The Humanitarian Intervention in South Sudan

A Just War?

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Abstract:

This paper aims to research to which extent the humanitarian intervention in South Sudan, UNMISS, is a Just War after Michel Walzer’s theory; this will be assessed through a qualitative method study. Therefore, the different criteria of Walzer’s theory will be applied on the case study UNMISS; the focus hereby lays on *Ius ad bellum* and *Ius in bello*. It is shown, that the criteria are mostly fulfilled, and that the UN had the right to justly intervene in South Sudan. The study concludes with a summary of the findings as well as a short overview of the mission’s impact on South Sudan’s political system.

Key Words:

South Sudan, Humanitarian Intervention, Just Wars, UNMISS, Civil war
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List of Abbreviations

AHI: Armed Humanitarian Intervention
CPA: Comprehensive Peace Agreement
FSI: Fragile States Index
ICISS: International Convention on Interventions and State Sovereignty
IDP: Internally Displaced People
PoC: Protection of Civilians site
RoSS: Republic of South Sudan
R2P: Responsibility to Protect
SPLA: Sudan People’s Liberation Army
SPLM: Sudan People’s Liberation Movement
SPLM/A-IO: Sudan People’s Liberation Movement/Army in Opposition
SRSG: Special Representative of the Secretary General
SSP: South Sudanese Pound
UN: United Nations
UNAMIR: United Nations Assistance Mission for Rwanda
UNMIS: United Nations Mission in Sudan
UNMISS: United Nations Mission in South Sudan
1 Introduction

Mankind have employed violence to settle contentions all throughout history and still, through war efforts, endeavor to settle these disputes despite the toll it takes on lives. During the last century, war has evolved alongside people and technology; this development has brought both responsibility and power. Therefore, International Law and also the United Nations banned armed conflicts and thus made peace their common goal: “All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state […]”\(^2\). Yet, the UN repeatedly ‘goes to war for the greater good’ in from of (humanitarian) interventions based on Art. 39-42 UN Charter\(^3\).

Those interventions are justified through either the state’s consent, the prevention of “large-scale violations of human rights”\(^4\) such as genocides or through an urgent threat to the general peace; thereby putting a price tag on a human life. Interventions can generally be seen as an international interference in another country’s affairs which are legitimized through the aim of maintaining peace. A humanitarian intervention can, on the other hand be defined as a “forcible military action by an external agent in the relevant political community with the predominant purpose of preventing, reducing, or halting an ongoing or impending grievous suffering or loss of life”\(^5\).

The best-known example is hereby UNAMIR (United Nations Assistance Mission for Rwanda) following the genocide in Rwanda in which the greater part of the country’s Tutsi population was killed\(^6\). Today, the UN intervenes, amongst others, in the world’s youngest state, the Republic of South Sudan (RoSS). South Sudan declared its independence from Sudan on July 9th, 2011\(^7\); however, the country is already considered a failed state by some as it can’t grant the fulfilling of basic state functions over a longer time\(^8\). Following a long period of civil wars, the UN intervened first in Sudan (UNMIS)\(^9\) and then in South Sudan (UNMISS)\(^10\). This raises

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\(^1\) Peace shall in the following be defined as the absence of war.  
\(^2\) United Nations 1945, Art. 2 (4)  
\(^3\) ibid.  
\(^4\) Dixon et al. 2016, p. 622  
\(^5\) Pattison 2012, p. 28  
\(^6\) cf. Kuperman 2001  
\(^7\) cf. Donner 2016  
\(^8\) cf. Schneckener 2007  
\(^9\) cf. United Nations 2019a  
\(^10\) cf. United Nations 2019c
the question of how war and especially interventions can be justified; especially in the case of South Sudan, a young state whose people never experienced peace.

1.1 Aim and Research Question

Therefore, the aim of this paper is to descry if the humanitarian intervention in South Sudan is a just war according to Walzer. It will be analyzed whether the UN had a just reason to intervene and if the intervention as it is now can be seen as just.

To reach this paper’s aim and to examine to what extent war can be justified, it will be referred to a specific case: UNMISS in South Sudan. This case has been chosen as it arouses interest in different ways; firstly, because the country is well under way to be a failed state even though it isn’t even independent for ten years11. Secondly, both Sudan and South Sudan have been the subject of interventions for more than a decade, yet the humanitarian situation is still far from good. To answer this question, Michael Walzer’s theory of Just Wars, which states that wars can be just if they fulfill certain criteria, will be applied to the case of South Sudan.

To accomplish the aim, the research question in the following paper will be whether UNMISS, the humanitarian intervention in South Sudan, is just respective its reason to intervene as well as the conduct in war.

Therefore, to descry whether the intervention in South Sudan is a Just War, it shall be analyzed according to Walzer’s criteria in the fifth part of this essay. The focus will hereby mainly lie on Ius ad bellum and Ius in bello; Ius post bellum will be disregarded as no end to the war is in sight. To evaluate the implementation of the criteria of Ius ad bellum and Ius in bello, most of them will be analyzed individually and assessed afterwards.

1.2 Disposition

This paper will consist of six chapters. The first chapter consists of a general introduction as well as the specification of the essay’s aim and the research question. The second chapter, the theory to be used as well as other possible approaches are presented; this will be the base for the later analysis. The third chapter, the Methodology, discusses the method, material and

11 Bertelsmann Stiftung 2018, 6ff
operationalization used in the following chapter. Chapter four provides a general historical and political overview of the civil war in Sudan and South Sudan as well as over South Sudan’s independency and a general conspectus of the most important actors. The fifth chapter consists of a case study and an analysis of the UNMISS and the situation in South Sudan. Lastly, in chapter six the results will be summarized and reflected upon.

2 Theoretical Background

Many authors, starting with St. Augustine, contemplated whether or not war can be just\textsuperscript{12}. Michael Walzer’s \textit{Just War Theory} renewed this debate when it was first published in 1977. Back then, the common points of view were either the realist view stating that war is always linked to the personal gain and power or, on the other hand, a pacifist view condemning war in every form except self-defense\textsuperscript{13}. Yet, the evolution of technology is also linked to the evolution of war, therefore the theory keeps evolving. Other authors, like Jeff McMahan or David Rodin evolved and rethought some of Walzer’s initial notions\textsuperscript{14}, whilst still others like Mary Kaldor tried to describe the change in the dynamics of war. However, Walzer and his idealist liberal theory focus rather on the ethical and moral side of wars, thereby stating that war can indeed, under certain circumstances, be good\textsuperscript{15}.

In the following analysis, the theory is going to be applied to the case of South Sudan. As aforementioned, the focus will thus lay on the humanitarian intervention in the civil war. The analysis will thereby mostly focus on \textit{Ius ad bellum} and \textit{Ius in bello}, whilst \textit{Ius post bellum} is scarcely relevant, as the war is still ongoing and there is no contemporary end in sight. Firstly, it will be discussed whether or not the UN had a just reason to intervene in South Sudan; however, the subitems of ‘Legitimate Authority’ and ‘Formal Declaration of War’ will not be assessed as they are seen as fulfilled. The formal declaration of war is given through the Security Council Resolution 1996 (2011) whilst the legitimate authority is irrelevant as the South Sudanese Government complied to the intervention\textsuperscript{16}.

\textsuperscript{12} cf. Langan 1984

\textsuperscript{13} cf. Bellamy 2016a, 275f

\textsuperscript{14} cf. Brooks 2012

\textsuperscript{15} Walzer 2015, pp. 3–20

2.1 Previous Research

The Just War tradition has a long history and St. Augustine is often named as its founder. Even though his approach was based on Christian beliefs he already showed Realist valuations. Subsequently, St. Augustine’s theory was constantly evolved as other authors like Martin Luther, Immanuel Kant and John Locke overhauled and remodeled it. However, the modern perception of Just Wars changed; in addition to the presented approach of Michael Walzer, Paul Ramsey’s *The Just War: Force and Political Responsibility* (first published in 1968) will be drawn into consideration. Ramsey hereby was one of the first theorists to distinguish between pre-modern and modern wars, especially in the shadow of the atomic strike against Japan in 1945 and the repercussions of asymmetrical warfare as happened in the Vietnam War; he therefore concluded that previous ethical considerations are obsolete and need to be rethought. However, there are countless other researchers who focused on Just Wars; mentioning all of them would go too far.

Yet, another concept linked to Just Wars and especially humanitarian interventions shall be mentioned: The Responsibility to Protect (R2P). One of the leading researchers in this field is Alex J. Bellamy, professor of Peace and Conflict Studies. The principle of R2P is also implemented in the *Report of the International Commission on Intervention and State Sovereignty* (2001), in which humanitarian interventions are legally and morally analyzed.

2.2 Other Approaches

Michael Walzer’s theory, which is presented in chapter two, is not the only possible theoretical approach to analyze the civil war in South Sudan. Two other theories offer a big explanatory value: Identity conflicts according to Norbert Ropers and New Wars after Mary Kaldor.

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17 cf. Langan 1984
18 cf. Corey and Charles 2012
19 cf. Farrell 2013, pp. 29–34
20 cf. ibid., pp. 41–137
21 The state is obligated to safe its citizens from harm; if the state is not able to fulfill that duty, it is the International Community’s liability (Responsibility to Protect) (cf. Stahl 2014, p. 166)
22 cf. Bellamy 2018a, p. 1
23 Evans and Sahnoun 2001
Norbert Ropers based his theory on the assumption that groups develop a collective identity based on language, religion, culture and a shared history; this automatically leads to the differentiation between ‘we’ and ‘them’\textsuperscript{24}. Each group hereby generate a “master narrative” as the base of their collective identity; those usually depict the ‘others’ as evil\textsuperscript{25}. This theory can be used to explain the South Sudanese independence on one hand and the ethnical dimension of the civil war on the other hand. For the first it has to be considered that Sudan and South Sudan are ethnically different countries: the population of Sudan is mostly Islamic, Sudanese Arabs and also speaks mostly Arabic whilst the people in South Sudan are mostly Christian, belong to smaller ethnical groups (cf. 4.2.2) and speak over 400 different languages and dialects\textsuperscript{26}. Those different ethnical groups, on the other hand, can explain the civil war; they may not be as different as Sudanese and South Sudanese people, yet they are still diverse. To further analyze the abortive peace efforts, it would be possible to link the approach of identity conflicts to other theories, like Alexander Wendt’s systemic social constructivism\textsuperscript{27}.

Mary Kaldor’s theory New Wars (1999, 2012) is focused less on the actors then on war itself. She hereby defines four main criteria for wars after the cold-war era: states are no longer the only actors, wars are fought for identity politics rather than identity, fear and terror are common tools to claim political dominance as well as the emerge of a wartime economy\textsuperscript{28}. Analyzing the South Sudanese civil war with Kaldor’s criteria would therefore definitely grant a better insight into the conflict.

However, Michael Walzer’s approach hereby provides the highest explanatory value and will therefore be used to assess the case.

\begin{footnotesize}
\begin{itemize}
\item \textsuperscript{24} cf. Ropers 2007
\item \textsuperscript{25} Jarausch and Sabrow 2002, p. 16
\item \textsuperscript{26} cf. LeRiche and Arnold 2013, 4f
\item \textsuperscript{27} cf. Stahl 2014, p. 114
\item \textsuperscript{28} cf. Kaldor 2013, pp. 71–118
\end{itemize}
\end{footnotesize}
Walzer first of all proposes a classification based on historical customs in contemplation of war:

**Fig. 1: Components of Just War Theory**

<table>
<thead>
<tr>
<th>Legitimation</th>
<th>Before the war</th>
<th>During the war</th>
<th>After the war</th>
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<tr>
<td><strong>Ius ad bellum:</strong></td>
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<td>the justice of war</td>
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<td>Having a just reason to start a war</td>
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<td><strong>Ius in bello:</strong></td>
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<td>the justice in war</td>
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<tr>
<td>Conducting war in a just manner</td>
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<td><strong>Ius post bellum:</strong></td>
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<td>the justice after war</td>
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<td>Justice when ending wars</td>
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Own representation based on Schulzke 2013 and Stahl 2014, p. 150

However, when following Walzer’s theory it always has to be taken into consideration that he sees *Ius ad bellum* and *Ius in bello* as two independent moral arguments. This can be illustrated through the allotment of responsibility: soldiers can, according to the theory, never have the responsibility of *Ius ad bellum* as they don’t personally decide to go to war, yet on the other hand the political leaders are mostly not directly responsible for deeds in battle after *Ius in bello*, as they barely go to war themselves\(^{29}\).

### 2.3 *Ius ad bellum*

*Ius ad bellum* or the justice of war defines, whether a state has the right to go war in a just manner. It is commonly split into seven subitems; however, Walzer doesn’t supply a ‘checklist’ for just wars.

#### 2.3.1 *Just Cause*

The first subitem is the just cause\(^{30}\); it defines whether or not a valid reason also makes it a just cause. In general, war is usually seen as just if it serves the purpose of recreating “fred efter en aggression, självförsvar (även i förebyggande syfte), visa humanitära ändamål och upprätthållande av nationell autonomi”\(^{31}\).

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\(^{29}\) cf. Parsons 2017, 751ff

\(^{30}\) cf. Walzer 2015, 21ff

\(^{31}\) Badersten 2006, p. 49
Walzer, however, only sees preemptive wars\textsuperscript{32} as well as humanitarian interventions as generally just\textsuperscript{33}, whilst the justness of civil wars, secessions and interventions depend on the particular case\textsuperscript{34}. However, religious wars are no longer seen as just causes\textsuperscript{35}.

\subsection*{2.3.2 Right Intention}

The criteria of right intention and just cause are often confused or seen as one, as for the war to have a just cause it has to have the right intention. The difference, however, is that a war is fought \textit{with} the right intention but \textit{for} a just cause; the intention must therefore be to always achieve good in the end\textsuperscript{36}. Yet, Walzer himself states that “even just wars have political as well as moral reasons—and will have, I expect, until the messianic age when justice will be done for its own sake. An absolutely singular motivation, a pure good will, is a political illusion”\textsuperscript{37}. Additionally, it can be argued that a government always has the duty to pursue the interest of its own citizens and therefore always has another adjacent motive\textsuperscript{38}.

\subsection*{2.3.3 Legitimate Authority}

In general, the criterium of legitimate authority is regulated by Art. 24, 26 UN Charter, stating that the Security Council is responsible for the (peaceful) settlement of disputes and the granting of military mandates\textsuperscript{39}. However, this duty gets impeded in the times of new wars as the parties are increasingly guerillas, criminal groups, paramilitary, terrorist rings and other transnational networks\textsuperscript{40}. Therefore, states are the only legitimate authority to go to war as they can be held responsible by the international community\textsuperscript{41}.

\subsection*{2.3.4 Last Resort}

War always must be the last resort. This includes the reasonable exhaustion of all other instruments, such as political and diplomatic efforts, passiveness, sanctions\textsuperscript{42} as well as

\begin{footnotesize}
\textsuperscript{32} Preemptive wars are not to be confounded with preventive wars. Preventive wars are launched against potential endangerment, whilst preemptive wars require an imminent, immediate threat. Israel’s Six-Day-War in 1967 is hereby often seen as an example for a justified preemptive strike (cf. Beres 1991, p. 321).
\textsuperscript{33} cf. Walzer 2015, 84f, 107f
\textsuperscript{34} ibid., 86-100
\textsuperscript{35} cf. Syse 2004, p. 84
\textsuperscript{36} cf. Steinhoff 2014
\textsuperscript{37} Walzer 1998, pp. xviii–xix
\textsuperscript{38} cf. Pattison 2012, p. 160
\textsuperscript{39} United Nations 1945, Art. 24, 26
\textsuperscript{40} cf. Kaldor 2013, 75f
\textsuperscript{41} cf. Schwartz 2004, p. 292
\textsuperscript{42} cf. Syse 2004, pp. 109–115
\end{footnotesize}
sometimes structural violence\textsuperscript{43}. In other words, war is only the last resort if it causes less evil than all other non-violent options would\textsuperscript{44}.

### 2.3.5 Reasonable Hope of Success

A reasonable hope of success should always be focused on restoring peace and is therefore often linked to \textit{Ius post bellum}; “in other words, a successful war (and a just peace) is characterized first and foremost by the vindication of the rights for which the war was fought”\textsuperscript{45}. Additionally, the hope of success should be fulfillable with proportionate measures\textsuperscript{46}. However, there can only be “a reasonable expectation of success, but only reasonable expectation – not assurance”\textsuperscript{47}.

Therefore, in hindsight the Vietnam-War as well as the occupation of Afghanistan during the Cold War were both lacking a reasonable hope of success.

### 2.3.6 Proportionality (ends)

Proportionality is split into two parts. Firstly, it is not just to use military force if the use of force is not proportional towards the ‘evil’ which is fought. In the case of crimes against humanity, the impact of the assault and the suffering of the population have to be in due proportion. An example therefore is the humanitarian intervention in Kosovo, where the committed atrocities and antecedent ethnic cleansing justified the use of force; the mission there was, however, criticized for unjust behavior according to \textit{Ius in bello}\textsuperscript{48}. Second, it must be considered that there has to be a reasonable relationship between action and reaction. A simple border-crossing does, for example, not vindicate a military assault\textsuperscript{49}.

### 2.3.7 Formal Declaration of War

The formal declaration of war has a long tradition; in general, it shows respect towards the opponent\textsuperscript{50}. However, the declaration of war also has other reasons: “It was the end product of an elaborate political process by which a society decided to go to war. It was the key element in the principal diplomatic activity of government. It articulated the main aims for which war was to be fought”\textsuperscript{51}. Additionally, in the modern world a declaration of war also obviates the

\textsuperscript{43} cf. Aloyo 2015  
\textsuperscript{44} cf. Williams Jr. and Caldwell 2006, p. 310  
\textsuperscript{45} ibid., p. 316  
\textsuperscript{46} cf. Pattison 2012, p. 38  
\textsuperscript{47} Ramsey 2002, p. 527  
\textsuperscript{48} cf. Stahl 2014, 152f  
\textsuperscript{49} cf. Syse 2004, 106f  
\textsuperscript{50} cf. ibid., p. 118  
\textsuperscript{51} Holliday 2002, p. 565
war as a misapprehension and provides a last chance to settle the conflict peacefully\textsuperscript{52}. However, a resolution of the Security Council hereby counts as a formally correct declaration of war\textsuperscript{53}.

\textsuperscript{52} cf. Calhoun 2008, 39f
\textsuperscript{53} cf. Syse 2004, p. 118
2.4 *Ius in bello*

*Ius in bello* or international humanitarian law are established in several documents, such as the Geneva Convention from 1949 or the Hague Conventions of 1899 and 1907\(^{54}\).

2.4.1 **Non-combatant Immunity**

Non-combatant immunity includes not only the rule that civilians may never be the target of a military strike, but also that by any effort civilians are not to be harmed otherwise\(^{55}\). This is also embedded in Art. 3 I Geneva Convention:

> “Persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed hors de combat by sickness, wounds, detention, or any other cause, shall in all circumstances be treated humanely, without any adverse distinction founded on race, colour, religion or faith, sex, birth or wealth, or any other similar criteria.”\(^{56}\)

2.4.2 **Proportionality (means)**

*In bello* proportionality is rather close to the aforementioned *ad bellum* proportionality. However, in the frame of *Ius in bello*, proportionality is seen as the commensurate military effort that is proportional to the aim. Hereby, civilian life and property are never to be harmed intentionally; also, collateral damage should be avoided. Therefore, according to this principle, the nuclear attack on Japan in World War II is, of course, not proportional\(^{57}\).

2.5 **Preliminary Conclusion**

The theoretical framework of this paper consists mainly of Michael Walzer’s *Just War Theory*. It is hereby seen as an idealist approach rather than causal theory and therefore not suitable to give a well-founded prediction of the future\(^{58}\). Walzer’s approach is thus seen as an alternative to the power- and state-focused realist theory, as represented by Kenneth Waltz or Hans Morgenthau, and the strict pacifism which displays the other end of the scale. According to realists, war is just a means to an end for sovereign states to accumulate power; they thereby don’t see a moral or ethical dimension of war. Strict pacifism, on the other hand, completely reject violence and especially war in all ways\(^{59}\). Walzer, however, sees war as a tool in politics, yet he also sees the moral questions emerging from warfare; those will be in the focus for this

\(^{54}\) cf. Stahl 2014, p. 168  
\(^{55}\) cf. Patterson 2010, p. 38  
\(^{56}\) United Nations 1949, Art. 3 I  
\(^{57}\) cf. Syse 2004, pp. 134–137  
\(^{58}\) cf. Stahl 2014, p. 153  
\(^{59}\) cf. ibid., 149f
paper. His approach was also specifically applied to Armed Humanitarian Interventions (AHI) in the International Commission on Intervention and State Sovereignty (ICISS), which will also be part of the analysis. To analyze the civil war in South Sudan, two main aspects from Walzer’s theory will be used: *Ius ad bellum* and *Ius in bello*.

3 Methodology

3.1 Qualitative Deductive Approach

This paper is going to theoretically approach the research question with the help of a qualitative method study; through a deductive approach Michael Walzer’s *Just War Theory* (1977, 2015) will be applied on the case of the humanitarian intervention in South Sudan. Hereby, the renewed edition from 2017 will be used. This enables to draw into consideration the aspect of justness as well as the development in warfare influencing the structures.

However, the theory has been criticized in the past; Walzer’s theory has been reviewed as a very idealistic and vague model, as it doesn’t really provide a ‘checklist’ for just wars but rather supplies arguments in the discussion about warfare. Although, especially as the case of South Sudan has not yet been subject of much research the theory is well applicable and still has a good explanatory value; therefore, it will provide the basis for this paper.

The research focus will hereby strongly lay on the intervention in South Sudan, yet to fully understand the situation there it is necessary to investigate the civil war and the UN-mission in Sudan as well. As South Sudan only gained independence in 2011, the timeframe will be comparatively narrow; however, a historical background will be provided. However, through the ongoing civil war and the political instability it is rather hard to find reliable data as well as prevailing literature. This case was chosen as South Sudan is a very young state with a quite fragile statehood; before the independence in 2011, the South Sudanese lived under the UNMIS in Sudan. This brings up the question whether the humanitarian intervention there will ever provide the country with peace and also whether the intervention was just in the first place.

To answer the questions posed in this essay, a timeframe is necessary. A short historical background will be provided; yet, the analysis will mainly focus on the time preceding South

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60 cf. ibid., p. 153
Sudan’s independence as well as the UNMISS from 2011 until now. As the UNMIS was partly transferred into the UNMISS after it ended the lines between the two missions are partly blurry\textsuperscript{61}; therefore, both missions will appear in the analysis.

Nonetheless, the chosen deductive approach has both disadvantages and advantages. It has been criticized for not providing sufficient results as well as for not coming to a conclusion which can be generalized for further research; however, case studies enable the testing of a specific theory\textsuperscript{62}. Additionally, a deductive approach to case studies allows a profound analysis of the case, thereby increasing the validity of the results\textsuperscript{63}.

3.2 Material

The data used in the analysis will be drawn from different sources such as the United Nations and the UNMISS, the World Bank as well as the country reports compiled through the Bertelsmann Stiftung. In addition, some data will be retrieved from the Southern Sudan Centre for Census. However, in some sectors, such as the socioeconomic development or the level of democracy, it is rather hard to find reliable data, as the state itself is not collecting data and NGOs only have restricted access to data\textsuperscript{64}. Additionally, reports on current happenings are mostly only available in newspaper articles; peer-reviewed articles and books are rarely available after 2015. Therefore, the empirical basis in the analysis will partly be supported by older data or through newspaper articles from sources such as Reuters.

This empirical data will be reviewed through Walzer’s theory as well as through several approaches analyzing humanitarian interventions, such as the considerations by Alex J. Bellamy.

3.3 Operationalization

The following table will be used in the analysis to assess the implementation of the chosen criteria. As mentioned before, the criteria ‘Legitimate Authority’ and ‘Formal Declaration of War’ are seen as fulfilled and will therefore not be considered in the analysis, whilst the criterion

\textsuperscript{61} cf. LeRiche and Arnold 2013, 210
\textsuperscript{62} cf. Løkke and Sørensen 2014
\textsuperscript{63} cf. George and Bennett 2005, 5, 19
\textsuperscript{64} cf. Bertelsmann Stiftung 2018
of ‘Proportionality (means)’ is rather hard to analyze whilst the war is still ongoing as reliable data about the use of force is not accessible. It will therefore not be analyzed as it is not possible to draw insightful and reliable conclusions yet. Also, *lus post bellum* will not be included in either the analysis or the theory as the war and intervention are not yet close to an end. Right now, UNMISS got extended until March 2020 and is expected to be prolonged further after that\textsuperscript{65}.

**Tab. 1: Criteria of a Just War**

<table>
<thead>
<tr>
<th><em>lus ad bellum</em></th>
<th><strong>Just Cause</strong></th>
<th>Force should only be used to meet greater evil, f. ex. Violation of human rights.</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Right Intention</strong></td>
<td>The cause has to be just and without any lesser second intention.</td>
<td></td>
</tr>
<tr>
<td><strong>Legitimate Authority</strong></td>
<td>Legitimised through the UN, use of force only through states.</td>
<td></td>
</tr>
<tr>
<td><strong>Last Resort</strong></td>
<td>Use of force only after exhaustion of all peaceful methods of resolution.</td>
<td></td>
</tr>
<tr>
<td><strong>Reasonable Hope of Success</strong></td>
<td>The aim should be achievable with appropriate measures.</td>
<td></td>
</tr>
<tr>
<td><strong>Proportionality (ends)</strong></td>
<td>The military actions can in total not cause more damage than do good.</td>
<td></td>
</tr>
<tr>
<td><strong>Formal Declaration of War</strong></td>
<td>The war must be correctly declared.</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><em>lus in bello</em></th>
<th><strong>Non-combatant Immunity</strong></th>
<th>The harming of civilians has to be kept to a minimum; civilians are not to be attacked directly.</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Proportionality (means)</strong></td>
<td>To achieve the set aims, no more military force than necessarily needed should be used.</td>
<td></td>
</tr>
</tbody>
</table>

Own representation based on Pattison 2012 and Syse 2004

Thereby, it is possible to connect the theory to the case whilst following the given approach and timeframe; this achieves the highest possible level of reliability.

\textsuperscript{65} cf. United Nations 2019c
The evaluation of the implementation will not occur in a strict black-white.scheme; to evaluate the fulfillment of the factors time and the given circumstances will be taken into account. The level of compliance will hereby be assessed as follows:

**Tab. 2: Assessment of Compliance**

<table>
<thead>
<tr>
<th>Not fulfilled</th>
<th>Barely fulfilled</th>
<th>Partly fulfilled</th>
<th>Mostly fulfilled</th>
<th>Fulfilled</th>
</tr>
</thead>
<tbody>
<tr>
<td>The criterion has not been implemented at all.</td>
<td>The criterion has been implemented in a rudimentary way.</td>
<td>The criterion has been fulfilled fractionally.</td>
<td>The criterion has been fulfilled for the most part.</td>
<td>The criterion has been fulfilled completely.</td>
</tr>
</tbody>
</table>

4 Background

For years, both Sudan and South Sudan had the questionable honor to be ranked amongst the top ten of the most unstable countries worldwide by the Fragile States Index (FSI)\(^\text{66}\); South Sudan is even seen as a failing state by some.

The faith of both Sudan and South Sudan has been the interest of diverse research, especially after the Comprehensive Peace Agreement (CPA) a lot of studies have been conducted. It would lead too far to name all researchers; however, some are to be listed exemplarily in the following. Gunnar M. Sørbo, for example, wrote and edited several books about the Sudanese civil war and the South Sudanese independence. Furthermore, Andrew Natsios, the former U.S. Special Envoy to Sudan, published a comprehensive overview over the civil war. Lastly, the book *South Sudan – From Revolution to Independence* by Matthew LeRiche and Matthew Arnold (2013) is to be mentioned; the book is a well-researched analysis of the South Sudanese Civil war. Yet, after 2013, the published pieces of research mostly consist of articles.

However, the history behind the civil wars goes far back and is commonly rather unknown. Therefore, the background of both Northeast-African countries is to be displayed in the following.

\(^{66}\) cf. Fragile States Index 2019
4.1 Sudan

The Republic of Sudan has a long history of colonialism and occupation, reaching from the Ottoman Empire and the Mahdi to the Anglo-Egyptian Condominium. However, in 1956 Sudan became independent\(^\text{67}\). Today, the country has around 43 million inhabitants; the biggest ethnic group are the Sudanese Arab. Sudan is, since the independency of South Sudan, the second biggest African country\(^\text{68}\). Through the ongoing civil war there are over three million Sudanese refugees and internally displaced people (IDP)\(^\text{69}\).

However, the country has rarely experienced peace; Sudan has been enduring Africa’s longest civil war from 1983 until 2005, when it was ended through the CPA which eventually lead to the independence of the South\(^\text{70}\). The CPA was signed by the Government of Sudan and the Sudan Peoples’ Liberation Movement/Army (SPLM/A) under the lead of Dr. John Garang. However, the turmoil in different parts of the country continued, leading to the begin of the UNMIS in 2007\(^\text{71}\). UNMIS was based on Security Council Resolution 1590 (2005) stating that the political situation in Sudan threatens the international peace. The aims of UNMIS were to implement the CPA and assist the involved parties, supporting development and providing aid to refugees as well as to promote human rights\(^\text{72}\). The mission ended on July 9\(^\text{th}\), 2011 with the completion of the interim period and the independence of South Sudan\(^\text{73}\).

Politically Sudan has been under the authoritarian rule of Omar al-Bashir since a military coup in 1989. Although, on the 11\(^\text{th}\) of April 2019 al-Bashir was arrested in the course of a military coup; after a two-year interim government under the military the transition to democracy is planned\(^\text{74}\). Al-Bashir is to appear on remand before the ICC, where he is wanted for five crimes against humanity\(^\text{75}\).

\(^{67}\) cf. Natsios 2012, pp. xxv–xxviii
\(^{68}\) cf. Central Intelligence Agency 2019b
\(^{69}\) cf. UNHCR 2019
\(^{70}\) cf. Brosché and Duursma 2018, 560f
\(^{71}\) cf. Natsios 2012, xxvi ff
\(^{72}\) cf. UNSCR 2005
\(^{73}\) cf. United Nations 2019a
\(^{74}\) cf. Abdelaziz 2019
\(^{75}\) cf. International Criminal Court 2019
4.2 South Sudan

“Lack of freedom, equality and justice has been the key factor that drove the people of South Sudan to war. We fought with singular determination to liberate the nation from the deliberate deprivation from these rights and bring about a just and lasting peace. These rights and aspirations are now enshrined in the Constitution of South Sudan and are being enjoyed throughout the country. Our country shall be a nation that guarantees freedom, equality, justice and peace for all.”

Shortly after the independence, the Government of South Sudan published this vision of South Sudan in 2040 which seems to be quite positive and optimistic. Yet today, eight years later, South Sudan only seems to be even more unstable.

Today, the country has around ten million inhabitants; yet, due to heavy emigration and flight the population decreases. Most people live in the capital Juba or in the White Nile area, which is one of the most fecund in the country.

In the following, the background of South Sudan will be displayed to thereby facilitate the subsequent analysis.

4.2.1 Independence and Humanitarian Situation

The Republic of South Sudan is the world’s youngest state; it became independent on July 9\textsuperscript{th} 2011.\footnote{Government of South Sudan 2011, p. 19} After the independence, President Salva Kiir kept governing as he did since the CPA 2005;\footnote{cf. Thomas 2015, xiii} Kiir hereby followed John Garang as president of the autonomous government after Garang’s death in 2005.\footnote{cf. Mehler et al. 2013, 381f} He ruled the country in a rather authoritarian way and oppressed for example the creation of political parties and the freedom of opinion.\footnote{cf. Bertelsmann Stiftung 2018, p. 5}

The humanitarian situation after the independence was extremely bad, as up to 50\% of the population had to rely on food aid\footnote{cf. LeRiche and Arnold 2013, pp. 116–120} whilst the state failed to provide basic security or public services such as health care or education. Most of those services are provided by different

\textsuperscript{76} Government of South Sudan 2011, p. 19
\textsuperscript{77} cf. Central Intelligence Agency 2019a
\textsuperscript{78} cf. Thomas 2015, xiii
\textsuperscript{79} cf. Mehler et al. 2013, 381f
\textsuperscript{80} cf. LeRiche and Arnold 2013, pp. 116–120
\textsuperscript{81} cf. Bertelsmann Stiftung 2018, p. 5
\textsuperscript{82} cf. LeRiche and Arnold 2013, p. 141
NGOs, although not all of them are freely accessible and as those institutions are mostly based in the bigger cities the poorer rural population rarely benefits\textsuperscript{83}.

Today, the situation is even worse. According to the Human Development Report of the UNDP, South Sudan’s HDI decreased by 6.1% since 2010 to 0.388, placing the country 187\textsuperscript{th} out of 189\textsuperscript{84}. The country’s low HDI has different causes: up to half of the population live below the poverty line, the high rate of illiteracy, very limited access to education\textsuperscript{85} as well as a high child mortality and limited access to potable water\textsuperscript{86}. In addition, South Sudan had more than two million people fleeing the country so far plus another 1.8 million IDPs\textsuperscript{87}. The general absence of structures, such as infrastructure, welfare or education, contribute to the displacement of people as well as the conflict; UNMISS repeatedly reported people searching their help because of structural constraints rather than physical threat\textsuperscript{88}.

### 4.2.2 Ethnical Structures

The ethnical structures in South Sudan are very complex. For this study, however, only the most important tribes are to be mentioned. The biggest ethnical groups are the Dinka and Nuer, both are Nilotic tribes living mostly in the states Jonglei and Upper Nile\textsuperscript{89}. Both groups have been fighting each other since the Second Sudanese Civil War, when they tried to overthrow the Muslim government\textsuperscript{90}. However, the Catholic church in South Sudan repeatedly tried to propitiate both groups; this effort partly succeeded with the Wunlit peace in the 1990s\textsuperscript{91}.

\textsuperscript{83} cf. Bertelsmann Stiftung 2014, 2f
\textsuperscript{84} UNDP 2018, p. 2
\textsuperscript{85} cf. Bertelsmann Stiftung 2018, p. 17
\textsuperscript{86} cf. Southern Sudan Centre for Census, Statistics and Evaluation (SSCCSE) 2010
\textsuperscript{87} cf. Neto and Ghelli 2019
\textsuperscript{88} cf. Bertelsmann Stiftung 2018, p. 27
\textsuperscript{89} cf. LeRiche and Arnold 2013, 29f
\textsuperscript{90} cf. Jok and Hutchinson 1999, 126f
\textsuperscript{91} cf. Bertelsmann Stiftung 2018, p. 27
After the independence, this ‘traditional’ rivalry deepened even more as president Kiir derives from the biggest ethnical group of the Dinka, whilst his vice president Riek Machar is part of the Nuer\(^92\). When Salva Kiir dismissed Riek Machar and his cabinet on July 23, 2013 and partly dissolved the structures of the SPLM, ethnical protests and riots began\(^93\). Those rivalries still have a massive influence on today’s politics in South Sudan.

4.2.3 Civil War since 2013

“Whatever their differences may be, they cannot justify the violence that has engulfed their young nation, […]. They must do everything in their power to immediately ensure that their followers hear the message – loud and clear – that continued violence, ethnic and otherwise, is completely unacceptable. Now is the time for South Sudan’s leaders to show their people and the world that they are, above all, committed to preserving the unity of the nation that was born out of their long struggle for independence.”\(^94\)

With those words, UN General Secretary Ban Ki-moon tried to describe the Civil War in South Sudan; however, the situation is very complex. The first catalyst was the unexpected death of John Garang shortly after his inauguration in 2005, unexpectedly bringing mainly Kiir, but also

\(^{92}\) cf. Mehler et al. 2013, p. 382
\(^{93}\) cf. Johnson 2014, 169f
\(^{94}\) UN News 2013
Machar to power\textsuperscript{95}. During the interim period from 2005-2011, Kiir struggled to build a stable government as Nuer militias kept opposing the Sudan People’s Liberation Army (SPLA). He repeatedly tried to bribe them into joining the army, yet this led to even more instability and internal rebellions. Additionally, discontent began to spread under civilians as well as politicians as Kiir kept shifting away from Garang’s vision of a “Second Republic of New Sudan”\textsuperscript{96} towards independence. The rather undemocratic constitution and lacking development lead to rebellions, mainly under the Nuer and Murle\textsuperscript{97}.

In 2012, the discontent grew rapidly because of corruption as well as lack of development and safety, motivating amongst others Rebecca Nyandeng, Garang’s widow, and Machar to run for presidency, thereby worsening the relations between the president and his vice. This led to the aforementioned dissolution of some SPLM-structures and the deposition of Machar as vice-president as well as the formation of a new cabinet which was mainly based in Kiir’s ethnical group, the Dinka. In the following, rebellions of the SPLM/A-North against the government came up, leading to the formation of a new anti-Kiir alliance under Machar. However, because this alliance was very diverse and was mostly united through the common disinclination against Kiir, it was very unstable.

In December 2013, the situation escalated after a press conference voiced criticism about Kiir’s government\textsuperscript{98}. On the 15\textsuperscript{th} of December, the first violent confrontations occurred which soon reached an ethnic motivation as several Nuer civilians were killed by Dinka soldiers. Thereupon, the rebellion led by Machar spread over the whole country; the rebels called themselves Sudan People’s Liberation Movement/Army in Opposition (SPLM/A-IO)\textsuperscript{99}. After international efforts a peace agreement was signed which stipulated that Machar would retrieve the position of first vice-president as well as that Kiir would keep the post of president\textsuperscript{100}. However, the violence went on and compelled Machar to flee to Sudan; thus, the peace agreement was decrepit which led to the civil war\textsuperscript{101}. The civil war rapidly spread across the country, withal maintaining its ethnic dimension as Dinka kept attacking members of other ethnic groups. Additionally, the country’s army and legislative\textsuperscript{102} are nearly only Dinka-

\textsuperscript{95} cf. Johnson 2014, 167f
\textsuperscript{96} LeRiche and Arnold 2013, p. 115
\textsuperscript{97} cf. ibid., 115-139
\textsuperscript{98} cf. Johnson 2014
\textsuperscript{99} cf. Bertelsmann Stiftung 2018, 3ff
\textsuperscript{100} cf. Intergovernmental Authority on Development 2015
\textsuperscript{101} cf. Bertelsmann Stiftung 2018, 3ff
\textsuperscript{102} Jieng Council of Elders, formerly called National Legislative Assembly.
representatives, thereby counselling the president rather one-sided\textsuperscript{103}. This reinforced the ethnic dimension of the conflict even more, so that now not only Dinka and Nuer fight each other, but it extended to a division between Dinka and the other ethnic groups\textsuperscript{104}. Several organizations even addressed the possibility of an impending genocide; the UN and African Union reported "numerous incidents of murder, torture, rape, looting, displacement along ethnic lines, and forced starvation [as well as] the use of hate speech by senior officials"\textsuperscript{105}.

In August 2015, both parties signed a peace agreement, that raised hope towards a prompt end of the civil war; however, in July 2016, shortly after the agreement’s implementation, violence broke out again\textsuperscript{106}. The war has been ongoing ever since.

### 4.2.4 Economic Situation

The South Sudanese economy suffered major damage from the civil war. Before the civil war, the country mostly relied on its rich oil occurrence; yet, since the beginning of the war the production repeatedly collapsed\textsuperscript{107}. Although, even if the oil production reached its former level, the troubled relationship with Sudan interferes with prosperous trade\textsuperscript{108} as both countries still share several facilities. Oil was also a major contentious point during the CPA; both countries still compete for the ascendancy in the market and are strongly dependent on it\textsuperscript{109}. However, it has to be acknowledged that the oil also artificially prolonged the civil war in both Sudan and South Sudan, as it is a nearly inexhaustible resource financing the war\textsuperscript{110}.

\textsuperscript{103} cf. Laku, SR. 2017
\textsuperscript{104} cf. Bertelsmann Stiftung 2018, 16f
\textsuperscript{105} cf. Bertelsmann Stiftung 2018, 16f
\textsuperscript{106} cf. Freedom House 2018
\textsuperscript{107} cf. Libertas 2018, 16f
\textsuperscript{108} cf. Natsios 2012, p. 218
\textsuperscript{109} cf. Sidahmed 2013
\textsuperscript{110} cf. Ignatieff 2007, p. 303
As depicted in Table 3, the South Sudanese Pound (SSP) is highly affected by inflation. In 2014, the Bank of South Sudan decided to print more SSP to fight the black market for foreign currencies, thereby leading to this enormous inflation rate\textsuperscript{111}.

Yet, due to the lack of reliable data it is hard to make any other statement than that the South Sudanese economy is performing rather negatively; it is furthermore very difficult to make a forecast about the economy’s development\textsuperscript{112}.

### 4.2.5 Political Crisis

The political situation in South Sudan is very instable; the government is not able to fulfill basic state functions. The GoSS doesn’t have the monopoly on the use of force, the administration got even worse over the last couple of years and democracy has barely been implemented since the independency\textsuperscript{113}. The people of South Sudan were promised free elections since 2005; however, in 2018 the elections got postponed until 2021 again\textsuperscript{114}. The mandates of the member of the legislative institutions, which were elected in 2010, were supposed to end in 2015; yet, the legislature period was repeatedly prolonged until 2018.

Additionally, the separation of powers only exists on paper as the president technically revoked the constitution and replaced the whole cabinet in 2013; the SPLM is the only really existing

\textsuperscript{111} cf. Bertelsmann Stiftung 2018, 20f
\textsuperscript{112} cf. ibid., 24f
\textsuperscript{113} cf. ibid., pp. 6–11
\textsuperscript{114} cf. Electoral Institute for Sustainable Democracy in Africa 2019
party, even though several non SPLM-members hold a seat in the parliament\textsuperscript{115}, whilst interest groups are widely prohibited\textsuperscript{116}.

In addition, the SPLA, which officiates as the state’s army, established a climate of fear; thereby, amongst others, massively impeding the already weak opposition\textsuperscript{117}. Basic rights, such as the freedom of assembly and freedom of expression are not existent; this was made clear through the following statement of President Kiir about the killing of journalists in front of international media in 2015: “If anybody of you [journalists] does not know that this country has killed people, we will demonstrate it one day, one time”\textsuperscript{118}.

Furthermore, the rule of law is not at all given; in May 2018, all judges in South Sudan went on a five-month strike after a Supreme Court judge discharges his post because of the executive repeatedly interfering with his work\textsuperscript{119}. This, amongst other factors, caused the bilateral relations to other international actors, such as the AU, UN, USA, Norway and Great Britain to constantly worsen\textsuperscript{120}.

Even though the war is supposedly fought for the perpetuation of democratic values, South Sudan clearly is governed by an authoritarian regime\textsuperscript{121} with no separation of powers, retention of basic rights, elections or other basic democratic institutions.

\subsection*{4.3 Preliminary Conclusion}

Recapitulatory, it can be stated that a multitude of factors caused the civil war in South Sudan to escalate that far: the long and complicated relationship with Sudan, the poor humanitarian and economic situation as well as the ingrained ethnical structures in the country. However, a big part of the driving forces of the civil war can be accounted to the malfunctioning political system. Without the cooperation of a functioning and supportive government, the international efforts can never fully unfold. Taking all aforementioned factors into consideration, it seems
very unlikely that South Sudan evolves towards a prospering young country in the close future notwithstanding the international endeavors.

5 Analysis

In the following, the involvement of the UN in South Sudan is going to be analyzed with the help of Michael Walzer’s *Just War Theory*.

UNMISS is one of seven ongoing UN peacekeeping missions in Africa right now\(^{122}\). It was established in July 2011 after the enacting of Security Council Resolution 1996 and contains 19,402 employed personnel, out of which 7,900 are uniformed troops; Rwanda is hereby the most contributing country\(^{123}\).

5.1 *Ius ad bellum*

5.1.1 Just Cause

A just cause can be fulfilled in several cases: restoration of peace, self-defense, intervention for humanitarian reasons as well as the perpetuation of national autonomy\(^{124}\). In the case of South Sudan several of those causes are to be taken into consideration: the perpetuation of national autonomy, intervention for humanitarian reasons and restoration of peace.

Firstly, the perpetuation of national autonomy was one of the first goals set for the mission in 2011: “Reaffirming its strong commitment to the sovereignty, independence, territorial integrity, and national unity of the Republic of South Sudan”\(^{125}\). This emerges from previous difficulties that already came up during the interim period after the CPA; local authorities realized back then that nation building in South Sudan will not be easy. It was impeded even more after the civil war broke out in 2013\(^{126}\). In the beginning, there were several obstacles to overcome before South Sudan could become a stable state: the SPLM had to be transformed into a party focused on actually governing their people instead of leading an army, the SPLA had to change from a guerilla to an army, the division of power required by the constitution had

\(^{122}\) cf. United Nations Peacekeeping 2019a

\(^{123}\) cf. United Nations Peacekeeping 2019c

\(^{124}\) Badersten 2006, p. 49


\(^{126}\) cf. Zambakari 2013, pp. 20–23
to be fully implemented, the question of how to structure and govern the federal states had to be solved and a proper security apparatus as well as a welfare system had to be built up from scratch\textsuperscript{127}. It thus appears that the country gained independence with no or only basic state institutions; therefore, UNMISS was strongly focused on assisting with nation-building\textsuperscript{128}. This seems like an ostensibly just cause; however, there are several known cases were UN-efforts of nation-building had a rather double-edged outcome. The case of South Sudan is hereby comparable to East-Timor, which today poses one of the two-sided success stories of the UNs record in state-building\textsuperscript{129}. Yet, as failed states are a well-known source for terrorism, instability and other negative impacts on the region, UNMISS has a very high motivation to succeed in building a relatively stable and democratic state in South Sudan\textsuperscript{130}.

The second cause of UNMISS is the intervention for humanitarian reasons; this is made note of in Resolution 1996 as follows:

\begin{quote}
\textit{Deploring} the persistence of conflict and violence and its effect on civilians, including the killing and displacement of significant numbers of civilians, and noting the importance of sustained cooperation and dialogue with civil society in the context of stabilizing the security situation and ensuring the protection of civilians.\textsuperscript{131}
\end{quote}

It hereby becomes clear that UNMISS is, amongst others, focused on mitigating the suffering of the South Sudanese people; to achieve that aim, UNMISS established four projects across the country: Protection of Civilians, Coordination, Return and Reintegration and Quick Impact Projects\textsuperscript{132}. However, good causes do not necessarily equal good policies as UNMISS-facilities were repeatedly criticized (cf. 5.3.1)\textsuperscript{133}. Yet, the cause of intervening for humanitarian reasons is, according to Walzer, considered as just\textsuperscript{134}; the execution will be analyzed in 5.3.1.

The last identified cause of UNMISS is the restauration of peace in South Sudan. The Security Council is hereby

\begin{quote}
\textit{Stressing} the need for a comprehensive and integrated approach to peace consolidation that strengthens coherence between political, security, development, human rights, and rule of law activities, and
\end{quote}

\begin{flushright}
\textsuperscript{127} cf. Jaime 2017 \\
\textsuperscript{128} cf. Johnson 2016, 47, 99 \\
\textsuperscript{129} cf. Chesterman 2005, 183f \\
\textsuperscript{130} cf. Ignatieff 2007, p. 306 \\
\textsuperscript{131} United Nations Security Council 2011, p. 1 (Italic in original) \\
\textsuperscript{132} United Nations 2019d \\
\textsuperscript{133} cf. Morgenthau et al. 2006, p. 6 \\
\textsuperscript{134} cf. Walzer 2015, pp. 100–108
\end{flushright}
addresses the underlying causes of conflict, and underlining that security and development are closely
interlinked and mutually reinforcing and key to attaining sustainable peace.”

This is closely linked to the cause of state-building, as peace and stability cause one another. However, there are indicators that strongly point towards the elites of the country as culprits; there seems to be very little effort towards the consolidation of peace, which impedes UNMISS’ cause. It additionally gets aggravated through the government actively trying to hinder the mission to interfere with certain affairs. Furthermore, the people of South Sudan didn’t make the best experiences with the antecedent mission UNMIS; it can therefore not be expected that they strongly support the efforts of UNMISS.

Yet, even though the implementation of the set causes may be hard, they are still to be seen as just.

5.1.2 Right Intention

“[The Security Council] [d]ecides that the mandate of UNMISS shall be to consolidate peace and security,
and to help establish the conditions for development in the Republic of South Sudan, with a view to
strengthening the capacity of the Government of the Republic of South Sudan to govern effectively and
democratically and establish good relations with its neighbours.”

The official intention of the intervention becomes clear in Security Council Resolution 1996 (2011). Evidently, the intention hereby points towards achieving a good outcome at the end as well in humanitarian, economic as well as political means. More precisely, the consolidation of peace and security facilitate economic growth as well as socioeconomic and political development; also, the implementation of democratic structures and peaceful relations to neighboring countries are a first warrantor for peace in the area. In addition, South Sudan strongly has to rely on Sudan to draw significant profit from their oilfields; those indeed are located in South Sudan, the essential infrastructure is, however, mostly located in Sudan. Therefore, the economy of both countries would profit heavily from peace in the region. Thereby, the Security Council proves its right intention on a first, rhetorical level without trying to justify it.

138 United Nations Security Council 2011, p. 3 (Italic in original)
139 cf. Jaime 2017, 96f
140 cf. Pattison 2012, p. 163
However, the deciding point for the criterium of right intention is whether the humanitarian aspect of the intervention outweighs other self-interests\textsuperscript{141}; it can however be argued that own interests are a better guarantee for success, as an actor may be more interested in fulfilling his own aims then in pure ‘charity’\textsuperscript{142}.

Yet, other non-humanitarian intentions can be assumed, especially in the cases of Ethiopia and Rwanda, two of the most contributing countries in UNMISS\textsuperscript{143}. Both countries, especially the neighboring Ethiopia, face enormous challenges through South Sudanese refugees\textsuperscript{144} which could lead as far as to a weakening of the own state\textsuperscript{145}; Ethiopia hereby hosts over 400,000 South Sudanese refugees at the moment\textsuperscript{146}. Although the countries can, in a long term, profit from immigration it still poses a momentary challenge\textsuperscript{147}. It can therefore be argued that Ethiopia and Rwanda have the secondary intention of, on one hand, decelerating the flow of refugees through the restoration of peace and, on the other hand, show interest in recuperating the general peace in North-East Africa\textsuperscript{148}.

Recently, China showed ambitions to strengthen its role in UN Peacekeeping and tried to resume command over UNMISS; however, this was inhibited through Western powers\textsuperscript{149}. However, this attempt of China is not necessarily negative; it rather shows endeavor to solve ongoing humanitarian crises and forge links to the Asian region.

Recapitulatory, it can be stated that nearly no humanitarian intervention has the pure, idealistic right intention of ending the suffering of the population; however, UNMISS fulfills the criterium to the point of a “mixed case[s] where the humanitarian motive is one among several”\textsuperscript{150}. Yet, the humanitarian motive of UNMISS is seen as ostensible\textsuperscript{151}; therefore, the criterium is fulfilled.

\textsuperscript{141} cf. ibid., 164ff
\textsuperscript{142} cf. Dobos 2016, p. 500
\textsuperscript{143} cf. United Nations Peacekeeping 2019c
\textsuperscript{144} cf. Jahre et al. 2018, 329f
\textsuperscript{145} cf. Ignatieff 2007, p. 303
\textsuperscript{146} cf. Neto and Ghelli 2019, p. 1
\textsuperscript{147} cf. Castles et al. 2014, 55ff
\textsuperscript{148} cf. Pattison 2012, 160f
\textsuperscript{149} cf. Bellamy 2018a, p. 116
\textsuperscript{150} Walzer 2015, p. 101
\textsuperscript{151} cf. Bellamy 2016b, p. 117
In the case of South Sudan, the criterium of last resort is hard to assess out of several reasons. Firstly, UNMISS was implemented on the day of the independence; even though the mission was officially planned to last one year, the Security Council Resolution was comprised of the option to prolong the mission\textsuperscript{152}. In addition, the former Special Representative of the Secretary General (SRSG) Hilde Johnson (Norway) played an important role in the CPA-negotiations\textsuperscript{153} as she was reportedly close to the SPLM\textsuperscript{154}. Therefore, the use of diplomatic and political efforts for the implementation of peace were impeded, in a temporal as well as in a personal way.

Second, the aforementioned invidious predicament of the South Sudanese economy as well as the bad humanitarian conditions make sanctions and passiveness nearly impossible. Hence, in the case of humanitarian interventions, the likeliness of the military intervention saving more civilian lives than it takes is very likely; it is therefore often the preferable alternative\textsuperscript{155}.

This also applies to the case of South Sudan. In 2010, 51\% of the population lived under the poverty line and had to rely on food aid\textsuperscript{156}, therefore the application of sanctions as well as passiveness against South Sudan would have only hit the already suffering population. Additionally, through the continuing fights between different ethnical groups many refugees and IDPs were seeking protection; in 2018, more than 200,000 found refuge in the UNMISS Protection of Civilian cites (PoCs)\textsuperscript{157}.

It therefore seems to be a reasonable assumption that, even though UNMISS repeatedly got accused of idleness (cf. 5.3.1), the protection of several thousand IDPs and other civilians outweighs the victims of their passiveness. UNMISS thus fulfills the criterium of last resort.

\textsuperscript{152} cf. United Nations 2019b
\textsuperscript{153} cf. Rolandsen 2011
\textsuperscript{154} cf. Young 2013, p. 350
\textsuperscript{155} cf. Pattison 2012, 82f
\textsuperscript{156} cf. Southern Sudan Centre for Census, Statistics and Evaluation (SSCCSE) 2010, p. 4
\textsuperscript{157} cf. Bertelsmann Stiftung 2018, 24f
5.1.4 Reasonable Hope of Success and Proportionality (ends)

Those two criteria are closely linked and will therefore be analyzed together to generate a better understanding. The general questions to ask are firstly if the aim can be achieved with reasonable means and secondly if the force used does more good than bad; otherwise the mission would just pose a waste of resources, time and reputation\(^{158}\). Linking that to the case of humanitarian interventions in general overall consequences have to be evaluated; this includes the possibility of non-intervening as well. Therefore, the number of civilians that would die in the case of passiveness is to be compared with the number of civilian victims in case of an intervention\(^{159}\); yet, there is no reliable data to precisely analyze it. As discussed above, in the case of UNMISS, passiveness would not have been an option as the atrocities committed against civilians have constantly increased since the Arab Spring; the suffering of the people as well as the number of refugees and IDPs was not expected to decrease on its own. Additionally, the violence against civilians was enormous in South Sudan with civilians being targeted more than the actual armed forces\(^{160}\); alone in the years 2013/14, UNMISS was able to save up to 200,000 civilians from harm\(^{161}\).

On the other hand, negotiated peace is often less stable than a military resolution of the conflict\(^{162}\); the CPA hereby never led to consistent peace. Therefore, as shown above, the suffering of the population is immense which justifies the permission “to use all necessary means to perform the following tasks: (a) Protection of civilians”\(^{163}\). Yet, as there are no amenable records about the embroilment of UNMISS-soldiers in violent incidents or about the use of force through peacekeepers it is hard to further analyze the proportionality; it can only be stated that if the soldiers stick to the order of ‘all means necessary’, not more and not less, the criterium is fulfilled.

The UN has always been a stable institution when it comes to humanitarian interventions and has always taken the responsibility to protect very seriously. Through the last years, the UN

\(^{158}\) cf. Fixdal and Smith 1998, 303ff
\(^{159}\) cf. Dobos 2016, p. 498
\(^{160}\) cf. Bellamy 2018a, 105, 109
\(^{161}\) cf. Bellamy and Hunt 2015, p. 1284
\(^{162}\) cf. Bellamy 2018b, 331
reviewed their whole system to strengthen the implementation of their peacekeeping-missions; this also concerned UNMISS, therefore, the hope of success got augmented even more\textsuperscript{164}.

However, an AHI “can be considered a success when it saves lives. To be more specific, if in a humanitarian crisis some people would have died without assistance, but did not die because of the actions of military personnel, the intervention succeeded”\textsuperscript{165}. This minimum requirement, even though it is barely quantitatively measurable, it was very likely to be reached when the mission started, as UNMISS established five PoCs in different cities in South Sudan as well as other instances for humanitarian aid\textsuperscript{166}. Yet, to prescind from the classical war-perception of success, it has to be considered that success for the UN is defined differently than for the groups of armed civilians. For UNMISS to be contemplated as successful, it would not just have to ‘win’ the war but leave a stable country with a democratic government in the end\textsuperscript{167}.

One aspect concerning the hope of success is the multilateralism of the mission. If the intervention is unilateral or mostly under the participation of states that are not traditionally linked to the country’s interests, resistance in the population can be expected. This would, on the other hand, diminish the hope of success, as the cooperation of the population can have a rather big impact on the outcome of an AHI\textsuperscript{168}. However, UNMISS is a multilateral mission and two of the most contributing countries, Ethiopia and Rwanda, are geographically close to South Sudan; this is therefore conducive to the expected success.

Additionally, the economic level has to be looked at. It is likely that humanitarian and development aid would bring the war to an end; however, the war in South Sudan doesn’t, as in other failing/failed states, result from poorness as for example in Somalia, but is rather augmented through extraordinary natural resources. That profitable resource, namely oil, hereby flows towards a war-centered economy instead of nation-building; this effect can be compared to Sierra Leone and the wealth from diamonds. Therefore, UNMISS would need more ascendancy on the natural resources and economy of South Sudan, which is extremely unlikely; another option would be to get assistance from other organizations with extensive economic influence like The World Bank\textsuperscript{169}.

\begin{footnotesize}
\begin{enumerate}
\item[164] cf. Bellamy 2018a, 116f
\item[165] Seybolt 2007, p. 30
\item[166] cf. United Nations 2019d
\item[167] cf. Harbour 2011, p. 234
\item[168] cf. Dobos 2016, p. 501
\item[169] cf. Ignatieff 2007, p. 304
\end{enumerate}
\end{footnotesize}
Yet, in the case of UNMISS, the chronological development of the probability of success has to be considered. In the beginning, the mission’s aim of state-building in South Sudan\textsuperscript{170} seemed rather likely; however, after the civil war broke out again in 2013 (cf. 4.2.3), the cooperation between UNMISS and the government constantly worsened, thereby making the attainability of a stable South Sudan more and more unlikely\textsuperscript{171}. Nonetheless, UNMISS managed to protect large numbers of civilians from the atrocities committed in the South Sudanese civil war; the probability of succeeding further is hereby likely.

5.2 \textit{Ius in bello}: Non-combatant immunity

“International humanitarian law is designed to protect persons who do not participate, or are no longer participating, in the hostilities; and it maintains the fundamental rights of civilians, victims and non-combatants in an armed conflict. It is relevant to United Nations peacekeeping operations because these missions are often deployed into post-conflict environments where violence may be ongoing or conflict could reignite.”\textsuperscript{172}

With those words did the UN implement the principle of non-combatant immunity into the Capstone Doctrine. So far, UNMISS reports 67 fatalities, none of which are civilians\textsuperscript{173}. However, several NGOs criticize the mission for not fulfilling its duty of protecting civilians. One example therefore is the outbreak of violence in Malakal in 2016 where 25 to 65 people died. The incident happened in a PoC where IDPs were supposed to find shelter and safety. Yet, on the 17\textsuperscript{th} of February it came to violent encounters between IDPs of different ethnical groups, which escalated the day after. Large stretches of the camp were burnt down, leading to mass causalities as many IDPs tried to seek protection in the UN LogBase, which they were refused\textsuperscript{174}. UNMISS hereby failed its duty “to use all necessary means, up to and including the use of deadly force, to prevent or respond to threats of physical violence against civilians, within capabilities and areas of operations, and without prejudice to the responsibility of the host government”\textsuperscript{175}.

This was unfortunately not the only such incident; between 2013 and 2016 more than 100 civilians have been killed due to mistaken reactions of UNMISS-soldiers as well as countless

\textsuperscript{170} cf. United Nations Security Council 2011, p. 1
\textsuperscript{171} cf. South Sudan - UNMISS Report 2015, p. 20436
\textsuperscript{172} United Nations 2010, p. 15
\textsuperscript{173} cf. United Nations Peacekeeping 2019c
\textsuperscript{174} cf. Médecins sans Frontières 2016
\textsuperscript{175} United Nations Peacekeeping 2019b
cases of rape and assault. In the following, the UNMISS General Johnson Ondieki had to leave his post after heavy critique\textsuperscript{176}.

However, UNMISS was also repeatedly hindered to fulfill its duty of protecting civilians in the civil war; Ban Ki-moon even observed in a report about the mission that UNMISS’ success was massively impeded, as government troops refused the peacekeepers access to areas of conflict\textsuperscript{177}, which lead to situations where UNMISS didn’t provide the military aid requested by the GoSS to not violate UN-principles\textsuperscript{178}. Nonetheless, as beforementioned, UNMISS saved 150,000 to 200,000 civilians in 2013/14\textsuperscript{179}.

Therefore, it cannot be conclusively clarified whether UNMISS fulfills the duty to protect civilians. There are indeed records of cases in which the peacekeepers failed to protect civilians from violence, yet they were also often hindered by the government or other troops. However, there are no records of UNMISS-soldiers targeting civilians.

5.3 Assessment

After analyzing the criteria of \textit{Ius ad bellum}, it can be stated that the UN definitely had a just reason to go to war. The criteria of Just Cause, Legitimate Authority, Last Resort, Proportionality (ends) and Formal Declaration of War are (as far as accessible) completely fulfilled, whilst the criterion of Right Intention is mostly fulfilled, and the Reasonable Hope of Success is partly fulfilled; this makes the intervention just. Furthermore, the \textit{Ius in bello}-criterion of non-combatant immunity is also seen as partly fulfilled; however, the implementation got better over time as well as through changes in personnel. Yet, the end of the war is barely appraisable; currently, several researchers came to the conclusion that it is getting more and more unlikely that the South Sudanese civil war will end peacefully. This became obvious after the initial aim of bringing about peace as quickly as possible failed and the war spread over the country; therefore, peace is only possible in the case of a new agreement that includes all factors and groups\textsuperscript{180}.

\textsuperscript{176} cf. Patinkin 2017
\textsuperscript{177} cf. Duursma 2018, p. 245
\textsuperscript{178} cf. Gilder 2019, p. 82
\textsuperscript{179} cf. Bellamy and Hunt 2015, p. 1284
\textsuperscript{180} cf. Vries and Schomerus 2017
However, it is nearly impossible to weight the single criteria against each other, as they are covering all possible aspects that have to be considered before going to war; they will therefore be seen as a whole.

6 Conclusion

The abovementioned table summarizes the findings of the analysis; it hereby becomes evident that UNMISS definitely fulfills most of the criteria of *Ius ad bellum* nearly entirely. Therefore, the United Nations decidedly had the right to intervene in South Sudan. The prevenient intervention in Sudan (UNMIS) additionally simplified the intervention, as the peacekeepers and other officials already had the chance to become acquainted to the situation and circumstances in Sudan and South Sudan. However, the implementation of *Ius in bello* is rather disputable. The criterion of non-combatant immunity was only moderately transposed, especially in the beginning. The peacekeepers were repeatedly accused of passiveness that exposed civilians to direct or indirect harm; yet, no records of peacekeepers directly attacking civilians are to be found. Furthermore, the criterion of *in-bello* proportionality is very hard to analyze in this juncture in the war. Therefore, it remains questionable whether UNMISS’s implementation of *Ius in bello* still makes the war fully just.

Tab. 4: Implementation of the Criteria

<table>
<thead>
<tr>
<th><em>Ius ad bellum</em></th>
<th><strong>Just Cause</strong></th>
<th>Force should only be used to meet greater evil, f. ex. Violation of human rights.</th>
<th>Fulfilled.</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Right Intention</strong></td>
<td>The cause has to be just and without any lesser second intention.</td>
<td>Mostly fulfilled, humanitarian motive as ostensive.</td>
<td></td>
</tr>
<tr>
<td><strong>Legitimate Authority</strong></td>
<td>Legitimized through the UN, use of force only through states.</td>
<td>Fulfilled, legitimated through the Security Council and the GoSS.</td>
<td></td>
</tr>
<tr>
<td><strong>Last Resort</strong></td>
<td>Use of force only after exhaustion of all peaceful methods of resolution.</td>
<td>Fulfilled.</td>
<td></td>
</tr>
<tr>
<td><strong>Reasonable Hope of Success</strong></td>
<td>The aim should be achievable with appropriate measures.</td>
<td>Partly fulfilled; hope of state-building is rather weak.</td>
<td></td>
</tr>
<tr>
<td>-------------------------------</td>
<td>------------------------------------------------------</td>
<td>-------------------------------------------------------</td>
<td></td>
</tr>
<tr>
<td><strong>Proportionality (ends)</strong></td>
<td>The military actions can in total not cause more damage than do good.</td>
<td>Fulfilled as far as data is accessible.</td>
<td></td>
</tr>
<tr>
<td><strong>Non-combatant Immunity</strong></td>
<td>The harming of civilians has to be kept to a minimum; civilians are not to be attacked directly.</td>
<td>Partly fulfilled, improvement discernible.</td>
<td></td>
</tr>
<tr>
<td><strong>Proportionality (means)</strong></td>
<td>To achieve the set aims, no more military force than necessarily needed should be used.</td>
<td>-</td>
<td></td>
</tr>
</tbody>
</table>

Own representation based on Pattison 2012 and Syse 2004

To shortly summarize the findings of this paper, the single criteria mentioned in Table 4 will be briefly assessed. The Just Cause, which in the case of UNMISS consists of the perpetuation of national autonomy, the intervention for humanitarian reasons as well as the restoration of peace is seen as fulfilled according to Michael Walzer’s theory. The Right intention was given as well; it was however graded mostly fulfilled as the humanitarian motive is clearly not the only discernible intention. Yet, it is seen as ostensive and therefore adequate. The Legitimate Authority, as aforementioned, is given through the Security Council as well as through the GoSS. The criterion of Last Resort is also seen as fulfilled; the bad humanitarian situation eliminated several other, non-military ways of solving the conflict. However, the Reasonable Hope of Success is one of the weakest criteria. It is only partly fulfilled as the aim of state-building got more and more improbable over time; additionally, a peaceful outcome gets more unlikely the longer the war goes on. The Proportionality (ends) is fulfilled as far as data is accessible; however, this criterion can, however, be better estimated as soon as the war comes.
to an end. The last criterion of *Ius ad bellum*, Formal Declaration of War, is formally fulfilled through the Security Council Resolution 1996 (2011).

Out of the two criteria of *Ius in bello* only the Non-combatant Immunity was accessed because of the lack of reliable data. However, that criterion was only partly fulfilled due to several reported cases of UNMISS-passiveness causing direct or indirect harm to civilians. Yet, admittedly, there appears to be a tangible improvement after changes in mission policy and personnel. In total, UNMISS is therefore seen as a just war according to Michael Walzer.

Lastly, the so far barely mentioned *Ius post bellum* shall be shortly discussed. This raises the question which impact UNMISS had, has and will still have on South Sudan, particularly with regard to the political stability of the country. South Sudan is well on the way of following Somalia into the fate of being a failed state\(^1\); therefore, it is very important, that UNMISS at least partly succeeds in their primary aim of state-building. It would thus be auspicious to keep an eye on the mission’s progress as well as the outcome after the termination in hindsight of further research.

\(^{1}\text{cf. Brüne 2017}\)
7 Publication bibliography


Intergovernmental Authority on Development (2015): Agreement on the Resolution of the Conflict in the Republic of South Sudan. Addis Ababa. Available online at


