bor had been building for months, and rumours of an attack on the PoC site circulated, events in Bentiu served as the trigger.

#### **IV. Bentiu, Unity State**

25. As noted above, February and March 2014 saw an increase in civilian activities in Bentiu. Many civilians, such as Sudanese and other foreigner traders, stayed in Bentiu town, sleeping in the Bentiu mosque.

26. By the end of February, Human Rights Officers noted a significant presence of Darfuri traders in the Kalibalek area. These traders increasingly interacted with soldiers from the Justice and Equality Movement (JEM), an armed group from the Darfur region of the Sudan fighting in support of South Sudanese Government forces. This relationship, based on commercial, family, and security ties, led SPLA/IO soldiers to associate Darfuris with JEM elements. It should also be noted that JEM elements, alongside Government troops, were alleged to have perpetrated serious abuses of human rights against Nuer victims, including conflict-related sexual violence, in the southern counties of Unity State between January and April 2014.

27. In the days preceding the attack on Bentiu and Rubkona on 15 April 2014, rumours circulated of an imminent attack by the SPLA/IO. Reportedly, the SPLA/IO called on civilians to vacate Bentiu and Rubkona ahead of their attack. SPLA and senior State officials, however, sought to dissuade civilians from seeking protection at UNMISS. Radio announcements urged civilians not to panic.

28. Several weeks before the attack, a checkpoint was established about one and a half kilometres away from the UNMISS camp. Reportedly, about a week before 15 April 2014, SPLA soldiers manning the checkpoint were instructed by a senior State official not to allow any civilians to come to the UNMISS PoC site. It appears that this instruction may not have been implemented until 14 April. On that day, Human Rights Officers received information that another checkpoint had been established at the Bentiu bridge, about six kilometres away from the UNMISS camp, and that SPLA

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<sup>4</sup> See UNMISS, Conflict in South Sudan: A Human Rights Report, 8 May 2014.



soldiers were preventing civilians from crossing over the bridge to come to UNMISS. Due to the security situation, Human Rights Officers were unable to verify this information.

29. On the morning of 14 April 2014, several traders in the Kalibalek area saw civilians rushing from Torabeit, approximately 50 kilometres from Bentiu, where fighting between Government and opposition forces was reported. Out of fear, they closed their stores. At least one member of the State Government reportedly visited the Kalibalek area that day and told traders and other civilians that they were being protected. Despite this assurance, many traders tried to reach the UNMISS camp. Upon reaching the Bentiu Bridge, at least two witnesses saw a high-ranking State official instructing SPLA soldiers stationed at the Bridge to stop anyone from crossing over. As a result, many civilians were prevented from crossing and turned back to Bentiu.

30. On the morning of 15 April 2014, as SPLA/IO forces approached, traders reported that civilians from the Nuer community started looting the Kalibalek market. The looters were allegedly driven out by SPLA forces still in the area.

31. With the SPLA/IO attack on Bentiu and Rubkona on 15 April 2014, gross abuses of human rights were reported, including from areas where civilians had been living and seeking shelter. In the Kalibalek area, for instance, one individual claimed to have witnessed the summary execution of five Sudanese men by soldiers on the road leading to the mosque. Between 20 and 24 April 2014, Human Rights Officers documented the presence of 81 dead bodies, 79 in civilian clothes and two in military fatigues, in this area.<sup>5</sup> The bodies were found in 21 separate locations, spread widely throughout Kalibalek (see Figure 1). In at least four of the locations where bodies in civilian clothing were found, the bodies had their hands tied behind their back or had evident bullet holes to the head.

#### ***i. Killings of civilians at Bentiu Civil Hospital***

*“They lined up about 20 Darfurians, who were tied with their clothing [...], and told them to run to save their lives. When they ran, soldiers shot at them outside of the gate.”<sup>6</sup>*

32. Following reports that the SPLA/IO were advancing, civilians began seeking refuge at the Bentiu Civil Hospital on 14 April 2014, with more arriving after fighting between Government and SPLA/IO forces began at approximately 06.30 on 15 April 2014. Those gathered at the Hospital included both Nuer and Dinka civilians, as well as foreign nationals such as Sudanese and Ethiopians.

33. According to witnesses, a group of armed fighters arrived at the Bentiu Hospital at around 08.30 or 09.00 on 15 April 2014. By that time, SPLA/IO forces were in control of Bentiu.

34. Almost immediately upon their arrival, the fighters reportedly shot and killed between two and four Darfuris outside of the Hospital’s main gate. Shortly thereafter, between 20 and 50 fighters entered the compound, while as many as 75 surrounded it. According to multiple witnesses, Nuer civilians seeking shelter at the Hospital, including women and youth, came out of hiding when the fighters arrived, greeted them, and in some cases celebrated their arrival with cheers.

35. The fighters began searching the Hospital building by building and room by room. Witnesses reported that the fighters were looking for specific individuals or groups, including Government

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<sup>5</sup> Human Rights Officers also ensured their burial to facilitate future investigations.

<sup>6</sup> Quotations are verbatim excerpts from notes of interviews conducted by Human Rights Officers. Due to translation and other issues, these may differ from the exact words provided by interview subjects.

officials, Dinkas, and JEM elements. One witness reported that the fighters were asking for State officials by names and titles.

36. Fighters forced their way into buildings and rooms, ordering everyone to come out. One witness reported that some Hospital workers identified individuals who had been “loyal” to the Government or not when Bentiu was under Government control. Another witness stated that the fighters saw a Dinka they knew and began shooting at him. This reportedly caused some Sudanese to come out of hiding and mingle with the Nuer population to avoid being shot. Some people were pulled out of hiding by fighters, or stopped while attempting to run away. Others were summarily shot when they came out of hiding.

37. In the staff accommodation building, the fighters found a room locked from the inside. When the occupants would not open the door, fighters shot through the door, killing at least four people inside. Several sources indicate that one woman and one hospital staff member were among the dead. Those killed belonged to the Nuer ethnic group.

38. During a site visit to the Hospital on 19 April 2014, Human Rights Officers observed numerous bullet holes in the door to a bedroom in the staff accommodation building. The bullet holes appeared to have been made from outside the room, at relatively close range. There was blood on the floor and walls of the room.

39. The fighters gathered several people outside of the Hospital, in an area near the staff accommodation building and the cemetery. The assembled group reportedly consisted of around 80 men, largely of Darfurian and Nuban ethnicities, with three to four Ethiopians.

40. From this group, the fighters selected several men by name. One was a Dinka State Government official (V1) and a second was a former public official (V2), related to a high-level State official, also Dinka by ethnicity. According to witness testimonies, the fighters asked one of the officials for his mobile phone, money, and other valuables. A fighter then ordered V1 to the cemetery area, outside of the rear gate of the Hospital. V2 reportedly saw this and warned V1 not to go, but the fighters forced V1 out the rear gate. V1 proceeded out to the cemetery area with the fighters. Two witnesses saw a fighter shoot V1 in the back. A third reported having seen V1’s dead body.

41. Simultaneously, V2 refused another fighter’s orders to go to the cemetery. V2 was then shot four times in the left arm and chest. He fell unconscious but survived the attack, and was thereafter taken by Hospital workers to the operating theatre for surgery.

42. Other individuals were chosen from the assembled group on the basis of their ethnicity. In particular, individuals originating from Darfur, elsewhere in the Sudan, or who appeared to have light skin, were selected. They were gathered in a large group of between 20 and 40 individuals.

43. Some of these men may have been spared. One witness reported that out of the Sudanese who were gathered, at least four were known to the fighters as having resided in Bentiu for a long time and were therefore allowed to leave. Another witness stated that he saw some Darfuris negotiating and offering money to fighters outside the rear gate.

44. The fighters accused members of this group of supporting the SPLA. They were ordered to give their money, mobile phones, and other valuables. Their hands were tied behind their backs with their own shirts. In some cases, the men were tied together in groups of two or three and were ordered by the fighters to run “for their lives.” When they ran, fighters shot at them. Some managed to escape,

while others were killed. In other cases, small groups of men were led out of the rear gate towards the cemetery and summarily shot dead. There are reasonable grounds to believe that at least 15 civilians were killed in this incident.

45. Two commanders, with their rank evident from their uniforms, were observed by at least two witnesses to be supervising the killings. This included a “two-star” officer who, according to a witness, was seen ordering the shooting of Darfuris with their hands tied. Another witness reportedly spoke to the commanders during the incident, asking for the release of a specific victim. The commander reportedly ordered the release but the order was not heeded by the fighters.

46. The attack reportedly continued until approximately mid-day. According to one witness, a senior SPLA/IO commander learned of the killing and ordered that it stop. The fighters present in the Hospital were ordered to leave, and the senior SPLA/IO commander sent another group of fighters to secure the Hospital and guard the remaining civilians inside.

47. During a visit to the Hospital on 19 April 2014, Human Rights Officers observed approximately eight bodies in two separate groups approximately 100 meters from the front of the Hospital, although it could not be established if they were killed at that location. Approximately 19 dead bodies were also observed in a ditch outside the rear gate, including one woman and one man with his arms tied behind his back (see Figure 2). The Darfuri community provided the names of 23 people they believed were killed at the Hospital to the Human Rights Division. Based on the information available, there are reasonable grounds to believe that at least 19 civilians were killed at the Bentiu Civil Hospital.

## **ii. Killings of civilians at Kalibalek mosque**

*“One soldier with a machine gun started shooting ... then when he saw that many people were lying down, he came inside from the south door and started shooting to make sure they die.”*

48. After being unable to proceed to the UNMISS base on 14 April 2014, several traders returned to the Kalibalek area. After returning to the mosque, police and/or SPLA officers reportedly requisitioned the traders’ trucks, claiming that they needed to transport SPLA soldiers to Kilo 30 and Torabeit, outside of Bentiu. Those who refused were allegedly beaten. A small committee of seven traders was formed who went to the police station to discuss their protection. After requesting 100 South Sudanese Pounds (SSP) per officer, the head of the police station reportedly dispatched a dozen police officers to protect the mosque.

49. Hundreds of people were already living in the mosque at that time. On the morning of 15 April 2014, others – in particular Ethiopian traders – joined them as the fighting intensified. One of them told Human Rights Officers that he initially wanted to leave Bentiu for a nearby village, but as opposition forces were coming from many directions, he thought the mosque would be safer.

50. Between 09.00 and 10.00, the SPLA/IO reached the Bentiu town centre. As a result of the intensity of the shooting, the police officers who were supposed to protect the mosque fled the area. Over the course of the day, three distinctive groups of armed elements entered the mosque compound.

51. According to a witness who was in the compound, a few minutes after the police left, 20 armed elements entered by the northwest and southwest gates of the mosque compound. The fighters were wearing military uniforms as well as civilian clothing. Most had facial markings similar to those of the Nuer community, with six lines cut across the forehead.

52. These fighters began to fire at people. As a result, most people ran towards the mosque's building to take cover. According to four witnesses, at least three people were killed in the courtyard of the mosque – including the brother of a witness who was shot at and the sister of another source who was seriously injured.

53. When the shooting occurred, the civilians already inside the mosque closed and locked the three main doors (see Figure 3, D1, D2, D3). The fighters surrounded the building, shouting at the civilians and asking them who they were. The civilians replied that they were traders. As the doors of the mosque were closed, fighters broke the windows and demanded that the people inside provide money, clothes, bags, and phones. One source indicated that out of fear, people inside the mosque opened the doors and let the soldiers in. As the building was overcrowded, the fighters only managed to rob those close to the doors and the windows.

54. This group of fighters reportedly stayed between 30 minutes to slightly over an hour. They left without killing further civilians. As heavy shooting was still reported outside the mosque compound and as few people had been killed around this time, most civilians chose to remain inside the mosque thinking that it was safer than outside.

55. About half an hour later, a second group of fighters arrived. Among them were individuals in military uniforms, as well as individuals in civilian dress with machetes and firearms. This group went inside the mosque, and demanded money, mobile phones, and other valuable items. Suddenly, several fighters reportedly opened fire.

56. The exact sequence of events and what triggered the shooting remains unclear. It appears that one fighter in a military uniform with a machine gun, came through a door and opened fire (see Figure 3, D3). It is unclear how long the fighter fired for, but one victim reported that he managed to reload his machine gun during the shooting. There may also have been a second shooter, standing at the entry of another door (see Figure 3, D2). Several fighters were seen shooting through the windows.

57. In visits to the mosque on 21 and 24 April 2014, Human Rights Officers observed that the 12 windows of the mosque were broken. Over 185 bullet casings were found, both inside and outside of the mosque. The impact of bullets was concentrated on two sections of the walls of the mosque, suggesting that shooting either took place within the building, or through its windows. Bullet casings were found at the bottom of two broken windows, indicating that shooting occurred through the windows.

58. According to an analysis carried out by an independent international organization in May 2014, the cartridge casings were a mix of 7.62 x 39 mm (for AK-pattern assault rifle) and 7.62 x 54R mm (for general-purpose machine gun (GPMG)).<sup>7</sup> The GPMG cartridge cases were particularly concentrated around one door to the mosque and within the adjacent veranda. The location of the GPMG cartridge cases suggests that machine gun fire was directed into the mosque from the main doorway.

59. After the shooting ceased, one source reported that fighters went back into the mosque to take valuables. Some fighters also allegedly abducted a baby whose mother had just been killed. One Ethiopian trader, lying on the ground, was recognized by several fighters. The fighters reportedly told him that he had nothing to do with the mosque and helped him outside. Fighters then called Ethiopian nationals to identify themselves. According to a witness, six people identified themselves, including

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<sup>7</sup> Small Arms Survey, Arms and Ammunition Tracing Desk Report, "Small Arms Ammunition Documented at Bentiu Mosque, May 2014," 24 July 2014, at 1.

two Darfuris pretending to be Ethiopians. These six people were eventually escorted by the fighters to the Bentiu Hospital.

60. Other fighters, including two allegedly belonging to the Misseriya ethnic community, called for the Misseriya to come outside. Many Sudanese who, according to witness testimonies, looked similar to those of Misseriya ethnicity, came out in hope they would not be recognised. They were brought to the minaret. However, a fighter who appeared to belong to the Nuer community argued with the Misseriya fighters, stating that it was not possible that all those next to the minaret were Misseriya, and that members of the Darfuri community were probably among them. After calling them names such as criminals or liars, some Nuer fighters opened fire on the group gathered at the minaret. Witness testimonies vary on the number of persons killed, with one person stating that 30 were killed, another estimating 40, and another estimating 15.

61. After this last shooting, most fighters left the mosque compound.

62. At around 15.00, two SPLA/IO military officers arrived at the mosque escorted by their bodyguards. Upon seeing the dead, one source reported that they asked the survivors who was responsible and were told that it was their forces. The officers asked their bodyguards to guard the two gates and to bring water and something to eat to the survivors. The officers expressed dissatisfaction with the killings.

63. The two officers settled in the middle of the compound yard under some trees and requested the survivors to move the wounded and the dead bodies outside the mosque building. One of them allegedly intervened to stop a fighter who was firing on civilians in the compound. These officers stayed for about two hours. Before leaving, they requested their bodyguards to remain behind in order to secure the mosque compound.

64. The two officers reportedly came back around 18.00. They informed the survivors that they would continue to provide security at the mosque and would transport the wounded people to Bentiu Hospital, provided that their bodyguards were paid. According to one source, the traders initially proposed to pay 1,500 SSP, but the SPLA /IO officers refused, arguing that it was not enough and demanded 5,000 SSP. Other sources reported that the amount demanded was between 3,000 and 8,000 SSP. The traders managed to collect the sum.

65. Later that evening, a Misseriya leader who was known to at least one witness, arrived at the mosque with several Misseriya armed elements. After introducing himself, he asked the members of the Misseriya community who were still alive to identify themselves. According to witnesses, about a dozen came forward, including two injured. Some Darfuri implored to also be taken away. Eventually, the Misseriya and the Darfuris left the premises with him. Before leaving, the Misseriya leader reportedly confirmed to the others that vehicles would come soon to pick them up.

66. At around 20.00, a dump truck and at least two 4 x 4 vehicles arrived at the mosque. These vehicles were first used to transport the survivors to the Bentiu Hospital. At least two witnesses reported that some of these survivors were beaten and robbed by other patients and SPLA/IO fighters at the Hospital. One witness reported that about 150 wounded were brought to the Hospital. Hospital personnel told the Human Rights Division that records of these patients were not kept due to the situation at the time.<sup>8</sup>

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<sup>8</sup> The following day, 16 April 2014, UNMISS extracted patients from the Hospital and transported them to the UNMISS PoC site. Human Rights Officers were informed that 125 patients arrived and that the majority had gunshot wounds.

67. Once most of the survivors had left the mosque, the officers identified about 30 able-bodied persons to load the dead bodies into the dump truck. Reportedly, these people were split into two groups. The first group of about 25 persons was tasked to move the bodies scattered across the premise to the southwest gate while the remaining five were charged with loading the bodies. Several hours were needed to complete the task. In total, according to credible witnesses, over 250 bodies were loaded into the truck.

68. At least 37 bodies were left behind. One witness indicated this was because the group was told they needed to finish their work. Among the 30 survivors, nine were made to leave with the fighters in order to unload the bodies at the destination. They were forced to sit on top of the bodies at the back of the truck.

69. The truck, escorted by two military pick-ups, reportedly left the mosque at around 02.00 on 16 April 2014. It took more than two hours to reach Khaljak, 30 kilometres from Bentiu. Approximately five minutes after passing Khaljak, the convoy turned to the left, took an adjacent track and drove on for a few kilometres before stopping. According to one source, the nine survivors were then stripped of their identification papers and instructed by a SPLA/IO officer to unload and dump the bodies into a water drainage trench.

70. At dawn, after unloading the bodies, the convoy drove towards Torabeit where other SPLA/IO fighters were picked up. The convoy returned to Bentiu in the course of the afternoon. Upon reaching Rubkona, the nine survivors were dropped off at the Pakur checkpoint and ordered to go to the UNMISS camp.

71. On 20, 23, and 25 April 2014, Human Rights Officers observed the removal of 37 bodies from the mosque, including 3 female bodies (see Figure 3). Witness testimony indicates that those killed included several women and children.

### ***iii. Conclusion***

72. There are reasonable grounds to believe that hundreds of civilians were targeted and killed by SPLA/IO forces on 14 April 2014 in Bentiu. At least 19 civilians were killed at the Bentiu Civil Hospital, and approximately 287 civilians were killed at the mosque. There is also reason to believe that civilians were killed elsewhere in Bentiu, as indicated by the presence of bodies in civilian clothing with their hands tied behind their backs in Kalibalek.

73. Sudanese community leaders provided the names of 333 individuals whom they believed were killed across Bentiu and Rukbona on 15 April 2014, of whom 273 were reportedly killed at the mosque. The age of the victims ranged from two to over 70 years old, including three children, aged two, nine, and 12. The majority of the deceased were seemingly from different tribes in Darfur, while a small proportion were from the Misseriya and Nuba communities. The number of fatalities provided by the community leaders is roughly consistent with numbers obtained by Human Rights Officers through interviews.

74. At both the Bentiu Hospital and Kalibalek mosque, there are reasonable grounds to believe that fighters affiliated with SPLA/IO forces were the perpetrators of the attacks. Both attacks took place after Bentiu was known to have been under the control of the SPLA/IO. A witness reported that celebrations occurred in the Hospital to welcome the fall of Bentiu to the SPLA/IO. Survivors described the majority of perpetrators at the mosque as having rifles and other military-type weapons and wearing military uniforms. The involvement of higher-ranking officers around noon at the

Hospital, and around mid-afternoon at the mosque, is consistent with information that senior SPLA/IO officers entered Bentiu only after fighting ceased, in the afternoon. In both attacks, victims were reportedly targeted based on perceived support to the Government or Government forces, particularly those of Dinka and Darfuri origin.

75. In meetings with the Human Rights Division on 21 and 25 April 2014, senior SPLA/IO officials denied the involvement of SPLA/IO forces in the killings. One implied that those killed in the mosque were JEM combatants, not civilians, and that they might have been killed by armed Nuer civilians in retaliation for abuses committed by JEM forces. A high-level SPLA/IO official made the same claim to the media on 21 April 2014. On 22 April 2014, international media reported that an SPLA/IO spokesperson stated that retreating Government forces had perpetrated the killings.<sup>9</sup> No evidence has been offered in support of these claims. In subsequent interviews with the international media, including on the BBC programme Hard Talk, SPLM/ IO leader Riek Machar acknowledged the killings in Bentiu and indicated that he would investigate the allegations.<sup>10</sup>

76. Thousands of civilians were displaced from their homes in the wake of the attack. The number of civilians in the UNMISS Bentiu PoC site increased from approximately 12,000 on 15 April to 22,500 by 22 April 2014.

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<sup>9</sup> AFP World News, “S. Sudan rebels deny massacres, blame government”, 22 April 2014, at 1.

<sup>10</sup> BBC World News, Hard Talk, Interview with Riek Machar, 12 May 2014.

Figure 1. Bentiu – Kalibalek area.

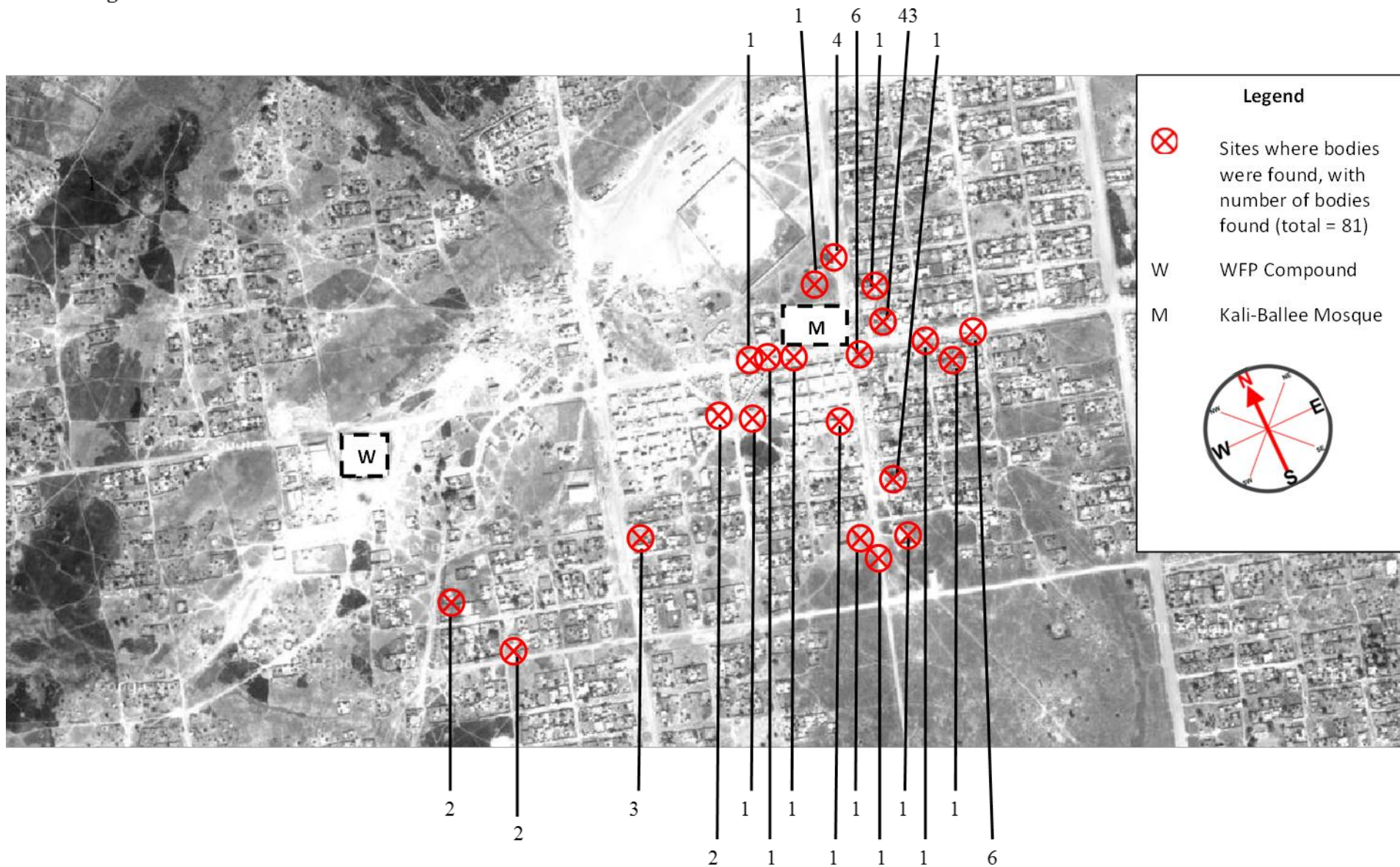




Figure 2. Bentiu Hospital

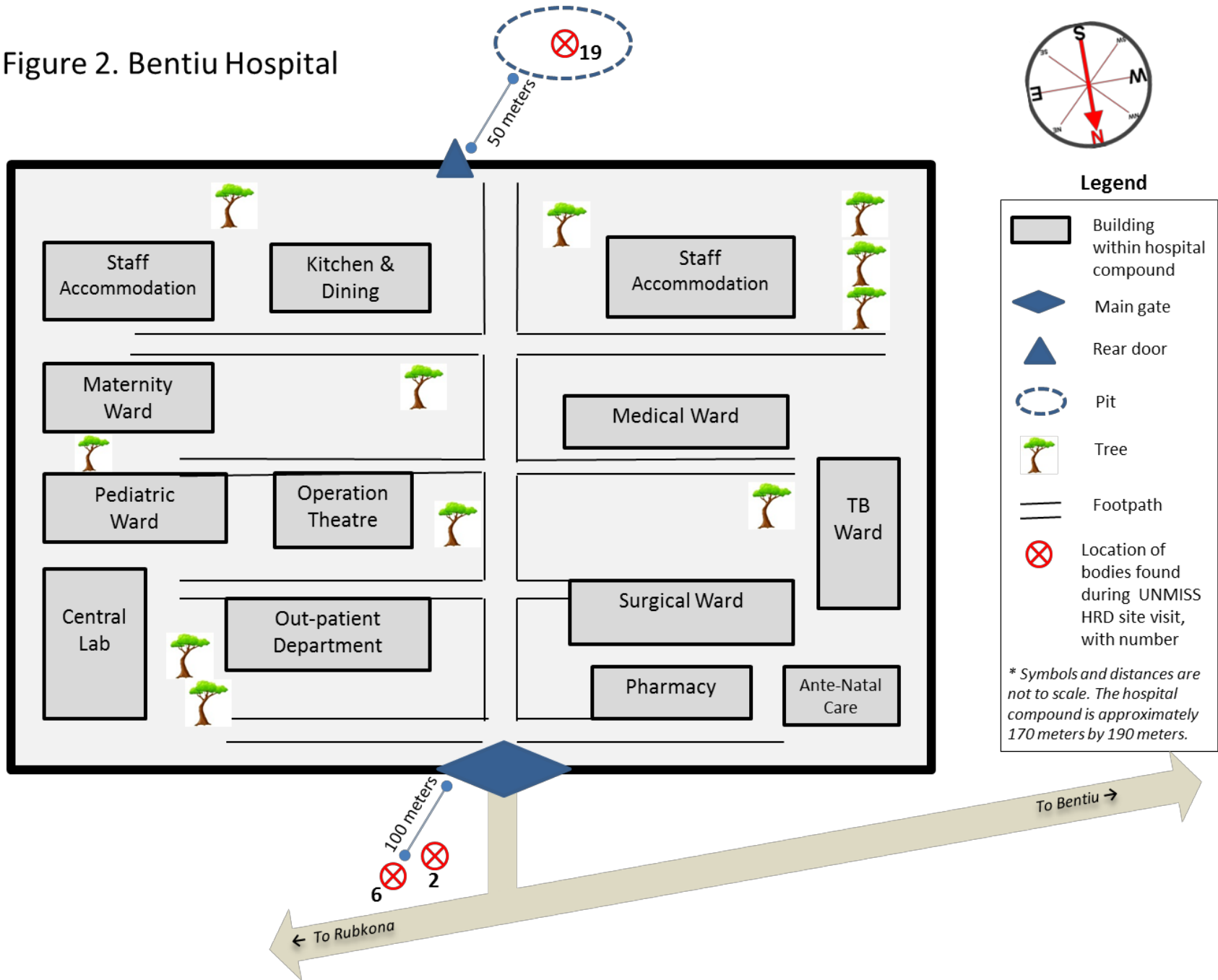
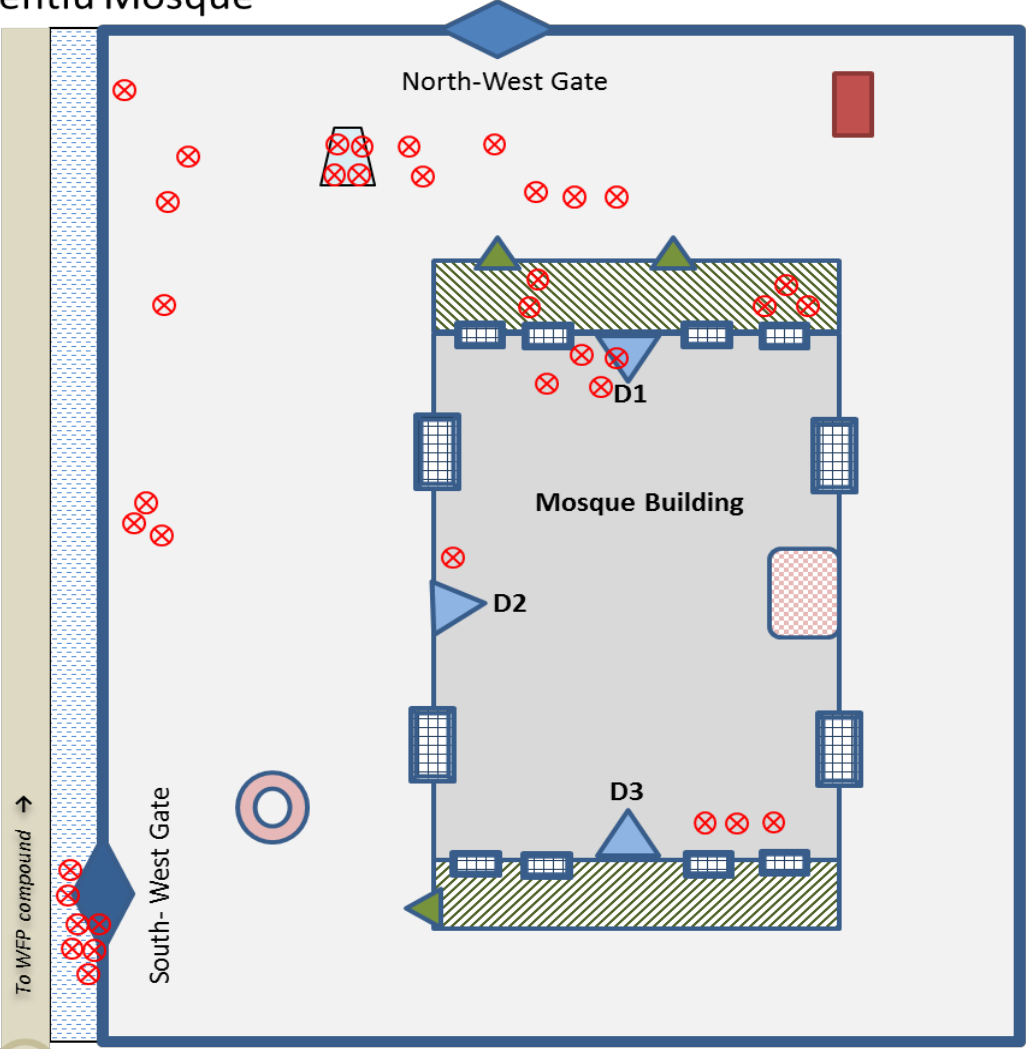


Figure 3. Bentiu Mosque

\* Symbols and distances are not to scale. The mosque building is approximately 14 metres by 29 metres. The entire mosque compound is approximately 70 metres by 110 metres.



**Legend**

- Windows
- Doors (D1= Door 1, etc.)
- Verandah
- Closed verandah
- Gates to mosque compound
- Iman's stand
- Shack
- Toilet
- Vendor stalls
- Minaret
- Roundabout
- Location of bodies found during site visit (one per symbol)

## V. Bor, Jonglei State

77. With the outbreak of fighting on 18 December 2013 in Jonglei State, thousands of individuals with diverse ethnic backgrounds sought protection in the UNMISS base in Bor. When the Government retook control of Bor from 25 to 30 December 2013, individuals of Dinka origin left the UNMISS PoC site in large numbers, with many crossing the Nile River to Lakes State, while others departed for Juba or areas outside of South Sudan. Similarly, many foreign nationals and South Sudanese individuals of other ethnicities left when they had the opportunity. Many Nuers remained, fearful of reprisals by Government forces. As a result, by late February 2014, the vast majority of civilians residing in the site were of Nuer ethnicity, while almost all civilians residing in Bor town were Dinka. This separation of the two communities, Nuer and Dinka, along with reports of atrocities by both Government and SPLA/IO forces, enflamed tensions and polarized the communities.

78. Despite the apparent improvement in security in Bor, tensions rose. In February 2014, the Human Rights Division received reports of harassment by State security forces against IDPs who went out of the PoC site. Beginning in mid-March 2014, Human Rights Officers recorded several incidents of harassment, abduction, disappearance, maiming, and killing of IDPs who went outside of the PoC site, in some cases in view of United Nations peacekeepers. In one case, a Nuer man was apprehended outside the PoC site on 13 March 2014 by armed, uniformed men. His whereabouts remain unknown and he is presumed dead. Human Rights Officers also received reports that IDPs had been threatened and told that all foreigners or non-Nuers should leave the PoC site before the Government attacked it. Due to reported violations against civilians leaving the Bor PoC site, nearly all IDPs were reluctant to leave.

79. Such incidents fuelled tension within the PoC site, and reports were received of hostilities against IDPs perceived to be cooperating with the Government. In one case, a man in the site believed to be an employee of the South Sudan National Police Service (SSNPS) was severely assaulted on suspicion that he was providing intelligence to the SPLA.

80. Rumours of an impending attack on the PoC site had been gaining momentum several weeks before the attack took place on 17 April 2014. The claim was frequently made that the IDPs represented a threat to the security of Bor town. Some believed that the IDPs were harbouring weapons and would harm the Bor community if opposition forces ever regained control of the town. A foreigner residing in the PoC site was detained by armed, uniformed men outside of the site in March 2014. The men who detained him allegedly said that the SPLA planned to carry out an imminent attack on the PoC site to kill all Nuer IDPs. The victim was reportedly advised to tell all foreigners in the PoC site to leave immediately.

81. The attack on Bentiu by SPLA/IO forces on 15 April 2014 provided the catalyst. Reports that the IDPs in the Bor PoC site celebrated the fall of Bentiu<sup>11</sup> reportedly led some Dinka in Bor to want to seek revenge on the Nuer IDP population in the Bor PoC site.

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<sup>11</sup> See Letter dated 17 April 2014, Bor Community Youth Association, "Sub: Bor Youth Demanding Urregent [*sic*] Evacuation [*sic*] of Nuer White Army Youth in UNMISS Camp Jonglei State-Bor Within Seventy Two Hours (72)." Also Reuters UK, "South Sudan deploys army to guard UN base after attack kills dozens", 18 April 2014, *available at* <http://uk.reuters.com/article/2014/04/18/uk-southsudan-unrest-idUKBREA3H0EB20140418>, at 1.

***i. Attack on UNMISS Bor protection of civilians site***

*“If you are Nuer, come out or else we will come and kill you inside.”*

82. In the morning hours of 17 April 2014, a group of youth<sup>12</sup> gathered and marched through Bor, ostensibly to protest against the presence of IDPs staying in the UNMISS Bor PoC site and demand their evacuation. The group first marched to Government offices, but the Governor was not present to receive them. The youth then proceeded toward the UNMISS compound, approximately five kilometres outside of town, directly down a single road (see Figure 4). Witnesses reported that while the crowd was moving through town, gunshots could be heard.<sup>13</sup> According to Government officials, the SSNPS attempted to stop the youth from advancing, but were unsuccessful.

83. According to one witness, dozens of youth on motorbikes were at the front of the crowd, followed by a large truck filled with nearly 100 people, followed by more individuals on foot. The people in the group were in civilian clothing, and were almost all men between the age of 20 and 40 years old. The witness saw a few signs in the crowd, but could only make out the words on one: "We don't want White Army in Bor",<sup>14</sup> written in English. The witness further noted that the crowd was angry and armed, with AK-47s, machetes, and long wooden sticks, leading the witness to conclude that it was a violent mob.

84. After the crowd passed the Bor airport, about 500 metres from the UNMISS compound, witnesses reported seeing between 100 and 300 individuals in civilian clothing, mostly men, walking rapidly. No vehicles were observed at this point.<sup>15</sup> Many individuals in the mob were carrying long sticks and poles, which they raised in a threatening manner. Two witnesses saw a few individuals carrying guns, but reported that there were very few.

85. UNMISS had been alerted by individuals in Bor town about the impending arrival of a demonstration, first receiving the information around 09.30. Expecting demonstrators to approach the UNMISS main gate, UNMISS security stopped traffic in and out of the gate and physically closed the vehicular gate.

86. After passing the airport, the crowd reached a junction in the road. The UNMISS compound is located at the southeast corner of the junction (see Figure 4). The main gate of the UNMISS compound is located on the west perimeter of the compound while, at that time, the PoC site was located at the back, with its gate on the eastern perimeter, directly opposite from the main gate. As such, had the crowd turned right at the junction, it would have arrived at the main gate to the compound.

87. Instead, the crowd proceeded directly ahead, towards the PoC site. Several witnesses reported that around 20 SSNPS, SPLA, and Uganda Peoples' Defence Force (UPDF) personnel, along with one or two vehicles, were at the junction at the time. According to two witnesses, the security forces directed the crowd to continue straight through the junction. Other witnesses reported that the security forces did nothing to stop the advance.

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<sup>12</sup> In South Sudan, 'youth' are defined as males between 18 and 45 years old.

<sup>13</sup> See 18 April 2014, Jonglei State Governor's Office, "Press Release: Bor UNMISS Compound's Incident." On file with UNMISS Human Rights Division.

<sup>14</sup> The 'White Army' is the name for a group of Nuer armed youth which operates out of the opposition strongholds of Nassir in Upper Nile State and Greater Akobo in Jonglei State.

<sup>15</sup> One witness reported seeing between 15 to 20 motorbikes parked off the road, west of (before) the airport, suggesting those initially on motorbikes may have proceeded from that point on foot.

88. As the crowd proceeded, a lone motorbike approached the UNMISS main gate. Two young men wearing civilian clothing drove up to the gate at high speed and stopped abruptly. Seeming agitated, they asked the security officer present, “Are you UN?” When he replied affirmatively, one of the young men handed him a letter.<sup>16</sup> The security officer asked the men, “Who are you?” to which they replied, “Fuck you! You will see!” The men immediately drove off. Within three minutes, shots were fired by the attackers at the PoC site.

89. The crowd proceeded along the northern perimeter of the UNMISS compound, reaching the eastern corner. While some individuals stayed along the northern perimeter, the majority rounded the corner, positioning along the eastern perimeter where the PoC gate is located (see Figure 4). One UNMISS military source with an elevated view, as well as one IDP looking over the berm wall,<sup>17</sup> reported that 50 to 60 individuals arrived from the east and joined the crowd. UNMISS military officers saw 15 to 20 uniformed SPLA and SSNPS personnel standing in the vicinity, observing.

90. Upon their arrival, while jeering and yelling, individuals in the crowd began throwing projectiles such as rocks, bottles, and sticks over the berm walls into the PoC site. Members of the crowd then began pounding on the PoC gate. Two IDPs reported hearing a whistle, as if to signal the attack should begin.

91. Shooting started almost immediately, at approximately 10.55. Several witnesses reported seeing armed men standing outside the PoC site on elevated surfaces, firing downwards directly into the PoC site. Nearly simultaneously, some of the attackers breached the perimeter of the PoC site. At first, 20 to 30 men climbed over the berm wall at vulnerable gaps. These men met UNMISS military personnel, whom they overpowered, and then proceeded to open the PoC gate from the inside, allowing scores of attackers to enter.

92. Shooting continued, now both from inside and outside the perimeter walls. Several individuals maintained positions outside the PoC site, along both the northern and eastern perimeters, shooting into the site from different directions. UNMISS military and IDPs told Human Rights Officers that in addition to AK-47s, which were predominantly used, some attackers used machine guns. At least four IDPs reported seeing a single shooter up a tree along the northern perimeter who was allegedly acting as a sniper, targeting individuals inside. Many injured victims and those who saw people getting shot did not see a shooter, suggesting the shots came from a distance.

93. Once the shooting began, IDPs fled *en masse* southwest, toward the interior of the UNMISS compound, in an effort to escape the attack (see Figure 5). This required most to scale dirt berm walls and climb over barbed wire separating the PoC site from the rest of the UNMISS compound. Countless IDPs were injured in the process, including many who were trampled in the stampede to escape. As IDPs fled the violence, they took refuge in UNMISS offices and accommodation, though most headed directly for the UNMISS Korean and Nepalese contingent camps.

94. UNMISS military officers reported that shots were fired toward the PoC site from the southern perimeter while IDPs were fleeing in that direction. One witness reported that five or six

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<sup>16</sup> The letter was from a group called the Bor Community Youth Association, demanding that the IDPs in the Bor PoC site – who the letter alleged were “Nuer White Army youth” – be evacuated from the PoC site within 72 hours: Letter dated 17 April 2014, Bor Community Youth Association, “Sub: Bor Youth Demanding Urregent [*sic*] Evacuation [*sic*] of Nuer White Army Youth in UNMISS Camp Jonglei State-Bor Within Seventy Two Hours (72).”

<sup>17</sup> At the time, the berm wall on the external perimeter of the PoC site was no more than two meters high, and in many places was lower, as the dirt wall had eroded. Moreover, the wall could easily be scaled, as the sides were sloped, not at 90 degree angles.

men in civilian clothing armed with AK-47s were moving west, along the outside of the southern perimeter of the compound – indicating that attackers had positioned along three sides of the UNMISS compound.

95. In addition to the broad spray of fire from outside the PoC site, attackers targeted victims at close range. Attackers went from tent to tent, pulling IDPs out. In some cases, the attackers did not carry firearms but sticks, machetes, or other weapons. Upon entering the tents, they would harass, threaten, and beat the occupants. In many cases they would also demand money and mobile phones. Those who resisted or refused were shot by other men waiting outside with guns.

96. Many IDPs recognised individual attackers, either as someone they knew by name or only as someone familiar. Several reported the involvement of one specific individual, a Dinka youth, who had previously stayed in the PoC site.

97. Some IDPs were abducted during the attack. Several witnesses, including survivors of abductions and attempted abductions, reported that they saw armed attackers forcing women and girls to leave the PoC site. According to relatives of one woman taken out of the PoC site, the abductors had a long argument over who should have the woman as his “wife.” After the attackers failed to agree, the woman was forcefully taken to Bor. In another case, a young girl, along with several female relatives, were threatened and forced to the PoC gate by several attackers. When the attackers began to beat her relatives, the young girl managed to escape, running back into the PoC site. Her relatives were forcefully taken away.

98. Once inside, attackers began to ransack and loot the PoC site, including the market, located near the PoC gate that had been breached. Looters took large items such as motorbikes, bicycles, and solar panels. They ransacked shops and residential tents, taking suitcases full of goods, as well as money, certificates, mobile phones, and other items. After the attack, Human Rights Officers observed household goods, including everyday items ranging from onions to diapers, strewn about inside and outside the PoC site.

99. Witnesses reported that throughout the attack, it was evident that the intent was to target and kill Nuer IDPs. According to witnesses, the attackers were targeting IDPs based on their Nuer facial markings, six lines cut across the forehead. If IDPs had no markings, the attackers asked them in the Dinka language which tribe they were from, and if the IDPs could not respond in Dinka, they were killed or beaten.

100. This intent was also evident from the threatening language many attackers used, as reported by witnesses and survivors: “These are bad people. Nuer are bad people.” “We are coming to kill Nuer here. Whether they run to Korea or India, we will kill them.”<sup>18</sup> Several Dinka IDPs, most of whom are in mixed marriages or are otherwise related to Nuer IDPs, told Human Rights Officers that the attackers questioned and harassed them for staying in the PoC site: “If you are Dinka, go out, why are you here with these people?” “Why are you here if you are Dinka? Have you joined with the Nuer?” “You are Nuer, you are just pretending to be Dinka.”

101. Information indicates that individual static UNMISS military personnel engaged the attackers from various sentry posts along the northern and eastern perimeters. A quick reaction force (QRF) was deployed 20 minutes into the firing, reaching the PoC site approximately 30 minutes after

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<sup>18</sup> “Korea” and “India” refer to two of the military contingent camps (South Korean and Indian) in the UNMISS compound in Bor.

shooting began. One QRF had to move into the PoC site using the same route as thousands of IDPs fleeing in the opposite direction, likely causing delay. Another QRF, intending to move around the perimeter of the UNMISS compound to the north and east, flanking the attackers, was reportedly stopped by the SPLA on the road and told to return to the UNMISS compound.

102. Once inside the PoC site, the QRF opened fire on the attackers, with rifles, machine guns, and rounds from an armoured personnel carrier (APC). Information suggests firing was directed outward, as firing inside the PoC site would have endangered IDPs and UNMISS personnel. This use of force killed and injured several attackers; 10 to 15 minutes after the QRF's arrival, the attack subsided.

103. Once the main thrust of the attack had ended, UNMISS senior military personnel met a UPDF commander as well as SPLA officers at the UNMISS main gate. The UPDF stated that they were cordoning off the UNMISS compound and securing the Bor airport for air operations and medical evacuations. The SPLA stated that they were beginning to collect bodies outside the UNMISS compound.

104. By this stage, almost all IDPs had relocated to the UNMISS South Korean contingent camp next to the PoC site (see Figure 5). For at least two hours after the attack, as the humanitarian response was underway, single rounds of gunfire continued to be heard, though sporadically, predominantly from north of the UNMISS compound. Around 12.55, a rocket-propelled grenade (RPG) launched from the west, near the Bor airport, flew over the UNMISS compound and landed east of the PoC site without exploding. Simultaneously, but unrelated, a fire broke out in the PoC site, burning one tent.

## ***ii. Conclusion***

105. At least 53 individuals died as a result of the attack on the Bor PoC site. There are reasonable grounds to believe that 47 of those killed were IDPs and three were perpetrators, while the identities of three other deceased remain unknown. The vast majority of those killed sustained gunshot wounds. There are reasonable grounds to believe that civilians were targeted based on their ethnicity.

106. Of the 47 IDP victims, 19 were adult males; 17 adult females; four male children (aged eight, seven, three, and two); and seven female children (aged 17, 15, 14, 11, 10, five years, and eight months). At least two of the victims were pregnant at the time they were killed. The three perpetrators were all adult males. The unknown deceased were two adult males and one adult/adolescent female.

107. Of the 53 confirmed deaths, 46 bodies were found inside the UNMISS compound, while three were found just outside the perimeter on the day of the attack (see Figure 5).<sup>19</sup> Four more succumbed to their injuries in subsequent days. Human Rights Officers have verified the identities of 47 of the deceased (see Annex 1).

108. Figures provided by community leaders, including to the media and to the Human Rights Division, have differed on the number of individuals killed in the PoC site. Community members have indicated that 146 persons were killed within the PoC site, but provided a list of 55 persons. Human Rights Officers have determined that several listed individuals were not deceased, but were wounded or missing, with information suggesting some had been abducted.

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<sup>19</sup> There is information to indicate that as many as 10 people may have been killed outside of the UNMISS compound. While three bodies were documented by UNMISS, the SPLA collected bodies outside of the compound on the afternoon of the attack before Human Rights Officers could move freely in the area. As such, full verification was not possible. While it cannot be ruled out that IDPs may be among this number, most are believed to have been youth involved in the attack.

109. Multiple IDPs were also injured, as well as two United Nations peacekeepers. On 17 April 2014, UNMISS military clinics in Bor reportedly treated 98 patients, with the majority suffering from gunshot wounds. Others were treated for blunt injuries and fractures, reportedly resulting from beatings with sticks, rifle butts, and other objects, as well as lacerations, reportedly resulting from machete slashes. According to survivors, not all victims sought medical treatment for their injuries, thus the number of injured is likely higher. Human Rights Officers have also verified that at least nine young males were medically evacuated by the Government to the Juba Teaching Hospital on the afternoon of 17 April 2014.

110. The Human Rights Division has determined that at least five women and six children (five girls and one boy) were abducted from the PoC site during the attack. Of these 11 individuals, eight have likely since been released, while the fate of at least three individuals remains unknown. Several other witnesses and sources told Human Rights Officers of attempted abductions they suffered or witnessed during the attack.

111. In addition, numerous children were orphaned following the attack. In one case, two children, ages three and four, lost both parents in the attack. Protection actors working in the PoC site identified multiple cases of unaccompanied children after the attack. Other families were separated when IDPs who suffered serious injuries were medically evacuated from Bor.

112. Survivors' testimonies and Human Rights Officers' own observations indicate that the attack has had deleterious effects on the IDPs' psychological well-being. Even months later, many survivors expressed fear of future attacks, and some told Human Rights Officers that they believed their children were still traumatized by what they experienced on 17 April, easily frightened by loud noise or sudden changes. Teachers at schools in the PoC site have reported low attendance; mothers in the PoC site have explained to Human Rights Officers that they keep their children close so that they will not be separated in the event of another attack. As of the date of writing, IDPs still expressed fear of threats outside of the PoC site. This has led to significant additional restrictions on the movement of IDPs outside the site.

113. There are reasonable grounds to believe that between 100 and 300 people participated in the attack on 17 April 2014. Of these, some may only have been involved in the looting, or remained outside of the PoC periphery as part of the mob. Those who committed acts of violence were male adults; reports of women involved in the attack describe participation in looting property. The majority of attackers were wearing civilian clothing.

114. There are reasonable grounds to believe that many attackers were civilian Dinka youth. The Bor Community Youth Association has publicly claimed responsibility for organizing the demonstration in its signed, stamped letter to UNMISS, as well as in subsequent remarks by its representatives in the media.<sup>20</sup> The group also issued a press release two days after the attack, acknowledging that civilians gathered and marched through Bor toward the UNMISS compound.<sup>21</sup> However, they denied responsibility for any civilian deaths and blamed the United Nations for provoking the violence and killing "peaceful demonstrators".

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<sup>20</sup> Mugume Davis Rwakaringi, "South Sudan: Two Reported Dead in Clashes At UN Base in South Sudan," 17 April 2014, <http://allafrica.com/stories/201404171575.html>; Sudan Tribune, "Jonglei youth warned against another violent protest," 21 April 2014.

<sup>21</sup> Press Release, Bor Community Youth Association, "Bor Youth Condemn Use of Chemical Weapons by UNMISS against Civil Demonstrators in Bor", 19 April 2014, at 1.



115. While witness testimony is inconsistent regarding the direct involvement of uniformed Government personnel in the attack, credible and consistent testimony indicates that men in SSNPS uniforms participated in both the violence and the looting. Notably, a male individual, dressed in an SSNPS uniform, with Dinka facial markings, was found dead in the PoC area. It remains unclear, however, whether any members of the security forces were involved in their official capacities. The weapons used in the attack, small arms and machetes, proliferate in South Sudan. There is ample information suggesting that Government security forces were present before and during the attack and failed to stop the violence. Public officials, including the Governor, told the Human Rights Division that the Government had no advance knowledge of the incident.

116. There are reasonable grounds to believe that the attack was planned in advance. For instance, the fact that the attack began almost the instant that the crowd reached the PoC site, in conjunction with the timing of the delivery of the letter to UNMISS immediately before the shooting started, suggests that the attack was not spontaneous. Notably, sources indicate that, in addition to youth from Bor, other youth arrived from payams and bomas through Bor South, Twic East, and Duk Counties to participate.<sup>22</sup> This would have required advance notice.

117. Multiple factors indicate that the perpetrators had knowledge of the layout of the UNMISS compound and PoC site and organized their method of attack accordingly. The crowd proceeded directly to the PoC site, bypassing the front gate of the UNMISS compound, with most proceeding directly around the compound to arrive at the gate to the PoC site. Escape routes were targeted, in particular the attack from the southern perimeter directly aimed at IDPs fleeing south from the PoC site. Several attackers were positioned at elevated points along the perimeters, with at least one acting as a sniper on the northern perimeter. These tactics enabled the perpetrators to inflict significant damage efficiently, as only a small number of them were armed with guns. The alleged involvement of at least one individual who had previously stayed in the PoC site supports the notion that the perpetrators were informed in advance of the layout of the compound and of the vulnerabilities of the perimeter.<sup>23</sup>

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<sup>22</sup> See 18 April 2014, Jonglei State Governor's Office, "Press Release: Bor UNMISS Compound's Incident." On file with UNMISS Human Rights Division.

<sup>23</sup> Existing gaps in the perimeter had previously been used by IDPs to enter or exit, or to smuggle illicit goods into the PoC site.

Figure 4. Bor town

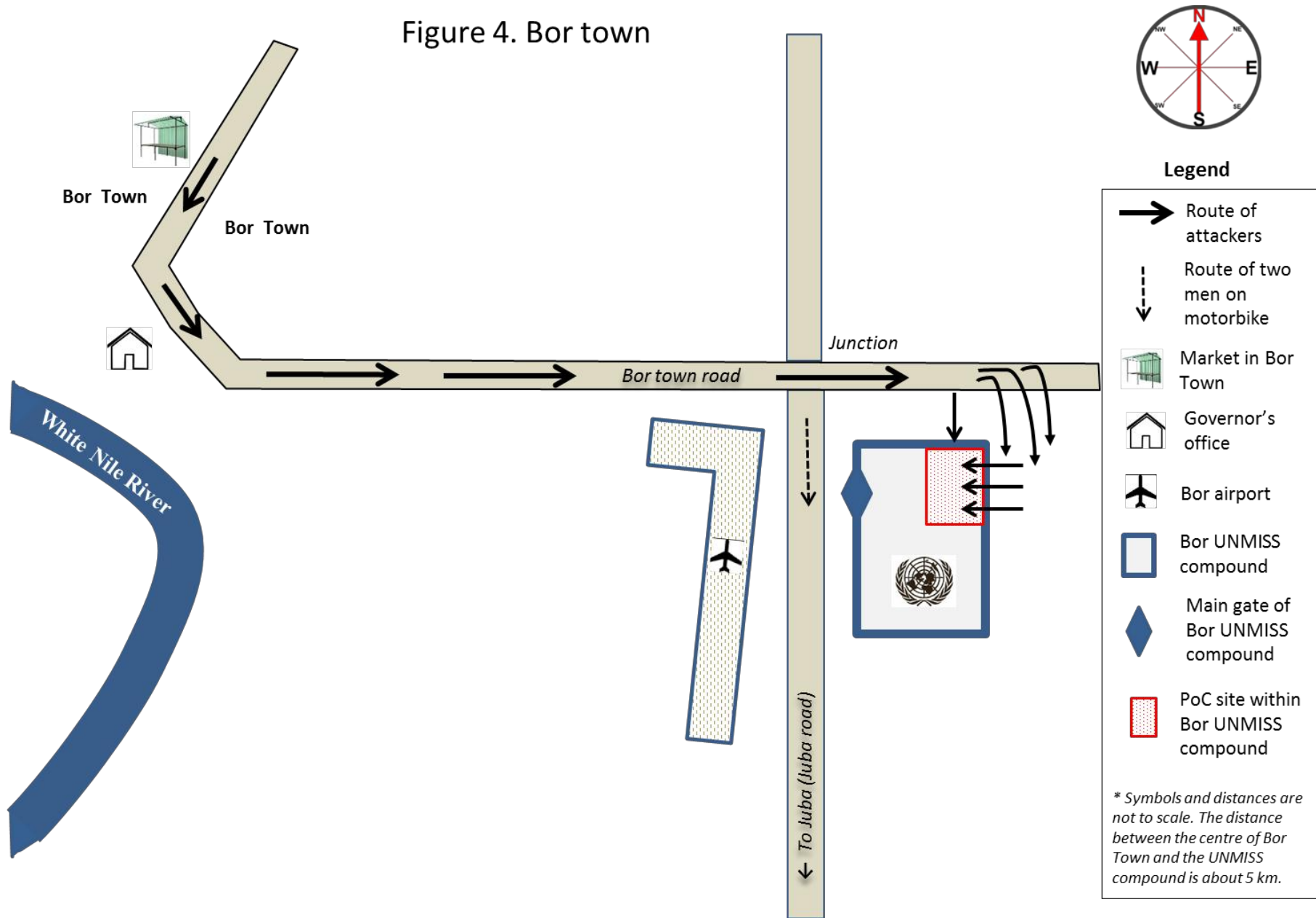
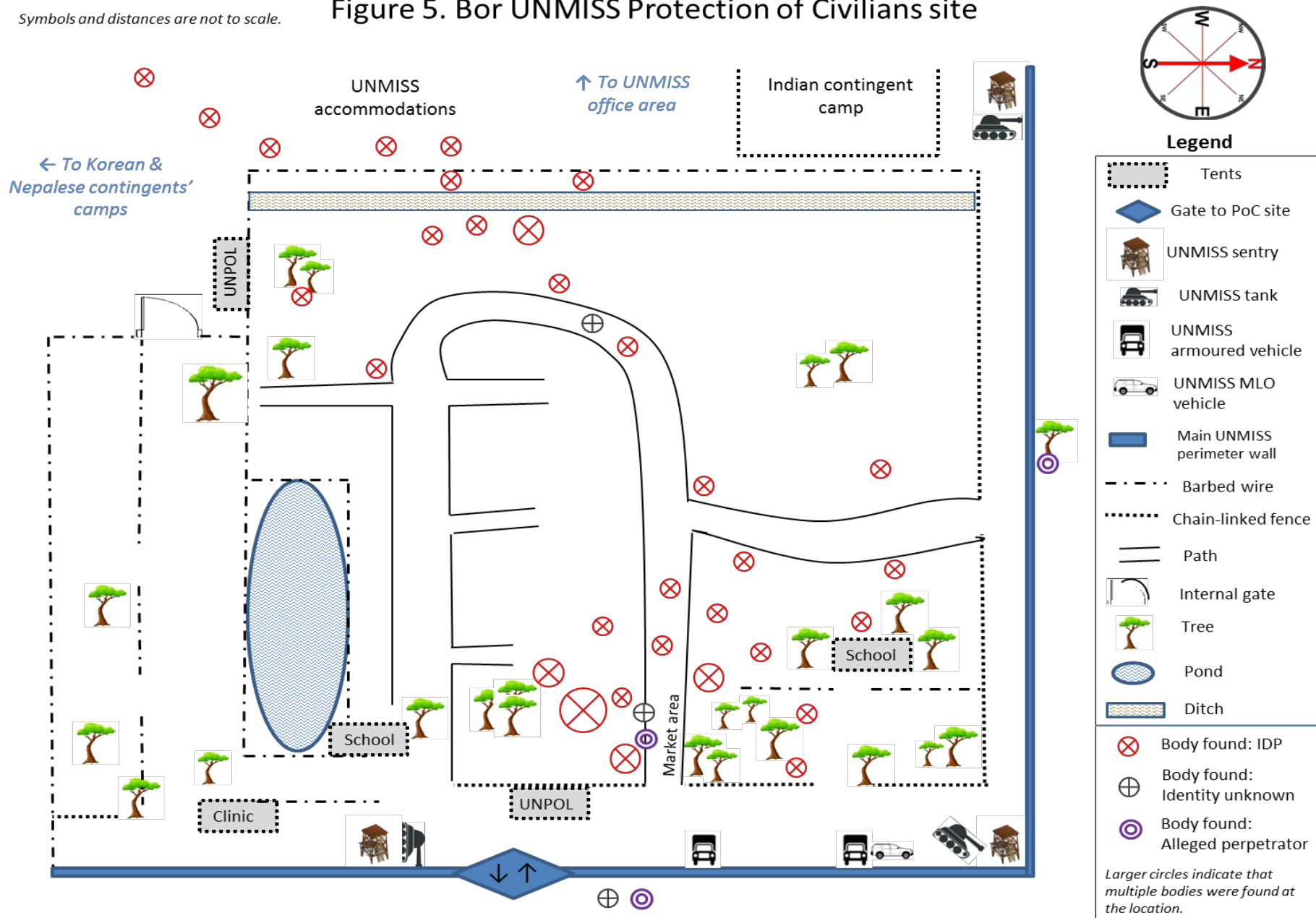


Figure 5. Bor UNMISS Protection of Civilians site

Symbols and distances are not to scale.



## VI. Legal Findings

118. Several overlapping bodies of law govern the conduct described in this report, including international human rights, humanitarian, and criminal law, as well as the domestic law of South Sudan.<sup>24</sup>

119. International human rights standards are chiefly binding on state actors. While South Sudan is not yet a state party to many international human rights treaties, it is nonetheless bound by the fundamental human rights obligations which have attained customary international law status. Similarly, while non-state actors cannot formally become parties to international human rights treaties, non-state actors who exercise *de facto* control over some areas are increasingly considered to be bound by international human rights obligations in relation to all people within those areas.<sup>25</sup>

120. As South Sudan is experiencing a non-international armed conflict, the international humanitarian law governing such conflicts applies to all parties to the conflict. The applicability of international humanitarian law does not replace international human rights obligations; rather, these regimes are complementary and mutually reinforcing.<sup>26</sup> Gross human rights violations and abuses, as well as serious violations of international humanitarian law, may also constitute international crimes, notably war crimes and crimes against humanity, attracting individual criminal responsibility.

121. Finally, the national legal framework, including the Transitional Constitution of South Sudan and other relevant legislation such as the Penal Code Act 2008, provide protection for many of the substantive rights protected under international law.

122. As described above, there are reasonable grounds to believe that civilians were killed at the Bentiu Civil Hospital and Kalibalek mosque on 15 April 2014 and at the UNMISS Bor PoC site on 17 April 2014, which violates the right to life and may amount to war crimes.<sup>27</sup> The attacks took place in non-military buildings, where people had sought shelter from the hostilities. There is no information to suggest that the victims were armed or were taking a direct part in the hostilities. Indeed, credible information indicates that victims were sought out not as combatants, but as civilians targeted for their ethnicity or perceived support to a party to the conflict. As such, there are reasonable grounds to believe that the perpetrators intentionally targeted civilians, which may amount to a war crime.<sup>28</sup> These acts also constitute crimes under domestic South Sudanese law.<sup>29</sup>

123. Based on available information, there are reasonable grounds to believe that at least 353 civilians were killed and at least 250 were wounded in these attacks.

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<sup>24</sup> For a fuller discussion, see UNMISS, Conflict in South Sudan: A Human Rights Report, 8 May 2014.

<sup>25</sup> See Report of the independent international commission of inquiry on the Syrian Arab Republic, 16 August 2012, A/HRC/21/50, Annex II, para. 10.

<sup>26</sup> See Human Rights Council Resolution 9/9 (2008).

<sup>27</sup> Article 8(2)(c)(i), Rome Statute of the International Criminal Court (Rome Statute); Article 13(2), Additional Protocol II to the Geneva Conventions; Rules 1, 6, 47, International Committee of the Red Cross, Customary International Humanitarian Law, vol. 1: Rules (2009). At this time, UNMISS has insufficient information to make a determination regarding whether the persons responsible for the attack on the Bor PoC site are governed by international humanitarian law. A civilian may be held liable for violations of international humanitarian law, including war crimes, in the context of a non-international armed conflict if a sufficient nexus between the offence and the conflict exists. See A. Cassese, International Criminal Law, Oxford University Press, 2003, p. 49.

<sup>28</sup> Article 8(2)(c)(i), Rome Statute; Rules 1, 6, 47, International Committee of the Red Cross, Customary International Humanitarian Law, vol. 1: Rules (2009).

<sup>29</sup> See Article 11, Transitional Constitution of South Sudan (2011); Sections 206 and 230 *et seq.*, South Sudan Penal Code Act (2008).

124. In addition, there are reasonable grounds to believe that civilian objects were directly targeted. In Bentiu, a Hospital and a place of worship were attacked. Directing an attack against medical facilities and buildings dedicated to religion is prohibited under international humanitarian law and may amount to a war crime.<sup>30</sup> In Bor, the UNMISS PoC site was directly targeted. Directing an attack against personnel and objects involved in a peacekeeping mission is prohibited under international humanitarian law and may amount to a war crime.<sup>31</sup>

125. There are also reasonable grounds to believe that abductions and sexual violence, rising to the level of conflict-related sexual violence, were committed. As discussed above, several women and children were abducted from the Bor PoC site during the attack. It is evident from victim and witness statements that all of the women and children who were taken out of the PoC site were taken against their will and suffered violations ranging from physical assault, to threats to life and intimidation. These acts violate the prohibitions of arbitrary detention and cruel, inhuman or degrading treatment and may amount to a war crime.<sup>32</sup> These acts also violate South Sudanese law.<sup>33</sup>

126. The fate of abductees in South Sudan varies. In some cases, abducted women are subsequently forced to become the “wives” of their abductors or other men in the abductors’ community. The abducted “wife” is often raped and forced into sexual slavery with her “husband” and to bear children. As such, abduction can constitute a form of conflict-related sexual violence. There is equal concern for the fate of abducted girls, as child marriage is common in South Sudan. Abducted girls can be either sold, which amounts to human trafficking, or forced to marry. Rape and other forms of sexual violence can constitute a war crime.<sup>34</sup>

127. The Government has the primary responsibility to ensure the promotion and protection of human rights for those within its territory and to protect civilians under threat of physical violence in the context of armed conflict. There are reasonable grounds to believe that the Government failed to meet these obligations.

128. In Bentiu, SPLA and Government officials prevented civilians from accessing the UNMISS compound for protection. In some cases, civilians were reportedly advised that they would be protected by national authorities, who then failed to provide such protection. Human Rights Officers have documented instances in which individuals who were prevented from getting to UNMISS were forced to seek protection at the Bentiu Civil Hospital or the Kalibalek mosque.

129. In Bor, according to Government officials, the SSNPS attempted to stop the march from Bor to UNMISS, but were unsuccessful.<sup>35</sup> Uniformed members of the security forces, including the SPLA and the SSNPS, were present at the junction when the crowd of youth approached the UNMISS PoC site as a purported demonstration, and near the northeast corner of the compound immediately before

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<sup>30</sup> Article 8(2)(e)(iv), Rome Statute; Article 11(1) and Article 9, Additional Protocol II to the Geneva Conventions; Rules 25, 26 and 28, International Committee of the Red Cross, Customary International Humanitarian Law, vol. 1: Rules (2009).

<sup>31</sup> Article 8 (2)(e)(iii), Rome Statute; Rule 33, International Committee of the Red Cross, Customary International Humanitarian Law, vol. 1: Rules (2009).

<sup>32</sup> Articles 7 and 9, International Covenant on Civil and Political Rights (ICCPR); Article 8(2)(c)(i) and (ii), Rome Statute, Rules 87, 90, 99, International Committee of the Red Cross, Customary International Humanitarian Law, vol. 1: Rules (2009).

<sup>33</sup> Acts of sexual violence are criminalised under South Sudanese law through such offences as rape, coercion, detaining a person for unlawful sexual conduct, and others as defined in the Penal Code Act (2008). See Secs. 247 *et seq.* South Sudan Penal Code Act (2008).

<sup>34</sup> Article 8(e)(vi), Rome Statute; Rule 93, International Committee of the Red Cross, Customary International Humanitarian Law, vol. 1: Rules (2009).

<sup>35</sup> 18 April 2014, Jonglei State Governor’s Office, “Press Release: Bor UNMISS Compound’s Incident.” On file with UNMISS Human Rights Division.

the attack. No information indicates that these forces attempted to intervene while the attack was on-going.

## VII. Accountability

*“We need justice for what happened here. If there is no justice, we may get stuck in a cycle of revenge.”*

130. One of the most important legal obligations arising from violations of international human rights and humanitarian law is the obligation to ensure accountability for those violations. Pursuant to the minimum requirements under international law, the Government has the primary obligation to prosecute persons suspected of committing violations of international human rights and humanitarian law and to punish those found responsible.<sup>36</sup> Competent, timely, effective, independent, and impartial investigations are required and critical to reducing impunity.

131. The accountability process must be transparent and public to address the corresponding right of the victims to justice and of the society at large to truth about the circumstances of the human rights violations, including the identity of perpetrators and instigators. Accountability also includes the right of victims of human rights violations to access effective remedies and appropriate compensation, involving restitution, rehabilitation and measures of satisfaction.<sup>37</sup>

132. To date, few accountability measures have been taken in response to the incidents described in this report.

133. With regard to the abuses and violations in Bentiu, in the days after 15 April 2014, opposition figures, including Riek Machar and General Taban Deng Gai, the head of the SPLM/A-IO delegation to the peace talks in Addis Ababa, acknowledged the killings and indicated their intention to investigate the allegations, to hold perpetrators accountable, and to cooperate with the African Union Commission of Inquiry on South Sudan.

134. On 25 April 2014, a senior-level SPLA/IO commander informed Human Rights Officers that a SPLA/IO fighter had been detained and was under investigation for the killing of four Nuer civilians at the Bentiu Civil Hospital. The Human Rights Division has not been able to verify this claim and the outcome of the investigation is unknown. In early August 2014, Riek Machar indicated in an interview with online media that an investigation into the 15 April incidents was progressing, and that a group of approximately 10 persons was responsible.

135. No arrests have been made in connection with the 17 April 2014 attack on the Bor PoC site, despite alleged perpetrators being known to some victims by name.

136. In the wake of the 17 April 2014 attack, both Jonglei State and national Government authorities, including President Kiir, condemned the unprovoked attack and vowed to bring those responsible to justice. The President indicated in late April 2014 that the Government was conducting investigations and that those responsible would be held accountable.

137. Local authorities, including the Jonglei Governor, the Mayor of Bor town, and the SSNPS, have asserted that accountability efforts should and will come from the national Government. The Bor

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<sup>36</sup> Article 2(3), ICCPR.

<sup>37</sup> Human Rights Committee, General Comment 31: Nature of the General Legal Obligation Imposed on States Parties to the Covenant (2004), CCPR/C/21/Rev.1/Add. 13, at paras. 15-19.

Town Police Commissioner informed Human Rights Officers that local police had completed their investigation, submitted information gathered to the Jonglei State SSNPS, and were no longer pursuing the investigation. This was confirmed by the Governor of Jonglei State. The Governor also stated that the Investigation Committee on Human Rights Abuses, established by President Kiir in January 2014, with a mandate to investigate human rights violations and abuses committed during the conflict, was investigating the attack. The Governor informed Human Rights Officers that he had provided a statement to the committee in August 2014, including on the events of 17 April 2014. As far as the Human Rights Division is aware, no members of the committee have visited the Bor PoC site. In early December 2014, local media reported that the committee had presented its report to the President.

## VIII. Recommendations

138. UNMISS reiterates the recommendations made in its previous reports.<sup>38</sup> Further, it makes the recommendations set out below.

139. **UNMISS recommends that all parties:**

- a. Immediately end all fighting in South Sudan and abide by the 23 January 2014 Cessation of Hostilities Agreement and the 9 May 2014 Agreement to Resolve the Crisis in South Sudan;**
- b. Put an immediate end to gross abuses and violations of human rights and serious violations of international humanitarian law;**
- c. Undertake comprehensive and credible investigations to establish the scope of abuses and violations of human rights and violations of international humanitarian law in South Sudan. A credible accountability mechanism, consistent with international standards, must be put in place to hold perpetrators of abuses and violations to account;**
- d. Allow full and unhindered access for humanitarian assistance;**
- e. Fully respect the rights of IDPs and implement the Guiding Principles of Internal Displacement, particularly with respect to facilitating voluntary returns in safety and dignity;**
- f. Respect the inviolability of United Nations premises and personnel. Grant United Nations human rights monitors and other competent international organizations full and unimpeded access to places where abuses and violations of human rights and violations of international humanitarian law are alleged to have occurred. Ensure full protection to victims and witnesses of violations.**

140. **UNMISS recommends that Member States and regional organizations:**

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<sup>38</sup> UNMISS, Conflict in South Sudan: A Human Rights Report, 8 May 2014, para. 313 (*inter alia*, comply with the Cessation of Hostilities Agreement, enhance efforts to protect civilians, undertake comprehensive and credible investigations and put in place a credible accountability mechanism); Report of the United Nations High Commissioner for Human Rights on the situation of human rights in South Sudan, 19 September 2014, A/HRC/27/74, paras. 78-92 (*inter alia*, both parties to comply with all agreements signed under the auspices of IGAD; Government of South Sudan to cease activities impeding the rights to freedom of expression; SPLA/IO and other armed actors to commit to abide by international humanitarian law; South Sudan Human Rights Commission to promptly investigate allegations of violations of human rights and international humanitarian law and make recommendations for holding perpetrators accountable).

- a. Support the IGAD peace talks and ensure that appropriate respect for human rights are reflected in the outcome of the talks. Any peace agreement must provide for appropriate accountability mechanisms and prohibit the granting of amnesties for gross violations and abuses of human rights and serious violations of international humanitarian law;**
- b. Support efforts to protect the population of South Sudan and to bring to an immediate end gross abuses and violations of human rights and serious violations of international humanitarian law;**
- c. Once a Government of Transition is established, assist the Government with accountability efforts, including by strengthening rule of law institutions and assisting with security sector reform.**



## Annex I

The following are the identities of 43 of the 46 individuals killed in the UNMISS compound on 17 April 2014:

NAME	GENDER	AGE
1. Tut Pal Mut	Male	18
2. Nyantet Tung Malou	Female	27
3. Peter Buom Gol	Male	36
4. Nyachoi Pok Pol	Female	35
5. Mary Nyalou Chol	Female	45
6. Salaam George Jambo	Male	7
7. Nyawal Gatwak Jany	Female	14
8. Kol Dol Pech	Male	40s
9. Rhoda Nyadol William	Female	17
10. Nyabor Gador Bum	Female	10
11. Nyawit Bol Tai	Female	19
12. Mawum Chuol Par	Male	37
13. Nyahok Kol Diang	Female	28
14. Nyanthor Mathiang Bol	Female	25
15. Dok Bol Jok	Male	37
16. Nyaruach Manyang	Female	Early 20s
17. John David Kuey	Male	39
18. Nyakim Nyin Liep	Female	5
19. Reat Reath Chakuyen	Male	30
20. Nyakuoth Gak Kuok	Female	20
21. Nyazan Wiyual Thiey	Female	20
22. Nyanthor Padiet Jok	Female	60s
23. Ruach Deng Mabor	Male	50s
24. Ngech Yuok Luak	Male	45
25. Nyabol Gatkuoth Thow	Female	33
26. Nyayok Bikuany Ger	Female	55
27. Nyalam Kuey Ruop	Female	27
28. Stephen Chuol Lam	Male	48
29. David Nyhuot Gatwech	Male	18-20
30. Martha Nyareck Chol	Female	32
31. NyaUnmiss	Female	8 months
32. James Pal Yak Dit	Male	48
33. Diew Thong	Male	50s
34. John Tut Bilyo	Male	45
35. Nyaken Gatwich	Female	11
36. Reath Gatwich	Male	8
37. Gadiang Gatwich	Male	2
38. Othol Awang Yor	Male	27
39. Nyabok Deng Yoch	Female	35
40. Bol Chullieg Diing	Male	40
41. Martha Nyawet Maluiek	Female	31
42. William Gai Nyuot	Male	48
43. John Gatkuoth Tuong	Male	35

The following are the identities of the individuals who died after they were medically evacuated by the UN from injuries sustained during the attack on 17 April 2014:

<b>NAME</b>	<b>GENDER</b>	<b>AGE</b>
44. Rhoda Nyachot Wunjok Ruach	Female	55
45. Wanaluow Tong Chatiem	Male	3
46. Baboya Yousif Abdalla Mayen	Female	15
47. Simon Pock Makuach	Male	25