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Senate Foreign Relations Committee Testimony
“South Sudan: Options in Crisis”
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Chairman Corker, Ranking Member Cardin, thank you for the opportunity to testify before the committee today regarding South Sudan. I serve as President of the Better World Campaign and Vice President for Public Policy and Advocacy at the United Nations Foundation.

My statement today will focus on the role that the UN Mission in South Sudan (or UNMISS) plays in protecting civilians – at a level unprecedented in UN history – and my belief that the UN Mission should have taken more action to protect civilians during the fighting last July.

Last November, I traveled to South Sudan with a congressional delegation to meet with UN peacekeepers, including visits to the large UN civilian protection sites in Bentiu and Juba.

The UN Mission in South Sudan, which began in 2011, operates throughout the country, tasked with a range of vital responsibilities. Mission personnel report on human rights violations and child recruitment into the military, educate civilians about gender-based violence and ending child marriage, and provide security for the delivery of vital humanitarian assistance. On the humanitarian front specifically, in a country where six million people need assistance, which is half the population, the UN and NGO partners have reached three million this year and aim to reach another two million by year’s end.

Most notably, UNMISS remains the thin blue line protecting many South Sudanese civilians from government troops and a myriad of other heavily armed militias intent on harming them. As Congressmen Michael Capuano (D-MA) and Brian Higgins (D-NY) noted in an op-ed published shortly after their trip to the country last year, “There are almost 200,000 civilians in the six UN peacekeeping bases and many of them would not be alive today if not for the UN’s presence.”

The UN did not anticipate protecting 200,000 civilians when the mission was created five years ago. But when conflict erupted in December 2013, and civilians rushed into UN sites to avoid attack by troops and militias, the UN moved to protect them at a scale unprecedented in UN history and informed by the tragedies in Rwanda and Srebrenica.

While in South Sudan, I met a young woman who had just arrived at the Bentiu camp gate looking for protection only the UN could provide. She had left her burned-out village with her two children -- twin baby girls -- after her husband was killed and she had survived a gang rape by government forces. Unfortunately, only one of her daughters lived through the 80-mile journey.

For the past three years, the UN Mission has been severely limited in its ability to carry out its mandate. The South Sudanese government, as I will detail later, has repeatedly violated the Status of Forces Agreement, which guarantees free movement to UN peacekeepers. With the violent attacks on UN Protection of Civilian sites by government soldiers in Malakal in February, Bentiu in April, and Juba in July, the government has now moved from partner to predator.

At times, the UN Mission in South Sudan has failed to protect civilians, and it is imperative that it learns from its mistakes. In February, during an attack at the Malakal UN base, where over 40,000 South Sudanese reside, at least 30 camp residents were killed before UN peacekeepers finally responded. An internal UN review of the incident found that peacekeeping forces failed to respond to the violence through a “combination of inaction, abandonment of post, and refusal to engage.” The UN Mission has accepted responsibility for its failure in Malakal after this investigation, and steps are being taken to resolve command and control issues, a major element in the mission’s inability to protect.

The recent attacks in July by government soldiers on international aid workers and South Sudanese civilians were also unconscionable. Those responsible for these horrendous crimes must be punished. UN peacekeepers should have done more to protect civilians in Juba – both at the Hotel Terrain and for the women leaving the UN bases in search of food. In light of these circumstances, the UN rightly announced that it would launch an independent investigation - headed by Major General Patrick Cammaert from the Netherlands - to assess the mission’s actions and offer recommendations.

Nevertheless, it is also important to contextualize the actions of the peacekeepers in terms of the challenges and obstacles they faced. First and foremost, it must be noted that there was heavy fighting in the immediate vicinity of the main UN base in Juba between July 8th and July 11th, due to the presence of a large SPLA-IO cantonment site and an SPLA base in the area. SPLA armored personnel carriers, tanks, and several hundred troops were positioned on the road outside of the UN’s gates, making it difficult for peacekeeping troops to leave. Moreover, during the fighting the UN base and POC site were struck by more than 200 rounds of ammunition, including tank shells, mortars, and RPGs.

This government fire led to casualties among South Sudanese civilians and UN personnel alike. On July 10th, an RPG struck an armored vehicle inside the POC site, seriously injuring six Chinese peacekeepers. Since the clinic at the main UN base did not have a surgical team present or the capability to perform blood transfusions, the wounded needed to be evacuated to a Level II trauma center located 10 miles away at another UN base in Juba’s Thongping neighborhood. Unfortunately, for nearly 22 hours after the incident, the South Sudanese government refused to provide the mission with the necessary assurances that its troops would not be fired upon if they tried to evacuate their fellow soldiers. As a result of these delays, two of the wounded peacekeepers died from their injuries. As reported by Matt Wells of the Centers for Civilians in Conflict, the mission’s inability to ensure medevac for wounded personnel due to obstruction by South Sudanese officials contributed to a lack of willingness among peacekeeping troops to leave the base or engage forcefully. Specifically, in the case of the Terrain Hotel, some UN peacekeepers understandably believed that they would be left to bleed to death if they had to fight their way to it.

To be sure, the fighting outside the camp and concerns over medical care and evacuation are not solely responsible for peacekeepers' inability or unwillingness to protect civilians. There were serious inadequacies with UNMISS's response in July irrespective of the medevac problem. Nevertheless, it is an important element of the situation to understand.

Overall, while there are changes the mission must adopt to reduce the chance of this happening again, there are also larger issues at play here as well as a broader set of changes that must be adopted, involving not only the mission but also troop contributing countries, the United States, the South Sudanese government, and the UN Security Council.

I. Accountability for Civilian Protection Failures

With regards to the February attack in Malakal, the UN Secretary-General established a board of inquiry to examine the circumstances surrounding the incident. Their final report, released in early August, found serious deficiencies in the peacekeepers' response to the massacre, and made a number of recommendations for corrective action. These include, among other things, the need for better command and control and accountability for underperformance, including the possible repatriation of peacekeeping commanders and/or entire military units found to have demonstrated a lack of will to implement their mandate.

At this stage, the UN should act swiftly to fully implement this recommendation. Repatriation of peacekeeping military contingent commanders and units has been an important element of the Secretary-General and Security Council's effort to address sexual exploitation and abuse within peacekeeping; it should also be a pillar of any policy regarding individuals or units that do not honor their mandate to protect civilians. Moving forward, poorly performing individuals or units should be withdrawn if the situation warrants. The Security Council must ensure that the UN Secretariat follows through, as accountability will help restore civilians' trust in UNMISS.

II. Troop Contributing Country Participation

The level of willingness on the part of peacekeeping commanders and individual personnel to actually risk their lives in implementing a mission's civilian protection mandate is a crucial component of peacekeeper performance. According to George Washington University professor Paul Williams, an expert on African peacekeeping operations, civilian protection "is a very hard ask of troop and police contributing countries, many of whom will not want to die for the UN in South Sudan." This gets to the heart of what happened in Malakal and Juba, where as noted, UN peacekeeping troops stand accused of failing to implement their Security Council mandate, namely, protecting civilians who are under imminent threat of violence.

While there are tens of thousands of troops who serve bravely and admirably under extremely difficult circumstances, many Troop Contributing Countries (TCCs) - no matter where they're from - are risk-averse when it comes to the safety of their own personnel, regardless of the directives handed down by mission leadership, the Department of Peacekeeping Operations, or the Security Council. For example, during the July outbreak of fighting in Juba, the United Kingdom, Germany, and Sweden evacuated a dozen nationals serving as part of UNMISS without even consulting the UN - a move that, according to a UN memo, affected the peacekeeping mission's operations and dealt a "serious blow to the morale" of the force. This is to say nothing of the U.S., which - in the wake of the Black Hawk Down incident in Somalia in 1993 - withdrew almost entirely from providing uniformed personnel to UN peacekeeping missions. The fact is, no amount of training, force enablers, or field experience can be effective in the absence of willingness on the part of peacekeeping troops themselves and officials in their home countries to fully carry out the responsibilities laid out in any given mission's mandate.

That being said, one underlying issue that the attack in July exposed is the medical and casualty evacuation limitations faced by the missions, which has contributed to TCC unwillingness to venture beyond their bases or conduct more dangerous patrols. In the case of the fighting in July, while there were air assets and road convoys available, the South Sudanese government refused to provide the mission with necessary assurances that its troops would not be fired upon if they tried to evacuate wounded personnel.

But there is also a larger issue of UNMISS and other UN peacekeeping missions having limited air assets for medevac and casevac. As has been documented, UN missions have lacked vital air assets like helicopters.

Last year in advance of the Leaders' Summit on Peacekeeping - convened by President Obama and held at the United Nations – I wrote an op-ed which noted that the inability to ensure that wounded personnel can be quickly evacuated is understandably leading some peacekeepers to be risk-averse in their projection of force, inhibiting longer-range patrols and undermining civilian protection. It also leads to troop contributing countries being reluctant to put their personnel in harm's way. It has been made clear to me in trips to UN missions that peacekeepers place fundamental importance on every effort being made to get them immediate medical care, and that the inability to do so is highly detrimental to soldiers' morale.

Medical and casualty evacuation is an area where the United States could assist missions, by either deploying U.S. specialist military contingents to UN peacekeeping operations in support roles with air and medical assets, or via existing National Guard Partnership Programs. It would be inconceivable for U.S. troops to conduct patrols without medical or casualty evacuation capability and it should not be the case for UN soldiers either. Enhanced medevac and casevac capabilities would send peacekeepers a message of support and increase the likelihood that Troop Contributing Countries would back robust engagement by their personnel.

III. Obstruction by the South Sudanese Government

Since the outbreak of civil war three years ago, the Government of South Sudan has gone to extraordinary lengths to restrict UNMISS's freedom of movement. As Samantha Power noted during a visit to South Sudan by Security Council Ambassadors in early September, "The number one obstacle for the peacekeepers fulfilling their mandate has been the severe restrictions on their movements." To be clear, the Status of Forces Agreement (SOFA) signed by UNMISS and the South Sudanese government gives peacekeepers the right to move and patrol throughout the country unhindered. In practice, however, the government routinely violates these understandings, putting up roadblocks to impede UN patrols, requiring the mission to obtain permission to fly its own helicopters or risk these aircraft coming under fire, and harassing, intimidating, or even physically assaulting UNMISS civilian staff. In addition to movement restrictions, the South Sudanese government has repeatedly rejected requests from UNMISS to bring in certain types of technology that could improve the ability of peacekeepers to project force, including surveillance drones, communications equipment, and some weapons. These obstructions have seriously hampered the mission's day-to-day operations and placed the safety of UN personnel at unnecessary risk.

On August 12th, in response to the July violence, the Security Council voted to deploy a 4,000-soldier Regional Protection Force (RPF) to help stabilize Juba. The Force, which will be under the command of UNMISS, is tasked with protecting major lines of communication and transport into and out of the capital, securing the airport and other key facilities, and taking robust action to “promptly and effectively engage an actor that is credibly found to be preparing attacks, or engages in attacks, against United Nations protection of civilians sites, other United Nations premises, United Nations personnel, international and national humanitarian actors, or civilians.”

While more troops are certainly needed to help secure the capital, it is doubtful they will have much of an impact absent a fundamental change in posture by the government towards the mission more generally. Since the adoption in August of Security Council Resolution 2304 authorizing the RPF, South Sudanese authorities have made a series of contradictory statements, at first rejecting the force as a colonial intrusion, then agreeing to its deployment during the Security Council visit earlier this month. Since then, however, South Sudan has placed a number of problematic conditions on its acceptance of the RPF, stating that the government should be able to determine the number of troops deployed, the countries allowed to contribute to the force, and the types of weapons they are able to bring. These statements raise serious questions about whether, once on the ground, the RPF will be subject to the same obstruction tactics as the rest of UNMISS.

As a result, the international community must urgently prioritize efforts to combat this long-running pattern of intransigence on the part of the Government of South Sudan. As a first order of business, the Security Council must be more willing than it has been in the past to forcefully and publicly condemn the Government for violations of the SOFA – their collective silence only emboldens the government to continue its obstruction. The Council should make clear that attacks on UN peacekeepers and humanitarian personnel - 70 have been killed to date - constitute war crimes, and it should name and shame those who carry out these illegal acts. In addition, UNMISS leadership itself needs to do a better job of regularly reporting when peacekeeping troop movements are blocked or soldiers are targeted. Such transparency measures are critical to assuring peacekeepers that they enjoy the full backing of the international community as they seek to implement their mandate.

In addition, the Security Council, UN Mission and Troop Contributing Countries must be prepared for the challenging implications stemming from a more forceful policy towards the South Sudanese government i.e. Is the mission willing and able to engage in active combat with the government – the UN’s host in South Sudan -- to protect civilians? What are the implications of large-scale, active combat between the UN and the SPLA to the long-term future of the mission? Will the Security Council finally move forward with an arms embargo?

IV. Arms Embargo and Targeted Sanctions

Since its independence in 2011, the U.S. and its international partners have prioritized productive relationships with the country’s leadership but that has failed to deliver the anticipated dividends. Consequently, it is critical that the Security Council take action against the South Sudanese government to incentivize cooperation with the international community. First and foremost, the Council should heed repeated calls made over the last several years by UN Secretary-General Ban Ki-moon, other senior UN officials, and numerous civil society organizations, and establish a long overdue arms embargo on South Sudan. This type of measure could help shore up the peacekeeping force, which, as it stands, is severely

outgunned by the parties to the conflict, particularly the South Sudanese government. Indeed, a recent article published by *IRIN* quoted an unnamed UN official as stating that, “The firepower in the hands of the SPLA thanks to the absence of an arms embargo is overwhelming in terms of its superiority to what the mission has.” The article went on to note that, “According to recent analysis carried out by the Small Arms Survey, an embargo would in particular impact the fearsome Mi-24 attack helicopters the government has in its inventory, as the foreign contractors that keep them flying would be outlawed.” Earlier this month, a report put out by a UN Panel of Experts bolstered this argument, concluding that, “the continued influx of weapons...contributes to spreading instability and the continuation of the conflict.” In addition to an arms embargo, the Security Council should consider expanding the list of individuals subject to targeted sanctions—namely asset freezes and travel bans—to include Salva Kiir, Riek Machar, and other high-ranking South Sudanese officials responsible for the violence.

While it is highly unlikely that imposition of an arms embargo or targeted sanctions alone would be sufficient to end the conflict, they could help reduce the flow of critical resources that have allowed both parties to act with virtual impunity. At the very least, they would send a strong signal that the international community has lost patience with Kiir and Machar, and expects them to return in earnest to the negotiating table and cooperate fully with the peacekeeping mission.

Conclusion

Mr. Chairman, Ranking Member Cardin, these are indeed dark days for innocent civilians in South Sudan – those who have already been attacked and the hundreds of thousands still in need of protection. The UN Mission, the United States, Troop Contributing Countries, and the Security Council must thoroughly review the mission – its mandate, military capacities, command and control structure, and rules of engagement – to ensure that it can best protect civilians. All global players must continue to pressure the Government of South Sudan – in fact all warring parties -- to stop the killings of civilians, and return to a partnership with the UN.