

**INCIDENTS OF INTER-COMMUNAL  
VIOLENCE IN JONGLEI STATE**

**June 2012**



**United Nations Mission in South Sudan  
(UNMISS)**

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**UN MISSION IN SOUTH SUDAN**

**INCIDENTS OF INTER-COMMUNAL VIOLENCE  
IN JONGLEI STATE**

**EXECUTIVE SUMMARY**

**June 2012**

In December 2011, an estimated 6,000-8,000 armed youth, militarily organised and primarily of the Lou Nuer ethnic group, calling themselves the “White Army”, mobilised in Jonglei State and launched a series of systematic attacks over 12 days on areas inhabited by the Murle ethnic group. From 27 December, smaller groups of armed Murle youth began launching retaliatory attacks on Lou Nuer and Bor Dinka areas which lasted until 4 February. During that period, hundreds were killed or injured and tens of thousands displaced. Many others were unaccounted for, including abducted women and children. These incidents were but the latest in a cycle of retaliatory attacks which had escalated in the course of 2011, including an attack at Pieri in August. The failure of the government (GRSS) to protect civilians from violence, investigate incidents and hold perpetrators accountable is believed to have contributed to this cycle of attacks which have resulted in increasing numbers of casualties and been marked by acts of deliberate cruelty.

This report, *Incidents of Inter-communal violence in Jonglei State*, examines human rights concerns related these incidents, establishes their circumstances and determines their scale. The report is based on investigations carried out by the United Nations Mission in South Sudan (UNMISS) Human Rights Division (HRD) in collaboration with other components of the mission and with support from the Office of the High Commissioner for Human Rights. In the course of its fact-finding, the HRD undertook twenty field missions to the areas concerned. Every effort was made to crosscheck the allegations received through on-site visits, interviews with witnesses, victims, alleged perpetrators, local authorities and others. Nevertheless, the investigations are not exhaustive, given the scale of the attacks and the logistical constraints such as the extensive geographical area covered. Further investigations are needed to determine the full facts of what happened and fully attribute responsibility.

The events which occurred in Jonglei State in December 2011 and January 2012 were undoubtedly among the worst to have occurred there in terms of the scale and brutality of the violence and the ensuing devastation. UNMISS recorded 612 fatalities in the course of the attacks on settlements of the Murle community between 23 December and 4 January. It also recorded 276 deaths resulting from the attacks on the Lou Nuer and Dinka communities between 27 December and 4 February. UNMISS directly witnessed the devastation to property with hundreds of tukuls burnt to the ground, damaged social and economic infrastructure, and massive displacement. Investigations showed that the attacks were not only aimed at stealing cattle, but targeted entire communities, including women and children, and possibly aimed at destroying their livelihoods and social and economic infrastructure. Hate speech and incitement to violence based on ethnicity – crimes under domestic law and violations of international human rights law – contributed to the violence.

The report in particular highlights the challenges of protecting civilians in South Sudan, responsibility for which lies primarily with the GRSS. Even though the GRSS expressed its intention to protect civilians and the SPLA were instructed to do so, actions taken came too late and insufficient troops were deployed at the critical time. Efforts were made to prevent the violence, but delay in mobilisation, combined with the challenges of accessibility, prevented an adequate protection response. UNMISS itself took a number of early action steps in support of the GRSS through integrated patrols to high-risk areas, including air reconnaissance, in order to deter and later confirm the mobilisation of armed youth. In a series of high-level meetings UNMISS shared its assessments with the GRSS and urged the government to preventively deploy adequate security forces to areas where attacks appeared imminent. UNMISS itself deployed its troops and equipment to those areas. While the actions of both the Mission and the SPLA contributed to saving many lives, the Mission itself, as well as the Government, faced serious constraints in fulfilling their mandate obligations in this regard. The experience of the Jonglei crisis indicates that all protection actors – national and state government, security forces, communities, UN – must review their capacity to take effective action in a timely manner in these situations.

While the causes of inter-communal violence in Jonglei State are complex, ranging from arms proliferation and insecurity to marginalisation and lack of development, it is imperative that the newly-independent State demonstrates its commitment to preventing further inter-communal attacks and protecting civilians from violence and abuse, regardless of their ethnic origin. Its success in creating a new state and national identity will greatly depend on its ability to overcome ethnically-driven conflict, and to safeguard the human rights of all its people and communities, including access to food, education and healthcare.

In Jonglei, a comprehensive, multi-faceted response is needed to reduce the violence in the short and long term, to establish a protective environment and to demonstrate to local communities, through development and the delivery of basic services, that the presence of the state pays dividends, thereby facilitating the extension of its authority.

The re-launching of the peace process in April 2012 took an essential step by addressing the devastating violence which had occurred, and its resolutions need to be fully implemented if there is to be sustainable peace. The failure to implement previous agreements, including through the return of abductees and cattle, has contributed to a deep lack of faith in state institutions and to the continuation of attacks. The process must embrace all ethnic groups equally, and give voice to their concerns, including regarding representation. It will be important to ensure that human rights principles are incorporated as a core element of discussions, including non-discrimination and economic, social and cultural rights. The outcomes of the process must also reflect a balance between reconciliation and holding perpetrators accountable for serious crimes, as well as including reparations.

Indeed, longstanding impunity, and the failure to treat as crimes killings, abductions and other acts of violence associated with cattle rustling has undoubtedly contributed to the cycles of retaliatory attacks. The acts committed in the context of the Lou Nuer-Murle attacks constitute serious crimes under national legislation and should be prosecuted. UNMISS' report documents some of the main obstacles to accountability, including not only a severe lack of capacity and resources, but also of unwillingness to enforce domestic laws which could be used to hold to account those responsible for the killings, abductions and other crimes. This is partly due to resource constraints and infrastructural challenges, but also to political and cultural reasons. Government and state authorities often define the inter-

communal violence as the continuation of a longstanding traditional practice and somehow “understandable”.

The creation by Presidential Order of the Investigation Committee into the Jonglei State Crisis to look into the violence should be an important step towards beginning to address impunity. The committee, formed in March but which has yet to begin its investigations because its members have not been sworn in, should be given adequate human and financial resources to implement its mandate fully and ensure its independence and impartiality. It is critical that the overall peace process takes into account the Committee’s findings regarding root causes of the violence and attribution of responsibility for perpetuating it, including through contributing to prosecutions as appropriate.

Another step towards strengthening accountability will be for the GRSS, state and community leaders to start referring to killings and other such acts as unacceptable crimes and to take more concerted action within the criminal justice system to prosecute any such cases –regardless of which ethnic group was responsible. This will also require urgent Government action to strengthen the justice system – police, judiciary and prisons – with the support of the international community. Customary justice practices continue to play an important role in resolving disputes, but have proved to be inadequate to deal with the scale of the recent violence and, in addition, do not always respect human rights.

The situation of abducted women and children remains one of serious concern. While a small number of abductees have been reunited with their families, it is assumed that a significant number remain with their captors. In this regard, the recommendation to establish Child Abduction Recovery Taskforces and Committees at county and payam levels, made at a workshop organised by UNICEF and UNMISS in collaboration with the Ministry of Social Development and Ministry of Local Government, should be implemented as soon as possible to support the recovery and reintegration of abducted children. Some abducted women and children appear to have approached those carrying out or monitoring civilian disarmament activities. It is imperative that those who request help to return to their communities are given appropriate support.

In March 2012, as part of its peace initiatives and of its efforts to address the proliferation of weapons throughout Jonglei State, the Government launched a civilian disarmament campaign which has been covering areas inhabited by all ethnic groups to avoid previous perceptions of bias. UNMISS has advocated for the process to be voluntary and peaceful, and continues to monitor the areas affected, in particular to prevent and identify human rights violations. The Secretary General’s reports on South Sudan and other relevant documents will address UNMISS’ assessment of the disarmament process in Jonglei more specifically.

The recent deployment of SPLA and SSPS to Jonglei in the context of the civilian disarmament campaign has temporarily brought greater security in some areas. A long-term security plan, including for outlying bomas, is, however, critical to bringing peace to the affected areas and providing reassurance to communities. It must incorporate timely and robust responses to early warnings of attacks.

Finally, the December 2011 and January 2012 attacks deeply impacted on the livelihoods and survival mechanisms of those affected. Many lost everything when their tukuls, crops and food stores were looted and burnt and their cattle stolen. While significant numbers of persons impacted by the violence have returned to their home areas, others remain displaced

having lost their homes and belongings. OCHA's 13 April Weekly Humanitarian Bulletin noted "alarming levels of acute malnutrition" in Jonglei State, including in Pibor and Akobo counties, with health partners continuing to provide vaccinations and therapeutic feeding for severely malnourished children as far as possible. While humanitarian support is being organised, enormous logistical challenges remain which will be exacerbated by the current rainy season. The extent of the psychosocial impact on those affected by the attacks has also yet to be fully established, but it was clear when Human Rights Officers met with many of the victims that they were traumatised, many of them having lost children or other family members as a result of killings, abductions or displacement.<sup>1</sup> In many cases, the trauma will have been exacerbated by threats of annihilation and elimination through hate messaging particularly against the Murle. These factors have exacerbated an already severe economic situation characterised by extreme poverty, lack of basic services, development and alternative economic means; factors which have contributed to the marginalisation and disenfranchisement of communities in Jonglei State. Strengthened humanitarian, social and economic support to the affected areas is therefore urgent and should be addressed at County, State and national government levels.

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<sup>1</sup> In early February, OCHA reported that almost 100 separated children had been registered in Likuangole alone.

## Recommendations

**Recommendation One:** The GRSS should develop a comprehensive, multi-sectorial plan with short, medium and long-term actions to respond to the main causes of the violence in Jonglei State, including confidence-building measures designed to create a stable and secure environment, reduce inter-communal tensions and create a climate conducive to equitable long-term socio-economic development for all communities. The peace process which has been launched in Bor, the civilian disarmament programme, the investigative committee launched to look into the violence and criminal investigations to prosecute those responsible for the killings and other serious crimes should all be incorporated into such a plan.

**Recommendation Two:** The Government must ensure that the peace process already launched is fully supported in terms of resources and that the consultation process underway is broad enough to include all affected groups and allows them to express their grievances. Those leading the process should ensure that it includes a strong focus on human rights principles, including non-discrimination, economic, social and cultural rights, and the rights of the victims of attacks to justice and reparations. It is imperative that an implementation monitoring mechanism be established to ensure that recommendations are implemented.

**Recommendation Three:** It is essential that those responsible for the violence, including those who planned, led or condoned the violence, be held to account and prosecuted where applicable. The Investigation Committee into the Jonglei State Crisis should be urgently sworn in so that it can begin its much delayed investigations. The GRSS should provide sufficient resources to allow the Committee to fully carry out its mandate in an independent and impartial manner. It is important that the report be made public; that it be disseminated widely; that any recommendations are promptly followed up and that their implementation is monitored. Any findings regarding root causes and criminal responsibilities should be considered as part of a comprehensive Government response to the Jonglei crisis and contribute to the prosecution of those responsible for the violence.

**Recommendation Four:** The Government, state and local leaders should begin to condemn killings, abductions, destruction of property and cattle-theft as criminal acts which will be prosecuted through the courts. Hate speech and incitement to violence on the grounds of ethnic origin should also be publicly condemned and prosecuted. Resources need to be made available to swiftly strengthen all aspects of the justice system in Jonglei (possibly through a rapidly deployable mobile investigative and prosecutorial court system initially) so that it is equipped to deal with large-scale crimes occurring in the context of inter-communal violence. Training for police and judges should include how to deal with incidents of inter-communal violence, including abductions and gender-based violence, regardless of cultural norms that disregard such violence in 'domestic' milieux, even those involving abduction. Customary justice processes should also be integrated into a justice strategy to address Jonglei inter-communal violence, but harmonised as far as possible with human rights norms to ensure that they are not used to undermine the legitimate rights of victims of human rights violations to justice and reparation. The support of UNMISS, UN agencies, and donors will be critical to the success of building the capacity of the Jonglei criminal justice system.

**Recommendation Five:** The GRSS is urged to take strong measures to ensure that disarmament operations are human rights compliant and that action is taken to hold accountable any SPLA or SSPS elements found to have committed violations, respecting both the rights of the victim and the accused to due process.

**Recommendation Six:** The GRSS is urged to develop as a matter of urgency a comprehensive short and long-term security plan to ensure permanent protection to communities in Jonglei State, in order to prevent them from suffering further attacks following disarmament. In the short term, the plan should include strengthening early warning and response systems so that prompt protective action is taken when planned attacks are detected. Likewise, Member States should ensure that UNMISS receives adequate resources to allow it to fulfil its mandate to protect civilians under imminent threat of danger.

**Recommendation Seven:** The GRSS and the international community should ensure that the South Sudan Human Rights Commission receives the support and funding that it needs to fulfil its mandate, and that it is able to act independently and impartially.

**Recommendation Eight:** The GRSS, with the support of the international community, should ensure that there are mechanisms in place to support the recovery and reintegration of abducted individuals in accordance with their best interests. In particular, it should ensure the establishment of the Child Abduction Recovery Taskforces at county and payam levels, as recommended previously.

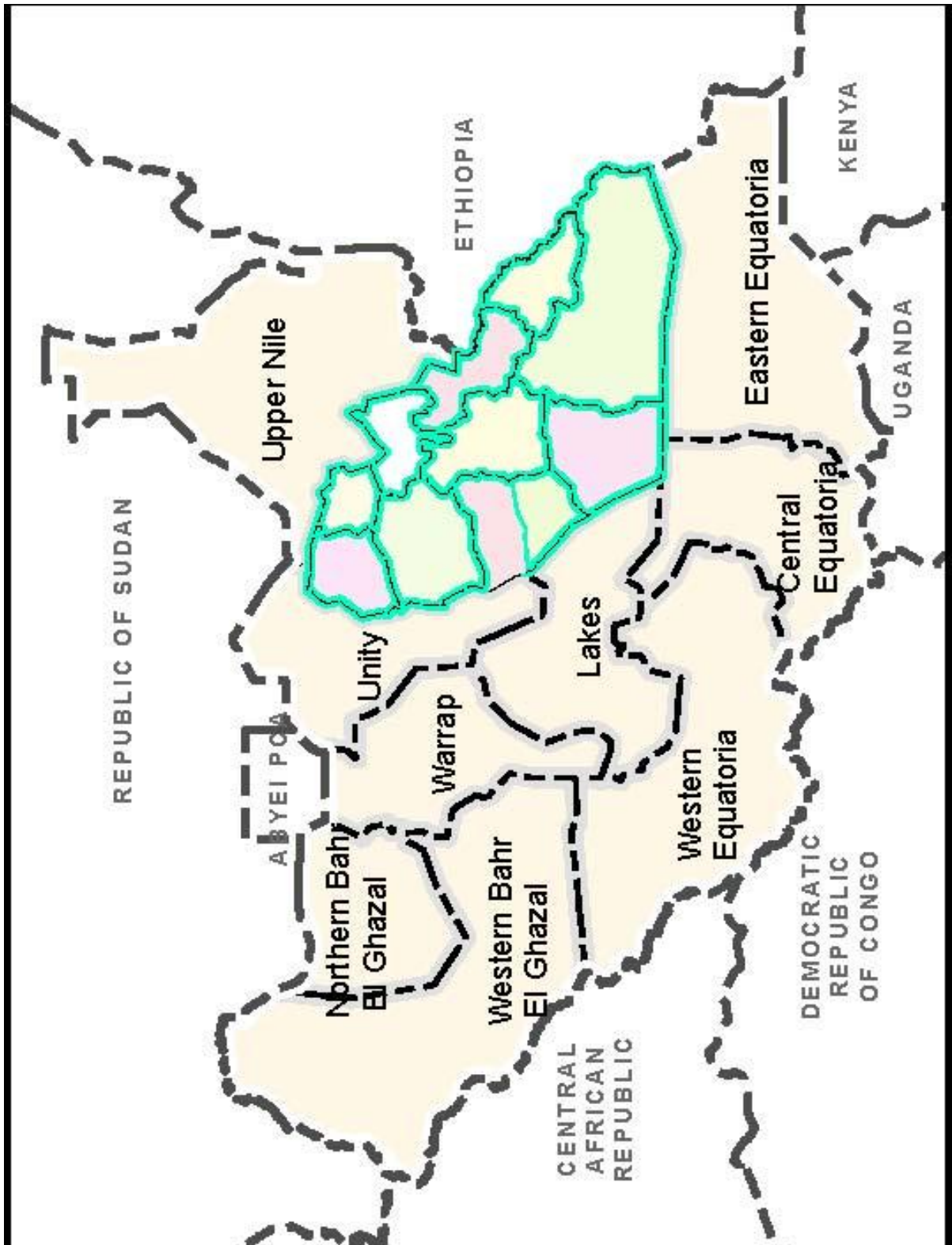
**Recommendation Nine:** While recognising the current budgetary constraints facing the GRSS, it is essential that the Government, with the support of the international community, gives priority to developing the provision of basic services such as food, adequate shelter, health care and education.



## **LIST OF ACRONYMS**

<b>ACHPR</b>	African Charter on Human and Peoples' Rights
<b>CEDAW</b>	Convention on the Elimination of All Forms of Discrimination Against Women
<b>CPA</b>	Comprehensive Peace Agreement
<b>GRSS</b>	Government of the Republic of South Sudan
<b>HRD</b>	Human Rights Division of the United Nations Mission in South Sudan
<b>HRO</b>	Human Rights Officer of the United Nations Mission in South Sudan
<b>ICCPR</b>	International Covenant on Civil and Political Rights
<b>JOC</b>	Joint Operations Centre (UNMISS)
<b>NGO</b>	Non-governmental organisation
<b>OHCHR</b>	Office of the High Commissioner for Human Rights
<b>SCC</b>	Sudan Council of Churches
<b>SPLA</b>	Sudan People's Liberation Army, South Sudan's national army
<b>SRSG</b>	Special Representative of the Secretary-General
<b>SSHRC</b>	South Sudan Human Rights Commission
<b>SSPS</b>	South Sudan Police Service
<b>TCSS</b>	Transitional Constitution of the Republic of South Sudan of 2011
<b>UN</b>	United Nations
<b>UNICEF</b>	United Nations Children's Fund
<b>UNMISS</b>	United Nations Mission in South Sudan
<b>UNPOL</b>	United Nations Police (UNMISS)

Map showing the ten States of South Sudan with Jonglei State highlighted



Source: UNMISS Geographic Information Systems Section

## Map of Jonglei Counties



Source: UNMISS Geographic Information Systems Section

**UN MISSION IN SOUTH SUDAN**  
**INCIDENTS OF INTER-COMMUNAL VIOLENCE**  
**IN JONGLEI STATE**  
**June 2012**

**I. INTRODUCTION**

On 23 December 2011, thousands<sup>2</sup> of armed youth calling themselves the “White Army”<sup>3</sup>, militarily organised and primarily of the Lou Nuer ethnic group, mobilised in Nuer areas of Jonglei State from where they moved southwards. They launched a series of systematic armed attacks on areas inhabited by the Murle tribe which lasted 12 days. On 27 December, before the Lou Nuer youth had begun retreating to their areas in Jonglei (on 3 and 4 January 2012), smaller groups of armed Murle youth began launching multiple daily retaliatory attacks on Lou Nuer and Bor Dinka areas which lasted until 4 February. The violence has taken a severe toll on all the communities which were affected: Murle, Lou Nuer and Dinka. During that period, hundreds were killed or injured and tens of thousands displaced. At the time of writing this report, many others were reported unaccounted for, including abducted women and children, leaving families in distress. In addition, the destruction of homes, property and livelihoods in communities already suffering extreme poverty and lack of access to basic Government services makes recovery from such incidents extremely difficult.

These incidents were but the latest in a cycle of retaliatory attacks which had escalated in the course of 2011. This particular cycle began with the killing of three Lou Nuer chiefs by Murle assailants in Thiam Payam<sup>4</sup> in February 2011 and culminated in one of the largest armed mobilisations in South Sudan since the signing of the Comprehensive Peace Agreement (CPA) in 2005. The failure of the government to protect civilians from violence, investigate, hold perpetrators accountable and effectively administer justice is believed to have contributed to this cycle of retaliatory inter-communal attacks, which have resulted in increasing numbers of casualties. The attacks have been marked by acts of deliberate cruelty, including well over a thousand deaths reported since January 2011 and including the period that includes the most recent attacks.

This report sets out to examine human rights concerns related to incidents of inter-communal violence in Jonglei State, establish the circumstances in which the most recent alleged crimes and abuses occurred and determine their scale, as well as identify the role played by various actors. The information contained in this report is based on investigations carried out by the United Nations Mission in South Sudan (UNMISS) Human Rights Division (HRD) in accordance with United Nations Security Council Resolution 1996 and with the consent of Government of the Republic of South Sudan (GRSS) authorities. In the course of its fact-

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<sup>2</sup> Initial UNMISS military estimates cited a column of 4,000 which grew to between 6-8,000

<sup>3</sup> The White Army, primarily Lou Nuer and originally created to defend cattle and community property, became involved in the civil war but was defeated in the context of the 2006 civilian disarmament campaign when it challenged the SPLA and many were killed. It is not a “standing force but came together for short periods of time for defensive or offensive purposes after which members returned to the cattle camps”. For further background, see *The White Army: Introduction and Overview*, John Young, published by Small Arms Survey, 2007.

<sup>4</sup> A payam is an administrative unit below the county level, roughly equivalent to the colonial-era district.

finding, the HRD undertook twenty field missions to the areas concerned. It also collaborated with other UNMISS components, including police and military, in terms of information-gathering and verification.

The report in particular highlights the challenges of protecting civilians in South Sudan. Responsibility for protecting civilians from threats to their life and security primarily lies with the GRSS. The GRSS faced a number of capacity constraints in this regard as a result of heading a newly-formed state and having weak security, law enforcement and judicial institutions. The lack of development across most of the territory also reduces the ability of the government and law enforcement actors to extend effective control. These challenges are exacerbated by underdeveloped infrastructure and an annual rainy season that renders most of the country's roadways impassable for approximately six months of the year, leaving the authorities responsible for protecting civilians heavily reliant on air transportation, which is both costly and restrictive in terms of coverage.

Security Council Resolution 1996 mandates UNMISS under Chapter VII of the UN Charter to support the GRSS in deterring violence and protecting civilians, where possible, and authorises UNMISS to use all necessary means within the limits of its capacity to carry out its mandate. In line with its protection of civilians mandate, as illustrated in this report, UNMISS took a number of early action steps in support of the GRSS through carrying out integrated patrols to high-risk areas, carrying out air reconnaissance in order to deter and later confirm the mobilisation of armed youth. In a series of high-level meetings UNMISS shared its assessments with the GRSS and urged the government to preventively deploy adequate security forces to areas where attacks appeared imminent. UNMISS itself preventively deployed its troops and equipment to areas in Jonglei where attacks appeared likely. It was nevertheless constrained by the availability of troops devoted to undertake active protective field operations and its own asset shortages, as the military strength authorised by Security Council Resolution 1996 and the concomitant air assets needed for the mission had yet to be realised.

The report concludes with a series of recommendations, in particular to the GRSS, including for incorporating human rights into the recently re-launched peace process, ensuring respect for human rights in the on-going civilian disarmament campaign and holding the perpetrators of these crimes and their leaders accountable. A prime concern is the need to expand the long-term security and judicial presence in areas most prone to violence to strengthen the protection of civilians. Additionally, there is a need to strengthen appropriate mechanisms to ensure the identification of the whereabouts of the abducted women and children and to facilitate their possible return to their families in keeping with their best interests.

## **II. MANDATE AND METHODOLOGY OF THE INVESTIGATIONS**

During and after the communal violence that consumed Jonglei in December 2011 and January 2012, UNMISS HRD, supported by Human Rights Officers deployed from outside South Sudan from OHCHR's Rapid Response Roster, conducted a series of fact-finding operations that form the basis of this report. These activities were mandated under UN Security Council Resolution 1996 (2011), wherein UNMISS has, *inter alia*, the roles of:

- supporting the Government of the Republic of South Sudan (GRSS) in exercising its responsibilities for conflict prevention, mitigation and resolution and protection of civilians;

- monitoring, investigating, verifying and reporting regularly on human rights and potential threats against the civilian population as well as actual and potential violations of international humanitarian and human rights law, working as appropriate with the Office of the High Commissioner for Human Rights (OHCHR), bringing these to the attention of the authorities as necessary and immediately reporting gross violations of human rights to the UN Security Council.

The aim of the fact-finding investigations was to document the incidents that had occurred and their effect on the population, including loss of life and property, abductions, forced displacement and other crimes, as well as to identify related human rights concerns and possible interventions; to address the needs of victims, prevent recurrence and identify possible processes of accountability. In analysing the information gathered, HRD also took into account investigations that it had carried out into previous episodes of inter-communal violence in the State, notably in the period from January to August 2011.

In order to collect information about and verify the circumstances of the numerous inter-communal attacks, UNMISS HRD carried out 20 fact-finding missions to affected areas.<sup>5</sup> These missions covered the major Murle areas of Pibor County, including ground patrols along the major axes from Pibor town north to Likuangle and south to Fertait, as well as visits to areas of Murle displacement across the county and beyond. In the case of the Lou Nuer and Dinka Bor areas affected by retaliatory attacks, missions were conducted to each of the affected counties to gather information from victims and survivors, largely displaced to major population centres in Akobo, Uror, Nyirol, Duk, Twic East and Bor counties, as well as in other locations. UNMISS Human Rights Officers (HROs) also undertook meetings with officials, and visits to hospitals and transit sites in Bor and Juba towns to follow up, corroborate and confirm information. Officers of the South Sudan Human Rights Commission (SSHRC) accompanied HROs on several missions in order to facilitate their own investigations.

Interviews were conducted with a broad range of information sources, including victims and other eye-witnesses, traditional and/or community leaders in Murle, Lou Nuer and Dinka communities, government officials at the national, state and local levels, justice authorities, the South Sudanese security forces including the Sudan People's Liberation Army (SPLA) and members of the South Sudan Police Service (SSPS), possible perpetrators, civil society bodies, hospital staff, members of youth associations, as well as other relevant actors. Information obtained by the HRD was supplemented by information from other components of UNMISS, both military and civilian, and was supported by its Joint Operations Centre (JOC). Fact-finding missions led by HROs often included staff from other relevant components such as UN Police (UNPOL), the Civil Affairs Division and the Rule of Law and Security Institutions Support Office.

Although in many cases the actual area of an attack had been abandoned by the time HROs visited it, they were able to document the impact of the attacks through first-hand sightings of bodies, grave sites and physical damage inflicted on communities. Interviews with victims and other survivors in areas of displacement or at medical facilities also provided a credible account of events at each location.

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<sup>5</sup> See Annex 2 for a list of locations attacked and sites visited by UNMISS.

These visits were on occasion supplemented by sightings of burnt villages from air reconnaissance missions. UNMISS Military air reconnaissance and foot patrols with interpreters ranged far and wide over the affected areas, relying on local inhabitants to indicate areas of attacks, as well as treating or evacuating the wounded. These comprised a total of 288 long-duration, short-duration and integrated ground patrols during the period, as well as 243 special flights to specific destinations or dynamic air patrols. It should be noted that the long-duration patrols included permanent sites where UNMISS has maintained an on-the-ground presence throughout the period in Pibor, Likuangle, Akobo and Walgak.

While the HRD's fact-finding teams conducted as extensive a range of activities as they were able to in the circumstances, they faced challenges which impacted on their capacity to collect comprehensive, verified information. In addition to limited human resources and time constraints, these challenges included: the sheer size and remoteness of the terrain in Jonglei State (which itself is the size of Malawi), with Pibor County – where all of the Lou Nuer attacks on the Murle occurred - being one of its largest counties; very limited road accessibility; the extent of the displacement of the Murle population as a result of the Lou Nuer attacks in December 2011, making it difficult to locate interviewees in some areas; and the displacement of local authorities who would normally have conducted some form of assessment in Pibor County.

A particular challenge was distinguishing between dead, abducted and missing persons. For example, one source's categorisation of a person as killed may have been based on the person being missing at the time. In addition, many bodies had decomposed, been eaten by wild animals, or buried. Nevertheless every effort was made to cross-check and corroborate information about persons reported dead, abducted, or missing.

Deaths were only included in the statistics of those killed if victims or witnesses could confirm to the HRD that they had witnessed the killing of their direct relatives or seen their dead bodies. The HRD also gathered identity data on reported casualties. However, in the case of Murle victims, naming of the dead runs contrary to traditional practice, thus the HRD could not always obtain identity information from the sources it spoke to. Where names of persons allegedly killed could not be obtained, HROs gathered information on the alleged dead person's boma, payam, and traditional chief in order to cross-check the information on the alleged death against the reported deaths of other unnamed persons in order to eliminate any duplication.<sup>6</sup>

Given the scope of visits to the affected areas, the extensive interviews with local residents, victims, relatives and other survivors, and other information collected by the HRD and other UNMISS sections, UNMISS considers that this report reflects the scale and magnitude of casualties and property loss across the affected areas.

Nevertheless, the findings of the report should not be considered conclusive, as UNMISS is continuing to visit affected areas and to gather further information. In addition, one of the report's key recommendations is for the GRSS to initiate a thorough and independent investigation leading to accountability for the violence perpetrated.

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<sup>6</sup> A boma is the smallest administrative unit of local government and is one of multiple constituent units in a payam.

### III. HUMAN RIGHTS FRAMEWORK

Chapter VII of this report sets out the national and international legal framework – national legislation and international human rights law – regarding the human rights concerns outlined in this report. With regard to the Government, the principle human rights issues in relation to the inter-communal violence and the criminal acts described in this report relate to the GRSS’s responsibility to safeguard the rights of its population, especially the rights to life, liberty, security and physical integrity enshrined in international human rights law and international criminal law. Such obligations include not only ensuring that perpetrators are held accountable, but that all possible measures are taken to prevent such violence which is impacting on the broad spectrum of human rights, not only civil and political but also economic, social and cultural. It is also important to note that citizens have duties and obligations to respect the rights of others, especially the rights to life, human dignity and physical integrity.

The killings and other abuses committed by armed youth of the Lou Nuer and Murle merit criminal investigations as offences punishable by applicable laws. Further research would be necessary to determine whether an internal armed conflict, which would trigger the application of International Humanitarian Law, existed at the time of the violence described in this report. Some reports received by UNMISS alleged the involvement of individual, government, SPLA or political actors but further investigation would be needed to look into these allegations.

### IV. CONTEXTUAL BACKGROUND

Jonglei is the largest of South Sudan’s ten states. With approximately 1.3 million inhabitants, it is also the most populous. It is also the state with the least developed infrastructure, virtually without functional roads during most parts of the year. The major part of the state is inaccessible during the rainy season, unless by air. Decades of marginalisation by central authorities and civil war have left the remote State as the most underdeveloped in South Sudan, with its periphery areas suffering some of the worst development indicators in the world. Most of the population are young and unemployed, and without access to the dividends of peace and oil revenue sharing they expected following the 2005 peace agreement. As in most parts of the country,

Jonglei consists of primarily pastoral communities whose lives revolve around cattle and cattle migration. Cattle-raiding linked to competition for scarce resources, has been one of the main triggers of conflict between ethnic groups, which has cost an increasing number of lives, particularly since 2009. The December/January violent events between the youth of the Lou Nuer and Murle communities in Jonglei are therefore only the most recent manifestation of a continuous cycle of tension and violence that stretches back many years.

**Jonglei State in figures**

	<b>Area</b>	<b>Population</b>
<b>Jonglei:</b>	122,581 km <sup>2</sup>	1,358,602
<b>Pibor County:</b>	33,273.18 km <sup>2</sup>	148,475
<b>Akobo County:</b>	9,056.67 km <sup>2</sup>	136,210
<b>Uror County:</b>	12,141.97 km <sup>2</sup>	178,519

*Figures based on Sudan’s 5<sup>th</sup> Housing and Population Census of 2008 as included in the 2010 Statistical Yearbook for Southern Sudan, published by the Republic of South Sudan’s National Bureau of Statistics and available at <http://ssnbs.org/>.*



The violence of 2011-2012 is not unprecedented in scale, methods, or intent to kill and displace civilian populations. Nevertheless, the latest incidents represent the culmination of a gradual escalation over the past few years. A number of factors have contributed to the violence, including the failure to address long-standing grievances of marginalised communities including the delivery of basic services; extreme underdevelopment; the limited extension of any kind of state authority; weak governance and rule of law capabilities. There is also a legacy of mistrust between communities and key actors resulting in part from wartime political and military fault lines, including the creation of militias and self-defence forces along ethnic lines to carry out attacks on and subjugate neighbouring groups.

The extensive proliferation of weapons and a series of incomplete civilian disarmament processes which began at the end of 2005 have also contributed to the escalation in violence. In 2005/6, the government had imposed forced disarmament on the Lou Nuer through the Sudan People's Liberation Army (SPLA) after the Lou Nuer youth/members of the so-called "White Army" had refused to voluntarily surrender arms before moving into neighbouring territories to graze their cattle, producing a conflict which resulted in high casualties, especially amongst the SPLA and armed Nuer youth, but also among civilians. In 2006, a second, better organised voluntary process was launched and was peaceful but not comprehensive. Following the 2006 processes, communities gradually rearmed, including through looting stores of weapons that had been collected in the disarmament exercise, as well as from the armouries of the Joint Integrated Units (JIU) in neighbouring Upper Nile State during periods of insecurity in Malakal in 2008.<sup>7</sup> Further disarmament campaigns were carried out in 2007 and 2008.

The Murle attacks on Lou Nuer communities in Akobo in January 2009 were the most fatal outbreak of violence since the signing of the CPA in 2005. They marked a change in strategy, with direct attacks on civilians, communities as a whole, and state institutions, as well as raids involving armed youth and cattle rustling. A cycle of retaliatory attacks ensued. In March 2009, for example, Lou Nuer youth from Uror, Nyirol, and Akobo Counties launched a major attack on Likuangole Payam, Pibor County, and in April 2009, a Murle attack on Nyandit in Akobo County left up to 250 dead. According to unconfirmed reports, the attacks in Akobo and Pibor resulted in more than 1,000 casualties in 2009, with more than 700 allegedly killed in one week-long attack.<sup>8</sup>

From August 2009 to March 2010, another disarmament exercise was conducted in both Lou Nuer and Murle areas. Although the Lou Nuer area was said to have been cleared, the youth apparently succeeded in hiding weapons. A similar disarmament exercise in the Murle areas also failed, largely because it only covered the large towns while most of the armed Murle elements remained in the bush. A similar number of weapons were collected both in Akobo (Lou Nuer) and Pibor (Murle) Counties.

As indicated above, the failure of these disarmament exercises – in part because the voluntary aspect of the process was so short-lived – and the proliferation of weapons has fuelled the

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<sup>7</sup> The CPA security arrangements between the Sudan Armed Forces (SAF) and the SPLA prescribed the formation of "Joint Integrated Units" (JIUs), comprised of equal numbers of SAF and SPLA soldiers, to form the basis of a united Sudan's future national army. The JIUs were primarily deployed in Southern Sudan and the two protocol areas (Southern Kordofan/Nuba Mountains and Blue Nile).

<sup>8</sup> International Crisis Group, *Jonglei's Tribal Conflicts: Countering Insecurity in South Sudan*, 23 December 2009.

predominantly civilian on civilian violence, particularly in the absence of any adequate state security apparatus to protect the populations.

While historically cattle raids and retaliatory attacks were predominantly carried out by small, loosely organised groups against those directly responsible for looking after the cattle, since 2009, revenge attacks have evolved to target civilians indiscriminately and aimed at inflicting maximum damage on communities as a whole. The Lou Nuer have developed large scale, militarily organised attack structures with a clear chain of command. As a result, women, children and the elderly have increasingly become the primary victims of these large-scale attacks, even though historically the killing of women and children was culturally unacceptable.

Widespread stereotyping, the creation and use of “enemy” images, hate speech amounting to incitement to violence have also exacerbated the conflicts. This has included messaging about wiping out communities or removing them from their lands, which runs strictly contrary to international human rights and criminal law (see *The Lou Nuer attacks on the Murle* sub-section below for an illustration of such hate speech during the recent violence). South Sudan’s Penal Code contains several provisions relating to incitement to hatred or violence verbally or in writing, including in relation to ethnic origin, which carry terms of imprisonment and which could be invoked to curb such practices. (See Chapter VII)

State authorities affirm that the violence in Jonglei is caused by under-development, lack of education and alternative employment opportunities for otherwise armed and alienated youth. Thus, the State’s difficulty in responding to insecurity and violence lies in its lack of capacity, inadequate security forces, and difficulties moving around and responding to incidents in a state that has no all-weather roads, leaving most rural areas inaccessible for about half the year. The weakness of the State in the most recent violence was illustrated by the fact that the Lou Nuer attacked Pibor in defiance of the Vice President urging them not to do so at a meeting in Likuangole (see *The Lou Nuer attacks on the Murle* sub-section below).

In cases of both Murle and Lou Nuer aggression, there have been allegations that certain politicians or authorities may have been involved in fomenting the violence, or at minimum have been unwilling or incapable of stopping it. This requires further investigation as it did not fall within the scope of this report.

From the manner in which the attacks were conducted by the Lou Nuer youth, the objective of the December/January attacks appears to go beyond retaliatory reprisals and more towards the depopulation, displacement and possibly even destruction of the opposing community and their livelihood, as well as undermining the credibility of the State. Indeed, the large scale of the three Lou Nuer killing attacks against the Murle within a nine-month period in 2011 suggests that the attacks may have formed part of a wider strategy – through attacking not only vulnerable civilians but also social and economic infrastructure - to neutralize the Murle capacity to launch retaliatory attacks, steal livestock and abduct women and children, particularly after the August 2011 attacks by Murle in Pieri in which several hundred Lou Nuer were reportedly killed and many Lou Nuer women and children abducted. On the part of the Murle, because of the way their attacks were organised, the end objectives of the December-February attacks were less clear. The degree to which the different levels of Murle leadership are involved is also unclear. The control of the Murle community’s leadership over its youth appears to have diminished and at minimum they have been unable and unwilling to take any action against them. Even though some of the chiefs may not have

been aware of when and where all the raids were planned, they will certainly have been aware of the return of stolen cattle and abductees to the Murle communities.

While there have been some state and church-led initiatives to mediate between the communities to prevent violence, these have so far failed to bring about long-term results and have primarily focussed on reconciliation without addressing root causes of the violence or promoting criminal accountability. In some cases, peace efforts have led to temporary reductions in violence but the lack of state responses, and the failure to implement recommendations of past peace initiatives – including, for example, compensation under traditional justice mechanisms, the return of abducted women and children, recovery of assets and the establishment of early-warning and joint monitoring systems to prevent future violence – has usually resulted in communities resorting to traditional methods of using violence.

Complementary to UNMISS' early warning mechanisms, UN agencies, international and national non-governmental organisations (NGOs), and church groups are in the process of setting up early warning mechanisms to improve understanding of the drivers of conflict in Jonglei, support local and state-level reconciliation and address some proximate drivers such as lack of livelihood support, unemployment, lack of state capacity and police infrastructure, and scarce availability of basic services. These will require considerable support in order to sway disaffected youth from resorting to violent means and to build intra-communal and inter-communal consensus to reject violence once and for all. Reporting on the conduct of the disarmament campaign in Jonglei falls outside the remit of this report, and will be reported on in appropriate UN reports.

In September 2011, following the earlier violence in Jonglei which led to hundreds of deaths (see below, *Attacks between Lou Nuer and Murle: January-August 2011*), the Sudan Council of Churches (SCC) spearheaded a Government peace initiative which was endorsed by the President and was facilitated with logistical support from UNMISS. Through extensive consultations throughout Jonglei, in Lou Nuer and Murle areas, communities engaged in a process to promote reconciliation and bring an end to the cycle of ethnic violence. In addition to supporting the peace process, UNMISS made significant efforts over the following three months to prevent a major counter-attack, through regular patrol flights around vulnerable areas, and the deployment of Integrated Teams comprised of mixed UNMISS uniformed and civilian components, designed to heighten situational awareness and expand ground-level presence. In the latter stages, these efforts were also hampered by the loss of air assets. By early December 2011, Lou Nuer and Murle support for the peace process appeared to be waning and it was interrupted by renewed violence on 5 December.

The Jonglei peace process has now been re-launched, particularly following a 24 February Presidential Order for the formation of a Committee for Community Peace, Reconciliation and Tolerance in Jonglei State, headed by Archbishop Daniel Deng. A workshop on 3 and 4 April launched the process in Bor, and it is to be extended to grassroots level. It will be important to ensure the inclusion of human rights principles within the process, including a balance between reconciliation and accountability including a truth-telling process and through prosecutions of the most serious crimes. The GRSS has also announced that it has formed a commission to investigate the December and January violence but it had yet to begin its investigations as of the end of May (see below, *Justice and Accountability*).

As part of its responses to the most recent violence in Jonglei, the GRSS has also launched a disarmament campaign by authorities, the SSPS and SPLA with the support of community leaders in Jonglei. UNMISS has urged the government to ensure that the disarmament is voluntary and peaceful. It is monitoring the process to identify possible abuses, and has deployed UNMISS Integrated Monitoring Teams across the State. Major concerns with disarmament processes like these will be the risk of human rights violations and that weapons on both sides may still be out of reach. In addition, there is a risk of security vacuums once communities are disarmed, unless the long-term deployment of police and military is secured.

Thus, considerable challenges remain to reduce the inter-communal violence which continues to impact so deeply on the human rights of those living in Jonglei.

## **V. FINDINGS OF HUMAN RIGHTS INVESTIGATIONS INTO INTER-COMMUNAL VIOLENCE IN JONGLEI**

As stated above, the HRD launched a series of fact-finding investigations into the December 2011/January 2012 attacks, the results of which are outlined below. The Division had already undertaken a series of investigations into attacks which had occurred between January and August 2011. The findings of these attacks, summarised below, illustrate that the latest violence did not occur in isolation but is part of a pattern of retaliatory attacks between the Lou Nuer and the Murle communities.

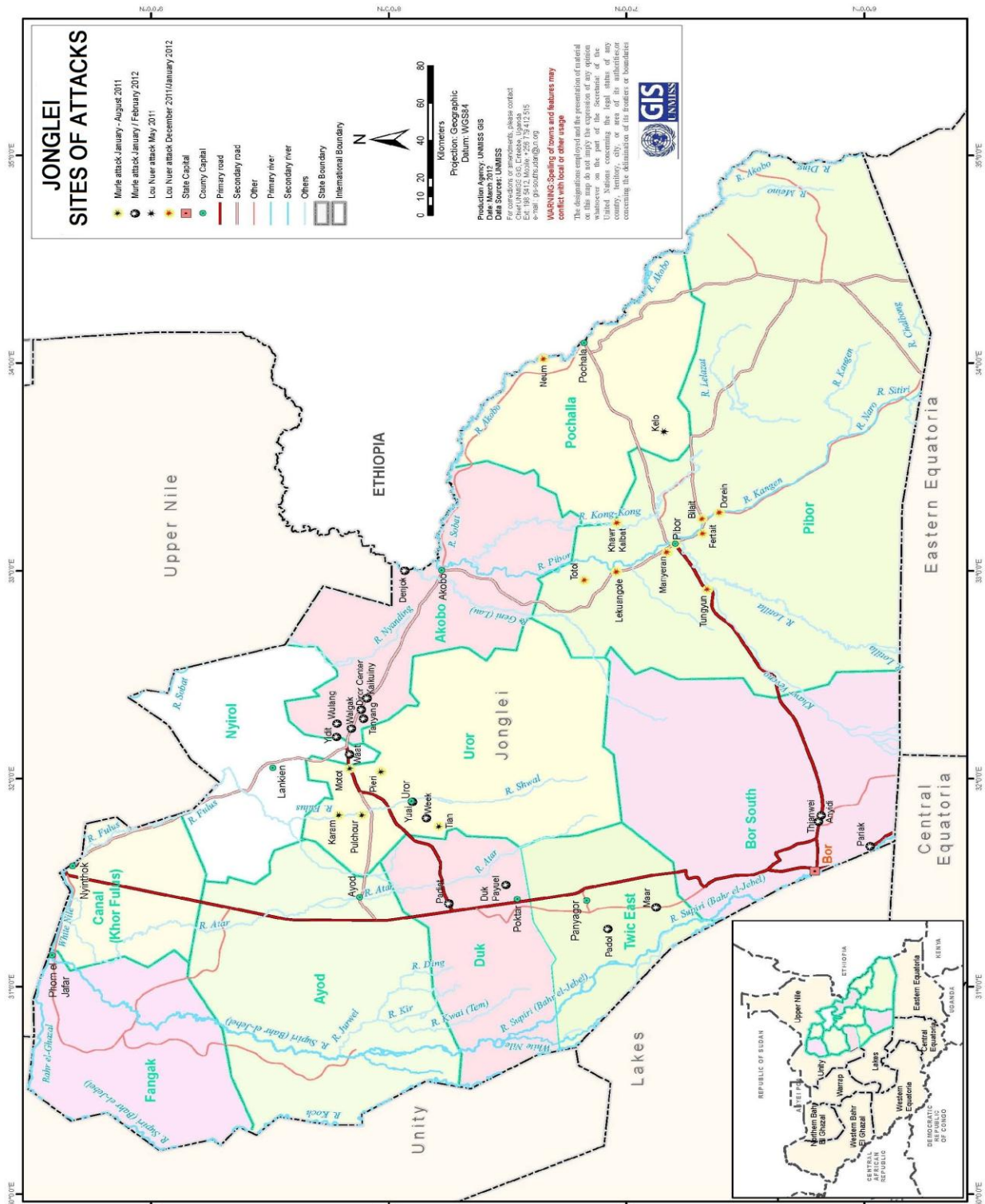
### ***Attacks between Lou Nuer and Murle: January-August 2011***

In January and February 2011 a group of Murle from Kongkong and Tangyang in north-eastern Pibor County travelled northward and raided several hundred cattle from Thiam Payam in neighbouring Uror County, which is primarily inhabited by Lou Nuer. A number of ethnic Lou Nuer were killed in the incidents including three traditional chiefs. Following the raid, Pibor County authorities, the SSPS, the SPLA, local authorities and Pibor chiefs met and agreed that the perpetrators should be apprehended and forced to return the cattle. 260 cattle were subsequently retrieved and held at the SPLA barracks in Likuangole. Pibor County authorities requested Jonglei state authorities to release the cattle and return them to the Lou Nuer. However, no response was received and the SPLA appeared not to have received orders to return the cattle. The perpetrators were not apprehended either.

Lou Nuer youth appeared to grow increasingly dissatisfied with the Jonglei State Government's failure to stop the almost daily cattle raids by the Murle that had started with the onset of the dry season in November/December 2010. Such raids were invariably accompanied by frequent killings, injury, and child abductions. The SSPS had not arrested a single suspect nor had any abductees been returned to their communities.

In early April 2011, rumours started circulating in Jonglei that the Lou Nuer youth had begun preparations to avenge the deaths of the three Lou Nuer chiefs. On the basis of reports of several thousand armed Lou Nuer marching towards Pibor, Murle cattle keepers started moving their cattle south-eastward toward Boma Payam. The reports of impending armed violence were sufficiently credible for the Pibor County Commissioner to write to the Jonglei Governor requesting assistance in protecting civilians, their livelihoods and their property but such assistance was not forthcoming.

## Map showing incidents of inter-communal violence carried out by Murle and Lou Nuer communities in Jonglei, January 2011-February 2012



Source: UNMISS Geographic Information Systems Section

On 18 April 2011, as feared, Lou Nuer from Uror, Nyirol and Akobo Counties launched a planned, coordinated attack on Murle cattle camps located at the Kongkong, Kalbeeth and Tolonyo Rivers in the eastern part of Pibor County.

The numbers of those reported killed in the April attack varies considerably: the Pibor County Commissioner reported 68 dead, while the Likuangole Payam Administrator reported 300 killed. HROs were not able to confirm these figures. Payam authorities also reported that the entire cattle population of the 18 bomas of Likuangole Payam was stolen during the attacks.

During the HRD's investigations, other previously unreported incidents of alleged Lou Nuer attacks on Murle areas in May 2011 came to light, namely a 7 May attack on Achok, a remote area on the Jom River near Pochalla County, and an 8 May attack on Kelo village in the same area, although few details are known, including the number of casualties.

The following month, between 15 and 24 June, further attacks by the Lou Nuer on Murle communities were reported, including Gumuruk, Fertait, and settlements along the Nanaam River. Although the HRD was not able to investigate these attacks, UNMIS air reconnaissance missions showed a column of attackers, around 1,000 strong, burning Murle homes around the Lotilla River and moving northwards with thousands of cattle. The Acting County Commissioner alleged that 432 people were killed during these attacks, while 57 women and 90 children were abducted. However, these figures and the circumstances of the killings have not been verified.

On 18 August 2011, the Murle launched a devastating revenge attack on Pieri Payam in Uror County, which is Lou Nuer territory. According to unconfirmed figures provided by county authorities, over 600 people were killed. Women and children were abducted, and homes looted and burnt in Bulong boma and Pieri, the county headquarters. From 30 August to 6 September 2011, HRD conducted a series of fact-finding missions to Motot, Pieri and Pulchuol payams and Karam boma in Uror County to gather information on the human rights concerns related to the attacks. The HRD confirmed that attacks were carried out on villages across Pieri Payam and on residents in the surrounding payams of Motot and Pulchuol. Information gathered during interviews with victims, their family members and close relatives or friends suggests that the attacks were characterized by extreme violence, including targeted killing of civilians and child abductions – often of more than one child from the same family. During their investigations, HROs received individual testimonies which reflected the gravity of the violence but were not able to establish the scope of the killings and abductions.

The case of an 87-year-old woman interviewed by HRD at Motot clinic serves to highlight the violence. She described how she had been hit with a machete on the head. She stated that Murle attackers wounded her with a machete because they did not want to waste their bullets. The assailants left her for dead but she was rescued by fellow villagers and finally taken to hospital. The woman reported in addition that during the same incident, the attackers killed her thirty-year-old son and abducted his two children.

As awareness of the scale and impact of the attacks became widespread, so too did fears that retaliation would follow. Indeed, discussion about the attacks both among the local population and certain authorities centred around not *if* but *when* the Lou Nuer would retaliate. Regrettably, retribution has become synonymous with justice in Jonglei.

Nevertheless, from September, it appeared that the above-mentioned church-led peace process, initiated by the President of South Sudan and headed by Archbishop Daniel Deng, launched after the attacks had resulted in temporarily reducing the scale of the violence.

From 21 August, UNMISS carried out daily air reconnaissance missions to hot-spots in Jonglei, and joint military/civilian teams visited remote locations as part of a deterrent strategy, in order also to better understand local grievances, and promote the ongoing peace process.

With the passing of time, however, with no concerted government action to prevent further violence and protect civilians, no resolution to the outstanding question of abducted women and children and no return of stolen cattle, it would appear that the Lou Nuer youth began reorganising and planning the retaliatory attacks that took such a heavy toll at the end of the year.

***The Lou Nuer attacks on the Murle: 23 December 2011 to 4 January 2012***

Between 23 December 2011 and 4 January 2012, a large force of several thousand individuals, predominantly comprised of ethnic Lou Nuer youth who identified themselves as the “White Army”, launched attacks on at least 21 Murle settlements in retaliation for the Pieri attack of 18 August, as well as for smaller attacks on Lou Nuer villages which had taken place subsequently, despite the peace process, all of which were attributed to the Murle.

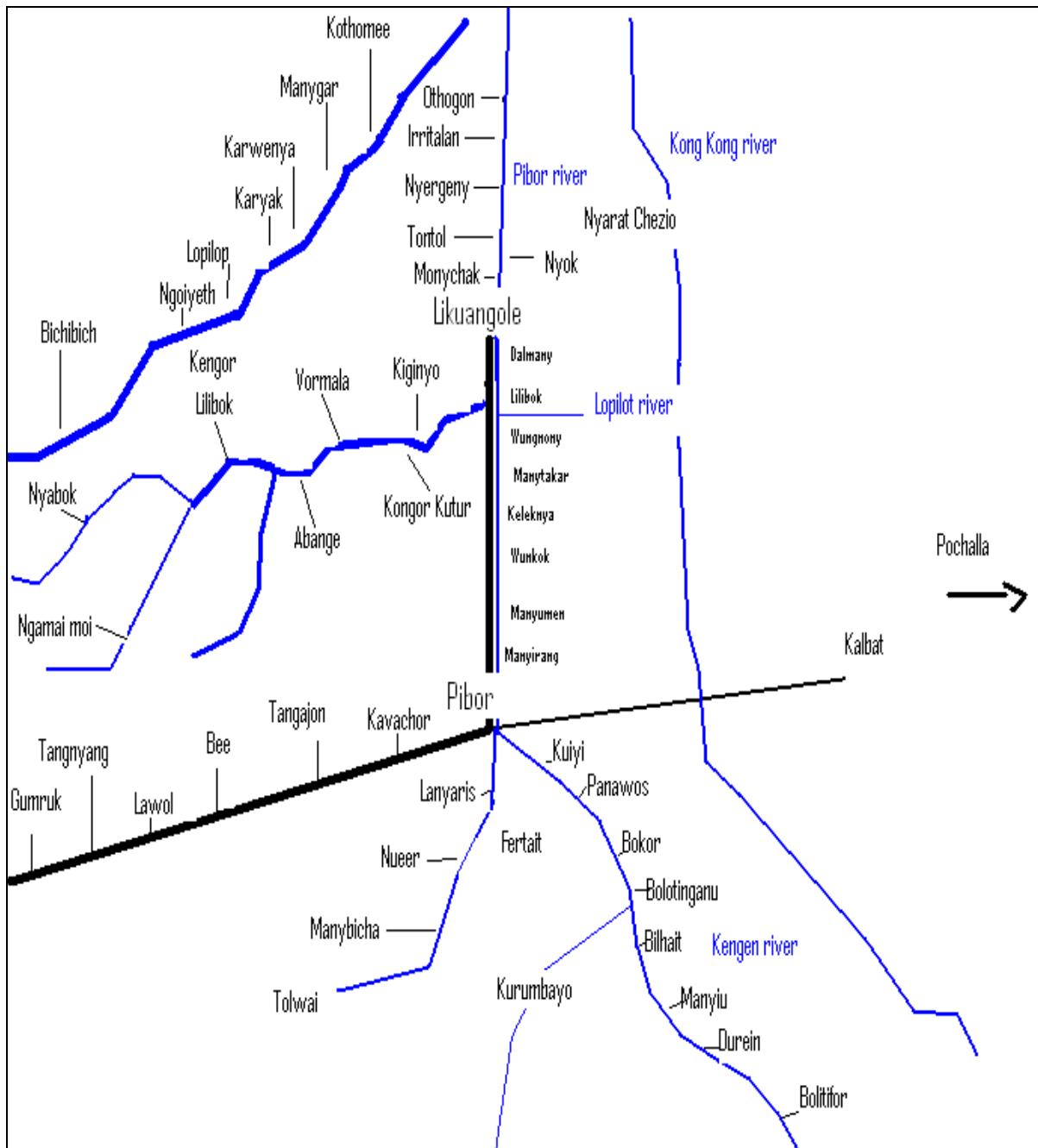
In the course of its fact-finding missions, HROs, sometimes accompanied by other components of UNMISS, visited Likuangole, Pibor, Fertait, Bilait, Labarab, Boma, Dalmany and Lanyaris.

Based on first-hand information through UNMISS staff witnessing bodies or gravesites, and interviews with individuals who had seen the bodies of direct family members at the scene of incident, UNMISS established that at least 612 Murle persons had been killed, including at least 88 women and 88 children.<sup>9</sup> Based on interviews with eye-witnesses, a further 294 deaths of non-family members were reported. Further investigations need to be carried out to verify this information, including the identity of those allegedly killed to exclude the possibility of duplication. In addition, over 370 persons were unaccounted for after the attacks, including at least 42 children, some of whom are believed to have been abducted (see section on the fate of the abductees).

Through multiple interviews with wounded victims of and witnesses to the attacks the HRD established that men who died in the armed Lou Nuer youth attacks were primarily shot dead, while children were primarily killed through machete blows. The Lou Nuer youth may have tried to conserve ammunition to target the men, who could be presumed to be skilled marksmen, and to use machetes or other basic, hand-held weapons on the more vulnerable targets who could not be expected to return fire. The HRD also received significant testimony in Likuangole, Fertait, and Manythakar that the attackers had set fire to tukuls killing civilians who were inside their homes. More detailed accounts of these incidents are given below.

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<sup>9</sup> Further findings in Durein after the conclusion of the investigation increase the total number of reported deaths to 623, including 90 women and 90 children.



**Map of Pibor County**

UNMISS had begun to alert the Government as early as 5 December of the alleged mobilisation of Lou Nuer youth. On 9 December, as part of its rapid response plan involving air reconnaissance and preventive deployment of troops in likely areas of attack of Jonglei, UNMISS field missions to Pieri, Urur County, and Waat, Nyirol County, confirmed that Lou Nuer youth had started congregating and mobilising for an attack. In spite of this, Jonglei government officials whom UNMISS met with in Bor still insisted that they were not aware of any mobilisation.<sup>10</sup>

<sup>10</sup> In the case of previous attacks, Lou Nuer chiefs and government officials have received information in advance of Lou Nuer mobilisations for attacks.



It was not until 12 December that government officials in Jonglei finally reported to UNMISS that they had received information that the Lou Nuer youth had mobilised. Peace conferences due to commence that day in the area had already been suspended because of the likelihood of an attack on the Murle. Earlier, on 9 December, in response to Archbishop Daniel Deng, the Chair of the SCC peace process who had informed them earlier of the likely need to suspend the conferences because of a possible attack, the Lou Nuer delegates had requested three days to deliberate.

UNMISS, through its Special Representative of the Secretary General (SRSG) and Deputy SRSG, repeatedly urged the GRSS and the SPLA to take urgent measures to halt the impending violence, including during a meeting with the SPLA Chief of Staff on 13 December. That day, an UNMISS Police patrol had confirmed the presence of an advancing column of armed Lou Nuer in the northern part of Pibor County. From 19 December, the Vice-President had long meetings with Lou Nuer community leaders in Juba to try to get them to hold off on the attacks, and tried to reach out to critical players among the Lou Nuer youth and the Prophet<sup>11</sup> to no avail. He also met with the Murle community leaders. The Prophet, Dak Kueth Deng, claims to be a spiritual leader of the Lou Nuer. He is widely reported to be a key Lou Nuer figure in the organisation of attacks on the Murle, including distributing weapons and encouraging attacks. On 21 December, GRSS officials informed UNMISS that the SPLA command had sent out strong instructions to its troops deployed in Jonglei to be vigilantly alert and prepared to protect Lou Nuer and Murle civilians if they were attacked.

UNMISS Military had begun deploying extra troops to the area in early December, and by 23 December, the day the attacks began, it had deployed into key population centres in Jonglei. As of 25 December, more than 50% of UNMISS' troops, amounting to eight of its 15 companies, were committed or had been mobilised to protect civilians in Jonglei: four platoons<sup>12</sup> in Likuangole; four platoons in Bor; two platoons in Gumuruk; three platoons and three armoured personnel carriers (APCs) in Pibor; and one platoon to the north of Walgak.<sup>13</sup>

Witness testimony collected by HRD and confirmed by UNMISS air reconnaissance showed that on 23 December, the armed Lou Nuer, moving southwards in a large column of several thousand individuals, attacked Wuno village in Likuangole Payam, where they settled and established a base. From there, they broke into smaller groups that attacked Kiginyo, Karyak, Konsolo and Karwenya villages on 24 December and Monychak village on 25 December. That day, the armed Lou Nuer youth moved their base to an area between Karwenya and Tontol along the Nanaam River, from where on 26 December, the group again broke into smaller groups that attacked Nyergeny, Nyam, Nyol, Nyarat Chezio, Tontol, Othogon and Iritallan.

HROs were unable to visit the settlements themselves because of their remoteness and logistical and security constraints, but displaced survivors of these attacks who were interviewed in other locations reported at least 175 persons killed in these multiple attacks, including at least 26 women and 14 children, suggesting that the attacks took the inhabitants by surprise and many did not manage to flee. In addition, aerial photographs taken by

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<sup>11</sup> In April 2012, the Prophet was reported to have crossed South Sudan's border into Ethiopia with his followers to avoid disarmament.

<sup>12</sup> A platoon consists of 32 soldiers.

<sup>13</sup> UNMISS also established a temporary field hospital in Pibor on 2 January.

UNMISS Military confirmed that these settlements were attacked and tukuls burnt to the ground.<sup>14</sup> One survivor from Konsolo (a settlement on the Nanaam River) who had walked seven days to reach Likuangole explained to the HRO who interviewed her that the attackers had killed “all the people on the Nanaam River”. She had hidden in the bushes and saw the attackers from afar. During her journey from Konsolo to Likuangole, she explained that she had to survive off tree leaves and that there were “very many” bodies on the way. Further investigation is needed to confirm these allegations, the possible identity of those killed in these attacks on the way to Likuangole, and the manner in which they died.

*Attack on Likuangole: 27 December 2011*

According to multiple eye-witnesses, the Lou Nuer youth organised themselves into eight columns which moved southwards to attack Likuangole town itself, the columns maintaining a two-hour distance from each other.<sup>15</sup> Witnesses described how well-coordinated and organised the attacks were. The armed young men in uniforms (military/SPLA uniforms, as well as SSPS, Prisons Service and Wildlife Police) were at the front of the column while women, children and elderly persons followed, carrying provisions. A local chief, who said he had hidden in the bush during the attack on Likuangole, told HROs that attackers were composed of Nuer, Dinka and Anyiak in military attire and carrying all types of guns. He said that the attackers shouted “This is our land!” as they entered the town.

The attack on Likuangole town began on 27 December, by which time most of the inhabitants had left the town, following early warnings from UNMISS and others to local authorities who subsequently advised their communities to get out of harm’s way. Thirty-one vulnerable civilians were also evacuated by UNMISS.

Through fact-finding missions to Likuangole on 1 January, from 16 to 18 January, and on 29 January, HROs were able to witness directly the extent of the destruction, not only of dwellings but of facilities which provide basic needs such as healthcare and education, and which support the social and economic fabric of the community. Such actions suggest intentions that go beyond simple retaliation for cattle raids and abductions, especially when combined with hate speech and graffiti (see below).

From the air it was clear that all huts in Likuangole town had been burned to the ground. HROs confirmed that some 90 tukuls had been burnt in the centre of Likuangole town as well as the market. The five hard-walled structures in town – the municipal building, a school, a clinic, a farmers’ association, and a building of unknown usage – had been ransacked, burned and vandalised.<sup>16</sup> Only the SPLA barracks just outside the town had been spared.

The interior and exterior walls of the school and the municipal building in Likuangole visited by the HRD were covered in English and Nuer graffiti that included threats to eliminate all Murle, such as “We come to kill all of Murle” and “We come again don’t sit again in your payam”, obscene expletives, as well as detailed “signatures” of the areas from which the attackers hailed.

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<sup>14</sup> A tukul is a small, thatched hut (usually made of mud walls). It is a single-family dwelling.

<sup>15</sup> Aerial photographs from UNMISS air reconnaissance also suggest the town was attacked in a planned and organised fashion as opposed to through a spontaneous movement of the column into the town.

<sup>16</sup> Outside the farmers’ association was a sign stating that the association had received a small grant from Norwegian People’s Aid; the building of unknown usage appeared to be or have been a police post.

The exact death toll in the town itself is yet to be established but is likely to remain relatively low as a result of early warnings given to the population. HROs observed eight corpses in the centre of Likuangole town. All corpses seen by the HROs had severely decomposed and it was not possible to decisively determine the type of injuries sustained and the cause of death in most cases. HROs saw three attack victims, comprising one adult female and two presumed adult males within a neighbourhood/cluster of eight tukuls nearly adjacent to the former UNMISS Military base. In a commercial area adjacent to the residential area, HROs found the corpse of a woman with a hole in her skull which resembled a spear wound. In a smaller residential area near the first one, they found an unidentifiable, decapitated corpse in pieces. Approximately 300 metres further away on the periphery of the largest residential area, the body of an elderly male who had suffered severe head trauma was found lying in the street. HROs also saw the remains of an identified 22-year-old male burnt in a tukul east of the airstrip and those of another unidentified male.

HROs interviewed some of the over 100 displaced persons sheltering at the SPLA barracks just outside of Likuangole town. The displaced were predominantly elderly women and children with a dozen or so men who had fled from the Naanam area to Likuangole or were from Likuangole itself. The IDPs told of how they recognised the Lou Nuer attackers from their face markings and spoken language. Some mentioned that they ran into different directions when they heard gun fire and lost contact with their families. A woman reported that her 10-year-old child had been abducted with two other children during the attack. HROs also spoke to a child who had escaped from his abductors only to return and find his blind father burnt in his tukul. Another woman said that five of her neighbours had been burnt to death in their homes.

Although in the past, reports of attacks have generally not been accompanied by allegations of rape or other forms of sexual violence during the actual attack, forensic experts from UNMISS who examined photographs of one of the bodies of women seen in the streets concluded that she had most likely been raped. Further investigations would need to be carried out to ascertain whether this was an isolated case or whether other women were also raped during the attacks. (See *The Fate of Those Abducted* sub-section regarding gender-based violence in the context of abductees forcibly married or assigned to their abductors.)

Once the armed Lou Nuer youth had attacked and occupied Likuangole, between 27 and 30 December they went on to attack surrounding villages and eight bomas east and south of Likuangole town where killings, abductions and destruction of property continued. Although HROs were not able to visit these locations, they were able to interview individuals who had been displaced by the attacks.

Faced with these large-scale attacks, and in spite of the early warnings, the security forces were unable to respond in any meaningful way to such a large group of attackers especially outside of the town. As of 27 December the SSPS was only seven strong in the Likuangole post. One SSPS member was reportedly shot dead and another wounded in the attack on the town.

The armed Lou Nuer youth passed by the SPLA's 358<sup>th</sup> Battalion barracks situated some three kilometres outside the town unchallenged. The Commander said that the strength of the

358<sup>th</sup> Battalion was only 512 soldiers.<sup>17</sup> He told the HRD that he reported the urgency of the situation to the Brigadier Commander in Pibor as well as to the SPLA Division 8 Commander in Bor, who reportedly directed him not to fire on the attackers unless they first fired on the SPLA. Almost one hundred additional troops had been sent to the area to reinforce response capacity but the SPLA remained heavily outnumbered by the strength of the Lou Nuer youth. Nevertheless, the SPLA had protected 100 civilians who sought refuge in the barracks and prevented the Lou Nuer youth from entering the barracks.

#### *Visit of the Vice President of South Sudan to Likuangole*

On 28 December, almost three weeks after the Government had been given initial warnings of the Lou Nuer mobilisation and five days after the attacks had begun, GRSS Vice President Riek Machar travelled to Likuangole and Pibor towns accompanied by government officials and UNMISS representatives. The visit followed a series of earlier meetings that the VP had had with Lou Nuer leaders in Juba in an effort to prevent the Lou Nuer from attacking Likuangole and Pibor. At a meeting with several thousand armed Lou Nuer youth and their followers in Likuangole, the Vice President urged them to call off the attacks and to go home. He stressed that it was the Government's responsibility to protect its civilians, and advised them not to attack Pibor or other towns because they were controlled by the Government and that this had been agreed upon with the Lou Nuer leaders. He warned that if the youth continued to attack towns controlled by the Government they would be treated as rebels. He reminded them that in Lou Nuer culture, women and children should not be killed. In his concluding remarks he reiterated his appeal to the Lou Nuer to stop the attacks and return home.

The Vice-President agreed to the youth leaders' request to transport 63 injured fighters and eight additional sick fighters to Juba for medical treatment on the condition that the armed youth would halt the attacks. He then proceeded to Pibor, where he informed the local authorities that he had persuaded the Lou Nuer youth not to attack Pibor.

Despite the Vice-President fulfilling his pledge to evacuate the wounded, on 30 December an UNMISS air reconnaissance patrol confirmed that the columns of Lou Nuer youth were continuing south-eastwards towards Pibor town rather than retreating. The Vice President's message had not dissuaded the armed youth from their mission.

#### *Attacks along the road from Likuangole to Pibor*

The column of Lou Nuer youth continued toward Pibor and attacked and burned villages on both sides of the road leading from Likuangole to Pibor including Wunkok, Manythakar, Manynyathing, Kolon, Kelenya, Walak, Lukutole, Lokortuk and Vormala. On 17 January, HROs found the body of someone reportedly shot dead lying on the road between Pibor and Likuangole, and observed about 15 burnt tukuls along the way. Although HROs were unable to visit the above-mentioned settlements, they were able to interview inhabitants who had fled from these areas.

For example, a young man from Pibor explained that on 1 January he went to Manythakar (two hours south of Likuangole on foot) in search of his grandmother, his great-aunt and a ten-year-old female relative, but instead he found their three dead bodies. He said that it

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<sup>17</sup> The SPLA 358<sup>th</sup> Battalion is part of SPLA Division 8. A battalion is normally comprised of 419 personnel (including officers), but the 358<sup>th</sup> had received a reinforcement of 93 additional soldiers from Bor, who were deployed to Likuangole in response to the armed Lou Nuer youth's advance into Pibor County.

appeared to him that his three female relatives had been hiding in their tukul and were burned alive in it. From the different survivor accounts, the villagers appear to have been aware of the Lou Nuer advance and fled, but many vulnerable persons including women, children and elderly persons were still in the villages when they were attacked.

*Attack on Pibor: 31 December 2011*

By 31 December UNMISS air reconnaissance had reported that two columns of armed Lou Nuer youth had advanced to between five and ten kilometres north of Pibor. Large numbers of Murle civilians had already begun fleeing Pibor town, heading south-east along the Kangen River. By this time, however, the SPLA, with UNMISS support, had reinforced the defence measures around the perimeter of the town, including trench-digging, which prevented the attackers penetrating to the town centre.

That day, elements of Lou Nuer entered the southern perimeter of Pibor town. As they did so, they burnt tukuls, and the Anglican church, and ransacked the *Médecins Sans Frontières* (MSF) clinic but were unable to penetrate the town itself. On 7 January, during an on-site visit to the MSF clinic that had been Pibor town's only functioning medical centre, HROs observed that the shelves had been emptied, papers thrown everywhere, and the furniture destroyed in what looked like an administration office.<sup>18</sup> Medicines and emergency food rations had been looted; within the compound and for about 50 metres beyond its gates pills were strewn about and emergency food ration packaging had been discarded after having been consumed. The HRD also observed approximately 15 burnt tukuls and the burnt Anglican church in the southern outskirts of the town near the clinic.

From 31 December, the majority of the Lou Nuer along with a large number of cattle were based to the east of Pibor across the Pibor River. On 2 January, a group of some 150-200 attempted to cross the Pibor River into Pibor town. SPLA fired on them, killing five of the attackers and wounding two of them. Simultaneously, UNMISS Military moved their two armoured personnel carriers from their position in the centre of town to the eastern side of the town and successfully deterred the Lou Nuer youth from advancing into the town.

The HRD subsequently carried out fact-finding visits to Pibor town and its immediate environs on 5 January 2012, 7 January, from 16 to 18 January, and four different missions respectively from 29 January to 1 February and from 2 to 4 February. Interviews with local Murle chiefs and survivors of the attack on Pibor confirmed that the following areas within Pibor/Gogolthin Payam were also attacked on 31 December: Akilo, Tangajon, Manyabol, Manyruen-Bolen, Wunkok, Kavachot, and Lanyaris (villages listed are approximately within a 15-kilometre radius of Pibor town, but difficult to access on foot due to the absence of roads and bridges).

During a field mission to Lanyaris boma, located some 10 kilometres from Pibor town, on 3 February, the HRD observed ten burnt tukuls including a large compound. A witness to the attack reported that the attack, on 31 December, had caught the villagers by surprise. Based on testimony provided by victims and witnesses, the HRD recorded 160 persons killed in Lanyaris. One man said that his two wives and six children had all been killed in the attack. He showed the HRD each burnt compound, and reported that in each one all the women and children had been killed.

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<sup>18</sup> After the MSF clinic had been rendered unusable, on 3 January UNMISS Military established a temporary field hospital in Pibor town to treat victims from the attack on Pibor and nearby villages.

Between 1 and 3 January, small groups of several hundred armed Lou Nuer youth were observed fanning out into the Kangen River valley, along the Kongkong River, and along the Akobo-Kalbat axis towards Pochalla, attacking local inhabitants and IDPs who had fled southwards from Pibor. The HRD also carried out field visits to some of the villages south of Pibor, along the Kangen River, that were attacked. Villages and areas reportedly attacked in this area include: Fertait, Bilait, Ngapul, Manychang, Kelmanya, Durein, Karulanya, Kalbat, and Tungano.<sup>19</sup>

On a fact-finding visit to Fertait town on 9 January, the remaining villagers, who were sheltering under the trees on the banks of the Kangen River, told the HRD that no one had warned them of the impending attack on 1 January and that they were caught by surprise. The HRD observed 24 burnt thatched structures (both tukuls and food stores), burnt corn cobs within the remnants of the food stores, and burnt crops. The HRD interviewed one man who had survived the attack and who described having seen attackers pushing people into their tukuls before setting fire to them. The HRD recorded 52 persons killed in Fertait. Other witnesses cited higher figures of those killed, but this has not yet been verified.

On 10 January HROs visited Bilait on the eastern side of the Kangen River and observed at least 15 burnt tukuls. Survivors interviewed in Bilait also confirmed that they had not received advance warning of the attacks. They explained how they had run for their lives when the armed Lou Nuer youth attacked the village and that many who had fled were chased and then ambushed by small groups of attackers.

The HRD also visited sites where persons displaced by the attacks had concentrated, such as Labarab on 25 January and Boma Payam on 1 February. Survivors explained that the majority of Murle persons had been killed south of Pibor, mainly because the Murle had all believed – both residents of the villages south of Pibor and residents of villages further north who had fled south – that the armed Lou Nuer youth would not proceed beyond Pibor.

From 3 and 4 January, the Lou Nuer attackers began retreating back northwards to their home areas with tens of thousands of stolen cattle and a significant number of abductees. They were able to do so unchallenged and have continued to enjoy impunity.

With regard to the perpetrators, information obtained from a range of sources in Bor and Akobo, including participants in the attacks as well as in public press statements, indicates that the operations of the armed Lou Nuer youth were commanded by “Brigadier General” Bor Doang, a civilian from Modit Payam, Uror County. The “Brigadier General” was supported by at least four commanders who were youth leaders and who spoke at the 28 December meeting with the Vice President. Multiple witnesses confirmed that participants in the armed Lou Nuer youth attacks wore SPLA, SSPS, Prisons Service and Wildlife uniforms, and that those leading the columns were the ones wearing SPLA uniforms. The participants wearing civilian clothes were usually further back in the column, with women, children and older people at the rear.

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<sup>19</sup> Villages listed are within a 20 to 40 kilometre radius south of Pibor town). In order to illustrate the logistic challenges of the investigations, the 20-kilometre drive from Pibor to Fertait took four and a half hours.

Witnesses and UNMISS' air reconnaissance confirmed that the majority of the participants in the armed Lou Nuer youth attacks carried AK-47 automatic rifles, but some witnesses also identified members carrying rocket-propelled grenade launchers (RPGs) and/or machine guns. According to a senior SPLA officer, a large number of the armed Lou Nuer youth had obtained weapons and uniforms from the rebel militia group under the authority of late George Athor that operated in Greater Upper Nile. While there were some reports of SPLA defections, the source of the uniforms and weaponry and any links with official security forces require further investigation. As indicated above, during the same period of the attacks, a number of press releases were issued in the name of the "White Army" claiming responsibility for the attacks in Pibor County, but it is not known in what way those issuing the communiqués were linked to those responsible for the attacks.<sup>20</sup> Some of the communiqués linked "Brigadier General" Bor Doang to the attacks.

### ***The Murle Attacks on Lou Nuer and Dinka Communities: 27 December 2011 to 4 February 2012***

On 27 December 2011, four days after the Lou Nuer first attacked Murle communities, UNMISS began receiving reports of attacks on Lou Nuer and Dinka communities, specifically in Akobo, Uror, Nyirol, Bor, Twic East and Duk Counties. Between 27 December 2011 and 4 February 2012, a total of 44 incidents involving killings and other casualties, abduction cases, looting and/or destruction of private properties and public facilities were reported from Lou Nuer and Dinka settlements.<sup>21</sup> Of the 44 attacks, 31 were conducted in Lou Nuer lands (within Akobo, Uror and Nyirol Counties), and 13 in Dinka lands (within Bor, Twic East and Duk Counties). The attacks were all attributed to Murle groups. It should be noted that unlike the Lou Nuer attackers who were organized into a visible group of several thousand and capable of carrying out multiple attacks simultaneously, Murle attackers moved in small, mobile groups, usually attacking one settlement at a time and were much less easily detectable or identifiable.

In order to verify the information concerning killings and other alleged abuses related to the attacks, HROs visited the scenes of major attacks reported in Wek and Panyok villages (Yuai Payam/Uror County), Walgak and Deng Jok Payams (Akobo County) as well as Duk Padiet Payam (Duk County). During these visits, HROs collected lists of the names of dead victims prepared by local authorities in Yuai and Duk Padiet Payams especially, and compared these with statements from witnesses and victims, including some interviewed in Juba Hospital. In the course of its investigations into the 44 attacks, the HRD recorded 276 killings, and 25 abductions. The attacks also led to considerable loss of livelihoods within the affected communities, most of the reported assaults (30 out of the 44 registered incidents) having been accompanied by cattle rustling with total figures exceeding 61,000 cattle allegedly stolen during the reporting period<sup>22</sup>.

HRD furthermore corroborated consistent reports on large numbers of houses burnt during the respective attacks conducted in Ulang Boma/Iddit Payam, Padoi and Dir Boma/Diror Payam as well as Wech Diew, Wech Oman and Wech Both/Deng Jok Payam in Akobo

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<sup>20</sup> According to statements and press releases issued in name of the armed youth and released on the Internet (dated 25 December 2011, 1 January 2012, 5 January 2012), the group was comprised predominantly of Lou Nuer with Gawaar Nuer, Dinka, Shilluk and Anyuak elements.

<sup>21</sup> See Annex 1 for a list of attacks recorded during the period under review.

<sup>22</sup> The total number of cattle stolen cannot be verified, as cattle losses tend to be exaggerated.

County, Wek and Panyok/Yuai Payam in Uror County, Weidong Boma/Waat Payam in Nyirol County and Duk Padiet Payam in Duk County.

The first reported attack occurred on 27 December, when small groups of Murle gunmen attacked Modit village in Uror County and on 28 December both Ayicaou village in Kolnyang Payam, Bor County, and Udit village in Walgak Payam, Akobo County. These attacks resulted in combined reports of four persons killed and five abducted, although some reports suggest they may have been “routine” cattle-raiding incidents rather than reprisals for the Lou Nuer offensive on Pibor County. Over 6,000 cattle were reportedly stolen in the three attacks.

From 1 January 2012 onward, the number of reported attacks and scale of casualties increased considerably. Five simultaneous cattle raids were carried out on 1 January: in Ulang boma of Iddit Payam, Walgak Payam, and Bong boma in Akobo County; Thiam Payam in Uror County; and Waat Payam in Nyirol County. HROs recorded a total of 20 dead, and 18 abducted (primarily children) in the course of these five attacks; 227 homes were burnt in Ulang boma alone; and a total of 7,805 head of cattle stolen. Between 2 and 11 January, one to five attacks were registered per day in Lou Nuer and/or Dinka areas, with growing numbers of women, children and elderly persons among the casualties.

On 8 January, Murle assailants carried out five concurrent attacks in different areas in Akobo County: in Dir and Tangayang bomas as well as in Walgak, Diror and Deng Jok Payams. The five attacks resulted in 37 persons reportedly killed, 15 wounded, two abducted, and an estimated 10,000 head of cattle stolen; 32 of the 37 reported deaths occurred in Denk Jok, , including 14 women, 14 children, and four adult males, and 36 homes were burned. Three adult survivors of the Deng Jok attack reported that three villages in the payam – Wech Diew, Wech Oman and Wech Both – were attacked. Two women described how the assailants first invaded Wech Diew, which lies between Wech Oman and Wech Both, and then attacked the other two villages as villagers fled north and south from Wech Diew. A survivor reported that the attackers had split into three groups – pursuing villagers fleeing north, pursuing villagers fleeing south, and gathering the area livestock.

In addition to the attack on Deng Jok Payam on 8 January, Lou Nuer witnesses reported two other large-scale attacks: on Wek and Panyok villages in Yuai Payam, Uror County, on 11 January. They said that at approximately 17:00 that day Murle assailants launched a surprise attack on Wek, shooting at villagers and burning tukuls, and then continued on to the neighbouring village of Panyok, which is approximately a ten-minute walk from Wek. By the time the attackers reached Panyok it was after dark and most of the villagers had fled or managed to hide. The attackers returned to Wek and burnt additional houses before retreating eastward. The international NGO MSF Holland evacuated the most seriously wounded persons to their clinic in Nasir, Upper Nile, and UNMISS evacuated some of the wounded from Yuai to Bor. A wounded man in his fifties whom HROs interviewed in Yuai reported that he was a resident of Wek and was shot in the right knee while trying to flee. He said the attackers had burnt his house but his family members had survived.

Uror County authorities reported that 55 people were killed in the attacks on Wek and Panyok (52 of them in Wek) and 21,930 head of cattle stolen.<sup>23</sup> Most of the victims in Wek

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<sup>23</sup> The Acting County Commissioner provided the HRD with a list of 53 persons who were reportedly killed. He affirmed that two additional persons whose names were not on the list had also been killed.



and Panyok were women and children, some of whom were killed by machete blows. An UNMISS fact-finding mission to Yuai on 13 January was unable to reach the attack sites of Wek and Panyok, though HROs interviewed victims displaced from the area. In addition, when over flying the Wek area HROs counted approximately 15 freshly burnt tukuls.<sup>24</sup>

On 16 January a group of Murle assailants reportedly attacked Duk Padiet, Duk County, from the east. The attackers shot at villagers, burnt tukuls, abducted children, and stole cattle. The Duk County Commissioner reported that 75 persons had been killed in the attack, 25 of whom were reportedly Lou Nuer persons who had been displaced from Wek and Panyok following the attacks there.<sup>25</sup> County authorities also stated that 300 homes had been burnt and 45 persons, primarily children, were missing. The majority of victims were women, children or elderly persons who had not fled the village or were caught trying to escape to the bush. The assailants also reportedly raided 504 head of cattle.

HROs visited Duk Padiet town on 18 January and counted approximately 50 burnt tukuls in addition to all kiosks and shops burnt in the local market. They interviewed four young men who said they had witnessed the attack and reported having seen the dead bodies of 16 persons, most of whom were their relatives. Victims showed the HROs grave sites where some of the victims had been buried, but insisted that the County Commissioner's casualty figures should be treated provisionally, explaining that other corpses were likely to be found in the surrounding bush, once searched, and that additional casualties could not be confirmed until displaced persons had returned to the area. A victim interviewed by the HROs reported that his uncle, a blind man aged approximately 55, fled Duk Padiet to a neighbouring village with his 51-year-old wife and his 23-year-old son guiding him. The attackers pursued the family, shot the wife and set fire to the tukul in which the blind man and his son were sheltering, burning them alive. Two other victims of the attack whom the HRD later interviewed also reported deliberate acts of cruelty and claimed that they had witnessed attackers decapitating children.

From 18 January until the completion of the HRD's investigations on 4 February, an additional six Murle attacks, all cattle raids, were reported to UNMISS: on Panyiang in Duk County on 18 January; on Thienwei boma of Anyidi Payam, Bor County, on 25 January; on Maar in Pakuel Payam, Twic East County, on 29 January; on Thakian boma in Walgak Payam, Akobo County, on 4 February on Mantiwiet boma in Waat Payam, Nyirol County, on 4 February; and on Pariak Cattle Camp, Bor County, on 4 February.

The HRD was not able to directly investigate these additional reports of attacks due to several factors including the sizable distances between the sites of attacks. It nevertheless continued investigating Murle attacks that had already occurred through visiting areas of displacement and interviewing victims in hospitals. These included a woman, interviewed in Bor Hospital on 26 January, who alleged that at approximately 10:00 on 25 January, she and another woman had been attacked by a group of 12 gunmen in Thianwei boma. She alleged that the attackers were Murle. She sustained six stab wounds and reported that the attackers had slit her companion's throat, resulting in her death. The woman further reported that the assailants had stolen "a number of" goats from the village.

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<sup>24</sup> The UNMISS mission could not reach Wek and Panyok by land due to their distance from Yuai and inaccurate grid coordinates.

<sup>25</sup> The County Commissioner provided the HRD with a list of 75 persons reportedly killed, which he had drawn up prior to the mission. Villagers alleged that an additional six to eight corpses had been found in the bush. However the HRD did not view the dead bodies.

In addition to this incident, one of the above-mentioned attacks was confirmed by other components of UNMISS, namely the 29 January attack on Maar. The day after the attack, an integrated UNMISS team visited Maar, where local officials reported that 4,000 head of cattle had been stolen in a Murle cattle raid; one day later UNMISS Security reported that the attack had resulted in a total of 400 head of cattle stolen and no casualties. UNMISS also received a report from local sources that on 4 February approximately 21 Murle had attacked Pariak cattle camp in Baidit Payam, Bor County, and that two members of the local population who pursued the attackers were killed, as well as one of the Murle attackers. Few details are available about the other two attacks alleged to have occurred also on 4 February.

As indicated above, Murle attacks are markedly different from those carried out by the Lou Nuer. The Murle move in small, mobile groups of gunmen and usually attack one settlement at a time. How the groups organise themselves and whether they have a chain of command, however, is not well understood. Murle attacks on Lou Nuer and Dinka areas do not usually lead to the area becoming deserted because the individual attacks are not on such a broad scale. Local authorities generally remain in place after an attack and retain their ability to provide relevant information on the human toll (through compiling lists of casualties) and on the humanitarian situation. The bodies of Lou Nuer and Dinka victims are usually interred in accordance with local customs, thus grave sites can be verified and information provided by local authorities can be used as a foundation for corroboration by surviving victims or eyewitnesses.

Local government officials' initial reports attributed responsibility for the attacks to the Murle, though as indicated above, they are not easily identifiable. Uror County authorities informed the HRD on 13 January that a woman who had survived the Wek and Panyok attack attested to having seen approximately 300 Murle wearing military fatigues and boots descend upon the village. Some victims and witnesses reported that they had overheard the attackers speaking Murle. Others stated that they had physically identified assailants killed during an attack as Murle based on their tribal markings and their lower teeth having been extracted.<sup>26</sup> One surviving victim of the Duk Padiet attack, whom HROs interviewed on 20 January, claimed to have noted that some of the attackers wore shoes made of "cowhide, Murle style". A member of the Great Akobo Youth Association also reported that survivors of the 1 and 11 January attacks had found a number of cowhide receptacles at the attack sites. Cow hide receptacles are typically used by Murle to carry water when travelling.

As in the Lou Nuer attacks on the Murle, most of the interviewees reported that some of the attackers wore various SPLA, SSPS, Prisons Service, and/or Wildlife Service uniforms. An eyewitness to the 1 January attack on Ulang boma emphasised that following the attack he had found SPLA badges at the scene, suggesting that some members of the SPLA may have participated in the attack.

### ***The fate of those abducted by Lou Nuer and by Murle attackers***

One of the issues that remains of grave concern is the fate of women and children abducted during both the Lou Nuer and the Murle attacks. Murle cattle-raiding has historically been accompanied by abductions of women and children but the Lou Nuer traditionally did not carry out abductions during cattle raids. Over the years, however, their tactics have changed, whether in an attempt to directly recover wives and/or children who had been previously

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<sup>26</sup> Many South Sudanese ethnic groups subject their youth to ritual markings, which differ from one ethnic group to another.

abducted, or purely to strike back at the Murle in a tit-for-tat measure. Indeed, abductions have frequently been the trigger for conflict between the two communities, including in the events described in this report.

The fate of those abducted varies. Many abducted girls or women are subsequently forced to become the “wives” of men from the attacking community and remain there, whether voluntarily or involuntarily.<sup>27</sup> Community mechanisms may result in the negotiated return of those abducted and UNICEF-supported NGOs have been developing tracing and reintegration processes in some areas.

In the course of its investigations during the period under review, the HRD recorded 37 abducted persons and several hundred persons unaccounted for, many of whom may have been abducted. The relatively low number of recorded abductions can be explained by the fact that at the time of the HRD’s investigations, it was impossible for the villagers interviewed to determine the fate of all others in their community, especially those they designated as missing. UNMISS Child Protection sources indicate that they received reports from witnesses of 66 children abducted during the Lou Nuer attacks on Pibor (45 girls and 21 boys between the ages of 10 months and 17 years), only four of whom have been recovered so far. A small number of women have also been recovered and returned to Pibor.

Only once all displaced populations return to their communities will it be possible to obtain a more precise picture of the extent of abductions. Several witnesses reported to HROs that they saw women and children abducted in the attacks. HROs also interviewed several persons who had managed to escape after having been abducted during an attack.

One former abductee described how armed Lou Nuer youth had abducted her and her three children on 1 January. While they were trying to flee the attack on Pibor a group of Lou Nuer attackers apprehended them and forced them to join the column of retreating Lou Nuer youth. She explained that she followed the main column at its tail, where most of the women, children, elderly persons, and abducted persons were and that she did not witness any further attacks. The woman described how on 3 January the group started its journey from Pibor back to Akobo by following the Kongkong River.<sup>28</sup> She said that there were a large number of abducted persons in the column. Although she could not provide a specific number, she said that there were twice as many abducted children as there were women. According to her testimony, as the column slowly moved from Pibor County to Akobo County children who cried too much or were perceived to be complaining too much about the arduous journey were killed by the armed Lou Nuer youth. The woman could not provide information on the identities of the children because, she said, the armed Lou Nuer would not allow the abducted persons to speak to each other during the journey.

The woman reported that when the column arrived in Akobo on 13 January, the armed Lou Nuer youth who had attacked the Murle in Pibor began dividing up the abducted women and children amongst themselves, much like they reportedly did with their massive cattle spoils.

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<sup>27</sup> The abducted woman is considered a precious commodity because she can be acquired as a wife without having to pay a bride price (commonly referred to as a ‘dowry’ across South Sudan). The bride price, which is normally negotiated between the families of the future bride and groom, can be as high as 30 or more head of cattle. An abducted woman, acquired for free in a cattle raid or other attack, brings her reproductive capacity and her labour into the abductor’s family, resulting in a net profit to the abductor, especially when she bears daughters who themselves can be married off and bring additional cattle into the family.

<sup>28</sup> UNMISS Military’s air reconnaissance confirmed the movement along the Kongkong River.

When the Lou Nuer youth came to her, they took two of her three children, aged five and six, for themselves, leaving her with her baby, and then let her go. One of the abductors handed her over to the police station in Akobo where the SSPS immediately contacted the Akobo County Commissioner's office, which arranged for the woman to be taken back to Pibor. No action was taken by police against the abductor who handed her over.

HROs interviewed an additional five girls and women who alleged they had been abducted and managed to escape from their captors. In each case, they reported that local government authorities had secured the women from harm pending their return to Pibor County. Although kidnapping/abduction is illegal and children are to be protected from forced marriage, in no case did government authorities arrest or initiate criminal proceedings against any of the abductors, whose names and whereabouts were known to the SSPS and/or County Commissioner's office at the time that the women were turned over to authorities.

A girl who alleged she was abducted in Pibor and taken to Akobo told HROs that she only managed to escape from her captors when she met ethnic Murle in Akobo. The girl said that one day (date unknown), she saw Murle SPLA soldiers in Akobo town and told them that she had been abducted from Fertait in Pibor County and taken as her abductor's "wife". The Murle soldiers immediately took the girl to the County Commissioner's office, but when the abductor learned this, he and other Lou Nuer youth surrounded the County Commissioner's office, demanding that the abductee be handed over to them. The Akobo County officials refused but were concerned that the abductor's insistence could result in armed violence targeting them. When the abductor returned to the Commissioner's office the following day and demanded that the girl be handed over to him, the County Commissioner ordered the SPLA to arrest him. The SPLA did so but released him after a few days. County officials explained that it was not possible to detain the abductor any longer because there was no capacity to confront the members of his group who were supporting him, and that security forces would be outnumbered and outgunned.

As indicated by the above testimonies, abduction is very often followed by forced marriage or assignment to captors and is a form of gender-based violence. Other reports suggest that following the abduction, the woman often becomes the victim of repeated incidents of rape. The abducted "wife" is therefore forced to enter into sexual relations with her "husband" for the rest of her life and bear children. If she manages to find an opportunity to escape, she is faced with the dilemma of leaving without the children, trying to leave with them or resigning herself to remaining with the father of the children forever. There is equal concern for the fate of abducted girls, given that early marriage is widespread. Abducted girls can be either sold, usually with a price of cattle, or forced to marry, also in exchange for cattle, when they are as young as 12 years old.

The GRSS' reluctance to hold perpetrators accountable for abduction, rape, forced marriage, deprivation of liberty and other associated crimes is of serious concern. The HRD notes that local authorities, such as the SSPS in the case described above, have not pursued investigations into alleged abductions even when confronted with those involved. There is therefore a need for the security forces and justice system to be strengthened and trained to deal with such cases in an appropriate manner, so that they are no longer tolerated by local, state, and national government authorities. It is important that any decisions taken on a case should be in the best interest of the woman or child concerned.

As part of the overall Jonglei Peace initiative, UNICEF and UNMISS Child Protection Unit in collaboration with the Ministry of Social Development and the Ministry of Local Government held a workshop in late 2011 to review a study on child abduction in Jonglei carried out by the Rift Valley Institute. One of the key outcomes was to establish Child Abduction Recovery Taskforces and Committees at county and payam levels to support the recovery and reintegration of abducted children. The establishment of these task forces was interrupted by the suspension of the peace process but should be re-launched to ensure that such processes are carried out, and that they are in the best interest of the child.

## **VI. STATE RESPONSE TO THE ATTACKS IN JONGLEI STATE**

### *State response prior to and during the attacks*

The attacks which took place between 23 December 2011 and 4 February 2012 constituted one of the biggest challenges for the GRSS since independence in terms of testing its capacity to protect civilians and to demonstrate its capacity to impose law and order. Supported by UNMISS, the Government made efforts to contain the violence but these were constrained by the weak capacity of GRSS institutions, particularly local government, security and justice, a lack of human and logistical resources and the tenuous control that state institutions have over territories such as Jonglei, which have been marginalised and neglected over many years. This situation was further exacerbated by a disenfranchised youth, determined to act, and over which government and community leaders had little control. Given the lack of accountability and the prevalent culture of impunity for killings, abductions and destruction of property during previous attacks over the past few years, there was also scant threat of any punishment to deter the attackers.

Earlier parts of this report have described UNMISS' efforts to urge the GRSS to take action in the face of increasing certainty that the Lou Nuer were planning a major attack and to impress upon them their role and responsibilities with regard to protecting the civilian population. The Government was slow to respond in any robust way, and failed to stop the Lou Nuer advancing, both to Likuangole and Pibor, in spite of a number of meetings with Lou Nuer and Murle leaders. The fact that the Lou Nuer advanced to Pibor after it was thought they had agreed with the Vice President not to do so seriously undermined the GRSS' efforts and demonstrated a lack of government authority. Since the violence which occurred in late December 2011/January 2012, the Government has taken a series of measures in an attempt to address inter-communal violence in Jonglei (see below). Strengthening early warning systems and responses will need to be part of a robust strategy for the protection of civilians on the part of the GRSS.

From the point of view of the security forces, in both Likuangole and Pibor, both SPLA and SSPS were heavily outnumbered by the Lou Nuer attackers, and reinforcements only began to arrive in early January. For example, in an interview with HROs, the Pibor-based Commander of SPLA 47<sup>th</sup> Brigade (Division 8), who took over as Brigade Commander on 26 December 2011, after the attacks had begun, said the SPLA in Pibor was unable to intervene to protect the civilians in Likuangole as the main barracks were too far away from the centre of town. He also said that there were only 400 SPLA soldiers in the Likuangole barracks at the time of the attacks by the several thousand-strong Lou Nuer, and thus too few to provide an adequate response to protect civilians, especially in surrounding bomas. About a hundred civilians were able to take refuge in the barracks, however, as reported above.

Pibor town itself, with a greater military presence of 542 SPLA soldiers according to their commander, was more effectively defended by the SPLA, with UNMISS support, but troops remained within the town limits. Most of the killings occurred outside of the town, particularly to the south in areas where neither the SPLA nor UNMISS had the capacity to deploy and to where many had eventually fled.

Reinforcements were eventually ordered, but not until 31 December when the President returned to Juba from leave. UNMISS was informed that he immediately held a cabinet meeting and ordered 3,400 SPLA infantry troops to be deployed to Pibor and 800 armed SSPS be deployed by road from Bor to Pibor and Gumuruk. During his New Year's message the following day, the President announced that he had ordered 'the national army to move in and protect the civilians'.

By the afternoon of 1 January, and in spite of the constraints due to the lack of all-weather roads in the region, which meant that troops were obliged to travel on foot for part of journey, the SSPS Commissioner confirmed that the first group of 800 armed SSPS had departed Bor for Pibor and Gumuruk. While this more robust response was an important development, interviews with field military commanders in Jonglei State highlighted their frustration at the delays in responses to their requests for reinforcements, and it is clear that had more troops been deployed much earlier, many lives and property might have been saved.

#### *Subsequent measures to address the attacks and prevent further violence*

As part of its peace initiatives, in the wake of the most recent episodes of inter-communal violence in Jonglei State, the GRSS committed to implement a disarmament campaign as a key measure to establishing security in the state. Some of those interviewed by UNMISS expressed their preference for the creation of a security buffer zone around Lou, Dinka and Murle areas, followed by a reconciliation process and then disarmament. A number of county officials and traditional chiefs raised fears that they would be left vulnerable to armed criminals once their community had been disarmed. Within the Murle community, fears remain that the disarmament campaign could be used to exact revenge on it.

The Government has sought to allay the fears of the population about the lack of security in the face of repeated attacks by launching a simultaneous disarmament operation across the entire state of Jonglei. To this end, SPLA Divisions from across the country have now been deployed into Jonglei State to assist with the process. In principle the disarmament process was to be led by the SSPS with the support of community leaders, and only if communities refuse to surrender their arms would the SPLA intervene. However, in practice the SPLA has been actively involved in the disarmament, which is being monitored by UNMISS to document possible abuses. A period of sensitisation has been built into the process as the Government has responded to the concerns raised by citizens, UNMISS and other international institutions. The Vice-President himself has led the sensitisation process through visits to various counties in Jonglei State.

The deployment of additional SPLA and SSPS in the State has reinforced security short-term. However, UNMISS Integrated Monitoring Teams that have been monitoring the civilian disarmament campaign have heard repeated concerns from local communities about what will happen once the disarmament process has finished. Although the authorities have verbally sought to reassure the local populations, it is far from clear that a robust security

presence that will be capable of providing protection in bomas, payams, and at county-level will be deployed everywhere on a long-term basis.

## **VII: JUSTICE AND ACCOUNTABILITY**

Although in the past few years several thousand civilians, including women and children, have been killed or abducted, and property extensively destroyed, in the context of retaliatory attacks and cattle raiding in Jonglei State, the perpetrators of such crimes have enjoyed almost total impunity in terms of criminal justice. Apart from a handful of cases (see one example below), neither perpetrators nor other instigators of the violence have ever been prosecuted although many of those responsible are reportedly known to local officials. A county official acknowledged to HROs that when the columns of Lou Nuer attackers returned to Akobo, Nyirol and Uror with abducted women and children, as well as thousands of stolen cattle, no action was taken against them, as has been the practice in the past. Part of the reason for this is the fact that cattle raids and the acts which accompany them are often portrayed, including by government, police and judicial officials as “legitimate” traditional, cultural practices, rather than criminal offences to be prosecuted.

The severe weakness of State criminal justice institutions has also been a factor, particularly when confronted with a heavily armed disenfranchised youth, over whom local leaders have lost much control. Customary justice practices have also not been able to address the recent large scale violence. While reconciliation processes and mediation may be an essential part of peace efforts to resolve inter-communal violence, the absence of any accountability mechanism has undoubtedly contributed to the increasingly brutal cycles of violence. It is therefore imperative therefore that strong measures to tackle impunity be part of an integrated response to resolving the violence.

This chapter looks at the applicable national, international and regional legal frameworks, outlines the obstacles to tackling impunity and proposes options for addressing them.

### ***The Legal Framework***

South Sudan’s domestic legislation contains strong provisions which could be used to investigate and prosecute the most serious crimes documented in this report, including murder, child abduction, deprivation of liberty, rape and other forms of sexual violence, hate speech and persecution on the basis of ethnicity. International Human Rights Law is also applicable in South Sudan, even though the GRSS has yet to ratify international treaties (see below, *International Human Rights Law*). This section looks at the relevant applicable legal frameworks.

#### *National law*

The State’s obligation to respect, uphold and promote human rights is primarily enshrined in the Bill of Rights of the 2011 Transitional Constitution of Republic of South Sudan (TCSS). Article 9(2) stipulates that “the rights and freedoms of individuals and groups enshrined in this Bill shall be respected, upheld and promoted by all organs and agencies of Government and by all persons”. Individual articles commit the GRSS to uphold the preservation of life and human dignity (Article 11), the guarantee of personal liberty (Article 12) and freedom from slavery (Article 13).

The rights to life and the physical integrity of an individual are also protected by South Sudan's criminal law in several provisions of the Penal Code Act of 2008. The armed attacks and related acts which have taken place in Jonglei are criminal acts prohibited by South Sudanese law, punishable by prison sentences. These include:

- murder (life imprisonment or capital punishment) (Arts. 206, 208, 210); bodily injury and intimidation (3 months-10 years' imprisonment) (Arts. 223, 224, 225, 230, 232, 233, 235, 237, 238);
- kidnapping, abduction and violations of personal liberty (7-14 years' imprisonment) (Arts. 269-274, 277-279, 283, 284);
- offences related to rape and other sexual offences (6 months-14 years' imprisonment) (Arts. 247, 248, 249, 250, 251, 256);
- criminal offences relating to possession of dangerous weapons (10 years' imprisonment) (Art. 72); armed robbery (10 years' to life imprisonment) (Arts. 305, 307); theft (5 years' imprisonment) (Art. 293); and damage to or destruction of property (1-5 years' imprisonment) (Arts. 315-320);
- serious public order offences (5-10 years' imprisonment) (Arts. 79-80);
- offences related to hate speech and incitement to violence, such as the publication of information that can incite or promote public disorder, or causing offence to persons of a certain race or tribe (12 months'-20 years' imprisonment) (Arts. 75, 84 ); criminal defamation also carries sentences of up to two years (Art. 289); and
- conspiracy, attempts to commit serious offences, and aiding and abetting (Arts. 52, 53, 58, 61-63).

Victims and witnesses from all three concerned communities (Lou Nuer, Murle, and Dinka) allege that children were abducted from their communities during armed attacks covered by this report. South Sudan's domestic legislation codifies many international and regional human rights standards on child rights and protection, namely: the Penal Code Act of 2008 and the Child Act of 2008 both criminalize child abduction and child trafficking (Penal Code Arts. 269, 254(a); Child Act Arts. 22(1)(3), 119-120). Such offences carry penalties of up to 10 years' imprisonment (id.). Moreover, the Child Act affirms the child's right to life (Art. 12); the right to know, live with and be cared for by his or her parents (Art. 13) and the right to liberty and security of the person (Art. 19). The Child Act clearly provides for enforcement when it states, "The Government shall take concrete measures to protect children from all forms of abuse and to ensure that any child who becomes the victim of abuse, as set out in this section shall be accorded appropriate treatment and rehabilitation" (Art. 22).

### *International Human Rights Law*

The Republic of South Sudan has announced its intention to ratify key international human rights instruments, including the International Covenant on Civil and Political Rights (ICCPR) and is in the process of developing legislation to do so.<sup>29</sup> However, International Human Rights Law is already applicable in South Sudan for several reasons. Firstly, under international customary law, the Government is bound to respect many of the provisions which are to be found in these instruments, especially those related to serious human rights violations. In addition, the Human Rights Committee<sup>30</sup>, which monitors the implementation

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<sup>29</sup> The President publicly announced the urgent need to ratify the international human rights instruments, primary among them the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), in a speech on International Human Rights Day, 10 December 2011. Since then, the Human Rights Division of UNMISS has organized three workshops for government officials and the South Sudan Human Rights Commission on treaty obligations and reporting.

<sup>30</sup> Human Rights Committee General Comment No. 26.



of the ICCPR, has noted that once a people has been accorded the protection of their rights (under a ratified human rights treaty), they continue to enjoy protection of those rights, regardless of any change in government of the State party, including “dismemberment” into more than one State or State succession or any subsequent action of the State party designed to divest them of the rights guaranteed by the Covenant. Thus, the treaties ratified by Sudan prior to South Sudan’s Independence, should provide protection for the people of South Sudan and oblige the GRSS to respect their provisions.

Thus rights guaranteed by the ICCPR are applicable in South Sudan and as such the GRSS has a responsibility to prevent and punish violations of the right to life (Article 6) and to investigate all allegations of serious human rights violations, in Jonglei and elsewhere. Failure to take appropriate measures to protect rights guaranteed by the ICCPR or exercise due diligence to prevent, investigate, punish or provide redress could itself potentially give rise to breaches of the ICCPR by the GRSS. In addition to ensuring the effective protection of rights, the GRSS is obligated to ensure that individuals have accessible and effective remedies to vindicate their rights, including an appropriate judicial mechanism and the right to an effective remedy (Article 2(3)).

#### *Regional Human Rights Law*

South Sudan has not yet ratified regional human rights instruments: the African Charter on Human and Peoples’ Rights (ACHPR), the African Charter on the Rights and Welfare of the Child, and the Maputo Protocol on the Rights of Women in Africa.<sup>31</sup> Among the rights protected by the ACHPR are the right to life and integrity of the person (Article 4) and the right not to be subjected to slavery and inhumane treatment (Article 5). The ACHPR also includes the right to appeal violations of fundamental rights to competent national organs (Article 7), and the protection of the rights of the woman and the child (Article 18). The Maputo Protocol affirms a woman’s right to life, integrity, and security of the person (Article 4) and binds the state to prohibit and condemn harmful practices that infringe the rights of women (Article 5).

#### *Obstacles to accountability*

As indicated above, one of the biggest obstacles to accountability is the extreme weakness of the criminal justice system in Jonglei State, particularly when taking into account the scale and gravity of the crimes associated with inter-communal violence. A pre-requisite to addressing accountability will therefore be effective measures to strengthen police, justice and prison institutions in the State.

The formal justice system’s ‘footprint’ in Jonglei’s eleven counties is severely limited, especially considering the population coverage (approximately 1.3 million) and geographic size. The judicial presence in Jonglei is limited to four judges (two High Court and two Magistrates) and eight prosecutors in Bor; two Magistrates and a prosecutor in Akobo; and one Magistrate and a prosecutor in Twic East. There is no judge or prosecutor in Pibor.

In addition, the formal system has a serious deficit in capacities, knowledge and skills. This is the case for judges, prosecutors, police and defence counsel. There is also a deficit in legal tools, including access to copies of laws in force and a corresponding understanding of how

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<sup>31</sup> South Sudan has also articulated its intent to ratify the Maputo Protocol imminently (also stated on 10 December 2011 as above).

to apply them. There is little administrative support and much of the infrastructure is dilapidated. Much of the police force is illiterate, without the necessary skills to undertake basic criminal investigations and maintain investigation records. Although the SSPS is deployed in each payam of every county in Jonglei, its personnel are neither trained nor resourced to respond to the specific challenges which they face on an ongoing basis. Outside of Bor County, seat of the state capital, police stations are also not equipped with basic communications equipment, such as radios and an official telephone, or with stationery, a typewriter or computers.

The weakness of the police, including in terms of man-power and capacity, has meant that even when directly confronted by someone apparently responsible for an abduction, there is no willingness to take action, as illustrated in the chapter on abductions. One senior police official told UNMISS that only the Jonglei Governor can order the arrest of perpetrators, which runs contrary to powers of arrest set out in South Sudan's laws. The SSPS also explained that they are unable to confront armed civilians because they will always be outnumbered. The reluctance of police and judicial authorities to act is also highlighted by the fact that none of the armed Lou Nuer youth who had been transferred for treatment at a Juba hospital after being injured during fighting in Likuangole was even questioned in connection with the killings and destruction of property that had occurred there.

Even if there was the capacity to undertake serious criminal investigations and prosecutions, the capacity of prisons in the state to hold those convicted is also seriously limited. All six county prisons are dilapidated and do not provide a safe, secure or humane environment. Prison security in these prisons is porous and prisoners are able to escape from custody without much difficulty (all male prisoners in Pibor, for example, escaped during the December 2011 wave of violence). With the exception of Bor Central Prison and Twic East prison, security perimeter fences do not exist.

With regard to abductions and gender-based violence, the SSPS and government authorities rarely recognise that abductions may lead to sexual offences, perhaps because of a perception that the "marriage" that usually follows and through which children are born supersedes the crime. In rare cases where an abducted woman or girl is able to escape and provide a statement to the police, the SSPS do not investigate the possibility of incidents of sexual violence, nor are they equipped and trained to do so. As a result, sexual offences associated with widespread abductions are poorly documented, if at all. Despite forced marriage being an accepted cultural practice routinely upheld by customary courts, in violation of the TCSS, sexual relations that take place within this context and the marriage itself can constitute sexual and gender-based violence. But because these violations occur in the domestic sphere, these practices are to some extent normalised in dominant social perceptions.

In Jonglei, like in much of South Sudan, customary justice processes feature prominently within the justice system. Customary justice is closely linked to the formal system through the TCSS and practice. These processes are primarily reconciliatory, with a focus on land and property, determining compensation in adultery and property (cattle theft) cases. Though not equipped with skills or legal authority, many customary processes adjudicate in serious criminal cases and many 'authorize' the detention of persons in County and State prisons. 'Special courts' of customary chiefs have been established to 'adjudicate' inter-communal violence, though not on the scale found in Jonglei. Such processes should be integrated into a justice strategy for inter-communal violence in Jonglei but should be harmonised as far as possible with human rights norms.

### *Options for addressing impunity*

As shown, given the gravity, scale and breadth of the crimes being committed in Jonglei, the formal justice system does not currently for the most part have the capacity to meaningfully investigate, prosecute, adjudicate or defend accused persons. The President of the Republic of South Sudan emphasised the need for accountability for the violence in Jonglei in his New Year's statement and has announced the formation of a special investigation committee into the events. The UNMISS SRSG has also made repeated public calls for meaningful investigation into the killings and human rights abuses. A first step towards changing perceptions regarding these acts would be for all levels of government authorities to condemn them as criminal acts, including hate speech, demonstrate their determination to take action against the perpetrators, and promptly take effective steps to address the issue.

On 5 March 2012, a Presidential Order was issued setting up an Investigation Committee on Jonglei State Crisis. Professor Deng Awur Wecnyin was named to head the seven-member committee, whose mandate is to: investigate the root causes of the violence; establish the extent of damage to lives and property; reveal those inside or outside South Sudan involved in "fanning and influencing the youths in order to cause atrocities"; investigate the sources of funding and supplies to the youth; and propose actions to prevent similar occurrences in the future. The Committee must present its report within three months of the issuing of the order. Its work should potentially make an important contribution to address the cyclical violence, including recommendations for strong measures to hold accountable direct perpetrators as well as others who played a key role in funding and organising the violence. It is thus essential that the committee be given the necessary human and financial resources to fully implement its mandate and that its independence is guaranteed.

It is acknowledged that building a criminal justice system is a long-term task which requires considerable resources, and that efforts by the Government and the international community to start that process are already underway. UN agencies have been engaged in discussions with the GRSS regarding the possibility of a system of mobile courts to deal with the current load of pre-trial detention cases.

With regard to the recent violence in Jonglei, one recommended interim option pending the outcome of any commission of inquiry would be to assess the feasibility of creating a rapidly deployable investigative capacity (policing, prosecutorial, and judicial) which would be equipped to investigate, prosecute and adjudicate inter-communal violence on the scale found in Jonglei. The primary focus should be on organisers of the violence.

In terms of a judicial body that may be appropriate for these offences, the national law allows for the creation of a Special Court 'to be presided over by a High Court Judge...[and] assisted by two assessors for the trial of tribal or sectional conflicts and disputes involving capital offences.' (Article 16, Code of Criminal Procedure). This could also be used as a mobile court, but a review of the composition and procedures of such a court would need to be undertaken to ensure that it had the capacity to handle the scale and complexity of the crimes that would need to be addressed, as well as ensuring that the processes were compliant with international standards.

It would also be necessary to strengthen prison security to securely accommodate persons who may be arrested for being involved in communal violence and other serious crimes.

It should be noted, finally, that not all cases of inter-communal violence have remained unpunished. In one exceptional case, 42 individuals are currently facing trial in Bor for offences related to inter-communal violence in the context of a long-running land dispute in Wonglei payam in Twic East County. They were arrested in 2011 following an episode of violence on 3 March in which 34 people were killed. Following an investigation by the Bor County SSPS and Public Prosecutor, 64 suspects were arrested, including several chiefs who were eventually released, while 42 were eventually charged with various offences including murder and are currently held in Bor Prison. This case demonstrates that when there is some political will on the part of the authorities, it is possible for the justice system to respond to large scale incidents of communal violence in spite of the challenges presented by the deficiencies in the system.

## **VIII. CONCLUSIONS AND RECOMMENDATIONS**

The events which occurred in Jonglei State in December 2011 and January 2012 were undoubtedly among the worst to have occurred in the State in terms of the scale and brutality of the violence and the devastation that occurred. UNMISS' investigations showed that the attacks were not only aimed at stealing cattle, but targeted entire communities, including women and children, and possibly aimed at destroying their livelihoods and social and economic infrastructure. Hate speech and incitement to violence based on ethnicity – crimes under domestic law, and violations of international human rights law – were also evident.

UNMISS' investigations show that even though the GRSS expressed their intention to protect civilians and the SPLA was instructed to do so, the actions taken came too late and impacted on the number of troops deployed at the critical time. Efforts were made to prevent the violence, but this delay, combined with the challenges of accessibility, proved to be too great to provide an adequate protection response. While UNMISS, as part of its mandate to support the government in protecting civilians, used its resources to the maximum and the actions of both the Mission and the SPLA contributed to saving lives, it too faced serious constraints to fulfil its mandate obligation in this regard. The experience of the Jonglei crisis indicates that all protection actors should review their capacity to take effective action in a timely manner in these situations.

The authorities' failure to take adequate preventive and protective measures in the past has left regions prone to cattle-raiding to fend for themselves in terms of security, thus making retaliatory attacks virtually inevitable. It is of note that after the armed Lou Nuer youth returned to their territories with their 30-50,000 looted head of cattle, Akobo County authorities voiced to Human Rights Officers the fears of the local population that the arrival of so many cattle was no cause for celebration; the Murle would want their cattle back and that could only bring further killing, destruction, and abductions of women and children.

As noted in this report, the causes of cyclical inter-communal violence in Jonglei State are multiple and complex, ranging from arms proliferation and insecurity to marginalisation and lack of development. It is thus imperative that the newly-independent State demonstrate its commitment to upholding the human rights principles espoused in the TCSS (Transitional Constitution of South Sudan) by doing all in its power to prevent further inter-communal attacks, to demonstrate that it can and will protect civilians from violence and abuse regardless of their ethnic origin. Its success in creating a new state and national identity will greatly depend on this, on its ability to overcome ethnically-driven conflict, and to respect

and protect the human rights of all its communities, including access to food, education and healthcare. In the specific case of Jonglei, a comprehensive, multi-faceted response is therefore needed to reduce the violence in the short and long term, to establish a protective environment and to demonstrate to local communities, through development and the delivery of basic services, that the presence of the state pays dividends, thereby facilitating the extension of its authority.

*Recommendation One: The GRSS should develop a comprehensive, multi-sectorial plan with short, medium and long-term actions to respond to the main causes of the violence in Jonglei State, including confidence-building measures designed to create a stable and secure environment, reduce inter-communal tensions and create a climate conducive to equitable long-term socio-economic development for all communities. The peace process which has been launched in Bor, the civilian disarmament programme, the investigative committee launched to look into the violence and criminal investigations to prosecute those responsible for the killings and other serious crimes should all be incorporated into such a plan.*

The re-launching of the peace process in April 2012 is an essential step towards the above, which must embrace all ethnic groups equally, and give voice to their concerns, including regarding representation. It will be important to ensure that human rights principles are incorporated as a core element of discussions, including non-discrimination and other economic, social and cultural rights. The outcomes of the process must also reflect a balance between reconciliation and holding perpetrators accountable for serious crimes, as well as including reparations.

It will be most important to ensure that recommendations and agreements emerging from the peace process are implemented. As reported, it is the failure of the authorities to implement previous agreements in terms of returning abductees and cattle that has contributed to a deep lack of faith in state institutions and to the continuation of attacks.

*Recommendation Two: The Government must ensure that the peace process already launched is fully supported in terms of resources, that the consultation process underway is broad enough to include all affected groups and allows them to express their grievances. Those leading the process should ensure that it includes a strong focus on human rights principles, including non-discrimination, economic, social and cultural rights, and the rights of the victims of attacks to justice and reparations. It is imperative that an implementation monitoring mechanism be established to ensure that recommendations are implemented.*

Longstanding impunity, and the failure to treat killings, abductions and other acts of violence associated with cattle rustling as crimes has undoubtedly contributed to the continuation of the cycles of retaliatory attacks. The obstacles to accountability which have already been described in this report include a severe lack of capacity and resources, and of willingness to enforce domestic laws which could be used to hold those responsible for the killings, abductions and other crimes. This is partly due to resource constraints and infrastructural challenges, but also for political and cultural reasons. Government and State authorities often define the inter-communal violence as the continuation of a longstanding traditional practice. They presented the violence to HROs as both ‘understandable’ and ‘justified’ in light of the alleged Murle cattle raids and abductions which had taken place across Bor, Duk, Akobo and other counties over the past few years.

The creation by Presidential Order of the Investigation Committee into the Jonglei State Crisis to look into the violence should be an important step towards beginning to address impunity. As mentioned, it will be important that the committee is given adequate human and financial resources to implement its mandate fully and that its independence and impartiality are guaranteed. It is critical that the overall peace process takes into account the Committee's findings regarding root causes of the violence, those responsible for perpetuating the violence, and how to deal with them.

*Recommendation Three: It is essential that those responsible for the violence, including those who planned, led or condoned the violence, be held to account and prosecuted where applicable. The Investigation Committee into the Jonglei State Crisis should be urgently sworn in so that it can begin its much delayed investigations. The GRSS should provide sufficient resources to allow the Committee to fully carry out its mandate in an independent and impartial manner. It is important that the report be made public; that it be disseminated widely; that any recommendations are promptly followed up and that their implementation is monitored. Any findings regarding root causes and criminal responsibilities should be considered as part of a comprehensive Government response to the Jonglei crisis and contribute to the prosecution of those responsible for the violence.*

Another step towards strengthening accountability will be for the GRSS, State and community leaders to change discourses and start referring to killings and other such acts – regardless of the ethnic group responsible - as crimes that are unacceptable, as well as to take more concerted action within the criminal justice system to deal with any such cases that occur. This will also require urgent Government action to strengthen the justice system – police, judiciary and prisons – with the support of the international community. Customary justice practices continue to play an important role in resolving disputes, but have proved to be inadequate to deal with the scale of the recent violence and, in addition, do not always respect human rights. There is a need therefore to integrate such practices into a justice strategy for inter-communal violence in Jonglei, at the same time as ensuring that they are harmonized as far as possible with human rights norms.

*Recommendation Four: The Government, State and local leaders should begin to condemn killings, abductions, destruction of property and cattle-theft as criminal acts which will be prosecuted through the courts. Hate speech and incitement to violence on the grounds of ethnic origin should be also publicly condemned and prosecuted. Resources need to be made available to rapidly strengthen all aspects of the justice system in Jonglei, possibly through a rapidly deployable mobile investigative and prosecutorial court system initially, so that it is equipped to deal with large scale crimes which occur in the context of inter-communal violence. Training for police and judges should include how to deal with incidents of inter-communal violence, including abductions and gender-based violence, regardless of cultural norms that disregard such violence in 'domestic' milieux, even those involving abduction. Customary justice processes should also be integrated into a justice strategy for Jonglei inter-communal violence, but harmonised as far as possible with human rights norms to ensure that they are not used to undermine the legitimate rights of victims of human rights violations to justice and reparation. The support of UNMISS, UN agencies, and donors will be critical to the success of building the capacity of the Jonglei criminal justice system.*

In March 2012, as part of its peace initiatives and of its efforts to address the proliferation of weapons throughout Jonglei State which are contributing to the on-going violence, the Government launched a civilian disarmament campaign which has been targeting areas

inhabited by all ethnic groups to avoid previous perceptions of bias. The campaign still faces the challenge of how to reach remote areas, locate hidden weapons and disarm the Murle and Lou Nuer, including the Prophet, who have moved away from the areas being disarmed. As part of the UN Human Rights Due Diligence Policy, UNMISS has advocated strongly for the disarmament operations to fully respect human rights.

There are fears too that once the voluntary surrender of weapons – mainly through community leaders – is complete, these operations will become more robust, with the risk of more serious and widespread violations. The Government therefore needs to give strong messages to security forces involved in disarmament processes like these that all operations must be compliant with international human rights principles, particularly with regard to the use of force, and that those responsible for violations will be held to account. The Secretary General's reports on South Sudan will cover UNMISS' assessment of the disarmament process in Jonglei more specifically.

*Recommendation Five: The GRSS is urged to take strong measures to ensure that disarmament operations are human rights compliant and that action is taken to punish any SPLA or SSPS found to have committed violations, respecting both the rights of the victim and the accused to due process.*

The recent deployment of SPLA and SSPS in the context of the civilian disarmament campaign has temporarily brought greater security in some areas and undoubtedly acted as a deterrent. However, what will happen in the longer-term remains uncertain, and as indicated above, local communities have continued to express serious concerns about their security after the arms have been taken away and once the SPLA and SSPS are redeployed. A long-term security plan, including for outlying bomas, is therefore critical to bringing peace to the affected areas, which will incorporate timely and robust responses to early warnings of attacks.

*Recommendation Six: The GRSS is urged to develop as a matter of urgency a comprehensive short and long-term security plan to ensure permanent protection to communities in Jonglei State in order to prevent them from suffering further attacks following disarmament. In the short term, the plan should include strengthening early warning and response systems so that prompt protective action is taken when planned attacks are detected. Likewise, Member States should ensure that UNMISS receives adequate resources to allow it to fulfil its mandate to protect civilians under imminent threat of danger.*

The South Sudan Human Rights Commission, a constitutional body, has a crucial role to play in independent and impartial investigations into human rights violations as well as capacity-building and awareness-raising. However, it faces a number of constraints, including budgetary, and needs resources in order to fully undertake its constitutional obligations. UNMISS is supporting the Commission through technical advice, logistical support and capacity-building. It is essential though that the Commission is adequately staffed and resourced. In particular, vacant commissioners posts need to be filled promptly also.

*Recommendation Seven: The GRSS and the international community should ensure that the Commission receives the support and funding that it needs to fulfil its mandate, and that it is able to act independently and impartially.*

While a small number of abducted women and children have been reunited with their families, it is assumed that a significant number remain with their captors. In this regard, the recommendation to establish Child Abduction Recovery Taskforces and Committees at county and Payams levels made at a workshop organised by UNICEF and UNMISS in collaboration with the Ministry of Social Development and Ministry of Local Government should be implemented as soon as possible to support the recovery and reintegration of abducted children. Some abducted women and children appear to have approached those carrying out or monitoring civilian disarmament activities. It is imperative that those who do request help to return to their communities are given appropriate support in accordance with their best interests.

*Recommendation Eight: The GRSS, with the support of the international community, should ensure that there are mechanisms in place to support the recovery and reintegration of abducted individuals in accordance with their best interests. In particular, it should ensure the establishment of the Child Abduction Recovery Taskforces at county and payam levels, as recommended previously.*

Finally, the December 2011 and January 2012 attacks deeply impacted on the livelihoods and survival mechanisms of those affected. Many lost everything when their tukuls, crops and food stores were looted and burnt and their cattle stolen. While significant numbers of persons impacted by the violence have returned to their home areas, others remain displaced having lost their homes and belongings. OCHA's 13 April Weekly Humanitarian Bulletin noted "alarming levels of acute malnutrition" in Jonglei State, including in Pibor and Akobo counties, with health partners continuing to provide vaccinations and therapeutic feeding for severely malnourished children as far as possible. While humanitarian support is being organised, there remain enormous logistical challenges which will be exacerbated by the oncoming rainy season. The extent of the psychosocial impact on those affected by the attacks has also yet to be fully established, but it was clear when HROs met with many of the victims that they were traumatised, many of them having lost children or other family members as a result of killings, abductions or displacement.<sup>32</sup> In many cases, the trauma will have been exacerbated by threats of annihilation and elimination through hate messaging particularly against the Murle. These factors have exacerbated an already severe economic situation characterised by extreme poverty, lack of basic services, development and alternative economic means; factors which have contributed to the marginalisation and disenfranchisement of communities in Jonglei State. Strengthened humanitarian, social and economic support to the affected areas is therefore urgent and should be addressed at County, State and national government levels.

*Recommendation Nine: While recognising the current budgetary constraints facing the GRSS, it is essential that the Government, with the support of the international community, gives priority to developing the provision of basic services such as food, adequate shelter, health care and education.<sup>33</sup>*

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<sup>32</sup> In early February, OCHA reported that almost 100 separated children had been registered in Likuangle alone.

<sup>33</sup> It is noted that a UNICEF-sponsored programme of constructing schools in Jonglei State has been developed and will be funded by the UN Quick Impact Project programme.



**Annex 1: Inter-communal attacks recorded by UNMISS Human Rights Division: 23 December 2011 to 4 February 2012**

<b>Date</b>	<b>Perpetrators</b>	<b>Town(s), Village(s)</b>	<b>County</b>
23 December	Lou Nuer	Gumruk, Guno, Kongor, Maniadeng villages	Pibor
24 December	Lou Nuer	Konsolo, Wuno, Monchack villages	Pibor
25 December	Lou Nuer	Kiginya boma, Lanyerit and Manyiri villages, Tontol boma	Pibor
26 December	Lou Nuer	Othagon and Nyergeny bomas, Nyam and Nyol villages	Pibor
27 December	Lou Nuer	Dalmany village	Pibor
27 December	Lou Nuer	Likuangole	Pibor
30 December	Lou Nuer	Lilibok, Manythakar, Oden, Keleknya, Wunkok, Manyruen villages	Pibor
31 December	Lou Nuer	Pibor town	Pibor
31 December	Lou Nuer	Lanyaris village, Bei boma	Pibor
1 January	Lou Nuer	Fertait village	Pibor
1 January	Lou Nuer	Bilait village	Pibor
1 January	Lou Nuer	Ngapul, Manychang, Kelmanya, Durein, Karulunya villages	Pibor
1 January	Murle	Weival and additional five villages in Udit Payam	Akobo
1 January	Murle	Yian boma in Tian Payam	Uror
1 January	Murle	Waat Payam	Nyirrol
1 January	Murle	Bong boma	Akobo
2 January	Lou Nuer	Kalbat and Tungano villages	Pibor
2 January	Murle	Anyidi Payam	Bor
3 January	Murle	Walgak Payam	Akobo
5 January	Murle	Duk Payuel	Duk
5 January	Murle	Diror Payam	Akobo
5 January	Murle	Padoi boma	Akobo
6 January	Murle	Yuai Payam	Uror
6 January	Murle	Wonyok boma in Diror Payam	Akobo
8 January	Murle	Dengjok Payam	Akobo
8 January	Murle	Tangnyang	Akobo
9 January	Murle	Diror Payam	Akobo
10 January	Murle	Padoi boma	Akobo
11 January	Murle	Wek and Panyok villages in Yuai Payam	Uror
13 January	Murle	Wehdeng village	Nyirrol
14 January	Murle	Weidang village	Nyirrol
15 January	Murle	Between Akobo/Kaikwiny	Akobo
15 January	Murle	Wulang in Waat Payam	Nyirrol
16 January	Murle	Duk Padiet	Duk
18 January	Murle	Panyiang	Duk
25 January	Murle	Thienwei boma in Anyidi Payam	Bor
29 January	Murle	Maar in Pakuel Payam	Twic East
4 February	Murle	Thakian boma in Walgak Payam	Akobo
4 February	Murle	Mantiwiet boma in Waat Payam	Nyirrol
4 February	Murle	Pariak cattle camp	Bor

**Annex 2: Fact-finding missions carried out by UNMISS Human Rights Division:  
December 2011 to 4 February 2012**

<b>Date visited</b>	<b>Site/Location</b>	<b>County</b>	<b>State</b>	<b>Type of Location</b>
29 December	Juba Teaching Hospital	Juba	Central Equatoria	Hospital where wounded victims and perpetrators were being treated
30 December	Juba Teaching Hospital	Juba	Central Equatoria	Hospital where wounded victims and perpetrators were being treated
1 January	Likuangole town	Pibor	Jonglei	Murle area; site of attack
3 January	Juba Teaching Hospital	Juba	Central Equatoria	Hospital where wounded victims and perpetrators were being treated
5 January	Pibor town	Pibor	Jonglei	Murle area; site of attack; county seat
6 January	Juba Teaching Hospital	Juba	Central Equatoria	Hospital where wounded victims and perpetrators were being treated
6 January...	Juba Way Station	Juba	Central Equatoria	Concentration of Murle displaced persons
7 January	Juba Teaching Hospital	Juba	Central Equatoria	Hospital where wounded victims and perpetrators were being treated
7 January	Pibor town	Pibor	Jonglei	Murle area; site of attack; county seat
9 January	Juba Teaching Hospital	Juba	Central Equatoria	Hospital where wounded victims and perpetrators were being treated
9 January...	Bor Civil Hospital	Bor	Jonglei	Hospital where wounded victims and perpetrators were being treated
9 January	Fertait village	Pibor	Jonglei	Murle area; site of attack
10 January	Bilait village	Pibor	Jonglei	Murle area; site of attack
11 January	Juba Teaching Hospital	Juba	Central Equatoria	Hospital where wounded victims and perpetrators were being treated
12 January	Juba Teaching Hospital	Juba	Central Equatoria	Hospital where wounded victims and perpetrators were being treated
13 January	Juba Teaching Hospital	Juba	Central Equatoria	Hospital where wounded victims and perpetrators were being treated
13 January	Yuai Payam	Uror	Jonglei	Lou Nuer area; site of attack; county seat
16-18 January	Axis from Pibor to Likuangole Payam	Pibor	Jonglei	Murle area; site of attacks
16-18 January	Walgak	Akobo	Jonglei	Lou Nuer area; concentration of Lou Nuer displaced persons
18 January	Duk Padiet	Duk	Jonglei	Dinka area; site of attack

<b>Date visited</b>	<b>Site/Location</b>	<b>County</b>	<b>State</b>	<b>Type of Location</b>
18 January	Liria Payam	Juba	Central Equatoria	Reported concentration of Murle displaced persons
20 January	Juba Teaching Hospital	Juba	Central Equatoria	Hospital where wounded victims were being treated
20 January	Bor Civil Hospital	Bor	Jonglei	Hospital where wounded victims were being treated
25 January	Deng Jok Payam	Akobo	Jonglei	Lou Nuer area; site of attack; concentration of Lou Nuer displaced persons
25 January	Labarab village	Pibor	Jonglei	Murle area; concentration of Murle displaced persons
26 January	Bor Civil Hospital	Bor	Jonglei	Hospital where wounded victims were being treated
24-26 January	Akobo	Akobo	Jonglei	Lou Nuer area; concentration of Lou Nuer displaced persons
29 January-1 February	Likuangole to Pibor	Pibor	Jonglei	Murle area; site of attacks
29 January-1 February	Pibor town	Pibor	Jonglei	Murle area; site of attack; county seat
1 February	Boma Payam	Pibor	Jonglei	Murle area; concentration of Murle displaced persons
2 February	Dalmany village	Pibor	Jonglei	Murle area; site of attack
2 February	Lanyaris village, Bei boma	Pibor	Jonglei	Murle area; site of attack
2 February	Fertait village	Pibor	Jonglei	Murle area; site of attack
2-4 February	Pibor to Fertait	Pibor	Jonglei	Murle area; site of attacks
2-4 February	Pibor to Fertait	Pibor	Jonglei	Murle area; site of attacks