



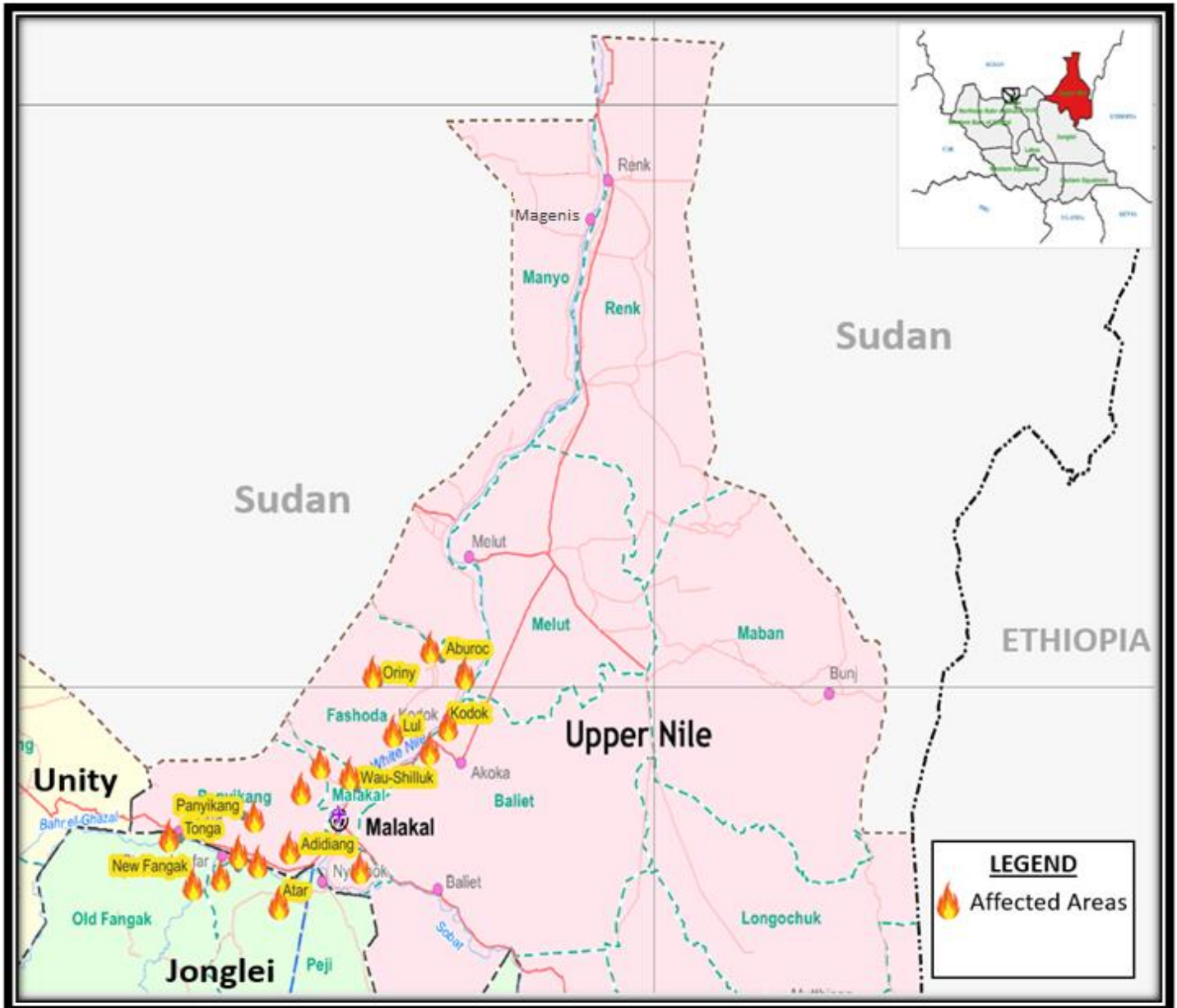
## **Attacks against civilians in Greater Upper Nile, South Sudan**

*August to December 2022*

## Contents

<b>I. Executive Summary</b> .....	<b>3</b>
<b>II. Introduction</b> .....	<b>4</b>
<b>III. Methodology</b> .....	<b>5</b>
<b>IV. Contextual Background</b> .....	<b>6</b>
<b>4.1 Historical Context</b> .....	<b>6</b>
<b>4.2 Recent context</b> .....	<b>8</b>
<b>V. Human rights violations and abuses and violations of international humanitarian law</b> .....	<b>13</b>
<b>5.1 Trends affecting civilians per sex and age</b> .....	<b>14</b>
5.1.1 Killing and injury .....	14
5.1.2 Abduction and sexual violence .....	17
5.1.3 Recruitment and use of children, and attacks impacting schools.....	19
5.1.4 Pillage and destruction of property .....	19
5.1.5 Forced displacement of civilians.....	20
5.1.6 Impacts on humanitarian actors and facilities .....	20
<b>VI. Modus operandi</b> .....	<b>21</b>
<b>6.1 Modus operandi of the Kitgwan (Simon Gatwech), allied militia groups, and parts of the SPLA-IO (RM)</b> .....	<b>21</b>
<b>6.2 Modus operandi of the Agwelek forces, allied Shilluk militia, and parts of the SPLA-IG</b> .....	<b>23</b>
<b>VII. Alleged perpetrators</b> .....	<b>24</b>
<b>7.1 Kitgwan (Simon Gatwech), allied militias/groups, and parts of the SPLA-IO (RM)</b> .....	<b>25</b>
<b>7.2 Agwelek forces, allied Shilluk militia, and parts of the SPLA-IG</b> .....	<b>26</b>
<b>VIII. Responses</b> .....	<b>28</b>
<b>8.1 Government response</b> .....	<b>28</b>
<b>8.2 UNMISS and OHCHR Response</b> .....	<b>29</b>
<b>8.2 Response from Regional Actors and the international community</b> .....	<b>30</b>
<b>8.3 Humanitarian response</b> .....	<b>31</b>
<b>IX. Conclusion and recommendations</b> .....	<b>31</b>
<b>X. Annexes</b> .....	<b>35</b>
<b>10.1 Timeline of major events/attacks (August to December 2022)</b> .....	<b>35</b>
<b>10.2 Legal background</b> .....	<b>39</b>
<b>10.3 Government response to the findings of the report</b> .....	<b>40</b>

**Major Locations of Upper Nile Violence  
August to December 2022**



## I. Executive Summary

1. This report is jointly published by the United Nations Mission in South Sudan (UNMISS) and the Office of the United Nations High Commissioner for Human Rights (OHCHR), pursuant to United Nations Security Council resolution 2677 (2023).<sup>1</sup> It contains findings of investigations conducted by UNMISS Human Rights Division (HRD) into human rights violations and abuses and violations of international humanitarian law during the confrontations between groups that severed from the pro-Riek Machar Sudan People's Liberation Army- in Opposition (SPLA-IO (RM)), known as the *Kitgwang* (under the command of General Simon Gatwech Dual, henceforth referred to as "*Kitgwang* (*Simon Gatwech*)") on one side and the *Agwelek* forces (under the command of General Johnson Olony) on the other side as well as their respective militias/groups in the Greater Upper Nile region, along the White Nile corridor, between August and December 2022.
2. For the purpose of the report, the warring parties will be referred to as the *Agwelek* forces and the *Kitgwang* (*Simon Gatwech*). The *Agwelek* forces were supported by allied militias/groups comprised mainly of armed elements from the Shilluk community,<sup>2</sup> and fighters loyal to General Olony<sup>3</sup>; whereas the *Kitgwang* (*Simon Gatwech*) was supported by allied militias comprised mostly of White Armies<sup>4</sup> of the Gawaar Nuer<sup>5</sup> from Ayod and the Laak-Nuer from Fangak and Dinka and Nuer armed elements from Pigi<sup>6</sup> counties in Jonglei<sup>7</sup>. The nature of the violence carried out by both groups appears to indicate that the purpose of the attacks was not only to drive out opponents from some of the localities, but also to attack and displace civilians from their homes and loot their properties.
3. UNMISS has reasonable grounds to believe that both parties committed gross violations and abuses of international human rights law, and serious violations of international humanitarian law.
4. Following the initial clashes that erupted in Panyikang on 10 August 2022, and the subsequent fighting in Tonga, as well as in Diel and New Fangak, UNMISS documented that both parties attacked several villages between August and December 2022. During the five-month period, violence between these parties, resulted in at least 884 civilian casualties: 594 were killed (366 men, 136 women, 73 boys and

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<sup>1</sup> This resolution is the latest extension of the UNMISS mandate. It condemns all human rights violations and abuses and violations of international humanitarian law by all parties, including armed groups and national security forces, as well as the incitement to commit such abuses and violations. The resolution gives UNMISS the mandate to monitor, investigate and report on violations of international humanitarian law and violations and abuses of human rights.

<sup>2</sup> Referring to the Shilluk community-based militias who participated and mobilized in the offensive cited in this report. Shilluk ethnicity is also known as Chollo. They are amongst the Nilotic community who live near the riverbanks of the White Nile in Greater Upper Nile region.

<sup>3</sup> These include Nuer elements formerly loyal to General Simon Gatwech who switched allegiance to General Johnson Olony when the two split.

<sup>4</sup> A "White Army" is generally comprised of various sub-sections of Nuer militants or community-based militias/self-defence groups, mainly from Central and Eastern areas of Greater Upper Nile region (Longochuk, Maiwut, Ulang and Nasser counties in Upper Nile State and Akobo, Ayod, Fangak, Nyirol, and Uror counties in Jonglei State). They branded themselves "White Army" due to their practice of smearing ashes on their skin as part of their rituals prior to launching attacks. They are widely known for their massive mobilization to avenge killings and revenge cattle raiding. This group fought alongside the SPLA-IO (RM) and clashed with the government forces and its allies across the Greater Upper Nile region. However, the "White Army" described in this report mainly refers to the community-based militia from the Gawaar community of Ayod county and the allied armed Nuer elements from the neighbouring Fangak and Pigi counties.

<sup>5</sup> A sub-section of the Nuer ethnicity, mainly from Ayod County of Jonglei State.

<sup>6</sup> Also called or spelled Figi

<sup>7</sup> Mainly, these elements are from the sub-sections of the Dinka (from Khorfulus and Atar, as well as Maat) and Nuer communities who are allied to the SPLA-IO (RM).

19 girls) and 290 injured (249 men, 39 women, one boy and one girl). In addition to these casualties, at least 258 civilians were abducted (108 women, 80 girls, 42 boys and 28 men), and 43 women and 32 girls subjected to sexual violence. Furthermore, UNMISS estimated that over 62,000 civilians have been displaced from their homes since the beginning of the clashes in the Upper Nile in August 2022, with at least 20,020 taking refuge at Malakal PoC site, and at least 21,989 in Kodok [near the UNMISS Temporary Operating Base (TOB)], 14,615 in Melut, and 1,740 in Renk (all within Upper Nile State) while others moved to Pigi and Fangak counties in Jonglei State, as well as to refugee camps in Sudan. The displacements also affected internally displaced persons (IDP) in established IDP camps such as Adhidhiang and Aburoc who fled to other areas of Upper Nile, including Protection of Civilian (PoC) site and Kodok, for safety. Civilian objects, including private properties, humanitarian facilities, and supplies designated as lifesaving assistance and support for vulnerable populations were looted and destroyed.

5. UNMISS conducted 165 investigation missions and field visits to various areas in Upper Nile and Jonglei states affected by the conflict to investigate violations and abuses perpetrated by the parties and their allied militias. Further, UNMISS HRD investigations identified at least 22 individuals (all men) who may bear the greatest responsibility for violations committed during this period.
6. UNMISS and OHCHR urge the government to address the persistent lack of accountability for violations and abuses of international human rights law and violations of international humanitarian law, some of which may amount to crimes under international and national law, and to provide justice and reparation to victims, and assistance to the affected population. Under international law, the Government of South Sudan has the obligation to investigate serious violations of international humanitarian law and gross human rights abuses and violations and to hold perpetrators accountable within fair judicial proceedings, as well as to ensure full and adequate reparation to victims. UNMISS and OHCHR also call upon international partners to support local and international humanitarian organizations to provide adequate legal, medical, and psychosocial assistance to the survivors of human rights violations and abuses, including survivors of conflict-related sexual violence.<sup>8</sup>

## II. Introduction

7. Between August and December 2022, armed confrontations between two SPLA-IO (RM) splinter groups known as the *Kitgwang* (*Simon Gatwech*)<sup>9</sup> faction under the command of General Simon Gatwech Dual<sup>10</sup> on one side and *Agwelek* forces<sup>11</sup> on the other side, under the command of General

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<sup>8</sup> The term “conflict-related sexual violence”, as used in the present report, refers to rape, sexual slavery, forced prostitution, forced pregnancy, forced abortion, enforced sterilization, forced marriage, and any other form of sexual violence of comparable gravity perpetrated against women, men, girls or boys that is directly or indirectly linked to a conflict. The term also encompasses trafficking in persons for the purpose of sexual violence and/or exploitation, when committed in situations of conflict. Conflict-related sexual violence: Report of the Secretary-General (S/2022/272), 29 Mar 2022, United Nations.

<sup>9</sup> *Kitgwang* is the Shilluk terminology for the northern Upper Nile’s contested area called ‘Magenis’.

<sup>10</sup> General Simon Gatwech Dual, a Lou Nuer from Uror County, was the former SPLA-IO (RM) Chief of General Staff (2014 – 2021). He was relieved from his designation as the Chief of Staff by the SPLA-IO (RM) chairman, Riek Machar, in June 2021.

<sup>11</sup> A youth revolution movement that started between 2008 and 2009 to protest land grabbing, particularly of Chollo Kingdom, in Upper Nile State. In the past, despite being allied with parties to the conflict (see footnote 5 below), the group claimed to be an independent force.

Johnson Olony<sup>12</sup>, spread to various areas of the Greater Upper Nile Region (specifically along the White Nile corridor in Upper Nile state and the northern part of Jonglei State). These clashes between the *Kitgwang* (*Simon Gatwech*) backed by parts of the SPLA-IO (RM)<sup>13</sup> and the *Agwelek* forces supported by parts of the Sudan People's Liberation Movement in Government (SPLM-IG),<sup>14</sup> with each side supported by their respective allied militias, resulted in violations and abuses of human rights and violations of international humanitarian law. Detailed analysis of the involvement of these actors and the degree of support they received from specific parts of conventional parties to the conflict and allied militias is elaborated in Section VII of the report. This report documents acts that constitute gross violations and abuses of international human rights, and serious violations of international humanitarian law, some amounting to war crimes and possibly other international crimes. Further, it identifies individuals who may bear the greatest responsibility for committing the violations described in the report. The nature of the attacks by the parties detailed in this report clearly demonstrates that civilians were directly targeted in addition to opponents.

### III. Methodology

8. Between August 2022 and March 2023, UNMISS undertook 165 investigation missions and field visits in Upper Nile and Jonglei States to document cases of human rights violations and abuses committed during these attacks and counterattacks. UNSMISS HRD conducted 272 interviews<sup>15</sup> with victims, eyewitnesses, and other sources such as government officials, local authorities, traditional chiefs, women leaders, and youth groups, in addition to humanitarian organizations operating in these areas, to document, verify, and corroborate information about human rights violations and abuses and violations of international humanitarian law.
9. Following the continued mobilization<sup>16</sup> of forces and intensification of violent clashes in Upper Nile, UNMISS reinforced its human rights field team in Malakal, Upper Nile, by deploying its rapid investigation team from December 2022 to March 2023 to support in-depth investigations and

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<sup>12</sup> Lt. General Johnson Olony Thabo from the Shilluk community, formed and commandeered the *Agwelek* forces. He led the group under the Sudan People's Liberation Army (SPLA-IG) from 2013 to 2015 following the amnesty deal offered in April 2013 by President Salva Kiir Mayardit to several South Sudanese militia commanders and their fighters. General Olony eventually accepted the deal in June 2013 and moved with his forces to Fashoda County, Upper Nile State, for his troops to be integrated to the SPLA-IG. In 2015 he defected from the SPLA-IG and joined the SPLA-IO (RM) and was then designated as the Sector-1 Commander of SPLA-IO (RM) in Upper Nile and the *Agwelek* Division. While his forces were stationed in Panyikang county, General Olony resided in Khartoum.

<sup>13</sup> According to multiple sources, the *Kitgwang* (*Simon Gatwech*) received direct support from SPLA-IO (RM) Division VII based in Ayod County, Jonglei State. In addition, SPLA-IO (RM) elements from Diel and nearby location participated in attacks in support of *Kitgwang* (*Simon Gatwech*) forces and the Gawaar White Army. The heavy shelling on 18 and 19 August by *Agwelek* forces against the *Kitgwang* (*Simon Gatwech*) within SPLA-IO (RM) controlled areas in Diel, as well as in New Fangak, Jonglei State, including the SPLA-IO (RM) cantonment site, prompted parts of the SPLA-IO (RM) to extend their support and firepower to the *Kitgwang* (*Simon Gatwech*).

<sup>14</sup> According to multiple sources, the *Agwelek* forces received direct support from parts of the SPLA-IG in Juba and Malakal, specifically from the NSS and the SSPDF Division II, who provided them with food, fuel, and ammunitions. The two SPLA-IG entities also authorized and facilitated the movements of the *Agwelek* forces and their barges along the White Nile through Malakal town. These two SPLA-IG security organs justified their support as part of the implementation of the Khartoum peace agreement signed with General Olony on 16 January 2022 which established the integration of the *Agwelek* forces within the SSPDF. However, the assistance provided enabled the *Agwelek* forces to shell heavily at civilian villages located in SPLA-IO (RM) and *Kitgwang* (*Simon Gatwech*) controlled areas along the Tonga-Atar corridor.

<sup>15</sup> 146 men and 126 women.

<sup>16</sup> In addition to mass mobilizations of "White Army" described in footnote 4, mobilizations of other militia groups were observed, including that of Shilluk community-based militias.

verification of allegations of violations and abuses of international human rights law and violations of international humanitarian law.

10. The majority of the victims and witnesses of the violence, as well as survivors of sexual violence interviewed by UNMISS HRD, were displaced from their villages or IDP camps.<sup>17</sup> In accordance with OHCHR methodology,<sup>18</sup> the “do no harm” principle and a “victim/survivor-centered approach” to monitoring and investigations, UNMISS ensured that informed consent was sought, confidentiality of sources was maintained, and all appropriate protection protocols were applied prior to, during, and after interviews. UNMISS employed gender-sensitive and age-appropriate approaches while conducting interviews.
11. Further, UNMISS corroborated information and testimonies received from local partners and other credible and independent sources. Interviews were also held with administrative authorities, security personnel, traditional leaders, youth, and women leaders. Additionally, various documents, photographic, and other evidence were analyzed, corroborating information about human rights violations and abuses and violations of international humanitarian law outlined in this report.
12. The investigations employed a ‘reasonable grounds to believe’ standard of proof in making factual assessments about the human rights violations and abuses, incidents, and patterns of conduct of the perpetrators. Unless specifically stated, all information in this report has been verified using several independent and credible sources, in accordance with OHCHR methodology.

## IV. Contextual Background

### 4.1 Historical Context

13. The Greater Upper Nile region has been largely affected by violence following the outbreak of conflict in South Sudan in December 2013. While the government forces maintained a stronghold in the northern and eastern areas of the region, including the Upper Nile’s oil field zones,<sup>19</sup> the SPLA-IO (RM) maintained a strong influence in the south.<sup>20</sup> During this period, General Johnson Olony’s *Agwelek* forces,<sup>21</sup> supported the government of South Sudan, established a close alliance with the then-Sudan People’s Liberation Army (SPLA-IG), and fought alongside government forces to eliminate SPLA-IO presence on the west bank of the White Nile.<sup>22</sup> Following the breakdown of the Agreement

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<sup>17</sup> Majority of the victims and witnesses interviewed experienced secondary or multiple displacement.

<sup>18</sup> Office of the United Nations High Commissioner for Human Rights, *Manual on Human Rights Monitoring (Revised edition)*, OHCHR (online), 1 January 2011. Available at: <https://www.ohchr.org/en/publications/policy-and-methodological-publications/manual-human-rights-monitoring-revised-edition> [last accessed 7 July 2022]; Office of the United Nations High Commissioner for Human Rights, *Commissions of Inquiry and Fact-Finding Missions on International Human Rights and Humanitarian Law: Guidance and Practice*, OHCHR (online), 2015. Available at: [https://www.ohchr.org/sites/default/files/Documents/Publications/CoI\\_Guidance\\_and\\_Practice.pdf](https://www.ohchr.org/sites/default/files/Documents/Publications/CoI_Guidance_and_Practice.pdf) [last accessed 7 July 2022]

<sup>19</sup> Renk, Maban and Melut, including Melut oil basin.

<sup>20</sup> In the areas of Longochuk, Maiwut, Nassir and Ulang Counties.

<sup>21</sup> Composed of approximately 3,000 troops largely of Shilluk ethnicity. They settled at the west bank of the river Nile in Kodok, Fashoda county. It should be noted that prior to Olony’s alliance with the government of South Sudan following the amnesty deal in Khartoum, there already existed a strong tension between Olony’s *Agwelek* forces and the SPLA Division VII of Upper Nile who were mainly Nuer troops. When Olony defected to SPLA-IO (RM) in May 2015, his *Agwelek* forces also shifted their allegiance and followed their commander.

<sup>22</sup> While Olony was fighting with the government, the Dinka-Padang militias viewed him as a threat. This hostility between the latter and the *Agwelek* continued until Olony first defected from SPLA-IG to SPLA-IO (RM) in 2015.

on the Resolution of Conflict in the Republic of South Sudan (ARCSS) signed on 17 August 2015,<sup>23</sup> government offensives and instability in the Upper Nile region were observed between January and May 2017, with brutal killings of the Shilluk minority and the displacement of thousands of civilians by the government forces.<sup>24</sup> The frequent incursions by the South Sudan People's Defence Forces (SSPDF) (by then designated as the Sudan People's Liberation Army - SPLA), particularly around the west bank of the White Nile created an atmosphere of constant fear among the Shilluk community despite the presence of *Agwelek* forces in Panyikang county.<sup>25</sup>

14. In August 2021, after General Simon Gatwech Dual was ousted<sup>26</sup> as chief of staff of the SPLA-IO (RM), the alliance between General Gatwech and General Olony was established and formalized through their group known as the SPLA-IO *Kitgwang* – with the former as the commander-in-chief and the latter as the deputy commander.<sup>27</sup> In January 2022, the leaders of SPLA-IO *Kitgwang* signed two peace agreements with the Sudan People's Liberation Movement in Government (SPLM-IG) - the Status of Forces Agreement with General Gatwech, and the Khartoum Peace Agreement with General Olony,<sup>28</sup> enabling the incumbent government to conduct military campaigns in Unity and Upper Nile States.<sup>29</sup> Reportedly, the implementation of the Khartoum Peace Agreement with the *Agwelek* triggered a dispute between General Olony and General Gatwech that subsequently led to the split of SPLA-IO *Kitgwang*.
15. Both peace agreements with the then leaders of SPLA-IO *Kitgwang* were viewed as a violation of the Cessation of Hostilities Agreement (CoHA) and the Revitalized Agreement for the Resolution of the Conflict in South Sudan (R-ARCSS). At its inception, originators of the SPLA-IO *Kitgwang* claimed it was a negotiating platform to demand for the implementation of the transitional security arrangements in the peace agreement. However, the SPLA-IO considered it as a deliberate recruitment, mobilization of forces, and territorial annexation strategy by the SPLA-IG to gain advantage. The severance of the

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<sup>23</sup> Clayton Hazvinei Vhumbunu, 'Reviving peace in South Sudan through the Revitalised Peace Agreement: Understanding the enablers and possible obstacles', ACCORD (Online), 11 February 2019. Available at: <https://www.accord.org.za/conflict-trends/reviving-peace-in-south-sudan-through-the-revitalised-peace-agreement/> [last accessed 13 January 2023].

<sup>24</sup> The instability happened more than a year after the defection of General Johnson Olony to the SPLA-IO (RM) in 2015.

<sup>25</sup> The Shilluk had been largely displaced from the east bank of the White Nile, to which both the communities of Dinka-Padang and Shilluk lay claim. The Dinka-Padang was in control of most areas of Central Upper Nile after defeating the *Agwelek* forces.

<sup>26</sup> On 22 June 2021, General Gatwech was relieved by Vice President Riek Machar from his position as Chief of General Staff and later appointed by President Salva Kiir as Peace Advisor to the Presidency, a position Gatwech turned down stating that he was not consulted prior to the appointment which he saw as a means of luring him to Juba. General Gatwech who was appointed Chief of Staff of the SPLA-IO (RM) in 2014, had declined to go to Juba unless the transitional security arrangements under Chapter II of the Revitalized Peace Agreement were fully implemented.

<sup>27</sup> On 4 August 2021, Gatwech issued a communiqué following a meeting of opposition commanders at *Kitgwang* in Magenis, a northern-most town bordering Sudan, declaring that Riek Machar had been removed as the leader of the SPLM-IO and that he had assumed power as the new opposition leader. Three days later, forces from the Tiger Battalion allied to Riek Machar launched an attack on Gatwech's position in Magenis. The fierce fighting resulted in the killing of at least 28 soldiers from both sides. In December 2021, the *Kitgwang* group defeated the SPLA-IO during their clashes in Magenis.

<sup>28</sup> The KPA proposes integration of Olony's *Agwelek* forces into the SSPDF.

<sup>29</sup> The Periphery Cannot Hold Upper Nile since the Signing of the R-ARCSS, November 2022. Available at: <https://smallarmssurvey.org/sites/default/files/resources/SAS-HSBA-Upper-Nile-Report-WEB.pdf> [last accessed 15 January 2023].



Kitgwang faction from the SPLA-IO (RM) and its subsequent splintering created a loose network and command structure of a few relatively independent militias.

#### 4.2 Recent context

16. In June 2022, with the simmering and brewing dispute between General Gatwech and General Olony, tensions over the control of their members and the contested area of Magen<sup>30</sup> in northern Upper Nile State intensified. On 12 July 2022, violence broke out between Olony's *Agwelek* forces<sup>31</sup> and *Kitgwang* (*Simon Gatwech*) at the base in Panyikang<sup>32</sup> following the latter's attack in the areas of Tonga along the White Nile corridor, as well as the *Agwelek* forces' base in Panyikang; which resulted in the killing of three Shilluk fishermen in the beginning of August 2022. The *Agwelek* forces, who had superior logistic capability and terrain knowledge, repelled and expelled the *Kitgwang* (*Simon Gatwech*) from the Tonga area.<sup>33</sup> In retaliation to the *Kitgwang* (*Simon Gatwech*)'s attack<sup>34</sup>, the *Agwelek* forces launched an offensive against SPLA-IO (RM) controlled areas in Diel, as well as in New Fangak, Jonglei State, on 18 and 19 August 2022. The *Agwelek* forces used heavy weapons (such as combat tanks, rocket propelled grenade launchers, and mortars mounted on the barges) and launched attacks from river barges, boats, and speed boats<sup>35</sup> reportedly provided by some government officials and the SSPDF. Further, privately owned fuel cargo vessels, including boats and a UN contractor owned vessel were reportedly stopped and emptied of their loads of fuel by the *Agwelek* forces approaching Tonga. Furthermore, they looted and burnt market areas, as well as humanitarian compounds and local administrative offices. Civilians held in captivity were forced to carry looted items, including food and fuel barrels to the river barges. Sporadic fighting between the two factions continued and escalated when the *Agwelek* lost control of Tonga, resulting in civilian casualties and large-scale displacement.<sup>36</sup>
17. Similarly, in Atar, the *Agwelek* forces, led by a high-ranking commander along with his deputy, secured their barges upon entering the area, in order to ensure their complete control over Atar-Tonga corridor, while repelling the *Kitgwang* (*Simon Gatwech*) by indiscriminately shelling the Nuer communities in Atar, Atar 2, Diel, Dor, and New Fangak, in Jonglei State, including the SPLA-IO (RM) cantonment site, prompting parts of the SPLA-IO (RM) to extend their support and firepower to the *Kitgwang*

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<sup>30</sup> Magen<sup>30</sup> is contested due to its mineral resources (i.e., gold and copper) and accessibility to Sudan. It is geographically located in the northernmost border with Sudan. Reportedly, weapons and ammunitions secured through Sudan and/or Khartoum enter South Sudan through Magen<sup>30</sup>. Further, it is a transit route to Sudan. Khartoum has previously backed Olony during earlier armed struggles, at times as a proxy force against the neighboring SPLM/A-North forces under Abdulaziz al-Hilu in the Nuba Mountains of Sudan's Southern Kordofan region.

<sup>31</sup> Earlier, the *Agwelek* forces led by a senior officer, onboard military water vessels, navigated along the White Nile from Magen<sup>30</sup>. The soldiers then marched along the River Nile towards Fangak and Pigi Counties in Jonglei State where they attacked and burned to ashes Nyieewni, Thalieer, and Wathkec civilian villages in Fangak County.

<sup>32</sup> At this stage, direct and indirect attacks to civilians were not yet reported nor observed.

<sup>33</sup> The *Agwelek* forces deployed three military barges (with mounted mortars) and gunboats across the areas of Diel, Fangak, and Atar, to fight against the *Kitgwang* (*Simon Gatwech*). They also shelled the SPLA-IO (RM) outposts and civilian settlements in the areas, displacing civilians.

<sup>34</sup> At this stage of the offensive, the prominent Gawaar Nuer leader was not yet directly involved in the fighting. His movement and participation were first noted in mid-October 2022.

<sup>35</sup> Sources described two barges, two commercial type big boats and two speedboats equipped with high calibre mounted weapons. Some primary sources also shared with UNMISS HRD photos of some of these boats and barges.

<sup>36</sup> Tonga was a prominent base of *Agwelek* forces in Panyikang County. SPLA-IO *Kitgwang* had a minor presence in the area after their joint split from the SPLA-IO (RM). The two parties fought heavily for the control of Tonga whose location, by the river Nile and on the road to Southern Kordofan State in Sudan, makes it a strategic base for collection of taxes and movements of military personnel and equipment.

(Simon Gatwech).<sup>37</sup> The high-ranking *Agwelek* commander and his deputy were unsuccessful in their attempt to regain and seize control of Tonga despite attacking *Kitgwang* (Simon Gatwech)'s barracks in Tonga as well as civilian residential areas around them from barges in the White Nile for three weeks. UNMISS documented both indiscriminate attacks, as well as direct attacks against civilians and civilian objects were committed by both sides<sup>38</sup> and an estimated 2,000 civilians<sup>39</sup> were displaced to Malakal as a direct impact of the violence.

*“In mid-August 2022, fighting erupted in Tonga between the Kitgwang (Simon Gatwech) of Gatwech and Agwelek (...) later, the Agwelek moved on the river with their barges and shelled Atar, Atar 2, Diel, Dor and New Fangak. The Agwelek shelled at the village. Then they [Agwelek] mounted some long-range guns that can reach up to 20 kilometers on their barges and boats. They had machine guns as well on their barges and boats. We saw two barges, two big boats (commercial type) and two speedboats moving from Tonga to Atar. They were all equipped with various weapons and full of Agwelek soldiers.”*

- Eyewitness

18. On 7 September 2022, in retaliation, the *Kitgwang* (Simon Gatwech) and allied militia pursued the *Agwelek* forces to Adhidhiang where a significant number of the *Agwelek* were killed. UNMISS HRD documented a number of civilian deaths, including from exhaustion and drowning as they tried to flee by crossing the river during this counteroffensive. In addition, at least 100 civilians, mainly women and elderly, suffered injuries. Over 9,000 civilians who had fled from the fighting in Tonga to Adhidhiang IDP camp, situated 40 kilometres southwest of Malakal, were once again displaced by this counteroffensive.<sup>40</sup> Following the attack in Adhidhiang,<sup>41</sup> tensions between the Nuer and Shilluk arose at the Malakal PoC site, resulting in the killing of a 50-year-old civilian man from Shilluk community.

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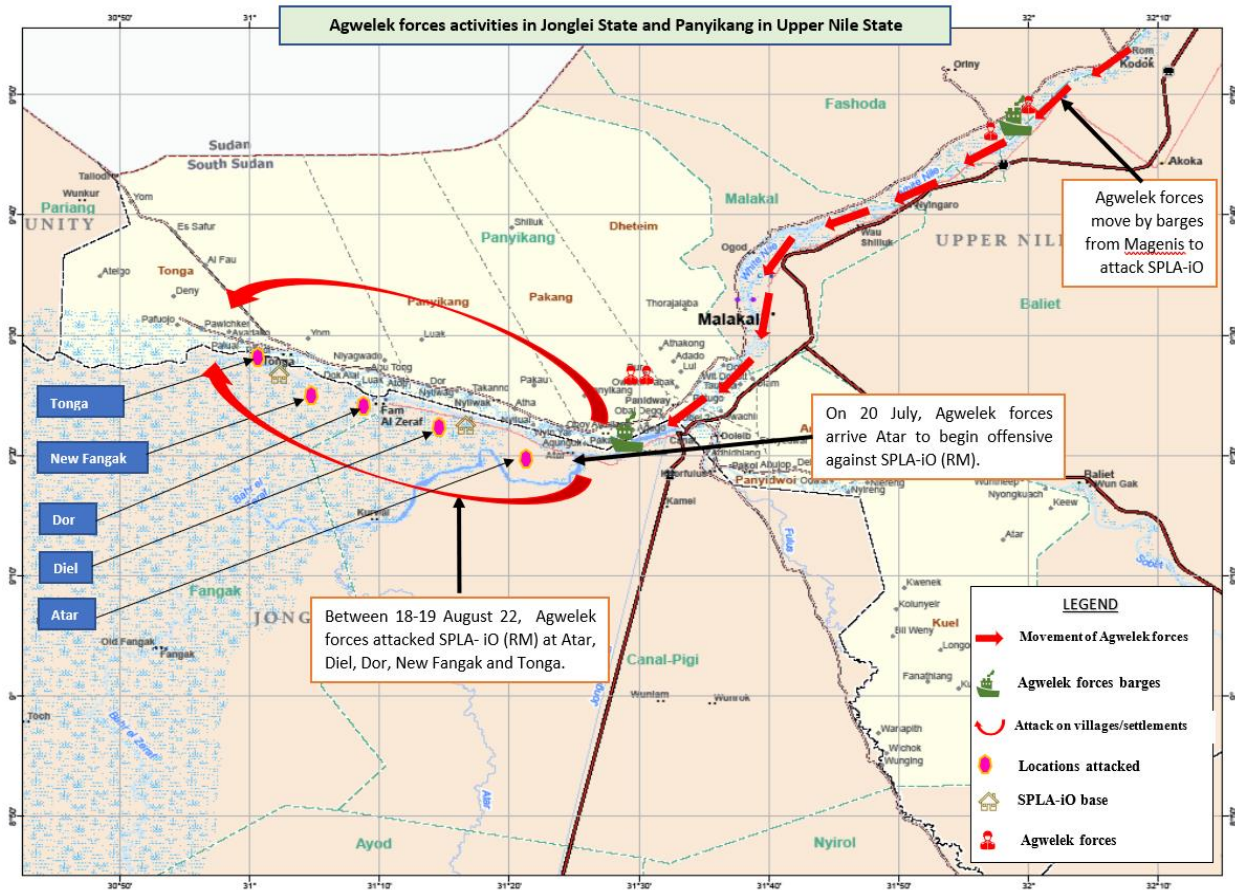
<sup>37</sup> At this stage of the offensive, the SPLA-IO (RM) reportedly did not engage yet.

<sup>38</sup> Between 14 July to 12 September 2022, in relation to *Agwelek* versus *Kitgwang* (Simon Gatwech) confrontations/attacks in Tonga, Panyikang, Fangak, and Fashoda County, UNMISS HRD documented a total of 203 civilians killed, 164 injured, 46 abducted and 19 subjected to sexual violence. Amongst them were 68 women and 14 children, including four girls.

<sup>39</sup> According to a report published by OCHA, on 1 September 2022, more than 2,000 people had arrived at the Protection of Civilians (PoC) site in Malakal between 15 and 30 August. The same report estimated that 18 000 civilians had been displaced to Agunjuok, near Malakal town, Pakwa and Adhidhiang by the end of August 2022.

<sup>40</sup> The Adhidhiang area was the preferred resettlement site due to its high ground in the Chollo (Shilluk) Kingdom. The area has never been affected by floods and has been free from tensions in the last 25 years making it an ideal site for encampment.

<sup>41</sup> Following the attack in Adhidhiang, UNMISS HRD received information from its sources on the mobilization of the armed Shilluk youth in Upper Nile and the subsequent distribution of weapons and ammunition allegedly by the *Agwelek* forces, who reportedly received the items from parts of the SPLA-IG, as well as from the local defense group leaders of the Shilluk community. Most of the weapons and ammunition were sent by air cargo to Upper Nile State through Palouch oil fields and transported via road to Kodok and the West Bank of the Nile River via Melut, handed over to the *Agwelek* and further distributed to *Agwelek* forces and allies.



*“(...) We moved by crossing the river with a group of approximately 70 people from Nuer, Dinka and Shilluk community. Then few weeks after we reached Adidhiang, the IDP camp was attacked by Nuer white army elements coming from the south of Adhidhiang (...) Few days before the attack a group of approximately 200 Agwelek soldiers established a military camp near Adidhiang IDP camp. They had machine guns and Ak-47 with them.”*

- Eyewitness

*“(...) Earlier that day (...) the White army had attacked the Agwelek camp. The Agwelek were outnumbered by the Nuer White army, so they ran to Adhidhiang IDP camp to look for shelter. About 50 Agwelek soldiers came to Adhidhiang IDP camp. They removed their uniforms and put on some civilian clothes. The Nuer white army followed them and rushed from all directions into the IDP camp. We could not tell how many they were as we started running away when they arrived in the camp. (...) They had only Ak-47 guns no other types of weapons from what we could see.”*

- Eyewitness

19. Between 4 and 14 October 2022, elements of the SPLA-IO (RM) backed by Kitgwang (*Simon Gatwech*) forces attacked civilian settlements and villages on the west bank of the White Nile along Kodok area, including Abaneem, Bieu, Buol, Dauth, Dauth Yony, Dewad, Lul, Nyagara, Pabour, Patoaw, and Wik-Bour- Yong villages in Fashoda and Makal Counties. During these attacks, the SPLA-IO (RM) reportedly assumed the primary role in the conflict against the Agwelek forces. However, the Agwelek forces who were joined by the armed Shilluk militia and some SSPDF from Shilluk community

repulsed their opponents from the area.<sup>42</sup> During this period, displacement of civilians from the ongoing crisis continued to be documented.

20. Tension between the two warring groups intensified when the *Kitgwang (Simon Gatwech)* gained the support of various militias, chiefly from Gawaar White Armies who were under the command and influence of a prominent Gawaar Nuer leader<sup>43</sup> - the Gawaar White Armies' mobilizer, commander, and spiritual leader from Ayod County in Jonglei State. The armed confrontations between *Agwelek* forces and allied Shilluk militia and the *Kitgwang (Simon Gatwech)* and allied militias continued with ethnic undertones, impacting Nuer and Shilluk communities. Further, UNMISS established that the government forces supported *Agwelek* forces through provisions of weapons and ammunitions, as well as barges to ferry the *Agwelek* reinforcements to the areas where the fighting transpired. In the days that followed, large-scale mobilizations by both groups in Upper Nile, Jonglei and Unity State were documented.
21. On 17 November 2022, clashes between Shilluk and *Kitgwang (Simon Gatwech)*'s militias erupted in Kalagany village, Fashoda County and spread into Manyo County, displacing thousands of civilians in multiple locations. The Chollo (Shilluk) King who was in Fashoda at the time of the offensive, was later evacuated to Kodok.<sup>44</sup> Thereafter, the *Kitgwang (Simon Gatwech)* allied militias took control of Fashoda with very little resistance from the Shilluk and went to attack Kalagany, Oringi and Yony areas before proceeding to Aburoc.<sup>45</sup> The Gawaar White Army's attack on Aburoc in late November resulted in the killing of 67 civilians (27 men, 25 boys, 10 women and five girls), injury of 28 (23 men, three women, one boy and one girl), abduction of 62 (23 women, 18 boys, 16 girls and five men) and one case of sexual violence against a woman, and the displacement of more than 8,000 people. Several civilians including many children drowned in the water while fleeing for safety. Large herds of cattle were stolen, and many of the looted cattle drowned in the White Nile river as they could not cross to the east bank.<sup>46</sup> Following the initial attack on Aburoc, the Gawaar White Army with the support of parts of the SPLA-IO (RM) and *Kitgwang (Simon Gatwech)* forces, attacked IDP camps and civilian settlements in Aburoc, Nyichier, Kalogan, Fob, Akidid, Atar, Abador, Pakwoh and some areas close to Kodok town, in Fashoda County. These attacks resulted in 321 civilian casualties (151 killed, 137 abducted, 32 injured and one subjected to sexual violence) and mass displacement.

*"(...) On 1 December at around 11:00 in the morning, we fled to the bush because the Nuer White Army arrived in the village. We fled from the village to the bush. The attackers came and took some people from us. They were in two areas, and they took [abducted] 12 people. My cousin (...) was taken by the attackers. (...) We did not have any weapon to defend ourselves. Many people died, and some were trapped in the water (...). I carried my mother on my back and fled with her."*

- Eyewitness

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<sup>42</sup> At this stage, the support provided by the SSPDF was primarily on provision of weapons and ammunitions, food, medicines, and free movements of the *Agwelek* forces on the ground. However, some Shilluk SSPDF elements, joined the *Agwelek* forces in their efforts to push away their opponents.

<sup>43</sup> The repulsion of the *Kitgwang (Simon Gatwech)* supported by parts of the SPLA-IO (RM) prompted the prominent Gawaar Nuer leader to recruit and mobilize more White Armies to fight against the *Agwelek*.

<sup>44</sup> On 8 December due to the continued tension, the Chollo (Shilluk) king was transported to Malakal Town before being flown to Juba, the capital of South Sudan, for safety.

<sup>45</sup> Majority of the sources described these attacks as *Kitgwang (Simon Gatwech)* allied militias' their most brutal attack on civilians.

<sup>46</sup> Dead cattle were seen floating along the White Nile, particularly in Aburoc and Kodok area.

22. On 2 December 2022, fighting between the warring parties expanded towards Dethwok and Akedid and then to Manyo County, forcing some inhabitants to relocate to Kodok and over 3,000 were displaced to the nearby Melut County.<sup>47</sup> When the *Kitgwang (Simon Gatwech)* allied militias attempted to move from Aburoc to continue attacks on the Shilluk community in Kodok, they were repulsed enroute by the SSPDF<sup>48</sup> together with *Agwelek* forces and allied Shilluk militia. During this incursion, the SSPDF reportedly sent two attack-helicopters to carry out reconnaissance and subsequently launched airstrikes against the *Kitgwang (Simon Gatwech)* allied militias, pushing them (*Kitgwang (Simon Gatwech)* allied militias) towards Makal and Panyikang Counties (Owachi). To further trap the militias, a high-ranking commander from *Agwelek* forces led the troops to their barges, navigated through Makal County and attempted to steer towards Fashoda in pursuit of the opposing group. However, the *Agwelek* forces were defeated at Wau Shilluk after a heavy exchange of gunfire. During these incursions, UNMISS HRD documented at least 42 cases of deaths of civilians, mostly women and children, resulting from drowning in the river while fleeing for safety, and the abduction of about 40 other civilians (mostly women and children) by the *Kitgwang (Simon Gatwech)* allied militias since the attack on Aburoc village on 30 November 2022.

*“We fled from Aburoc IDP camp because we were attacked by armed Nuer men (...) I witnessed the attackers killing my husband (...) He was shot by the attackers and was later flogged to death (...) Some of the attackers were also speaking in Shilluk and Arabic apart from the Nuer language.”*

- Eyewitness

23. Between 10 and 16 December 2022, the *Kitgwang (Simon Gatwech)* and allied militias reportedly left Fashoda County and moved back towards Pigi County, more particularly to the Atar area, in Jonglei State. However, fighters, in groups of 10 to 20 remained around Fashoda County and were sighted in areas close to Kodok, such as Teer, Aburoc and Padhiang villages. These groups, while searching for the *Agwelek* forces, attacked two fishermen, a few kilometres from town. The attackers shot dead at close range one of the fishermen while the other escaped. This led to secondary displacement of some civilians in Kodok. The remnants of the militia groups allied to *Kitgwang (Simon Gatwech)* in the Fashoda County caused fear among the community. Further, while relative calm returned to Fashoda County between 11 and 12 December, the retreating militia groups allied to *Kitgwang (Simon Gatwech)* engaged in fighting with the SSPDF/*Agwelek* forces in Obod, located near Wau Shilluk.

24. UNMISS HRD investigations established that parts of the SPLM-IG supported *Agwelek* forces and allied militias and the *Kitgwang (Simon Gatwech)* forces and allied militias supported by parts of the SPLA-IO conducted systematic, planned, and coordinated attacks in various locations in Upper Nile and northern Jonglei. From the above-mentioned signatories to the Revitalized Peace Agreement (R-ARCSS), the fighting groups received reinforcements, supplies of weapons and ammunition, logistical support including medical care for injured soldiers.

25. UNMISS established that the *Agwelek* forces received high-calibre weapons and support from the SPLM-IG, through the SSPDF and the National Security Service (NSS) both from Malakal headquarters and Juba general headquarters. On the other hand, the *Kitgwang (Simon Gatwech)*,

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<sup>47</sup> Earlier, UNMISS started receiving early warning information regarding the northward movement of the Gawaar White Armies due to the presence of the *Agwelek* forces at the west bank. Reportedly, many of them were in Agodo village, Fashoda County, obstructing the movement of Shilluk civilians who were trying to flee from the area to reach Kodok.

<sup>48</sup> During this period additional SSPDF soldiers from Division II in Malakal Headquarters were deployed in addition to the SSPDF assigned to Kodok barracks.

reportedly had the direct support from the SPLA-IO, including Division VII based in Ayod County, in Jonglei State.

## V. Human rights violations and abuses and violations of international humanitarian law

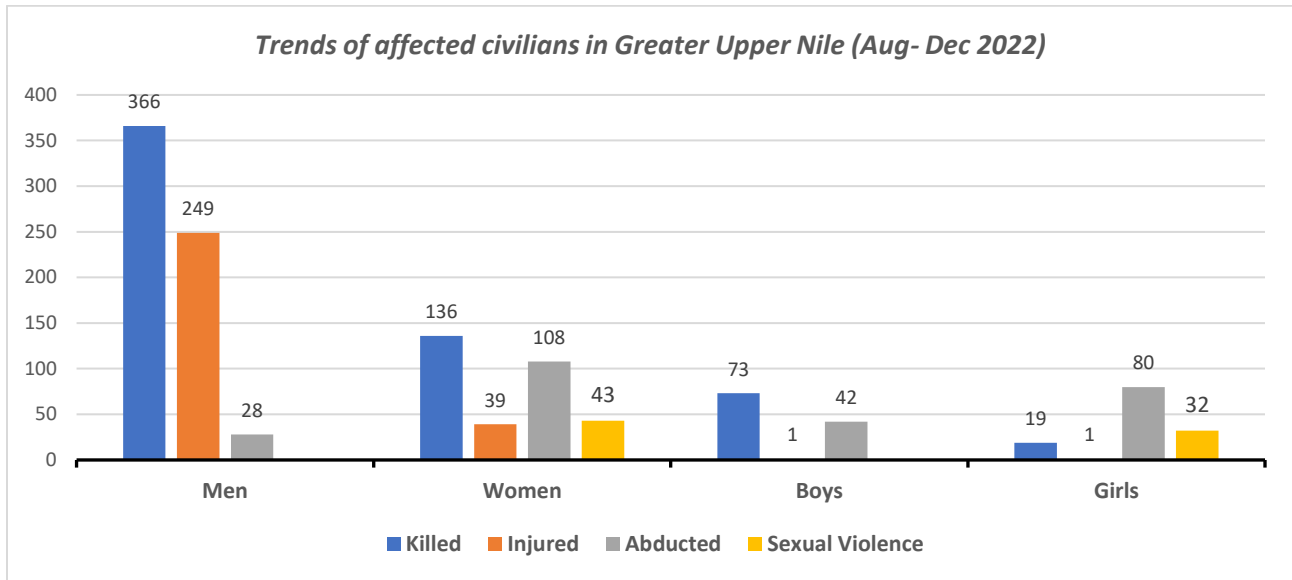
26. In the context of the evolving crisis and armed confrontations between the *Agwelek* forces and allied Shilluk militia<sup>49</sup> supported by parts of the SPLA-IG and the *Kitgwang (Simon Gatwech)* and allied militia groups supported by parts of the SPLA-IO, UNMISS has reasonable grounds to believe that both armed groups committed gross violations or abuses of international human rights law, and serious violations of international humanitarian law, including killings, injuries, abductions and conflict-related sexual violence, pillaging, looting, and destruction of civilian properties, as well as forcible displacement of civilians, resulting in a humanitarian crisis, amounting to war crimes and possibly to other international crimes.
27. Between July and December 2022, at least 594 civilians were killed (366 men, 136 women, 73 boys and 19 girls), 290 injured (249 men, 39 women, one boy and one girl), 258 abducted (108 women, 80 girls, 42 boys and 28 men) and 75 (all women and girls) subjected to sexual violence. An estimated 258 civilians (108 women, 80 girls, 42 boys and 28 men) were abducted predominantly by the *Kitgwang (Simon Gatwech)* allied militias/groups. Further, most, if not all, houses were burnt down during the offensive conducted by the *Kitgwang (Simon Gatwech)* and allied militias/groups in Adhidhiang, and Owachi, and at least 302 houses were burnt down in the villages of Makal, Pagak, and Padit in Makal County while at least 66 houses were destroyed in Atar and New Fangak during the shelling carried out by the *Agwelek* forces and allied militias/groups. In addition, at least 23 civilians (15 men, five boys, two girls and one woman) were reported missing and remained unaccounted for at the time of this report.<sup>50</sup>
28. UNMISS established that during attacks in various locations, the warring groups did not distinguish between civilians and combatants and between civilian objects and military objectives. UNMISS has reasonable ground to believe that the *Agwelek* forces and aligned militias/groups shelled civilian villages and settlements in Upper Nile and Northern Jonglei states including Atar, Diel, Dor, Kurwai, Maat, New Fangak, and Tonga. In some instances, they are also alleged to have launched ground attacks on civilians and civilian objects, including in Diel, New Fangak and Tonga. UNMISS has also reasonable grounds to believe that the *Kitgwang (Simon Gatwech)* and aligned militias/groups launched multiple attacks on civilians, civilian objects, and civilian villages and settlements in Panyikang, Makal and Fashoda counties, including but not limited to Aburoc, Adhidhiang, Agur, Agod, Agogo, Agunjouk, Alal, Burr, Bol, Dok, Fakwar, Fashoda, Nyalwal, Nyiyar, Lul, Pafujojo (Fafujojo), Padiang, Pakwa, Odar, Obay, Obay Theag, Oriny, Yony, and Tonga.

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<sup>49</sup> At the time of drafting this report, UNMISS HRD had not been able to visit various areas that had been attacked by *Agwelek* forces and their allied Shilluk militia. Due to security concerns as well as logistical and geographic constraints, UNMISS HRD was only able to access places mostly inhabited by Shilluks and attacked by the *Kitgwang (Simon Gatwech)* backed by the SPLA-IO and their allied militias/groups. However, UNMISS HRD was able to interview some primary and other sources displaced from areas such as Tonga, Diel, Atar, Dor, and Maat who experienced the *Agwelek* attacks.

<sup>50</sup> UNMISS HRD sources could not verify whether these individuals were abducted or killed during attacks.

## 5.1 Trends affecting civilians per sex and age



Overall figures of civilians affected during the attacks in Greater Upper Nile (August-December 2022)					
Type of violations	Men	Women	Boys	Girls	Total
Killed	366	136	73	19	594
Injured	249	39	1	1	290
Abducted	28	108	42	80	258
Sexual Violence	-	43	-	32	75
<b>Grand Total</b>	<b>643</b>	<b>326</b>	<b>116</b>	<b>132</b>	<b>1,217</b>

### 5.1.1 Killing and injury

29. During the reporting period, UNMISS HRD documented at least 594 civilian deaths (366 men, 136 women, 73 boys and 19 girls) and 290 others injured (249 men, 39 women, one boy and one girl). Men comprised the majority of the civilian casualties (70 per cent), followed by women (20 per cent) and children (10 per cent). Eighty per cent of the deaths resulted from gunshot wounds, seven per cent from blunt objects such as machetes, axes, bayonets, and the like), 13 per cent from either

burning for not being able to flee from their houses and drowning for hiding under water from the attackers. Others, including children, were shot and killed or injured while fleeing the violence.

*“The attackers collected tools and other objects they found in people’s homes that can be used as weapon to beat, hit, or strike civilians to death. They then placed these tools on or next to their victim’s dead bodies to humiliate us and show us how our people were killed”.*

- Eyewitness

30. The *Kitgwang* (*Simon Gatwech*) and allied militias/groups supported by parts of the SPLA-IO (RM), conducted direct attacks on civilians and civilian objects and indiscriminate attacks including in an IDP camp. UNMISS verified the killing of 44 civilians by these forces while a larger number of fatalities

*“A bullet hit my calf, so I hid in the bush and was lying in the middle of high grasses for six days. (...) My wound got worse with infections, so when I was taken later by my relatives to a clinic, the doctor had to amputate my infection-affected leg (victim showed his amputated leg while narrating the incident).”*

- *Victim/Eyewitness*

are reported to have taken place with over 300 civilians alleged to have been killed<sup>51</sup> during the attack on Adhidhiang IDP camp.

31. UNMISS confirmed from victims and witnesses that the attackers had specifically targeted, identified and killed men and boys perceived to be supporters of the *Agwelek* and relatives of the Chollo (Shilluk) king. In part, men and boys were specifically targeted due to the perception that they could be mobilized as combatants. For instance, an eight-year-old boy was shot and killed in the presence of his mother in

Agithweng village and according to the mother, “he was killed because he was a boy”. In a similar incident, a 9-year-old boy was shot in his chest at close range in Dewad village by the *Kitgwang* (*Simon Gatwech*) allied militias. Similarly, killings of civilians were reported from Fashoda town and surrounding villages.

*“(...) the Agwelek soldiers looked for things they could loot. As they were moving, they found in the house some elderly people that had not been able to run away. They killed eight elderly people, five women and three men. Some of them were Nuer while others were Dinka. We found their bodies outside of their houses when we returned to the village after the Agwelek soldiers left. The soldiers had cut their throats (...) We collected their bodies and buried them before leaving. We were so shocked by the way they had been killed.”*

- *Eyewitness*

32. UNMISS also confirmed the killing of at least 142 civilians (87 men, 43 women, 10 boys and two girls) and the injuring of 24 others (17 men and 7 women) during shelling conducted by the *Agwelek* forces between 18 and 20 August 2022 on civilian residential areas in New Fangak and Diel, two SPLA-IO (RM) strongholds in Northern Jonglei State. Among those killed and injured were young children, older persons, pregnant and lactating mothers, who could not run fast enough, and died burned inside homes due to shelling. These attacks, along with similar shelling of villages administered by the SPLA-IO (RM), deliberately targeted civilians as punishment for their alleged support to the SPLA-IO (RM).

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<sup>51</sup> Attackers used conventional and light weapons, such as AK-47 type assault rifles, M4, PKM, and RPGs, as well as traditional weapons, such as axes, spears, machetes, and knives to kill civilians. Some civilians drowned in swamps while attempting to flee from the attackers. At times, attackers used the mobility aids of older persons and persons with disabilities, e.g., walking sticks, to attack these vulnerable individuals; in addition, some were burned alive in their tukuls.



*“On 19 August 2022 at around 10:00 in the morning, the Agwelek forces attacked New Fangak. They shelled at the payam until around 05:00 in the afternoon. The SPLA-IO soldiers in the area tried to repulse them using some long-range weapons (the interviewees did not know the type of long-range guns) but were defeated. The Agwelek force placed a World Food Programme (WFP) flag on the speedboat that came for assessment and many thought food was being delivered. Therefore, the population had gathered near the market area waiting for the WFP barge to come. Then the shelling started, and everyone ran away from the shore of the river. 27 civilians were killed during the shelling. I witnessed the killing of the five of them. The bodies of the 22 other civilians were found in the bush by some villagers later. Most of them were already rotting and unidentifiable.”*

- Eyewitness

33. UNMISS also documented cases of at least three civilians, including two women and one man, who were beaten with sticks by the Agwelek forces during the attack of Diel on 19 August 2022. As result of this mistreatment, the three civilians reportedly suffered from bruises and broken ribs for the women and a broken arm for the man.

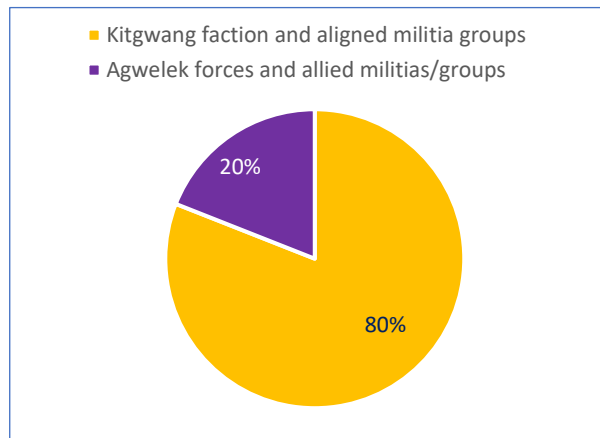
*“The Agwelek stayed one night in the village. I tried to take advantage of the dark night to move away from the shore of the river where I was hiding in the tall grass. Unfortunately, three soldiers noticed and beat me with a wooden stick, hitting my back and ribs. They were speaking in Shilluk, so I don’t know what they said. They decided to leave while I was helplessly lying on the ground with excruciating pain. I could not move, however, two women hiding nearby came to rescue me.”*

- Victim

*“I know the name of one man who was also beaten by the Agwelek forces on that day. He was making charcoal in the outskirts of the village when some Agwelek soldiers found him. They asked him in Arabic to show the place where the population was hiding but he refused to tell them anything. In retaliation the Agwelek soldiers beat him with sticks and broke his arm (...)”*

- Witness

**Figure 1: Attribution of civilians killed and injured**



### 5.1.2 Abduction and sexual violence

34. Based on UNMISS investigations, at least 258 civilians (108 women, 80 girls, 42 boys and 28 men), including nursing women, were abducted, majority by the *Kitgwang (Simon Gatwech)* allied militias. Most of these abductees were captured from their villages and settlements while trying to flee or were taken after being found hiding in nearby bushes. Based on modus operandi and patterns of violence previously documented, as well as testimonies from the victims, UNMISS has reasonable grounds to believe that many abducted women and girls were subjected to sexual violence.<sup>52</sup>
35. Some abductees were subjected to forced labor, including pulling of makeshift barges across the river to transport looted food, ammunition, and fighters. The abduction of unaccompanied young children, including infants and toddlers, could indicate that some abductions may have been for the purpose of trafficking.
36. Sexual violence was committed by both sides. UNMISS documented a total of 75 all-female survivors of rape and gang rape and sexual slavery, involving at least 43 women and 32 girls aged between 14 and 17.<sup>53</sup>
37. The *Kitgwang (Simon Gatwech)* and allied militia groups supported by parts of the SPLA-IO (RM) committed acts of sexual violence, including rape, gang rape and sexual slavery. According to a Shilluk IDP survivor, she was forcibly taken along with other IDP Shilluk women during the attack on Adhidhiang on 7 September by eight armed Nuer to a hut (locally known as a tukul) and gang raped in captivity continuously for three days. UNMISS also documented another case of abduction and gang rape that reportedly took place in Atar, when the *Kitgwang (Simon Gatwech)* abducted, and gang raped a Shilluk woman, keeping her in captivity until her release on 8 September 2022.<sup>54</sup>

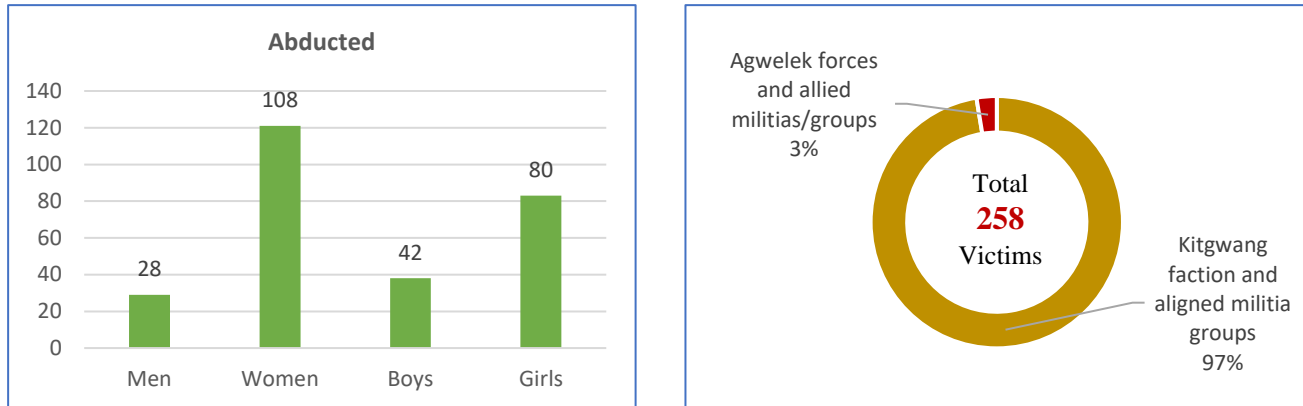
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<sup>52</sup> In the reporting period, UNMISS HRD documented no cases of sexual violence against men and boys. However, it should be noted that in South Sudan, male survivors rarely report incidents of sexual violence due to shame and stigma.

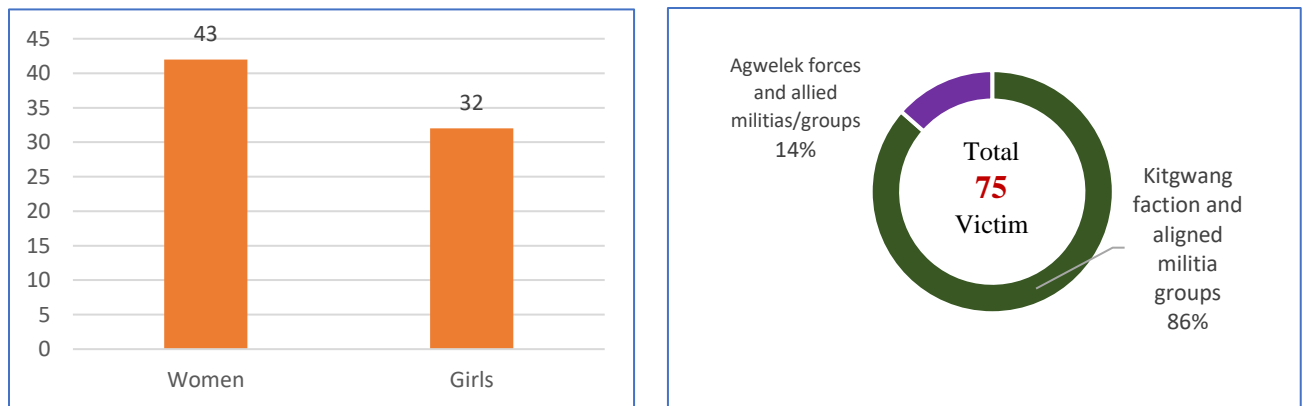
<sup>53</sup> Sexual violence against men and boys, though exhausted during the investigation, was not documented.

<sup>54</sup> The number of days that the victim was kept captive could not be determined. However, it should be noted that the *Kitgwang (Simon Gatwech)* attacked Atar around the end of August 2022.

**Figure 2: Number and attribution of civilians abducted**



**Figure 3: Number and attribution of survivors of conflict-related sexual violence**



38. UNMISS was also informed by multiple sources that during the period, an undetermined number of women were allegedly abducted by the *Kitgwang (Simon Gatwech)* and allied militias/groups during the attacks on the villages in Makal and Fashoda counties. For instance, UNMISS has received reliable information that at least 45 women, including five nursing mothers, were reportedly abducted during the attack on Fashoda County on 9 October. In addition, on 4 October, the *Kitgwang (Simon Gatwech)* and allied militias/groups attacked villages of Makal, Padit and Pagak , in Makal County of Upper Nile during which three girls aged between 10 to 15 years went missing after the attacks and their fate and whereabouts remained unknown.

*“(...) upon their arrival, they immediately fired their weapons at us. Then they captured all the women they caught. I was captured along with other 20 women and then we were divided in two groups. My group was taken to one of the barges, where we were kept for three days, and gang raped by eight men who took turns. We were released after three days. For the remaining ten of the second group, they were not raped or gang-raped, they were only beaten up and released before we were taken to the barge. I do not know them and their whereabouts.”*

- A (minor) survivor

*“(…) SPLA-IO armed militia (white army) attacked civilians in my village at around 10:00 in the morning. My family were abducted and physically attacked by the armed militia who were dressed in both military uniform and civilian clothes. My two daughters, were abducted along with another child and their whereabouts are still not known until now.”*

- Eyewitness

39. UNMISS verified a case of gang-rape involving ten female survivors which took place during the attack by Agwelek forces on Diel on 28 August 2022.

### 5.1.3 Recruitment and use of children, and attacks impacting schools

*The attackers were dressed in a mix of military and civilian clothes. The children among the attackers did not wear complete sets of uniform and were mainly in civilian clothes, while the commanders wore full sets of uniform. The younger attackers were between 12 to 14 years old; there were about 18 young boys involved in the attack. I identified commanders based on their full set of uniform but also their role, they were not actively engaged in violence but instead were seated while ordering the younger boys to attack.*

- Eyewitness

40. UNMISS investigation found that both parties recruited and used children as fighters. For instance, witnesses reported the presence of undetermined number of<sup>55</sup> young boys and teenagers, mainly between ages 11 and 16 years old, among the Agwelek and Kitgwang (*Simon Gatwech*) allied militias, armed with rifles and traditional weapons during the attacks. Further, two schools were also burned down to ashes as result of the shelling on civilian residential areas.

*The attackers were mainly Nuer speaking young boys. [The eyewitness pointed at a 11-year-old child to show the average age of the attackers] They tied a blue piece of cloth around their heads to show that they are one army; they arrived as a large group and split into smaller groups to attack the village.*

- Eyewitness

### 5.1.4 Pillage and destruction of property

41. The armed groups also engaged in pillaging of civilian properties in the areas they attacked. UNMISS confirmed that Kitgwang (*Simon Gatwech*) allied militias/groups attacked Aburoc IDP camp as well as other villages along the west bank of the White Nile River between September and December 2022. They reportedly looted basic food items as well as cattle and goats from the Shilluk civilians. The attackers took the looted livestock and other goods with them while retreating to Jonglei State. Further, the said groups were also reportedly involved in a series of attacks and in the destruction of shops, public buildings as well as houses and private properties that they set ablaze.

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<sup>55</sup> Witnesses described ‘many’ and ‘several’.

*“They [Kitgwang (Simon Gatwech) elements] were asking people to give away their belongings and threatened to kill those who resisted. I witnessed one of my neighbors being shot and killed because he refused to give his gum boots to the soldiers. It happened right in front of me.”*

- Eyewitness

*“At around 5:00 in the afternoon on 19 August 2022, the Agwelek forces stopped shelling at New Fangak and moored their barge and boats on the shore. Approximately half of them went down on the ground to look for things they could loot. (...) They captured seven men, all civilians, who had not run away from the town and forced them at gunpoint to carry the stolen items (rice, sugar, oil, ...) from New Fangak market up to the Agwelek barge. They also burned down that day 36 houses in New Fangak, including the office of the County Commissioner.”*

- Eyewitnesses

### **5.1.5 Forced displacement of civilians**

42. Over 62,000 civilians have been displaced from their homes since the beginning of the clashes in the Upper Nile in August 2022, with at least 20,020 taking refuge at Malakal PoC site, and at least 21,989 in Kodok [near the UNMISS Temporary Operating Base (TOB)], 14,615 in Melut, and 1,740 in Renk (all within Upper Nile State) while others moved to Pigi and Fangak counties in Jonglei State, as well as to refugee camps in Sudan.<sup>56</sup> In addition, many were unaccounted for after fleeing the violence, some presumably drowned or perished while hiding in the water from their attackers. The civilians displaced from the conflict areas were primarily women and children, who fled during or in anticipation of attacks, leaving behind their homes and properties and with limited access to humanitarian assistance and health care, making them more vulnerable for further violence, as well as life threatening diseases such as cholera and malaria. The tactics used during the attacks could indicate deliberate intention to displace civilians, forcing them to face dire humanitarian challenges in addition to the pre-existing conditions they were facing.

### **5.1.6 Impacts on humanitarian actors and facilities**

43. Humanitarian actors and their operational facilities were also severely impacted by the fighting between the parties. For example, at least seven health facilities in Panyikang county were looted or destroyed.<sup>57</sup> This impacted the access of civilians to health care as well as other basic services essential to their welfare and survival. Due to the active fighting and deterioration of the security situation around Tonga, humanitarian workers were displaced from the area too. They moved on 19 August to Pakwa village in Panyikang county and subsequently to Obai and Adhidhiang villages after the armed clashes spread to Pakwa area.

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<sup>56</sup> The majority of displacement was as a result of the attacks by the *Kitgwang (Simon Gatwech)* and its allied militias. However, it should be noted that most of the displacements to Pigi and Fangak were caused by the attacks perpetrated by the *Agwelek* forces and their allies.

<sup>57</sup> During the attacks, a security guard of a Primary health care unit in Nyibod was reportedly killed on 15 August 2022 by members of the *Kitgwang (Simon Gatwech)* forces and their allied militia.

44. Between 15 August and 7 September, one primary health care clinic in Tonga and four primary health care units in Diel, Nyibod, Nyiluak, and Pakwa were destroyed, and some medicines, medical equipment and solar panels looted by the fighting parties. Further, on 26 September 2022, mobile clinics in Adhidhiang and Obai were also destroyed and looted.
45. In New Fangak, the *Agwelek* forces and/or allied Shilluk militia stole internet and information technology devices, an undetermined number of boat engines, as well as health and nutrition supplies from various humanitarian partners during the attack they conducted on 19 August 2022, impacting their operation and continuity of their services. Further, due to the insecurity and destruction of humanitarian assets, 14 organizations temporarily had to relocate their workers to Old Fangak. Fighters in military uniforms, believed to be from the SPLA-IO (RM) and *Kitgwang* (*Simon Gatwech*) forces, reportedly occupied some of the humanitarian compounds left unattended after the relocation of the relief personnel to Old Fangak.
46. On 7 September, during the attack on Adhidhiang IDP camp, *Kitgwang* (*Simon Gatwech*) allied militia groups, in alliance with SPLA-IO (RM) and the *Kitgwang* (*Simon Gatwech*) forces, looted and destroyed a considerable amount of food items and non-food supplies, shelter materials and emergency assistance from various humanitarian organizations and agencies.
47. In November, the continued fighting between the two parties to the armed conflict in northern Jonglei state and the west bank of the Nile River in Upper Nile state forced different humanitarian organizations to relocate their staff from Diel to Old Fangak and Aburoc to Kodok town respectively.
48. These attacks on humanitarian facilities, looting and destruction of humanitarian supplies had a negative impact on the operation of humanitarian organizations as well as the availability of vital supplies to the civilian population in dire need. Humanitarian organizations suspended operations in the conflict-affected areas following these attacks for almost three months in some areas, between September and December 2022. With the exception of Kodok, most humanitarian interventions in the west bank of the Nile River are conducted through mobile temporary activities.<sup>58</sup> In Aburoc, as of September 2023, most protection partners had not resumed their activities as displaced civilians have not yet returned to the area.
49. The looting deprived vulnerable communities of much-needed humanitarian supplies such as medicine, food, and nonfood items, as well as access to medical and reproductive care services. Many civilians injured during the fighting could not receive necessary medical care on time and consequently developed disabilities. Further, due to the volatile security situation in the Atar-Tonga corridor in September and October 2022, between 3,000 to 5,000 persons facing barriers to escape, including older persons and persons with disabilities, were unable to flee and remain trapped in the conflict areas with limited access to humanitarian assistance.

## VI. Modus operandi

### 6.1 Modus operandi of the *Kitgwang* (*Simon Gatwech*), allied militia groups, and parts of the SPLA-IO (RM)

50. The *Kitgwang* (*Simon Gatwech*) forces, in alliance with parts of SPLA-IO (RM) and the *Kitgwang* (*Simon Gatwech*) allied militia groups, exercised extreme violence and brutality. These attackers wore

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<sup>58</sup> According to information shared by humanitarian partners in May 2023.

mixed military and civilian clothing and were armed with conventional and light weapons such as AK-47 assault rifles, M4, PKM, and RPGs (rocket-propelled grenades), as well as traditional weapons (such as axes, spears, machetes, and knives). The attackers used scorched-earth tactics<sup>59</sup> during the attacks, storming villages and settlements in broad daylight and launching attacks on unarmed local populations, including women, children and older persons. Witnesses observed young boys and teenagers among the *Kitgwang* (*Simon Gatwech*) allied militias/groups.

51. The attackers stormed villages simultaneously in larger groups of about one hundred fighters and then split into smaller groups of about 10 to 50 to attack a specific village or area. Some of the smaller groups of attackers raided cattle, looted civilian property, burnt civilians' houses, abducted women, and children, while other attackers targeted civilians in villages and towns during surprise attacks, shooting at fleeing civilians. Individuals caught fleeing, including those facing difficulties to flee such as older persons, persons with disabilities facing barriers to evacuation and escape and those unintentionally left by their families, were killed using machetes or axes.

*"The Nuer attackers started their attacks in an area called Kalagany where they killed many civilians and abducted several others in Kalagany. The attackers split and attacked in different directions. Some went to Kur village, Atar, Cunger, Aler, Anen, Palwang, Pakwei, Abinyai. From there they went to Aburoc where they killed a lot of people. The attackers killed people, looted cattle, abducted women, and girls as well as young boys. They killed the men. No man was abducted – only women and children. They looted the property of civilians. In some villages, they burned some tukuls but not in all areas."*

- Eyewitness

52. Multiple witnesses recounted that the assailants used agricultural, household, hunting, or other tools they found in homes to kill victims after which they placed the tool on or beside the bodies of the victims. Some victims were killed through random shooting, while other succumbed to fatal injuries and beheading by machetes, spears, and axes. These attackers also stormed and launched heavy attacks on IDPs who had fled the conflict and sought refuge in other locations.

*"I and many others saw dead bodies and buried them. (...) I found the dead body of (...). He was flogged to death with a cane (...). Another dead body of a (60 years old, male) was found beside that of (...). He was beaten by the Nuer attackers to death with a metal tool bar used in digging and a huge hammer, known in Arabic as "atala". The tools were placed near his dead body. (...) A 72-year-old man was hit by the attackers with an axe which was placed beside his dead body and of 70 years old, female who was stabbed with a spear (...)"*

- Eyewitness

civilians, including children and older persons, into tukuls and set them on fire. The attackers also hacked to death or burnt alive children, persons with disabilities and older persons who were unable to

53. The attackers burnt or threw some

*"In the middle of November, people were still harvesting, we heard gun shots close to us in our village and then people started running. (...) The attackers were too many and were carrying different types of weapons. Some had rifles while others carried machetes and spears. They were in military uniforms, and had a white band tied around their heads. They were talking in Nuer language between them, they were speaking in Arabic to us, and they had some of them ordering us in Shilluk."*

- Eyewitness

<sup>59</sup> Civilians' food items and livestock were stolen, and their houses (tukuls) were set ablaze, depriving them of their rights to food and shelter.

flee from their homes. Several persons reportedly drowned in swamps and rivers as they tried to flee from the violence.

54. The attackers launched most of their attacks on civilians very early in the morning, usually before sunrise,<sup>60</sup> to surprise the target community as they slept or went about morning chores. Some elements of the militia groups disguised themselves during incursions by wearing a Shilluk traditional clothing locally known as “*lawa*” and speaking the Shilluk language,<sup>61</sup> since some of the Nuer fighters were also fluent in Shilluk. In this way, these attackers were able to penetrate into Shilluk villages and launch surprise attacks on unsuspecting civilian communities.

55. Attackers retreating to Jonglei with raided cattle, abducted women, and children, attacked civilians and carried out further looting of civilian property, abductions, killings, and injury.

“(…) Whenever I fell, they beat and threatened to kill me. (…) Then we went to Aburoc and later to Kalanay where we stayed five more days following five days of walking. During these days the attackers were looting in nearby areas. Captured civilians were ordered to carry the looted items (…)”

- Eyewitness

56. Victims and witnesses of these attacks described the ruthlessness of the *Kitgwang* (*Simon Gatwech*) and allied militia groups as well as parts of the SPLA-IO (RM).

57. UNMISS HRD considers that the acts described above constituted indiscriminate attacks, and direct attacks against civilians and civilian objects, amounting to war crimes. Such acts may also constitute other international crimes.

## 6.2 Modus operandi of the Agwelek forces, allied Shilluk militia, and parts of the SPLA-IG

58. Similarly, attacks and counter attacks by the *Agwelek* forces and/or allied Shilluk militia, which in many instances were supported by government security forces, were as well conducted with extreme violence.

“After few days of heavy fighting in Tonga area, the *Agwelek* moved on the river with their barge and shelled in this order at Atar, Atar 2, Diel, Dor and New Fangak. [...] The *Agwelek* shelled at the village on the morning of 17 or maybe 18 August 2022 at around 08:00am. The *Agwelek* had placed some long-range guns on their barges and boats, the type of guns that can reach up to 20 kilometers. They had machine guns as well on their barges and boats. We saw two barges, two big boats (commercial type) and two speedboats moving from Tonga to Atar. They were all equipped with weapons and full of *Agwelek* soldiers.”

- Eyewitness

The attackers wore mixed military and civilian clothing and were equipped with light weapons such as AK-47 type assault rifles, light machine guns, PKM and RPGs, as well as government owned military barges with naval artillery.

59. On some occasions, these groups took position and launched their counteroffensive on board military barges, shelling indiscriminately to dislodge the pursuing *Kitgwang* (*Simon*

*Gatwech*) and allied militia groups, as well as the SPLA-IO (RM), particularly in some areas of Panyikang County, such as Tonga. The *Agwelek* forces launched offensives on civilians in some areas

<sup>60</sup> Between 5am and 6am.

<sup>61</sup> Many people from Nuer from Gawaar communities are fluent in Shilluk due to intermarriages and trading, as well as open traverse and border crossing between Jonglei and Upper Nile States.



in northern Jonglei such as Atar, Diel, Dor and New Fangak. The use of heavy artillery from the military barges also resulted in several civilian casualties, the destruction of civilian homes and property, and mass displacement.

60. Supported by parts of the SSPDF, the *Agwelek* forces and allied militias/groups launched ground offensives and counter offensives against the *Kitgwang* (*Simon Gatwech*) and allied militias supported by parts of the SPLA-IO, resulting in civilian casualties. Further, UNMISS established that this group of perpetrators targeted civilians in villages and towns during surprise attacks. However, on some occasions, they advanced and shelled at fleeing civilians and enemy fighters indiscriminately. In some instances, the attackers used weapons like knives to kill civilians.

*"[...] the Agwelek shelled Maat payam from 06:00 am to 06:00 pm. They moved on the Black River with two speedboats equipped with machine guns and one large boat equipped with machine guns and other type of artillery, but I don't know the name. They could shell very far with them. They sent the speedboats first for the assessment and shortly after the big boat approached Maat and started shelling. All the civilians ran away to the bush far from the shore of the river. Some goats, cattle, and approximately 10 people were killed during the shelling. Several people were injured by the shelling as well, but I don't know them. I witnessed the killing of one lady. A shell fell on her back. The Agwelek soldiers did not moor in Maat. They just shelled the payam from the river and returned in the evening to their base in Atar. [...] Many houses were destroyed or burnt down by the shelling."*

- Eyewitness

61. Sources, including victims and witnesses, narrated the extreme violence with which the *Agwelek* and allied militias/groups

*"Once on the ground the Agwelek soldiers looked for things they could loot. As they were moving, they found in the house some elderly people who had not been able to run away. They killed the elderly people. Some of them [elderly] were Nuer and others were Dinka. We found their bodies outside of their houses when we returned to Atar after the Agwelek soldiers had departed. The [Agwelek] soldiers had cut their throats with a sharp knife."*

- Eyewitness

conducted these attacks and counter attacks.

62. UNMISS HRD considers that these acts constituted indiscriminate attacks, and direct attacks against civilians and civilian objects, amounting to war crimes. Such acts may also constitute other international crimes.

63. These attacks occurred in the context of the escalating conflict between the *Kitgwang* (*Simon Gatwech*) and allied militia groups supported by parts of the SPLA-IO (RM) and the *Agwelek* forces and allied militias/groups

supported by parts of the SPLA-IG, specifically the SSPDF and NSS.

## VII. Alleged perpetrators

64. Based on cases documented and other information gathered by UNMISS, there are reasonable grounds to believe that individuals or groups identified below may be responsible for human rights violations or abuses or violations of international humanitarian law. This includes those who reportedly ordered the acts that constituted these violations or abuses, those who bear command or superior responsibility or those who may have been complicit in these violations or abuses.<sup>62</sup> The competent authorities have

<sup>62</sup> This list of perpetrators is not exhaustive, given access and security challenges on the ground, which has limited UNMISS' ability to fully identify and verify information regarding all individuals involved in human rights violations

the obligation to conduct independent, impartial, prompt, thorough and effective investigations, and hold those responsible accountable within fair trials.

65. The groups that attacked locations in parts of Upper Nile State and the northern part of Jonglei State have been identified as composed of SPLA-IO splinter groups, notably the *Kitgwang (Simon Gatwech)* group on one side, commanded by General Simon Gatwech Dual and supported by parts of the SPLA-IO (RM), the *Agwelek* forces on the other side, commanded by General Johnson Olony Thabo and supported by parts of the SPLA-IG, and with the support of their respective allied militias/groups, from the Dinka, Nuer and Shilluk communities.

### 7.1 *Kitgwang (Simon Gatwech)*, allied militias/groups, and parts of the SPLA-IO (RM)

66. Various sources confirmed the participation of the *Kitgwang (Simon Gatwech)*, under the command of General Simon Gatwech Dual, alongside various militia groups<sup>63</sup>. Gatwech forces participated in the mobilization of attackers, planning of attacks, provision of arms and ammunition, and conduct of the attacks, including targeting of civilians and civilian property.

67. Various sources confirmed the active participation of militias/groups<sup>64</sup> allied to the *Kitgwang (Simon Gatwech)*. These militias/groups played a key role in launching offensives on civilians and *Agwelek* forces, especially in various parts of Panyikang and Fashoda Counties. Witness accounts described the brutality of the attacks by this group. The attackers, some of whom were dressed in military uniforms

*“The attackers are like organized forces who came with their guns and attacked our village. They had Nuer tribal marks/scarification on their faces and spoke in the Nuer language. They tied white pieces of cloth around their heads. They attacked at around 05:00am and then I saw they killed three people and started collecting cattle in the area.”*

- Eyewitness

and some in civilian clothing bearing AK-47 type assault rifles, PKM type machine guns and other weapons, targeted civilians and carried out killings, injury, rape, beheadings, burning of homes, attacks on humanitarian facilities including hospitals, and looting of civilian and humanitarian property.

68. The investigations also revealed that the *Kitgwang (Simon Gatwech)* allied militias/groups were mobilized and commanded by a spiritual leader<sup>65</sup> assisted by other militia commanders,

some local chiefs and youth leaders<sup>66</sup>, with the support of parts of the SPLA-IO (RM), including Division VII based in Ayod County, Jonglei State. Sources also noted that some of the commanders of the militia groups, particularly from Gawaar White Army, were also active members of the SPLA-IO (RM) and others from *Kitgwang (Simon Gatwech)*.<sup>67</sup> However, UNMISS HRD has not been able to

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and abuses and violations of international humanitarian law related to the armed attacks in Upper Nile State and parts of Jonglei State during the reporting period.

<sup>63</sup> Please refer to the description of the militia groups in paragraph 2.

<sup>64</sup> Ibid.

<sup>65</sup> The spiritual leader is the leader of the Gawaar Nuer “White Army” from Ayod County of Jonglei state and is referred to by the Nuer as a prophet. Generally, Nuer prophets are charismatic leaders, who enjoy significant political power and authority within the Nuer community. Through their motivational speeches, accompanied by rituals and “performances of miracles” demonstrating their invincibility, the prophets successfully rally and mobilize youth to unite in the fight against a common enemy. Not only do prophets often act as an authority issuing orders on whom and how to attack, but also whom and how to protect, including from among members of an enemy community.

<sup>66</sup> From Ayod, Fangak and Pigi counties

<sup>67</sup> Many sources estimated that the *Kitgwang (Simon Gatwech)* allied militia groups were made up of at least 10,000 fighters. However, this information remained uncorroborated by a primary source.

establish support to *Kitgwang (Simon Gatwech)* allied militias/groups from SPLA-IO (RM) at the Juba level.

69. Multiple sources, including witnesses and victims, informed that some SPLA-IO (RM) elements from Diel and nearby locations participated in attacks in support of the Gawaar White Army and the *Kitgwang (Simon Gatwech)* forces, particularly after they experienced attacks in Diel by the *Agwelek* forces. Sources also indicated that some members of SPLA-IO (RM) commanders supplied arms and ammunition to support the Gawaar White Army.
70. Sources informed about the participation of Dinka and Nuer armed elements from areas in Upper Nile and Jonglei: Atar, Ayod, Fangak, Khorfulus, Laak and Maat (Jore). These armed elements also participated in the attacks in various parts of Upper Nile, including in committing violations against civilians such as killing, destruction of civilian property and looting.

## 7.2 *Agwelek* forces, allied Shilluk militia, and parts of the SPLA-IG

71. Multiple sources, including victims and witnesses, confirmed the participation of the *Agwelek* forces, under the command and control of General Johnson Olony Thabo. The *Agwelek* forces led and participated in attacks against civilians especially in the areas such as Diel, Dor and New Fangak. This group used heavy artillery from military barges and ground forces, some dressed in military uniforms

*“The Agwelek forces started shelling indiscriminately at the town [New Fangak] at around 8am up to 4pm. They came with three barges and two speedboats. (...) people were killed by the shelling. (...) part of the Agwelek troops came by boats to the shore of the river and moved around the town. They majority were wearing military uniforms and were carrying AK-47 and RPG-7. On the boats and barges the Agwelek had ZU with two canons, one ZU with four canons and one BM with 45 canons, as well as RPG-9. They looted food items from the market and people’s houses as well as boat engines, three machines to dig the ground and 5 Wi-Fi devices from NGOs.”*

- Eyewitness

and bearing weapons such as AK 47 type rifles and PKM type machine guns, launched attacks on civilians and committed abuses such as killing, injury and destruction of civilian property.

72. Multiple sources indicated that an *Agwelek* forces’ high-ranking officer led brutal attacks against civilians when the force attempted to regain control of the lost territory and dislodge rival *Kitgwang (Simon Gatwech)* in areas such as Atar, Diel, Dor, Fangak and Tonga. The said commander also led heavy attacks during early morning hours from military barges

on civilians in Atar, Dor and New Fangak, including the SPLA-IO (RM) cantonment site, prompting parts of the SPLA-IO (RM) to extend their support and firepower to the *Kitgwang (Simon Gatwech)* in the later stage, resulting in some civilians burned in their houses, several cattle killed, and civilian houses destroyed. This resulted in mass displacement of the population to areas such as Canal, Kurwai and Maat.

*“The Agwelek forces shelled our village. They came with two river barges, one big boat and two speedboats. They had machine guns, ZU, RPG and BM mounted on them. They were shelling indiscriminately at civilian houses. Many civilians were killed and injured during the shelling. (...) Once the Agwelek forces were sure that no response would come from the ground they send some of their troops on the ground to patrol the area and loot our food, clothes, plastic sheets, cattle, goats and chickens. They were carrying AK-47 and RPG 7. (...) The shelling had destroyed the market, our tukuls were burned down so we could not stay in our village anymore. Many civilians decided to leave for the moment and settle in the PoC site and town.”*

- Eyewitness

73. Multiple sources informed that parts of the SSPDF Division II, based in Malakal town, Upper Nile state, participated in the fighting in support of *Agwelek* forces and noted that some of these elements were killed alongside *Agwelek* forces during the fighting against the *Kitgwang* (*Simon Gatwech*) and allied militias/groups, for example on 11 December in Wau Shilluk. Several sources also informed that parts of government security forces joined the *Agwelek* forces on military barges.
74. Multiple sources reported that parts of the Government supplied *Agwelek* forces and allied militias/groups with weapons, ammunitions, food and other logistic equipment and combat supplies, including through the SSPDF and NSS based in Malakal and Juba. Some government and SSPDF officials justified this support by quoting the Khartoum Peace Agreement between the *Agwelek* forces, represented by Johnson Olony, and the Government of South Sudan, which according to them allowed for the integration of the *Agwelek* forces into the SSPDF, although this had not materialized at the time of the fighting. The SSPDF Division II and civilian authorities in Malakal allowed free passage along the Nile and through Malakal to the *Agwelek* forces and allied militias/groups to conduct the attacks on Tonga during which the *Agwelek* attacked civilian areas in Pigi/Canal and New Fangak Counties, triggering a brutal response from the *Kitgwang* (*Simon Gatwech*) and allied militias/groups with support of parts of the SPLA-IO (RM). Some sources informed that a few military and civilian officials in Malakal town initially opposed this move to give free passage to the *Agwelek* forces and allied militias/groups, but they received orders from civilian and military superiors at state and national levels.
75. Further, sources informed that close to 150 *Agwelek* fighters of Nuer ethnicity participated in the attacks. These elements were members of the *Agwelek* forces that launched attacks on the areas of Atar, Diel, Dor and New Fangak among others in August 2022. However, according to some sources, following the launching of the attacks by *Agwelek* forces on Nuer areas in New Fangak and other locations, about 55 of these Nuer attackers defected in protest to the *Kitgwang* (*Simon Gatwech*) group in Tonga and fought along the latter against the *Agwelek* forces and allied militias/groups with support of parts of the SSPDF in the succeeding battle.<sup>68</sup>

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<sup>68</sup> Following the disagreement between General Gatwech and General Olony, the latter as he broke away from Gatwech took along the *Agwelek* militia (made of Shilluk elements) together with some Nuer commanders and Nuer armed elements. A prominent Lou Nuer former SPLA-IO (RM) commander and former SPLA-IO *Kitgwang* commander also choose to align with General Olony and the *Agwelek* forces, becoming the second in command of the breakaway faction under the command of General Johnson Olony. Therefore, following the split in the SPLA-IO *Kitgwang* group, the *Agwelek* forces were supported by predominantly Shilluk militias but also by Nuer militias/groups and armed elements.

76. Furthermore, sources indicated that some Shilluk community-based militia participated in the fighting in support of *Agwelek* forces. These militia were mobilized by some community leaders and elite and provided with arms and ammunition through government and community channels. To galvanize support and recruit many fighters, the mobilizers whipped up community sentiments and pushed forward the argument of defending Shilluk land from the White Army and allies.

## **VIII. Responses**

### **8.1 Government response**

77. Between August 2022 and May 2023, the State-level authorities in Upper Nile and Jonglei engaged with respective parties to the conflict and conducted grassroots efforts with the Nuer and Shilluk communities to de-escalate ethnic tensions, encourage peaceful co-existence, and avert spillover of the fighting. Engagements were also held at the national level, notably with the involvement of the First Vice President (Chairperson of SPLA-IO (RM)), to encourage cessation of hostilities.
78. In September 2022, the State authorities in Pigi County, Jonglei State, convinced the SPLA-IO (RM) in Atar to release some abductees. Six civilians (two women and four men) were released. The SPLA-IO (RM) refused to release five male hostages, whom they alleged to be elements of the *Agwelek* forces.
79. In early October 2022, the Governor of Upper Nile sent his Security Advisor to engage with *Agwelek* forces based in Atar giving them options to move out of Atar to another area on the West Bank of the River Nile. Further, the Governor engaged with other communities asking them not to engage in the clashes on tribal lines or any past grievances with any one of the warring parties. He also engaged with the Nuer and Shilluk communities in Malakal and in other areas to advocate the prevention of further tension and the possibility of the spillover of the conflict as a tribal issue.
80. To ensure protection of civilians, the SSPDF Division II extended their support to the state authorities to cordon Makal County by deploying troops in the area. However, they were unable to get the help of SSPDF to protect civilians in the villages on the west bank that came under attack.
81. Between 5 and 11 October 2022, in Bor, Jonglei State, the acting Governor and his cabinet led a five-day mission to convince the communities in the areas of Ayod, Nyirol, and Uror of Northern Jonglei not to mobilize and join the Gawaar White Army on ethnic lines. The visit was carried out following allegations of increased mobilization by the prominent Gawaar Nuer leader with the intention of joining the Gawaar White Army. The delegation held intense engagements and managed to resolve some of the intra-communal concerns between the Lou Nuer and the Gawaar Nuer but failed to stop the Gawaar Nuer leader from moving to Maat in Pigi County with thousands of mobilized militias where the SPLA-IO (RM) had their temporary base.
82. On 28 October 2022, the acting Governor of Jonglei, with the support of UNMISS, went to Maat for further engagement with the prominent Gawaar Nuer leader. These engagements were conducted at the State level. These efforts were, however, unsuccessful because of strong political and economic reasons that spurred the above-mentioned Gawaar Nuer leader to continue with the mobilization of armed elements.

83. From August 2022 to January 2023, the local authorities in New Fangak provided shelter, food and non-food items to the displaced civilians. Further, in January 2023, the authorities organized a boat to transport these displaced civilians to Malakal town. Reportedly, the voyage was stopped in Atar by the *Kitgwang* (Simon Gatwech) soldiers controlling the check point who initially refused passage of the vessel and its passengers. However, after showing the official communication signed by the County Commissioner of New Fangak authorizing the movement from Pigi county up to Malakal town, the voyage was granted.
84. On 31 January 2023, a peace delegation authorized by the First Vice President met in Gul Boma, Ayod County, with the prominent Gawaar Nuer leader to persuade him to abandon his intentions of further attacks. Reportedly, the prominent Gawaar Nuer leader and his supporters had decided to go to Greater Pibor Administrative Area to recover their cattle that was lost during the attack in Fashoda County by Lou Nuer youth from Lankien, Nyirol County.
85. The government of Upper Nile State, in collaboration with the Jonglei State government, the South Sudan Relief and Rehabilitation Commission and local NGOs with the support of UNMISS and other partners took action to recover persons abducted during the conflict and conducted sustained engagements with some of the actors involved in the conflict, including the prominent Gawaar Nuer leader, on the release of abductees.<sup>69</sup> In April 2023, UNMISS transported a delegation of government officials from Juba to Ayod via Bor to continue engagements to secure the release of abductees.

## 8.2 UNMISS and OHCHR Response

86. To ensure the protection of civilians and to mitigate the recurrence of further attacks, with the scope of its mandate, UNMISS adopted the three-pronged approach: human rights response, political engagement, and protective deployment.
87. Between August and November 2022, UNMISS issued three press releases, condemning the violence; calling on all parties for cessation of hostilities and urgent intervention by the state and national authorities; refraining from harming the civilians; respecting the international law; and safeguarding the freedom of movement for the humanitarian organizations.<sup>70</sup>
88. UNMISS in coordination with the Government authorities, engaged with the parties to the conflict in Upper Nile and Jonglei States to urge for cessation of hostilities. UNMISS also provided logistical support for Government authorities to travel to some of the affected locations to engage with communities and their leaders to urge for peaceful co-existence. For example, as mentioned above, UNMISS supported government authorities travel to Maat on 28 October 2022 to dissuade the prominent Gawaar Nuer leader and his troops from moving to Upper Nile. At the national level, UNMISS senior leadership undertook intensive good offices engagements throughout the reporting period, including to advocate for the full demilitarization of the Nile River Corridor.
89. UNMISS reinforced its presence in Kodok by deploying quick reaction force reserves on standby in both in Malakal and Juba, in order to maximize the protection of civilians affected or that could be

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<sup>69</sup> As of March 2023, the prominent Gawaar Nuer leader had agreed to release 75 women and children abducted from Upper Nile.

<sup>70</sup> Released on 23 August, 9 September, and 19 November 2022. Available at: <https://unmiss.unmissions.org/press-releases>

affected by the conflict. Further, UNMISS conducted targeted patrols to reduce and limit the impact of violence in the affected areas. Additionally, UNMISS reinforced its TOB in Kodok to support humanitarian staff and provide safe haven to over 17,000 Shilluk IDPs that gathered near the UNMISS base. Coordinated UNMISS' operations were launched to ensure the safety of the humanitarian personnel who were relocated to the UNMISS base during the period of heightened tensions. Furthermore, with the additional influx of IDPs to the Malakal PoC site, UNMISS strengthened the support and protection provided to approximately 15,000 IDPs that sought refuge there and engaged the local military authorities to encourage proactive operations to quell violence and restore normalcy in the region.

90. UNMISS HRD monitored the security and human rights situation, conducted investigations, verified, and documented gross human rights violations and abuses and serious violations of international humanitarian law perpetrated during the fighting. UNMISS HRD has been deploying human rights officers on a rotational basis to verify and document violations and abuses committed by the armed groups involved in the conflict. It also supported victims and survivors to access support services from partner organizations.
91. On 14 December 2022, OHCHR issued a statement calling for an end to the violence in Upper Nile and surrounding areas and urged the authorities and community leaders to act urgently to end the bloodshed, and for the Government of South Sudan to conduct a prompt, thorough and impartial investigation and bring all those responsible to account in accordance with international law.<sup>71</sup>
92. By 18 January 2023, UNMISS had ongoing and sustained engagement with the government actors who took the lead in securing the release of 40 abductees, including 17 women with their children from Diel.

## **8.2 Response from Regional Actors and the international community**

93. On 2 December 2022, UNMISS convened a meeting with the African Union Mission in South Sudan, the Intergovernmental Authority on Development, the Reconstituted Joint Monitoring and Evaluation Commission, some members of the African Diplomatic Corps and some members of the international community (Troika, India, Switzerland, European Union) in South Sudan to discuss the deteriorating security situation in Upper Nile State and the northern parts of Jonglei State. Further to the meeting a joint statement was released expressing serious concern over continued attacks on IDP camps and the civilian's increased risk of conflict-related sexual violence. The statement warned of consequences for those responsible for the military build-up. It appeared to have hit a nerve as it was immediately followed by furious denials. Nonetheless the Agwelek build-up was halted.<sup>72</sup> Separately, on 16 December 2022, members of the Troika (Norway, the United Kingdom and the United States,) and the European Union released a statement on Violence in Upper Nile and Jonglei States, calling the parties to conflict to abide the conditions set out in the 2018 Revitalized Peace Agreement.<sup>73</sup>

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<sup>71</sup> OHCHR, South Sudan: UN Human Rights Chief urges end to violence in Upper Nile State, OHCHR (online) 14 December 2022. Available at: <https://www.ohchr.org/en/press-releases/2022/12/south-sudan-un-human-rights-chief-urges-end-violence-upper-nile-state>

<sup>72</sup> United Nations Mission in South Sudan, Joint Statement by UNMISS and the International Community on Violence in Upper Nile and Surrounding Areas, UNMISS (online) 2 December 2022. Available at: <https://unmiss.unmissions.org/joint-statement-unmiss-and-international-community-violence-upper-nile-and-surrounding-areas>

<sup>73</sup> US Embassy in South Sudan, Joint Statement on Violence in Upper Nile and Jonglei States, South Sudan, US Embassy in South Sudan (online) 16 December 2022. Available at: <https://ss.usembassy.gov/joint-statement-on-violence-in-upper-nile-and-jonglei-states-south-sudan/>

94. On 31 January 2023, the Troika countries released a statement raising concern over the alleged preparations, including mobilization, for renewed fighting in Upper Nile State.<sup>74</sup> The statement reminded South Sudanese transitional leaders and political actors in Juba of their responsibility to prevent potential communal tensions, ensure the continued safe access and delivery of humanitarian assistance, and find peaceful and sustainable solutions. Further, the Troika called on the government to hold accountable those responsible for previous sub-national violence, including the most recent clashes in Upper Nile, Jonglei, and Greater Pibor Administrative Area.

### **8.3 Humanitarian response**

95. In collaboration with UNMISS, the United Nations agencies and humanitarian NGOs immediately conducted life-saving activities and protection support, including a gender-based violence protection desk, and assessments for multi-sectoral humanitarian response. The mission leadership also continued to engage South Sudanese authorities to allow unhindered access by its personnel and humanitarian organizations to reach affected populations with the necessary assistance.

96. Humanitarian agencies and partners conducted an inter-agency visit to the village of Adhidhiang after it was attacked earlier in September 2022. Humanitarian organizations carried out another interagency mission to Diel in Jonglei. UN agencies and NGO partners scaled up their responses to provide life-saving support to the most vulnerable populations including in hard-to-reach areas. The support provided included shelter, relief items, protection services, cash, and other much-needed assistance.

97. Protection partners conducted various activities in conflict affected areas, including protection monitoring, outreach, counselling and psycho-social support, identification, and referrals of persons with special needs and protection cases, civilian accompaniment of persons with mobility constraints, provision of material support, case management and gender-based violence awareness campaigns. Protection partners also established community networks in areas of displacements, including Kodok, Melut as well as Malakal town and PoC site, to provide support to the IDPs. Four protection desks have been established in Kodok, Melut, Malakal town and PoC, and Canal, in addition to eight mobile protection desks developed in various displacement areas including Adhidhiang, Khorfulus, Maat, Owachi and Pakwa. Concurrently, three women and girls' friendly spaces were installed in Adhidhiang, Kodok and Melut.<sup>75</sup>

98. Protection actors also participated in de-escalation efforts in Malakal through engagements with Shilluk, Nuer and Dinka communities and undertook continuous advocacy and dialogue with the state government and UNMISS on the strategies to decongest the PoC site.

## **IX. Conclusion and recommendations**

99. The armed conflict in Upper Nile State and the northern part of Jonglei bordering Upper Nile had devastating consequences on the civilian population from these areas. The UNMISS HRD investigations established that between August and December 2022, at least 594 civilians were killed (366 men, 136 women and 73 boys and 19 girls) and 290 others wounded (249 men, 39 women, 1 boy

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<sup>74</sup> US Embassy in South Sudan, Statement by the Troika, US Embassy in South Sudan (online) 31 January 2023. Available at: <https://ss.usembassy.gov/statement-by-the-troika/>

<sup>75</sup> The women and girls' friendly space in Adhidhiang IDP camp was destroyed during the attack perpetrated by *Kitgwan* forces and their allied militias/groups on 7 September 2022 and has become a mobile facility.



and 1 girl). In addition, 258 were abducted (108 women, 80 girls, 42 boys and 28 men) and 74 women (43) and girls (32) subjected to rape or gang-rape. Further, the violence prompted the forced displacement of more than 62,000 civilians toward Northern Jonglei state, and Malakal and Kodok in Upper Nile state.

100. UNMISS established that the SPLA-IO splinter groups known as the *Kitgwang* (*Simon Gatwech*) and *Agwelek* forces, led by two identified Generals together with their respective allied militias/groups are the main perpetrators of the human rights violations documented in this report.<sup>76</sup> The investigations of UNMISS HRD revealed that the two splinter groups also benefited from the support of parts of the SPLA-IO (RM) and parts of the SPLA-IG in the conduct of their military operations including the attacks against civilians and their villages.<sup>77</sup> The investigations identified at least 22 individuals who may bear the greatest responsibility for these human rights violations.
101. Based on the information gathered and analyzed there are reasonable grounds to believe that the two parties to the armed conflict were involved in gross violations and abuses of international human rights law, and serious violations of international humanitarian law. They both conducted systematic, planned, and coordinated attacks in specific geographic locations in Upper Nile and Northern Jonglei, using a modus operandi and methods of warfare involving attacks directed against civilians and civilian objects.
102. A range of factors contributed to the violence observed in Upper Nile State and Northern Jonglei, including: the multitude of State and non-State actors, the proliferation of weapons and firearms, political rivalries and opportunism, delays in the implementation of the security arrangements and other parts of the Revitalized Peace Agreement, the gendered and ethnic nature of the diverse society, as well as the general impunity that prevailed for perpetrators of gross violations and abuses.
103. The Government of South Sudan is duty-bound under international human rights law to take adequate measures to protect civilians, to investigate allegations of violations impartially, promptly and thoroughly, and to hold the alleged perpetrators accountable within fair trials. Additionally, all parties to the armed conflict must respect international humanitarian law. The provisions of the Revitalized Peace Agreement also need to be respected, including those prohibiting violations against civilians.
104. Accordingly, UNMISS and OHCHR make the following recommendations:

***To the Government of South Sudan:***

- Take all necessary steps to prevent a resumption of the hostilities, including through the organization of peace dialogues, and intensify efforts to stop the mobilization of armed elements in the Greater Upper Nile region.

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<sup>76</sup> These two SPLA-IO (RM) splinter groups are the *Agwelek* forces and allied militias/groups (mainly from Shilluk community, and armed elements loyal to General Olony) and the *Kitgwang* (*Simon Gatwech*) and allied militias/groups (mostly, White Armies of the Gawaar Nuer from Ayod and the Laak-Nuer from Fangak, armed elements from Pigi Counties in Jonglei, Dinka from Atar, Khorfulus and Maat areas.

<sup>77</sup> The *Kitgwang* (*Simon Gatwech*) is under command and control of General Simon Gatwech Dual and supported by some parts of the SPLA-IO (RM) and the other group known as *Agwelek* forces under the command and control of General Johnson Olony is supported by parts of the SSPDF and NSS.

- Uphold its obligations under the international human rights law and international humanitarian law, and to take all appropriate measures to protect civilians in its territory, including particular measures to protect women and children from attacks and sexual violence.
- Take all appropriate measures to protect persons and objects afforded specific protection under international humanitarian law, including women, children, elderly, and persons with disabilities, as well as religious, medical, and humanitarian relief personnel and objects.
- Conduct independent, impartial, prompt, thorough, effective, credible, and transparent investigations into all allegations of human rights violations and abuses and violations of international humanitarian law perpetrated in northern Jonglei and Upper Nile State; and prosecute all responsible, including those in positions of command and authority and individuals at the local and national levels. Victims should be provided with a full reparation.
- Take appropriate measures to prevent and address sexual and gender-based violence in the country, provide full reparation to victims, facilitate the tracing, unconditional release and reunification of all abducted women and children and prosecute sexual violence crimes while ensuring that survivors receive timely, adequate, holistic, transformative, and survivor-centered reparations.
- Reinforce the judicial structures in Upper Nile State, including through deployment of special or mobile courts to ensure the investigation of human rights violations and abuses during the conflict and prosecution of all individuals responsible.
- Allocate all necessary resources to guarantee the timely and credible implementation of the Revitalized Peace Agreement, particularly the transitional security arrangements in Chapter II and the transitional justice mechanisms envisaged in Chapter V, while intensifying the efforts to resolve outstanding conflicts with all armed actors and groups.
- Take all appropriate measures to respect, protect, and fulfil the human rights of IDPs, taking steps to prevent arbitrary displacement; allocating adequate resources to minimize its adverse effects; providing remedies to IDPs through reparation and rehabilitation; creating a safe environment in areas affected by the conflict to ensure timely and effective delivery of humanitarian aid; and supporting IDPs in achieving durable solutions of their choice through the realization of their human rights.
- Take all necessary measures to ensure appropriate protection to humanitarian workers and humanitarian assets in South Sudan in accordance with international law.

***To all parties to the conflict:***

- Abide by relevant provisions of the international human rights and humanitarian law; and reiterate and enforce orders and instructions to their armed forces to ensure respect for international humanitarian law by its armed forces and other persons or groups acting on its instructions, or under its direction or control, including respect for the principles of distinction, proportionality and precaution, as well as killing, sexual violence, abduction, recruitment and involvement of children in armed conflict?, pillage, and other violations and abuses.

- Take immediate and unconditional actions in line with international standards against persons under their command responsible for human rights violations and abuses, including through accountability processes and screening them out of the organized forces.
- Immediately and unconditionally release all civilians abducted and/or forcibly recruited, especially children and women.
- Grant unhindered access to humanitarian organizations and UNMISS to reach displaced civilians and victims, prevent attacks on humanitarian facilities and the looting of aid, including by holding accountable the perpetrators of such attacks and of violence against aid workers.
- Ensure that armed forces and elements are not stationed in the vicinity of civilian objects, villages and settlements, unless their presence is part of a multi-dimensional strategy to protect civilians from attacks.

***To the regional actors and international community:***

- Strongly advocate for the Government of South Sudan to ensure adherence to international human rights law and international humanitarian law and fulfil its international obligations in this regard. Further, advocate for enhanced progress towards the full implementation of the Revitalized Peace Agreement.
- Maintain political, financial, and technical support offered to the Government of South Sudan and other national and local entities for the full implementation of the Revitalized Peace Agreement, particularly the transitional security arrangements in Chapter II and the transitional justice mechanisms envisaged in Chapter V.
- Ensure a coordinated, people-centered, and protection-oriented humanitarian response to the humanitarian needs in the Greater Upper Nile region.
- Assist local and international humanitarian organizations to enable them to provide adequate legal, medical, mental health and psychosocial support, including access to sexual and reproductive health services, to the survivors of human rights violations and abuses, including survivors of sexual violence.
- Support the safe and voluntary return, resettlement or local integration of displaced populations in line with humanitarian principles, including “do not harm” principle and demonstrate heightened diligence in instances where displacement is linked to conflict along ethnic lines and where civilians require protection.
- Engage the national and local authorities to jointly identify entry points to reinforce the capacity of national and local stakeholders to prevent armed violence in the Greater Upper Nile region and across South Sudan in general, including through the provision of technical assistance and capacity-building support to the government security sector on justice and accountability.

## X. Annexes

### 10.1 Timeline of major events/attacks (August to December 2022)

Date or period	Timeline of major incidents and events in Upper Nile conflict- 2022
1-8 August	Skirmishes between the two forces take place in Tonga and New Fangak areas leading to the killing of at least three civilians. In retaliation for the death of a fisherman by alleged militia elements allied with the <i>Kitgwang (Simon Gatwech)</i> forces, the <i>Agwelek</i> forces in Tonga launch artillery strikes on Wathkech/ Wathkey checkpoint and adjacent villages of Joyoam, and Tangbong in Phom el Zaraf, New Fangak County, inhabited by Nuer communities.
10 August	Renewed fighting between the <i>Agwelek</i> and <i>Kitgwang (Simon Gatwech)</i> forces takes place in Tonga following the announcement by General Gatwech, on 9 August, that General Olony has been sacked as his deputy in the <i>Kitgwang</i> , replacing him with Henry Odwar.
12 August	The tensions spread to Malakal PoC site and trigger fighting between Nuer and Shilluk youths at Sector 2b of the PoC site. No serious injuries are reported but 15 persons, from both Nuer and Shilluk communities, are arrested and detained at the UNMISS holding facility.
13 August	SSPDF Division II in Malakal reportedly facilitate the riverine movements of <i>Agwelek</i> forces from Magenis to Tonga and Atar to reinforce the forces present in these two locations in prevision of further clashes with the <i>Kitgwang (Simon Gatwech)</i> troops loyal to General Gatwech and their allied militias/groups.
15 August	The forces loyal to General Olony and General Gatwech fight heavily in Tonga resulting in the displacement of more than 9,000 civilians toward Malakal, Adhidhiang as well as other locations in Panyikang county and northern Jonglei State.
17 August	Based on the historical feud between Dinka and Shilluk tribes about the ownership of Malakal, the Dinka Abushok militias reportedly mobilize in Malakal town to prevent the passage through the town of additional Shilluk <i>Agwelek</i> forces moving from Magenis area to reinforce the troops fighting the <i>Kigwang (Simon Gatwech)</i> forces in Tonga. The <i>Agwelek</i> forces, reportedly transported by the SSPDF, reach their position in Atar without incident.
18-23 August	The reinforced <i>Agwelek</i> forces launch an attack on the <i>Kitgwang (Simon Gatwech)</i> forces stationed in Tonga area and concurrently on the SPLA-IO (RM) forces at their Diel Headquarter. Active fighting subsequently took place in the Atar-Diel-New Fangak corridor between <i>Agwelek</i> forces on one side and parts of the SPLA-IO (RM)/ <i>Kitgwang (Simon Gatwech)</i> forces on the other side. The <i>Agwelek</i> forces also shell indiscriminately from their barges at civilian residential areas in Tonga, Diel, Atar, Dor, New Fangak, Khorway leading to the killing of at least 101 civilians, the

	injuring of 87 others, 10 cases of conflict-related sexual violence as well as large displacements of population to Malakal and Panyikang (Upper Nile state) and Fangak (Jonglei state) counties. The coalition SPLA-IO (RM) / <i>Kitgwang (Simon Gatwech)</i> forces regains control of Diel, Atar and New Fangak after losing them to the <i>Agwelek</i> forces.
<b>24 August – 2 September</b>	The combined forces of parts of the SPLA-IO (RM), <i>Kitgwang (Simon Gatwech)</i> forces and their allied militias/groups conduct several offensives on <i>Agwelek</i> positions in Tonga area. More civilians run away from the conflict area.
<b>7 September</b>	<i>Kitgwang (Simon Gatwech)</i> forces along with their allied militias/groups attack Adhidhiang, a government endorsed IDP site near Owachi, and shoot randomly at the IDPs. Reportedly, the militia groups allied with <i>Kitgwang (Simon Gatwech)</i> forces also storm Pakwa, Pakang and Owachi villages. Shilluk and Nuer IDPs, equipped with harmful objects including machetes and sticks, fight in Sector 2 of Malakal PoC site.
<b>12-16 September</b>	New surge of violence in the Tonga-Atar-Diel axis with the <i>Agwelek</i> forces launching series of attacks and shelling on the <i>Kitgwang (Simon Gatwech)</i> forces positions, including Winchnora/Wunakot boma near Diel, to regain control of the area. The <i>Agwelek</i> forces managed to retake Atar while the SPLA-IO (RM) maintained their control of Diel and New Fangak.
<b>17 – 30 September</b>	The <i>Kitgwang (Simon Gatwech)</i> allied militias/groups, in alliance with parts of the SPLA-IO (RM), and the <i>Kitgwang (Simon Gatwech)</i> forces launch attacks and raid several civilian settlements in Panyikang county (Upper Nile State), including Owachi, Bukenj, Dur villages.
<b>September to November</b>	A prominent Gawaar Nuer leader leads an extensive mobilization campaign in Ayod and Pigi counties, Jonglei state to recruit armed youth affiliated with the White Army to support the parts of the SPLA-IO (RM)/ the <i>Kitgwang (Simon Gatwech)</i> forces coalition against the <i>Agwelek</i> forces. Youth from the Laak and Thiang clans of the Gawaar Nuer community of Greater Fangak and the Rud clan of the Dinka community in Pigi County reportedly have gradually join the mobilization.
<b>28 September</b>	Fighting resumes on the Atar–Diel axis, between <i>Agwelek</i> and parts of the SPLA-IO (RM) forces. The Dinka community issue a letter informing that they would temporarily accommodate displaced Shilluks, however the State Government should find a long-term solution to allocate Shilluks outside Malakal, which is considered Dinka land.
<b>4-14 October</b>	Under the leadership of prominent Gawaar Nuer leader, the <i>Kitgwang (Simon Gatwech)</i> allied militias/groups, in alliance with parts of the SPLA-IO (RM) and the <i>Kitgwang (Simon Gatwech)</i> forces continue their progression toward Fashoda, where the Chollo (Shilluk) King resides, and carry out attacks and raid cattle on villages and civilian settlements along Kodok area, including Abaneem, Bieu, Buol, Dauth, Dauth Yony, Dewad,

	Lul, Nyagara, Pabour, Patoaw, and Wik-Bour- Yong villages in Fashoda and Makal counties. 47 civilians are killed, 26 injured. In addition, the <i>Kitgwang (Simon Gatwech)</i> allied militias/groups, in alliance with parts of SPLA-IO (RM) and the <i>Kitgwang (Simon Gatwech)</i> forces, abduct at least 45 women and two girls, and one man during these series of attacks.
<b>20-21 October</b>	Fashoda County Commissioner sacks the SSPDF Division II Brigade V Commander Brigadier General Both, reportedly to forestall any attack on him due to his Nuer ethnicity. Additionally, all persons of Nuer extraction, including Nuer SSPDF soldiers, are requested to leave Kodok, on alleged grounds that some classified SSPDF Military Intelligence information has been shared with the militia groups allied to the <i>Kitgwang (Simon Gatwech)</i> forces who perpetrate attacks in Fashoda county. The Upper Nile State Government calls in response a security meeting and summons all the members of the security committee in Kodok to report to Malakal.
<b>23 October - 7 November</b>	Relative lull in the conflict.
<b>7-9 November</b>	A Juba delegation of high-ranking <i>Agwelek</i> commanders led by General Thomas Mabor engages in Atar with General Paromi and other <i>Agwelek</i> forces leaders. Despite this talk, <i>Agwelek</i> forces reportedly shell various SPLA-IO (RM) locations in Pigi county.
<b>17-26 November</b>	Prominent Gawaar Nuer leader continues his incitement to violence campaign leading to an escalation of the conflict. Under his leadership the <i>Kitgwang (Simon Gatwech)</i> allied militias/groups, in alliance with parts of the SPLA-IO (RM) and the <i>Kitgwang (Simon Gatwech)</i> forces launch attacks on Pamath, Nyingaro, Oriny, Yoing, Yony, Pabur, Kalagany and Parouj villages in Fashoda county. At least, 25 civilians are killed, several others injured, two women, two girls, and two boys abducted, and one case of conflict-related sexual violence recorded. The Chollo (Shilluk) King, Reth Kwongo Dak Padiet is evacuated by the Government from Kodok to Juba via Malakal. Upon his arrival he meets with President Kiir to discuss the deteriorating situation in Upper Nile State. The three barges controlled by the <i>Agwelek</i> forces move from Atar to Malakal-Kodok Nile River corridor to provide support to the Shilluk militia elements fighting the militia groups allied with the <i>Kitgwang (Simon Gatwech)</i> forces. The latter are pushed back south toward Oriny. Parts of the SPLA-IO (RM) recapture from the <i>Agwelek</i> forces Atar checkpoint, which has been left unprotected after the departure of the three <i>Agwelek</i> 's barges.
<b>27-30 November</b>	Under the leadership of the prominent Gawaar Nuer leader, the <i>Kitgwang (Simon Gatwech)</i> allied militias/groups, in alliance with parts of the SPLA-IO (RM) and the <i>Kitgwang (Simon Gatwech)</i> forces continue progressing in Fashoda state and conduct a violent attack on Aburoc IDP camp and surrounding villages, resulting in mass displacement of civilians toward Melut/Kaka, Kodok town/UNMISS TOB and Malakal PoC site. The attack on Aburoc IDP camp alone causes the killing of at least 167 civilians, injury of 40, and the abduction of 129 women, including 68 girls.

<b>2-18 December</b>	Clashes are reported between the <i>Kitgwang (Simon Gatwech)</i> allied militias/groups and the <i>Agwelek</i> forces and allied Shilluk militia around Aburoc, Fashoda state. SSPDF forces finally intervene and carry out airstrikes with two MI24 helicopters sent from Juba against the positions in Fashoda county of the <i>Kitgwang (Simon Gatwech)</i> allied militias/groups, in alliance with parts of the SPLA-IO (RM) and the <i>Kitgwang (Simon Gatwech)</i> forces. The Militia groups allied with <i>Kitgwang (Simon Gatwech)</i> forces are pushed back and conduct new attacks on civilian settlements on their retreat toward Makal, Panyikang and Pigi counties. At least, 35 civilians are killed, 17 injured, 12 women and children abducted, and two civilians subjected to sexual violence during these attacks.
<b>12-13 December</b>	General Thomas Mabor and his forces were received in Khorfulus by the Pigi County authorities and SSPDF soldiers before crossing on government boats to Doleib Hill, southern of Malakal in Upper Nile State, to join the <i>Agwelek</i> forces as requested by General Olony as part of a restructuring of <i>Agwelek</i> forces ahead of their integration into SSPDF. Meanwhile the Deputy Chief of Defense held a meeting in Malakal with the SSPDF Division II.
<b>24 December</b>	The prominent Gawaar Nuer leader, together with the <i>Kitgwang (Simon Gatwech)</i> allied militias/groups he has mobilized, reportedly return to Ayod county, Jonglei state.

## 10.2 Legal background

### International Human Rights Law

1. The Republic of South Sudan is a State party to the African Charter on Human and Peoples' Rights. It is also party to the International Convention on the Elimination of all Forms of Discrimination against Women and its Optional Protocol; the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and its Optional Protocol; and the UN Convention on the Rights of the Child and its two Optional Protocols on child prostitution and child pornography, and on the involvement of children in armed conflict. Under this framework, South Sudan is legally bound to respect, protect, promote, and fulfil the human rights of all persons within its territory or under its jurisdiction. International human rights law applies both in times of peace and armed conflict. South Sudan is also bound by norms of international human rights law that have attained the status of customary law.
2. Accordingly, South Sudan has the obligation to ensure the right to life and exercise due diligence to protect the lives of individuals against deprivations caused by persons or entities whose conduct is not attributable to the State. South Sudan must also take effective measures to prevent all acts of rape and other forms of sexual violence, torture and inhuman or degrading treatment, abductions, and looting of private property, as well as any other acts which violate human rights. Additionally, South Sudan is bound to take necessary action to protect against and respond through the provision of effective remedies to violence against women and children, whether perpetrated by private or public actors.
3. In line with the right of victims to a remedy, the State must promptly investigate alleged violations and abuses of international human rights law, and to ensure accountability for the perpetrators of these acts and full reparations to victims.

### International Humanitarian Law

4. International humanitarian law applies to the non-international armed conflict in South Sudan.<sup>78</sup> All parties to the conflict are obligated to abide by the relevant rules of customary international law applicable in non-international armed conflicts, including the rules contained the principles of distinction, proportionality, and precaution. Under this legal framework, all parties to the conflict are bound to distinguish at all times between civilians (including humanitarian relief personnel) and combatants, and between civilian objects and military objectives, and to treat humanely all persons taking no active part in hostilities.
5. International humanitarian law also prohibits unlawful killing, torture, cruel or inhuman treatment and outrages upon personal dignity, in particular, humiliating, and degrading treatment, rape and other forms of sexual violence, destruction of property, pillage, enforced disappearance, arbitrary deprivation of liberty and forced displacement. In addition, children, the elderly, persons with disabilities and the infirm affected by armed conflict are entitled to special protection. According

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<sup>78</sup> International humanitarian law applies equally to all parties to the conflict. The Republic of South Sudan is a State party to the Geneva Conventions of 1949, including Common Article 3; as well as the Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II) of 8 June 1977.



to customary international law, humanitarian relief personnel and objects must always be respected and protected.

6. States are responsible for all violations of international humanitarian law committed by their armed forces or those acting under their direction or control. Under international law, South Sudan is obliged to investigate serious violations of international humanitarian law, prosecute the suspects and to ensure full and adequate reparations to victims.

### **Domestic Law**

7. Under South Sudanese domestic law, national jurisdictions can prosecute individuals allegedly involved in gross violations of international human rights and for crimes such as murder or rape. The right to life and physical integrity is protected by the Transition Constitution of the Republic of South Sudan of 2011 and the Penal Code Act 2008. In addition, in 2012, South Sudan incorporated the provisions of the Four Geneva Conventions and its Additional Protocols into domestic law, as a result there can be prosecutions for acts that have a nexus with a non-international armed conflict before the South Sudanese courts for breaches of Common Article 3 of the Geneva Conventions.

### **10.3 Government response to the findings of the report**