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VIA EMAIL: URGENT-ACTION@OHCHR.ORG

January 28, 2019

Mr. Michel Forst – Special Rapporteur on the Situation of Human Rights Defenders

c/o Office of the High Commissioner for Human Rights – Palais Wilson
United Nations Office at Geneva
CH 1211 Geneva 10
Switzerland

Mr. David Kaye – Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression

c/o Office of the High Commissioner for Human Rights – Palais des Nations
United Nations Office at Geneva
CH - 1211 Geneva 10
Switzerland

RE: Detention of Peter Biar Ajak in South Sudan

Dear Mr. Forst and Mr. Kaye,

We are writing to request urgent action on behalf of our client, Mr. Peter Biar Ajak, a South Sudanese national and prominent human rights activist who was arrested at Juba International Airport by the National Security Service (NSS) on July 28, 2018. He is currently being held without charge at the notorious “Blue House” – the NSS Headquarters in Juba.¹ Authorities are investigating allegations lodged against him relating to insurgency/terrorism, treason, and the promulgation of false statements against South Sudan.

Ajak’s arrest and detention are politically motivated and directly connected to his political and social advocacy. Over the last several years, Ajak has established himself as a prolific commentator on South Sudan and has engaged in wide-ranging advocacy for its youth. As a co-founder of the South Sudan Young Leaders Forum (SSYLF), Ajak has worked to organize and mobilize South Sudanese youth, both domestically and internationally, to play a key role in the country’s politics, governance, and peace process. His key goal is to empower South Sudanese youth by providing them platforms to be agents of change and leaders rather than to be manipulated into violence. He has publicly advocated for a “Generational Exit” (also branded the “NxGenSouthSudan” initiative), urging the country’s older politicians to retire and allow the younger generations to take leadership roles and facilitate lasting peace.

¹ *South Sudan: Release Peace Activist*, HUMAN RIGHTS WATCH, Aug. 9, 2018, available at <https://www.hrw.org/news/2018/08/09/south-sudan-release-peace-activist>.

Ajak's commentary and advocacy have been entirely peaceful, and in fact he has called on all parties to use non-violent methods in their efforts to facilitate lasting peace in South Sudan. Despite this, he and the SSYLF have faced scrutiny and hostility from the government of South Sudan. For example, the SSYLF's application to register with the government was denied and at least two of its events have been blocked by government authorities (reportedly on orders from Juba).² Only two weeks before his arrest on July 28, Ajak had appeared – as he regularly has – on a regional TV program to discuss the Generational Exit and South Sudanese politics.³

The connection between Ajak's political and social activism and his arrest is clear from the stated focus of the government's investigation. The NSS terms of reference, which define the scope and focus of the original investigation into Ajak, were signed by a Deputy to Akol Koor, the Director General of the NSS. These terms – which Ajak's local lawyers have seen firsthand – specifically instructed investigators to examine Ajak's social media posts, television appearances, involvement with the SSYLF, meetings in Nairobi and Rwanda, and travel within South Sudan. In addition, during at least two interrogations, government authorities asked him specifically about his travel to conferences, financing, and his consultancies with international NGOs.

Despite engaging in what is clearly protected political speech and human rights advocacy, Ajak was first investigated for the following possible charges under the Penal Code:⁴

1. Sec. 57 – Liability of Abettor for an effect caused by the act abetted different from that intended by the Abettor
2. Sec. 64 – Treason
3. Sec. 65 – Concealing Treason
4. Sec. 67 – Insurgency, Banditry, Sabotage or Terrorism
5. Sec. 68 – Recruiting or Training Insurgents, Bandits, Saboteurs or Terrorists
6. Sec. 69 – Training as Insurgent, Bandit, Saboteur or Terrorist
7. Sec. 73 – Harboursing, Concealing or Failing to Report an Insurgent, Bandit, Saboteur or Terrorist
8. Sec. 75 – Publishing or Communicating False Statements Prejudicial to Southern Sudan

If charged and convicted of these crimes, he could be sentenced to death.⁵

We respectfully request an urgent communication be sent by the Special Rapporteurs to the Government of South Sudan about Ajak's situation, emphasizing that peaceful political activism and speech cannot be criminalized or punished and that human rights defenders have the right to carry out their work without interference.

² *Northern Bahr al Ghazal Governors Block Youth Meetings, Cite Orders From Juba*, RADIO TAMAZUJ, Apr. 25, 2018, available at <https://radiotamazuj.org/en/news/article/northern-bahr-al-ghazal-governors-block-youth-meetings-cite-orders-from-juba>.

³ NTV Kenya, *Why South Sudan Needs A 'Generational Exit' Plan*, YOUTUBE, July 10, 2018, available at <https://www.youtube.com/watch?v=zwKdg0CVex4&feature=youtu.be>.

⁴ See PENAL CODE ACT, No. 9 of 2008, Feb. 10, 2009 (S. Sudan) available at <http://www.wipo.int/edocs/lexdocs/laws/en/ss/ss014en.pdf> [hereinafter S. SUDAN PENAL CODE].

⁵ *Id.* at § 64(1).

BACKGROUND ON SOUTH SUDAN

The area known today as South Sudan has been at war for much of the last 50 years. Following two brutal, decades-long civil wars, South Sudan seceded from Sudan in January 2011 through a popular referendum supported by 99% of South Sudan's population, and officially became an independent state on July 9, 2011.⁶ The Sudan People's Liberation Army (SPLA) and its political wing, the Sudan People's Liberation Movement (SPLM) – both of which had played key roles in the independence struggle – transitioned into the new nation's army⁷ and ruling party,⁸ respectively.

Nevertheless, hostilities continued after the country's independence. Tensions between South Sudan's more than 60 different ethnic groups that had been set aside to pursue independence resurfaced⁹ and were further exacerbated by economic issues, including corruption.¹⁰ Just months before independence was formally assumed, the South Sudanese army was battling at least seven armed groups operating within its borders.¹¹

Ultimately, the attempt to set up a power-sharing government between President Kiir and Vice President Riek Machar fell apart in the summer of 2013. President Kiir dismissed his entire cabinet, including Vice President Machar,¹² who subsequently formed the Sudan People's Liberation Movement-in-Opposition (SPLM-IO). In December 2013, a civil war officially broke out along ethnic lines, as President Kiir accused now former Vice President Machar of having plotted to overthrow him.¹³ Over the next several years, South Sudan dissolved into bloody and horrific conflict.¹⁴

In late December 2013, the Intergovernmental Authority on Development (IGAD), an East-African eight-country trade bloc, quickly stepped in to launch a mediation effort.¹⁵ In August 2015, Kiir and Machar signed an IGAD-facilitated peace deal that arranged Machar's return and was supposed to end the conflict that had left tens of thousands dead and millions

⁶ *South Sudan Referendum: 99% Vote for Independence*, BBC NEWS, Jan. 30, 2011, available at <https://www.bbc.com/news/world-africa-12317927>.

⁷ IN NEED OF REVIEW: SPLA TRANSFORMATION IN 2006-2010 AND BEYOND, SMALL ARMS SURVEY, Nov. 2010, available at <http://www.smallarmssurveysudan.org/fileadmin/docs/working-papers/HSBA-WP-23-SPLA-Transformation-2006-10-and-Beyond.pdf>.

⁸ *Sudan People's Liberation Movement (SPLM)*, SUDAN TRIBUNE, accessed Oct. 3, 2018, available at <http://www.sudantribune.com/spip.php?mot128>.

⁹ Jennifer Williams, *The Conflict in South Sudan, Explained*, VOX, Jan. 9, 2017, available at <https://www.vox.com/world/2016/12/8/13817072/south-sudan-crisis-explained-ethnic-cleansing-genocide>.

¹⁰ *Understanding the Roots of Conflict in South Sudan*, COUNCIL ON FOREIGN RELATIONS, Sept. 14, 2016, available at <https://www.cfr.org/interview/understanding-roots-conflict-south-sudan>.

¹¹ *South Sudan Army Kills Fighters in Clashes*, AL-JAZEERA, Apr. 24, 2011, available at <https://www.aljazeera.com/news/africa/2011/04/2011424145446998235.html>.

¹² *South Sudan Profile – Timeline*, BBC NEWS, Aug. 6, 2018, available at <https://www.bbc.com/news/world-africa-14019202>.

¹³ *Id.*

¹⁴ See Sam Mednick, *South Sudan's Latest Civil War Atrocities Kept Out of Sight*, AP, June 6, 2018, available at <https://www.apnews.com/ab5a4b3621b4439cb5b722c09f71338c>.

¹⁵ *Frequently Asked Questions*, IGAD SOUTH SUDAN OFFICE, accessed Oct. 3, 2018, available at <https://southsudan.igad.int/index.php/about-us/f-a-q>.

displaced.¹⁶ Machar was reinstated as Vice President in February 2016, but shortly afterward fighting broke out and Kiir removed Machar again and replaced him with Taban Deng Gai.¹⁷ In December 2017, the IGAD launched a new effort, the High-Level Revitalization Forum (HLRF), to revive the peace process¹⁸ and a ceasefire was signed shortly thereafter. A new peace deal was signed on August 5, 2018 between Kiir, Machar, and other opposition groups in talks mediated by Sudan and Uganda.¹⁹

Nearly 400,000 South Sudanese have died as a result of war in the past five years,²⁰ and more than four million are either internally displaced or refugees.²¹ Citizens have been and continue to be subjected to horrific violence and acts of brutality by both militias and government soldiers.²² Despite the country's rich natural resources, it is the world's poorest country.²³ In addition, South Sudan is subject to a UN arms embargo and country-specific sanctions intended to cut vital sources of war funding.²⁴

BIOGRAPHY OF PETER BIAR AJAK

Peter Biar Ajak was born on November 21, 1983 in what is now South Sudan, during the heart of the Second Sudanese Civil War. He is one of the so-called “Lost Boys” – an estimated 20,000 Sudanese youth who were orphaned or displaced or fled their homes to escape violence and avoid being recruited as child soldiers.²⁵ While thousands survived brutal conditions to reach refugee camps in neighboring countries, thousands more died on the journey or were caught up in the ongoing conflict and killed.

¹⁶ *South Sudan*, INTERNAL DISPLACEMENT MONITORING CENTRE, accessed Oct. 3, 2018, available at <http://internal-displacement.org/countries/south-sudan>; *South Sudan Refugee Crisis*, USA FOR UNHCR, accessed Oct. 3, 2018, available at <https://www.unrefugees.org/emergencies/south-sudan/>; and Jennifer Williams, *The Conflict in South Sudan, Explained*, VOX, Jan. 9, 2017, available at <https://www.vox.com/world/2016/12/8/13817072/south-sudan-crisis-explained-ethnic-cleansing-genocide>.

¹⁷ *South Sudan Fast Facts*, CNN, Aug. 14, 2018, available at <https://www.cnn.com/2013/07/10/world/africa/south-sudan-fast-facts/index.html>.

¹⁸ SOUTH SUDAN'S HIGH LEVEL REVITALIZATION FORUM – IDENTIFYING CONDITIONS FOR SUCCESS, UNITED STATES INSTITUTE FOR PEACE, Aug. 2017, available at <https://www.usip.org/sites/default/files/PB228-South-Sudan-s-High-Level-Revitalization-Forum.pdf>.

¹⁹ Mohammed Yusuf, *South Sudan Peace Deal Can Work – If Leaders Can Cooperate*, VOANEWS.COM, Aug. 6, 2018, available at <https://www.voanews.com/a/south-sudan-peace-deal-can-work-if-leaders-can-cooperate/4515568.html>.

²⁰ Megan Specia, *383,000: Estimated Death Toll in South Sudan's War*, N.Y. TIMES, Sept. 26, 2018, available at <https://www.nytimes.com/2018/09/26/world/africa/south-sudan-civil-war-deaths.html>.

²¹ *South Sudan Peace Deal Can Work – If Leaders Can Cooperate*, *supra* note 19.

²² Lisa Schlein, *UN: S. Sudan Doing Little to Stop Rape, Sexual Violence*, VOANEWS.COM, Sept. 18, 2018, available at <https://www.voanews.com/a/un-s-sudan-government-doing-little-to-stop-rape-sexual-violence/4576364.html>.

²³ Will Martin, *RANKED: The 28 Poorest Countries in the World – Where People Live on Less Than \$1,000 Per Year*, BUSINESS INSIDER, June 1, 2018, available at <https://www.businessinsider.com/poorest-countries-in-the-world-2018-5>.

²⁴ *Security Council Imposes Arms Embargo on South Sudan*, UN NEWS, July 13, 2018, available at <https://news.un.org/en/story/2018/07/1014622> and Lesley Wroughton & Timothy Gardner, *U.S. Targets South Sudan Oil Firms With Sanctions to Choke Off War Funds*, REUTERS, Mar. 21, 2018, available at <https://www.reuters.com/article/us-usa-southsudan-oil-sanctions/u-s-targets-south-sudan-oil-firms-with-sanctions-to-choke-off-war-funds-idUSKBN1GX27N>.

²⁵ *The Lost Boys of Sudan*, INTERNATIONAL RESCUE COMMITTEE, Oct. 3, 2014, available at <https://www.rescue.org/article/lost-boys-sudan>.

Ajak first fled to Ethiopia in 1989, before traveling back through Sudan on his way to Kenya in 1992. He spent much of the next decade living in a refugee camp in Kenya until, at the age of 16, he was one of approximately 4,000 Lost Boys to be resettled as a refugee in the United States.²⁶ A dedicated student, he attended Central High School in Philadelphia before graduating *magna cum laude* from La Salle University in 2007 with a Bachelor of Arts in Economics and minors in Math and Political Science. From 2007-2009, he earned a Master of Public Administration in International Development from the Harvard Kennedy School. In 2013 he enrolled as a Ph.D. candidate at the University of Cambridge, studying state formation in South Sudan as a Cambridge Trust Scholar.

Even while he excelled at his studies, Ajak never stopped advocating for the people of South Sudan and striving to improve the country's governance. From 2008-2009, he served as a consultant to South Sudan's Ministry of Finance and Economic Planning, providing advice and support on survey design and planning and budgetary processes. From 2009-2011, Ajak worked as an economist in the World Bank's Juba Office, helping to create economic and development policy initiatives, coordinating World Bank support to the Sudan-South Sudan negotiations, and monitoring the Juba Compact between donors and the government. From 2011-2013, he was a consultant with South Sudan's National Security Service. While there, he authored informational and strategic documents on vital national security issues and served as the secretary of the committee that drafted South Sudan's National Security Act.

Since May 2012, Ajak has worked with the International Growth Center (IGC), a research center based at the London School of Economics and funded in a large part by the UK Department for International Development.²⁷ Its stated mission is to "promote sustainable growth in developing countries by providing demand-led policy advice based on frontier research."²⁸ Serving first as Co-Country Director for the IGC's South Sudan Country Program and later as the Senior Advisor on South Sudan, Ajak developed and managed relationships with high-level government officials in the Office of the President and other agencies, oversaw the IGC's in-country research, and advised on economic policies to promote growth in South Sudan.

Ajak has also launched a number of personal initiatives designed to benefit the people of South Sudan. In 2010, while working at the World Bank, Ajak co-founded South Sudan Wrestling Entertainment, a non-profit that organizes traditional wrestling matches between different tribes to engage youth and foster peace. In 2012, he worked with Professor Paul Collier of Oxford University to found the Centre for Strategic Analyses and Research, the first independent think tank in South Sudan.

Ajak's talent, insight, and academic ability have been widely recognized. He was named a 2015 Millennium Fellow at the Atlantic Council, a 2016 Archbishop Desmond Tutu Fellow at the African Leadership Institute in partnership with Oxford University, and a 2017 New Leader

²⁶ Jeff Gammage, *International Rights Activist Jailed in South Sudan Got His Start in Philadelphia*, THE INQUIRER, Aug. 10, 2018, available at <http://www2.philly.com/philly/news/peter-biar-ajak-sudan-lost-boys-philadelphia-activist-jail-20180810.html>.

²⁷ *About*, INTERNATIONAL GROWTH CENTRE, accessed Oct. 3, 2018, available at <https://www.theigc.org/about>.

²⁸ *Id.*

for Tomorrow at the Crans-Montana Forum, a community of exceptional young leaders from around the globe. He is a prolific commentator and has published op-eds with the New York Times, Foreign Policy Magazine, Al Jazeera, and the Brookings Institution and given interviews to the BBC, Aljazeera, CNN, the Washington Post, the Economist, and the New York Times. He has also lectured and participated on panels at the Brookings Institution, Chatham House, the London School of Economics, Oxford, Harvard, and Cambridge Universities, and the Rift Valley Institute, among others.

Social Initiatives and Political Advocacy in South Sudan

Ajak's focus for the last several years has been to help create a free and peaceful South Sudan that respects human rights. For example, in 2011/2012, he helped found the Red Army Foundation, a non-profit that supports those who, as children, were displaced by the Second Sudanese Civil War and educated and trained by the SPLA/M.

In January 2017, Ajak and other South Sudanese young leaders met in Nairobi and created the South Sudan Young Leaders Forum (SSYLF), a broad coalition of more than 70 young South Sudanese leaders advocating for the resolution of the ongoing conflict. The SSYLF is purposely diverse, bringing together a multi-ethnic group of academics, church leaders, policy experts, youth leaders, and civil society leaders from South Sudan and the diaspora to solve the many challenges facing the country.²⁹

From its inception, the SSYLF has exclusively advocated for peace in South Sudan. Indeed, its primary goal is to “mobilise an informed youth to move South Sudan out of conflict and set it back on the path to peace and development.”³⁰ The organization's official resolutions similarly call for an end to all hostilities, an inclusive and transparent national dialogue, and full implementation of the peace agreement.³¹ In other publications, the SSYLF has called on its members to commit to ending hate speech, pursue engagement with international and regional partners such as the UN, IGAD, and other countries, and find new ways to create peace.³² In short, the SSYLF's clear and publicized intent is to facilitate peacebuilding and democratization by empowering individuals, rather than to serve as a political player aiming to maximize its own power.

As the SSYLF's Chairman, Ajak played a key role in creating the SSYLF and continues to manage its operations, events, and public engagement. In addition to the January 2017 inaugural meeting in Nairobi, Ajak also served in the July 2017 delegation that held regional consultations in Kenya, Uganda, Ethiopia, and South Sudan itself. The delegation met with policymakers, diaspora communities, and local youth in these countries to share its message that the youth have a key role to play in bringing peace to South Sudan. Building on this, the SSYLF

²⁹ *Who We Are*, SOUTH SUDAN YOUNG LEADERS FORUM, accessed Oct. 3, 2018, available at <https://www.ssyf.org/who-we-are>.

³⁰ *Our Goal*, SOUTH SUDAN YOUNG LEADERS FORUM, accessed Oct. 1, 2018, available at <https://www.ssyf.org/our-vision>.

³¹ *Final and Official Resolutions of the SSYLF*, SOUTH SUDAN YOUNG LEADERS FORUM, accessed Oct. 1, 2018, available at https://docs.wixstatic.com/ugd/13097c_1a52d16eb0524fba9d0c5c7d7869a0bb.pdf.

³² *Nairobi, January 9-10, 2017 Event Report*, SOUTH SUDAN YOUNG LEADERS FORUM, accessed Oct. 1, 2018, available at https://docs.wixstatic.com/ugd/13097c_1a5ae25caba54b4da803143efbfdee50.pdf

held a consultation meeting in November 2017, a strategic planning meeting in December 2017, and a peace and youth engagement campaign held in various locations in South Sudan in April 2018.

As mentioned, one of the SSYLF's key initiatives is "Generational Exit," which aims to incentivize the older leaders of South Sudan to step down to allow a new generation of young leaders to design the country's peaceful future. While 65% of the population of South Sudan is under the age of 25,³³ the majority of political power is held by those over the age of 50.

Notwithstanding the SSYLF's transparent, inclusive, and peaceful mission, the forum has faced malicious rumors and political attacks. Attempts to register the SSYLF have been denied and at least two of its events have been shut down by government authorities.³⁴ In addition, some of its members have been threatened and at least one member is no longer able to travel to South Sudan due to such threats.³⁵ Moreover, some people have falsely portrayed the SSYLF's work by claiming it is seeking to "overthrow the government."³⁶

Activism Preceding His Arrest

As stated earlier, Ajak has been a prominent political commentator on South Sudan. He regularly appeared on Wednesdays on NTV Kenya to speak about the SSYLF and offer expert commentary on South Sudan. In addition, he frequently posted political comments on Facebook and Twitter; these called primarily on the youth in South Sudan to mobilize and promote peace, and for South Sudan's current leadership – particularly President Kiir and former Vice President Machar – to step down. The following are representative examples of his tweets in the weeks leading up to his arrest:

On April 9, 2018, Ajak tweeted, "Let me state this very clearly: Rebellions and violence will never bring the change we need in #SouthSudan. Violence will result in more deaths and displacement of our people. What is needed is a non-violence approach to reclaiming our citizenship and dignity. #SSYLF."³⁷

On July 3, 2018, Ajak retweeted a still image from an interview he had with NTV Kenya, stating, "We must stop thinking that the so-called leaders will bring peace #SouthSudan. We, the great people of #southsudan, must organize ourselves to bring about the peace we deserve!"³⁸

³³ *South Sudan*, CIA WORLD FACTBOOK, Sept. 26, 2018, available at <https://www.cia.gov/library/publications/resources/the-world-factbook/geos/od.html> (click on "People and Society").

³⁴ Peter Biar Ajak, *Aweil, Wanjok – Third and Fourth Stops of SSYLF Peace Campaign in Bahr el Ghazal*, FACEBOOK, Apr. 24, 2018, available at <https://www.facebook.com/ajakbiar/posts/10100834407348207>.

³⁵ This individual is not named to protect their safety.

³⁶ Juma Keneth, *SSYLF Is Not All Out For 'Generational Exit' Campaign*, AFTABOSS INTERNET'IONAL, accessed Oct. 1, 2018, available at <https://aftaboss.wordpress.com/2017/11/19/ssylf-is-not-all-out-for-generational-exit-campaign/> and Ujuum Buol, *So What is Wrong with the SSYLF Conference in Kigali, Rwanda*, AFTABOSS INTERNET'IONAL, Nov. 14, 2017, available at <https://aftaboss.wordpress.com/2017/11/14/%E2%80%8Bso-what-is-wrong-with-the-ssylf-conference-in-kigali-rwanda/>.

³⁷ Tweet by Peter Biar Ajak (@AjakPeter), TWITTER, Apr. 9, 2018, 8:09 am, available at <https://twitter.com/AjakPeter/status/983361182110306304>.

³⁸ Tweet by Peter Biar Ajak (@AjakPeter), TWITTER, July 3, 2018, 10:16 pm, available at <https://twitter.com/AjakPeter/status/1014377477366599680>.

On July 9, Ajak tweeted, “But instead of this bloated government that perpetuates violence & impunity, we could seize the moment to restructure & lay a solid foundation for enduring peace. We could have a transition that excludes the current generation of political leaders in #SouthSudan #NxGenSouthSudan.”³⁹

On July 11, Ajak appeared on NTV Kenya and spoke at length on the Generational Exit. Afterward, he tweeted the link to his NTV Kenya interview, with the statement, “Why #SouthSudan needs a ‘Generational Exit’ plan.”⁴⁰ Minutes later, he retweeted his tweet, adding, “This morning, I argued on @ntvkenya that instead of forcing our warring leaders to work together, we need you to pressure & ‘incentivize’ them to exit together. What we need is ‘Generational Exit’ in #SouthSudan!”⁴¹

Arrest and Detention

Arrest

On the morning of July 28, 2018, Ajak was traveling from Juba to Aweil, South Sudan. While there, he planned to attend a Red Army Commemoration service.

Upon his arrival at Juba International Airport, Ajak was detained by NSS officers. Though Ajak was briefly shown a warrant, it did not indicate the reason for his arrest nor was he told verbally of the reason for his arrest. He was taken into custody and immediately transported directly to the NSS “Blue House,” described in the media as South Sudan’s “most-feared prison,”⁴² where he remains today.

Detention

Despite being detained for six months, Ajak has yet to be brought before a judge. He was, however, interrogated at least twice by NSS officers, who questioned him about his political activism and who was funding him.

Ajak was held in solitary confinement for the first three weeks of his detention but has since been permitted to interact with other prisoners. He has been permitted limited visits by family. His wife, Nyathon James Hoth Mai, has occasionally been allowed to meet with him and bring him additional food. However, these visits have been denied on multiple occasions, typically for a week or so after Mai has appeared in the media to discuss her husband’s case. She was further denied all visits from October 5, 2018 to January 20, 2019. Ajak’s father has also had limited access to Ajak; beginning in October 2018, he has been permitted three visits to the

³⁹ Tweet by Peter Biar Ajak (@AjakPeter), TWITTER, July 9, 2018, 2:15 am, *available at* <https://twitter.com/AjakPeter/status/1016249365739032578>.

⁴⁰ Tweet by Peter Biar Ajak (@AjakPeter), TWITTER, July 11, 2018, 2:23 am, *available at* <https://twitter.com/AjakPeter/status/1016976281123123200>.

⁴¹ Tweet by Peter Biar Ajak (@AjakPeter), TWITTER, July 11, 2018, 2:27 am, *available at* <https://twitter.com/AjakPeter/status/1016977265232670721>.

⁴² *A Rare View From Inside South Sudan's Most-Feared Prison*, DAILY MAIL, Dec. 17, 2016, *available at* <https://www.dailymail.co.uk/wires/ap/article-4043652/A-rare-view-inside-South-Sudans-feared-prison.html>.

prison.

Ajak was denied access to legal counsel for the first month of his detention. On July 31, 2018, three days after his arrest, his counsel submitted a written petition to the Prosecutor General of the Ministry of Justice formally complaining about being denied access to their client and calling for his release. The petition was rejected on the grounds that there were “pending investigations.”

On September 12, 2018, nearly seven weeks after Ajak’s arrest, his lawyers were finally permitted by the Office of Chief Prosecutor’s Office to meet with him for three hours. However, this occurred only after Mai had met personally with the NSS Legal Advisor and directly confronted him about her husband’s lack of access to counsel. Prior to this, one of Ajak’s lawyers reported having been turned away from the prison and denied access to Ajak on 11 separate occasions. Since his July arrest through the date this petition was submitted, Ajak’s lawyers have only been able to meet with him twice.

On October 7, 2018, approximately fifteen detainees in the Blue House staged what appeared to be an impromptu armed revolt, seizing weapons and taking over a portion of the prison.⁴³ They said that they had taken up arms to demand that the Government uphold the rule of law, grant detainees their due process rights, and release political prisoners.⁴⁴ Ajak did not participate in the revolt. He remained unarmed throughout its entirety – at one point hiding with other unarmed detainees in a bunker – and helped negotiate a peaceful end to the standoff with the Government (community elders also assisted).⁴⁵ After the armed protests, detainees were denied additional rights, including almost all access to counsel, family, and medical care.

First Set of Allegations

On July 31, 2018, one of Ajak’s lawyers was able to view the “terms of reference” for the investigation, though he was not given a copy to take with him. This document specifically instructed investigators to look into Ajak’s Twitter and Facebook, TV appearances, involvement with the SSYLF, meetings in Nairobi and Rwanda, and travel within South Sudan, specifically asking why an “unregistered” organization (the SSYLF) would be touring South Sudan.

According to Human Rights Watch, on August 2, 2018, a three-member committee was formed by the NSS “to investigate Ajak’s social media activities, political commentary, and the youth group’s activities.”⁴⁶ Ajak and his lawyers were informed that his case was being investigated by the NSS, but they were not told what allegations were being investigated.

⁴³ *Prisoners Seize Control of Part of South Sudan Detention Center*, REUTERS, Oct. 7, 2018, available at <https://www.reuters.com/article/us-southsudan-prisoners/prisoners-seize-control-of-part-of-south-sudan-detention-center-idUSKCN1MH083>.

⁴⁴ Ayen Bior, *Prison Standoff in South Sudan’s Blue House*, VOA, Oct. 7, 2018, available at <https://www.voanews.com/a/prison-standoff-in-south-sudan-blue-house/4603052.html>.

⁴⁵ *South Sudanese Prisoners Demand Justice*, SUDAN TRIBUNE, Oct. 8, 2018, available at <http://www.sudantribune.com/spip.php?article66391>.

⁴⁶ *South Sudan: Release Peace Activist*, HUMAN RIGHTS WATCH, Aug. 9, 2018, available at <https://www.hrw.org/news/2018/08/09/south-sudan-release-peace-activist>.

In August 15, 2018, one of Ajak’s lawyers was able to go to the local police station and review preliminary notes about the investigation into Ajak. The lawyer learned that the case had been transferred from the NSS to the police, and specifically to an investigator named Colonel Alex (his surname is not currently known), who had been appointed to re-investigate and confirm the NSS investigation into Ajak. Colonel Alex was appointed by Chief Prosecutor Deng Achuil, who in turn reports to the Ministry of Justice led by Minister Paulino Wanawilla. Thus, it was at this time – more than two weeks after the original arrest – that they learned that Ajak was being investigated for serious crimes under the Penal Code:

1. Sec. 65 – Concealing Treason
2. Sec. 67 – Insurgency, Banditry, Sabotage or Terrorism
3. Sec. 73 – Harboursing, Concealing or Failing to Report an Insurgent, Bandit, Saboteur, or Terrorist
4. Sec. 75 – Publishing or Communicating False Statements Prejudicial to South Sudan

Second Set of Allegations

On September 13, 2018, Ajak’s lawyers again met with the police, who presented an expanded set of allegations:

1. Sec. 57 – Liability of Abettor for an effect caused by the act Abetted different from that Intended by the Abettor
2. Sec. 64 – Treason
3. Sec. 65 – Concealing Treason
4. Sec. 67 – Insurgency, Banditry, Sabotage or Terrorism
5. Sec. 68 – Recruiting or Training Insurgents, Bandits, Saboteurs or Terrorists
6. Sec. 69 – Training as Insurgent, Bandit, Saboteur or Terrorist
7. Sec. 73 – Harboursing, Concealing or Failing to Report an Insurgent, Bandit, Saboteur or Terrorist
8. Sec. 75 – Publishing or Communicating False Statements Prejudicial to Southern Sudan

It has since been reported that Peter is also accused of being a spy, though no supporting documentation has been made available to the lawyers. In addition, South Sudan’s Permanent Representative to the African Union, James Morgan, said that Ajak is being held for “inciting communities to fight each other”⁴⁷ (an absurd claim, given Ajak’s documented record of advocating for peace).

Cancellation of Investigation and “Re-Investigation”

Although the Government of South Sudan repeatedly stated that the investigation into Ajak was nearly complete in the fall of 2018, no charges were ever filed. Instead, in early 2019, Ajak was told that the first investigation had been “cancelled” and that Chief Prosecutor Achuil would replace the previous investigator – Colonel Alex – with a new investigator and initiate a

⁴⁷ *Holding of Political Detainees Likely to Delay Healing in Juba*, THE EAST AFRICAN, Nov. 25, 2018, available at <https://www.theeastafrican.co.ke/news/ea/Holding-of-political-detainees-likely-to-delay-healing-in-juba/4552908-4866850-12wu13o/index.html>.

new investigation. No additional information has been provided to explain such a decision.

However, one of Ajak's lawyers was later told that the original investigation would be continued under the new investigator. Separately, Ajak was told that Director General Koor believed that Ajak had "masterminded" the October 2018 prison riot, which also is absolutely false. It is unclear whether these informal and new allegations will be pursued in the course of the formal investigation.

LEGAL ANALYSIS

1. South Sudan is Violating Ajak's Right to Freedom of Expression

Article 19 of the Universal Declaration of Human Rights enshrines the right to freedom of expression, which explicitly includes the right to "impart information and ideas."⁴⁸ This right is also part of customary international law and thus must be protected by all states, regardless of which treaties they have ratified.⁴⁹ While freedom of expression can be limited in certain circumstances, including to protect national security, such limitations must meet the "strict tests of necessity and proportionality."⁵⁰ In fact, the UN Special Rapporteur on Freedom of Opinion and Expression has repeatedly denounced "abuse by Governments of anti-terrorism and national security legislation" to restrict expression.⁵¹

The Johannesburg Principles on National Security, Freedom of Expression and Access to

⁴⁸ Universal Declaration of Human Rights, G.A. Res. 217A (III), U.N. Doc. A/810, *adopted* 1948, at art. 19 [*hereinafter* Universal Declaration].

⁴⁹ *See, e.g.*, Toby Mendel, PUBLIC SERVICE BROADCASTING: A COMPARATIVE LEGAL SURVEY, UNESCO, 2011, at 9, *available at* <http://unesdoc.unesco.org/images/0019/001924/192459e.pdf> ("The UDHR, as a UN General Assembly resolution, is not directly binding on States. However, parts of it, including Article 19, are widely regarded as having acquired legal force as customary international law since its adoption in 1948."); THE ARTICLE 19 FREEDOM OF EXPRESSION HANDBOOK, ARTICLE 19, Aug. 1993, at 26, *available at* <https://www.article19.org/data/files/pdfs/publications/1993-handbook.pdf> ("Articles 19 and 20 of the Universal Declaration (on freedom of expression, peaceful assembly and association) are generally accepted to be declaratory of customary norms . . ."); and BRIEFING NOTE SERIES: FREEDOM OF EXPRESSION, CENTRE FOR LAW AND DEMOCRACY & INTERNATIONAL MEDIA SUPPORT, July 2014, at 2, *available at* <http://www.law-democracy.org/live/wp-content/uploads/2015/02/foe-briefingnotes-1.pdf> ("While the UDHR is not formally legally binding on States, its guarantee of freedom of expression is widely regarded as having acquired legal force as customary international law.").

⁵⁰ *General Comment No. 34 on Article 19: Freedoms of Opinion and Expression*, U.N. Doc. CCPR/C/GC/34, U.N. HUMAN RIGHTS COMMITTEE, Sept. 12, 2011, at ¶ 22, *available at* <https://www2.ohchr.org/english/bodies/hrc/docs/gc34.pdf> (interpreting ICCPR art. 19(3)) [*hereinafter* *Human Rights Committee General Comment 34*].

⁵¹ Abid Hussain, REPORT OF THE SPECIAL RAPPORTEUR ON THE PROMOTION AND PROTECTION OF THE RIGHT TO FREEDOM OF OPINION AND EXPRESSION, U.N. Doc. E/CN.4/1998/40, Jan. 28, 1998, at ¶ 46, *available at* http://ap.ohchr.org/documents/alldocs.aspx?doc_id=1140; *see also* Frank La Rue, REPORT OF THE SPECIAL RAPPORTEUR ON THE PROMOTION AND PROTECTION OF THE RIGHT TO FREEDOM OF OPINION AND EXPRESSION, U.N. Doc. A/HRC/14/23/Add.2, Mar. 25, 2010, at ¶ 8, *available at* http://ap.ohchr.org/documents/alldocs.aspx?doc_id=17060 ("The notion of national security has historically been abused to impose unduly broad limitations on freedom of expression . . .").

Information,⁵² which have been endorsed by the Special Rapporteur and have regularly been referenced by the UN Human Rights Council,⁵³ clarify when national security concerns may be used to restrict expression. The Principles explain that advocating for the non-violent change of government policy, or even the government itself, cannot be considered a threat to national security.⁵⁴ Criticism of the government, its agencies, or public officials also do not constitute threats to national security.⁵⁵ The Human Rights Council has similarly made clear that the following forms of expression can *never* be restricted – discussion of government policies; political debate; reporting on human rights and government activities; political activities, including for peace or democracy; and the expression of opinion, dissent, or belief.⁵⁶ Finally, criminal defamation laws violate the right to free expression,⁵⁷ and in particular, they “may not be used to protect abstract or subjective notions or concepts, such as the State.”⁵⁸

South Sudan’s Constitution also protects the right to freedom of expression.⁵⁹ Furthermore, the Penal Code provision on treason – which Ajak is apparently suspected of violating – expressly exempts from its application political advocacy and commentary. Specifically, as long as they are pursued through lawful means, attempts to correct defects in the system of the government, remove the government, or change policies or legislation do not constitute treason.⁶⁰

In Ajak’s case, it is clear that the South Sudan is abusing its anti-terrorism and national security legislation to restrict his right to freedom of expression. He is being investigated for

⁵² Abid Hussain, REPORT OF THE SPECIAL RAPPORTEUR ON THE PROMOTION AND PROTECTION OF THE RIGHT TO FREEDOM OF OPINION AND EXPRESSION, U.N. Doc. E/CN.4/1996/39, Mar. 22, 1996, at Annex, *available at* http://ap.ohchr.org/documents/alldocs.aspx?doc_id=700 [hereinafter *Johannesburg Principles*].

⁵³ REPORT ON THE RIGHT TO FREEDOM OF OPINION AND EXPRESSION IN SOUTH SUDAN SINCE THE JULY 2016 CRISIS, UNITED NATIONS MISSION IN SOUTH SUDAN & OHCHR, Feb. 2018, at 9 n.40, *available at* <https://www.ohchr.org/Documents/Countries/SS/UNMISSFeb2018.pdf>.

⁵⁴ *Johannesburg Principles*, *supra* note 52, at Principle 7(a)(i).

⁵⁵ *Id.* at Principle 7(a)(ii).

⁵⁶ Freedom of Opinion and Expression, Human Rights Council Res. 12/16, U.N. Doc. A/HRC/RES/12/16, *adopted* Oct. 2, 2009, at ¶ 5(p)(i); *see also* Frank La Rue, REPORT OF THE SPECIAL RAPPORTEUR ON THE PROMOTION AND PROTECTION OF THE RIGHT TO FREEDOM OF OPINION AND EXPRESSION, U.N. Doc. A/HRC/14/23, Apr. 20, 2010, at ¶ 81, *available at* <https://www2.ohchr.org/english/bodies/hrcouncil/docs/14session/a.hrc.14.23.pdf> (reiterating that certain aspects of the right to freedom of expression cannot be restricted, as provided in Human Rights Council Resolution 12/16); *Human Rights Committee General Comment 34*, *supra* note 50, at ¶ 23 (explaining that ICCPR article 19(3) “may never be invoked as a justification for the muzzling of any advocacy of multi-party democracy, democratic tenets and human rights”).

⁵⁷ *See* Ambeyi Ligabo, REPORT OF THE SPECIAL RAPPORTEUR ON THE PROMOTION AND PROTECTION OF THE RIGHT TO FREEDOM OF OPINION AND EXPRESSION, U.N. Doc. A/HRC/7/14, Feb. 28, 2008, at ¶ 43, *available at* http://ap.ohchr.org/documents/alldocs.aspx?doc_id=13804 (“[C]riminal defamation is not a justifiable restriction on freedom of expression; all criminal defamation laws should be abolished and replaced, where necessary, with appropriate civil defamation laws.”).

⁵⁸ REPORT OF THE SPECIAL RAPPORTEUR, *supra* note 56, at ¶ 84.

⁵⁹ CONSTITUTION OF SOUTH SUDAN, 2011, art. 24(1), *available at* https://www.constituteproject.org/constitution/South_Sudan_2011.pdf.

⁶⁰ S. SUDAN PENAL CODE, *supra* note 4, at § 64(3) (“Nothing in this section shall prevent the doing of anything by lawful constitutional means directed at— (a) the correction of errors or defects in the system of the government, the ICSS or the administration of justice in Southern Sudan; (b) the removal of the government or impeachment of the President of Government; (c) the adoption or change of policies or repeal of legislation; or (d) the review of any matter established by law in Southern Sudan.”).

crimes relating to insurgency/terrorism and treason simply for engaging in political and social commentary and advocacy. As mentioned, the terms of reference for the investigation against him specifically instruct the investigators to look into his Twitter and Facebook posts, TV appearances, involvement with the SSYLF, meetings in Nairobi and Rwanda, and travel within South Sudan. Human Rights Watch has confirmed that the NSS was “investigat[ing] Ajak’s social media activities, political commentary, and the youth group’s [i.e., the SSYLF’s] activities.”⁶¹ In addition, during interrogations, government officials have asked Ajak about his travel to conferences and financing. All of these activities constitute and relate to protected expression under both domestic and international law.

Moreover, Section 75 of the Penal Code is, on its face, overbroad and invalid. This section criminalizes expression that adversely affects South Sudan’s defense or economic interests, undermines public confidence in a law enforcement agency, or promotes public disorder.⁶² This seems to cover a wide array of important political speech and advocacy. For example, reporting on corruption could adversely affect South Sudan’s economic interests (e.g., by reducing foreign investment); exposing torture by the police could undermine public confidence in them; and calling for a peaceful protest could create public disorder. Moreover, as explained above, criminal defamation laws violate the right to free expression, especially when (as here) they protect abstract entities (such as law enforcement agencies) rather than an actual person. South Sudan’s law is particularly egregious because it carries a penalty of up to *twenty years* in prison.

2. South Sudan is Violating Ajak’s Rights as a Human Rights Defender

In 1999, the UN General Assembly adopted the Declaration on Human Rights Defenders, which acknowledges that “Individuals, groups, institutions and non-governmental organizations have an important role to play . . . in safeguarding democracy, promoting human rights and fundamental freedoms and contributing to the promotion and advancement of democratic societies, institutions and processes.”⁶³ The Declaration does not purport to create new rights, but instead “articulates and restates human rights that are already enshrined in legally binding instruments,” including the right to be protected, freedom of assembly, freedom of association, freedom of expression, and the right to protest.⁶⁴ More specifically, the Declaration protects the right to form, join and participate in non-governmental organizations, associations or groups;⁶⁵ publish, impart or disseminate views, information and knowledge on human rights;⁶⁶ submit

⁶¹ *South Sudan: Release Peace Activist*, *supra* note 1.

⁶² S. SUDAN PENAL CODE, *supra* note 4, at § 75(a)(ii)-(iii), (b).

⁶³ Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, G.A. Res. 53/144, U.N. Doc. A/RES/53/144, *adopted* Dec. 9, 1998, at art. 18(2) [hereinafter *Declaration on Human Rights Defenders*]; *see also id.* at pmbl. (acknowledging “the valuable work of individuals, groups and associations in contributing to, the effective elimination of all violations of human rights and fundamental freedoms”), art. 16 (“Individuals, non-governmental organizations and relevant institutions have an important role to play in contributing to making the public more aware of questions relating to all human rights and fundamental freedoms through activities such as education, training and research . . .”).

⁶⁴ Michel Forst, REPORT OF THE SPECIAL RAPporteur ON THE SITUATION OF HUMAN RIGHTS DEFENDERS, U.N. Doc. A/73/215, July 23, 2018, at ¶ 18, *available at* http://ap.ohchr.org/documents/alldocs.aspx?doc_id=30380.

⁶⁵ *Declaration on Human Rights Defenders*, *supra* note 63, at art. 5.

⁶⁶ *Id.* at art. 6(b).

proposals to improve the functioning of governmental bodies;⁶⁷ communicate with non-governmental or intergovernmental organizations;⁶⁸ participate in peaceful activities against human rights violations;⁶⁹ and generally promote human rights.⁷⁰

The UN Special Rapporteur on Human Rights Defenders has expressed particular concern that national security and antiterrorism laws are used “to persecute defenders who criticize the Government.”⁷¹ The Special Rapporteur decried that human rights defenders are accused of being spies for disseminating information abroad and of “aiming to overthrow the Government and damage the country’s reputation” for reporting on human rights.⁷² Other defenders, she noted, have been charged with treason, terrorist activities, spreading false information liable to disturb public order, tarnishing the image or reputation of the state, and endangering the integrity of the State simply for engaging in human rights advocacy.⁷³

The Special Rapporteur has also criticized the arbitrary denial of registration, stating that “[d]enial of registration for human rights associations and NGOs is the most extreme measure used by Governments to curtail the right to freedom of association.”⁷⁴

South Sudan has violated Ajak’s rights as a human rights defender by arresting and detaining him for protected activities, including participating in civil society, holding public meetings, disseminating views and information on human rights and good governance, communicating with other NGOs and governments, and generally promoting human rights. In particular, as the Special Rapporteur has described, South Sudan is using its national security and antiterrorism laws to persecute him for criticizing the government. The government has also arbitrarily denied the SSYLF registration as an official entity with state recognition.

3. South Sudan is Violating Ajak’s Due Process Rights

The Declaration on Human Rights Defenders states that defenders have the right to be protected,⁷⁵ which includes due process in the event they are arrested or charged with a crime. For example, the Special Rapporteur on Human Rights Defenders has explained that a government violates the right to be protected when it arrests and prosecutes a defender on false charges, detains them without charge, denies them access to a lawyer, or fails to inform them of the reason for their arrest.⁷⁶

⁶⁷ *Id.* at art. 8(2).

⁶⁸ *Id.* at art. 5(c).

⁶⁹ *Id.* at art. 12(1).

⁷⁰ *Id.* at art. 1.

⁷¹ Hina Jilani, Special Rapporteur on the Situation of Human Rights Defenders, COMMENTARY TO THE DECLARATION ON THE RIGHT AND RESPONSIBILITY OF INDIVIDUALS, GROUPS AND ORGANS OF SOCIETY TO PROMOTE AND PROTECT UNIVERSALLY RECOGNIZED HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, July 2011, at 60, available at <http://www.refworld.org/docid/4e2fc3f02.html>.

⁷² *Id.* at 61.

⁷³ *Id.*

⁷⁴ *Id.* at 39.

⁷⁵ Declaration on Human Rights Defenders, *supra* note 63, at arts. 2, 9(1), 12(2)-(3); see also COMMENTARY TO THE DECLARATION, *supra* note 71, at ch. I.

⁷⁶ COMMENTARY TO THE DECLARATION, *supra* note 71, at 15.

South Sudan has violated Ajak’s due process rights, and therefore, his right to be protected. While NSS officials showed Ajak a warrant at the time of his arrest, the warrant did not indicate the basis for his arrest, nor what crimes were being investigated. Neither did the authorities inform him of the reason for his arrest at the time of his arrest. This is a clear violation of international law.⁷⁷ In addition, Ajak has been held for six months without being brought before a judge and without being charged with a crime – both of these violate well-established international law.⁷⁸ Finally, South Sudan has violated Ajak’s rights by restricting visits from and communication with both his counsel and his wife.⁷⁹

4. South Sudan is Treating Ajak in a Cruel, Inhuman, or Degrading Manner

Article 5 of the Universal Declaration of Human Rights provides that, “No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.”⁸⁰ The United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules) further provide that prisoners must be provided “at the usual hours with food of nutritional value adequate for health and strength” and “should enjoy the same standards of health care that are available in the community.”⁸¹

Since the armed protest at Blue House, detainees, including Ajak, have received restricted food – only one meal per day – and little access to medical care. According to information received by his wife, Ajak fell ill several weeks ago but was denied access to a doctor.

INTERNATIONAL SUPPORT

From the moment of Ajak’s arrest, the international community has expressed its support for him and denounced his politically-motivated arrest and detention.

On July 30, 2018, Samantha Power, former US Ambassador to the United Nations, tweeted, “I’ve just learned that the security services in South Sudan have arrested Dr. Peter Biar

⁷⁷ Body of Principles for the Protection of All Persons Under Any Form of Detention or Imprisonment, G.A. Res. 43/173, U.N. Doc. A/RES/43/173, *adopted* Dec. 9, 1988, at Principle 10 (“Anyone who is arrested shall be informed at the time of his arrest of the reason for his arrest”) [hereinafter Body of Principles].

⁷⁸ *General Comment No. 35: Liberty and Security of Person*, U.N. Doc. CCPR/C/GC/35, U.N. HUMAN RIGHTS COMMITTEE, Dec. 16, 2014, at ¶ 32 (explaining that anyone who is arrested “shall be brought promptly before a judge” and that this “requirement applies even before formal charges have been asserted, so long as the person is arrested or detained on suspicion of criminal activity”) and *id.* at ¶ 38 (detention pending trial “shall be the exception rather than the rule” and “must be based on an individualized determination that it is reasonable and necessary”; this applies equally “prior to charging”).

⁷⁹ Body of Principles, *supra* note 77, at Principles 15 (“[C]ommunication of the detained or imprisoned person with the outside world, and in particular his family or counsel, shall not be denied for more than a matter of days.”), 19 (“A detained or imprisoned person shall have the right to be visited by and to correspond with, in particular, members of his family and shall be given adequate opportunity to communicate with the outside world”).

⁸⁰ Universal Declaration, *supra* note 48, at Art. 5.

⁸¹ United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), G.A. Res. 70/175, U.N. Doc. A/RES/70/175, *adopted* Dec. 17, 2015, Annex at Rules 22(1), 24; *see also id.* at Rules 27(1) (“All prisons shall ensure prompt access to medical attention in urgent cases.”), Rule 31 (“The physician or, where applicable, other qualified health-care professionals shall have daily access to all sick prisoners”).

Ajak, a former @Kennedy_School student who's working tirelessly to promote peace in his native country. Arrest clearly politically motivated #FREEPETERBIAR”⁸²

The next day, Amnesty International released an Urgent Action petition on Ajak, noting that “it is believed that his arrest is linked to the youth forum that he intended to hold in Aweil.”⁸³

On August 1, 2018, Senators Cory Booker of New Jersey and Chris Coons of Delaware released a joint statement: “We are deeply concerned about the reported detention of South Sudanese peace activist Peter Biar Ajak by South Sudan’s National Security Service after his criticism of the direction of the South Sudanese peace process. We are also troubled by reports that President Salva Kiir personally ordered a crackdown on government critics We call on the Government of South Sudan to release Peter Ajak and other political prisoners immediately, and respect the rule of law and fundamental freedoms that are necessary pillars of peace in South Sudan.”⁸⁴

That same day, Senator Bob Menendez of New Jersey tweeted in support of Ajak: “Peter Biar Ajak’s detention without charge by the South Sudanese govt is part of a pattern of using security services to harass, intimidate & detain critics. Freedom of expression & personal liberty is guaranteed in their constitution - S. Sudan must release him.”⁸⁵

On August 3, a joint statement by the Heads of Mission in Juba of Canada, the European Union, France, Germany, the Netherlands, Norway, Sweden, the United Kingdom, and the United States called on South Sudan to “either release Peter Biar Ajak, or to bring charges against him in a timely manner in accordance with the rule of law and to grant him access to a lawyer,” noting with concern a pattern of “harassment and intimidation of civic actors; restrictions on freedom of expression and association; and arbitrary detention in South Sudan.”⁸⁶

That same day, in a letter to Foreign Secretary Jeremy Hunt, five British MPs condemned Ajak’s “arbitrary arrest” and called on the Foreign Secretary to “guarantee his release.”⁸⁷ In a tweet, the MPs insisted that, “The Government of #SouthSudan should be making efforts to open up space for civil society leaders like Peter, not arbitrarily arresting them without charge.”⁸⁸

On August 8, Senator Marco Rubio of Florida called for Ajak’s immediate release: “South Sudanese activist and human rights defender, Peter Biar Ajak, remains arbitrarily

⁸² Tweet by Samantha Power (@SamanthaJPower), TWITTER, July 30, 2018, 11:22 am, *available at* <https://twitter.com/SamanthaJPower/status/1023997287079522306>.

⁸³ *Urgent Action (Peter Biar Ajak)*, AMNESTY INT’L, July 31, 2018, *available at* <https://www.amnestyusa.org/wp-content/uploads/2018/07/uaa14318-1.pdf>.

⁸⁴ *Sens. Coons, Booker Statement on Peter Ajak*, CHRISTOPHER COONS, Aug. 1, 2018, *available at* <https://www.coons.senate.gov/newsroom/press-releases/sens-coons-booker-statement-on-peter-ajak>.

⁸⁵ Tweet by Bob Menendez (@SenatorMenendez), TWITTER, Aug. 1, 2018, 9:30 am, *available at* <https://twitter.com/SenatorMenendez/status/1024696032448401414>.

⁸⁶ *Joint Statement On The Detention Of Peter Biar Ajak*, GOV.UK, Aug. 3, 2018, *available at* www.gov.uk/government/news/joint-statement-on-the-detention-of-peter-biar-ajak.

⁸⁷ The letter is available at <https://twitter.com/APPGSudans/status/1025348227279794179>.

⁸⁸ Tweet by APPG Sudans (@APPGSudans), TWITTER, Aug. 3, 2018, 4:50 am, *available at* <https://twitter.com/APPGSudans/status/1025348227279794179>.

detained by the South Sudanese government. I join the calls for his immediate release & for all charges to be dropped. #FreePeterBiar #ExpressionNOTOppression”⁸⁹

On August 9, 2018, Human Rights Watch demanded the South Sudanese National Security Service (NSS) “immediately and unconditionally release peace activist and academic Peter Biar Ajak or take him to court and charge him with a recognizable crime.”⁹⁰

On August 22, former Ambassador Samantha Power again tweeted about Ajak: “Disturbing news from Juba, where Peter Biar Ajak has reportedly been charged w/ treason. South Sudanese govt showing desperate desire to silence civil society leaders & suppress criticism of their destructive policies. #FreePeterBiar”⁹¹

On September 18, US Ambassador Jonathan Cohen, the Deputy Representative to the United Nations, raised Peter’s case at a UN Security Council briefing, asking, “How can we explain ongoing detention of political prisoners, including Peter Biar Ajak?”⁹²

On October 5, 2018, the UK’s Ambassador to South Sudan raised Ajak’s case with the South Sudan’s Government.⁹³

On November 16, 2018, Ambassador Jonathan Cohen, the US Deputy Permanent Representative to the United Nations, expressed concern that, “Many political prisoners remain in custody [in South Sudan] with no prospect of a free or fair trial or any hope of release, including Peter Biar Ajak, who was arbitrarily detained at the Juba airport in late July 2018.”⁹⁴

On January 23, 2019, Amnesty International issued a call for solidarity regarding Ajak, requesting people sign an online petition demanding his release.⁹⁵

On January 25, 2019, Amnesty International provided an updated Urgent Action petition, noting that Ajak has been “arbitrarily detained for almost 6 months,” “has yet to be brought before a court and charged,” and “has also been denied access to his lawyers since 7 October

⁸⁹ Tweet by Senator Rubio Press (@SenRubioPress), TWITTER, Aug. 8, 2018, 4:45 am, *available at* <https://twitter.com/SenRubioPress/status/1027158773973037057>.

⁹⁰ *South Sudan: Release Peace Activist*, HUMAN RIGHTS WATCH, Aug. 9, 2018, *available at* <https://www.hrw.org/news/2018/08/09/south-sudan-release-peace-activist>.

⁹¹ Tweet by Samantha Power (@SamanthaJPower), TWITTER, Aug. 22, 2018, 8:35 am, *available at* <https://twitter.com/SamanthaJPower/status/1032290234267054080>.

⁹² *Remarks at a UN Security Council Briefing on the UN Mission in South Sudan (UNMISS)*, UNITED STATES MISSION TO THE UNITED NATIONS, Sept. 18, 2018, *available at* <https://usun.state.gov/remarks/8618>.

⁹³ *Peter Ajak: Written Question – 177286*, UK PARLIAMENT, Oct. 16, 2018, *available at* <https://www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Commons/2018-10-09/177286>.

⁹⁴ *Remarks at a UN Security Council Briefing on Sudan and South Sudan*, UNITED STATES MISSION TO THE UNITED NATIONS, Nov. 16, 2018, *available at* <https://usun.state.gov/remarks/8764>.

⁹⁵ *IAR SOLIDARITY – PETER BIAR AJAK*, AMNESTY INTERNATIONAL, Jan. 23, 2019, *available at* <https://www.amnesty.org/download/Documents/AFR6597312019ENGLISH.pdf>.

2018.”⁹⁶

CONCLUSION

Peter Biar Ajak is one of South Sudan’s most dedicated human rights defenders. He has worked tirelessly to foster peace and inspire the youth to become actively involved in shaping the country’s future. But instead of recognizing and supporting his efforts, the Government of South Sudan has arrested and detained him without charge. Because the Government is targeting him based on his expression and work as a human rights defender, we respectfully request, in accordance with your working methods, that you immediately send an urgent appeal to the Government of South Sudan imploring it to uphold its obligations under international law.

Sincerely,

Jared Genser
jgenser@perseus-strategies.com

Brian Tronic
btronic@perseus-strategies.com

⁹⁶ *Urgent Action Update: Activist Arbitrarily Detained for Almost 6 Months (South Sudan: UA 143.18)*, AMNESTY INT’L, Jan. 25, 2019, available at <https://www.amnestyusa.org/urgent-actions/urgent-action-update-activist-arbitrarily-detained-for-almost-6-months-south-sudan-ua-143-18/>.

APPENDIX

A) July 31, 2018: Urgent Action (Peter Biar Ajak), Amnesty International.

UA: 143/18 Index: AFR 65/8853/2018 South Sudan

Date: 31 July 2018

URGENT ACTION

DETAINED ACTIVIST DENIED ACCESS TO A LAWYER

Peter Biar Ajak, a prominent South Sudanese academic and activist, was arrested by the National Security Service (NSS) at Juba International Airport on Saturday 28 July. He is being held at the NSS Headquarters in Juba. He has not been informed of the reason for his arrest and has thus far been denied access to a lawyer.

Peter Biar Ajak is a Harvard educated South Sudanese academic, activist and chairperson of the South Sudan Young Leaders Forum. He was arrested by NSS agents at Juba International Airport on Saturday 28 July as he was preparing to travel to Aweil to attend a youth forum he had organised. Peter has been a vocal critic of the South Sudan government.

Upon his arrest, he was presented with an arrest warrant bearing a date that was at least one week old.

Even though his family has been allowed to visit him at the NSS headquarters in Juba, Amnesty is concerned he may be held in solitary confinement. He has been denied access to a lawyer. He is yet to be brought before a court and the reason for his arrest remains unclear. However, it is believed that his arrest is linked to the youth forum that he intended to hold in Aweil.

1) TAKE ACTION

Write a letter, send an email, call, fax or tweet:

- Calling on South Sudanese authorities to release Peter Biar Ajak or charge him with a recognizable criminal offence in accordance with international law and standards;
- Calling on South Sudanese authorities to ensure that Peter Biar Ajak is not subjected to torture or other ill-treatment while in detention;
- Calling on them to ensure Peter Biar Ajak is granted regular access to his family, any healthcare he may require and a lawyer of his choice;
- Urging them to comply with their obligations under the International Covenant on Civil and Political Rights (ICCPR), particularly the obligations to respect, protect and fulfil the rights to freedom of association and expression.

Contact these two officials by 11 September, 2018:

[President of the Republic of South Sudan](#)

Salva Kiir Mayardit

Juba, South Sudan

Twitter: [@RepSouthSudan](#)

Salutation: **Your Excellency**

[Ambassador Garang Diing Akuong,](#)

[Embassy of the Republic of South Sudan](#)

1015 31st Street NW, Suite 300

Washington, DC 20007

Phone: 202 293 7940 | Fax: 202 293 7941

Email: info@erssdc.org

Contact form: <http://www.southsudanembassyusa.org/contact/>

Salutation: **Dear Ambassador**

2) LET US KNOW YOU TOOK ACTION

[Click here](#) to let us know if you took action on this case! *This is Urgent Action 143.18*

Here's why it is so important to report your actions: we record the actions taken on each case—letters, emails, calls and tweets—and use that information in our advocacy.

**AMNESTY
INTERNATIONAL**



B) Aug. 9, 2018: South Sudan: Release Peace Activist, Human Rights Watch.



August 9, 2018

South Sudan: Release Peace Activist

Arbitrary Detentions Underscore Need for Reforms

(Nairobi) – The South Sudanese National Security Service (NSS) should immediately and unconditionally release peace activist and academic Peter Biar Ajak or take him to court and charge him with a recognizable crime. The authorities should also end the arbitrary detention of many others held by the security service, in violation of their rights.

“South Sudan’s security agents have long harassed and arbitrarily detained people, apparently to silence independent voices,” said Jehanne Henry, associate Africa director at Human Rights Watch. “South Sudan desperately needs public dialogue and greater respect for human rights, not more repression and violations.”

Ajak’s detention is part of a deeply troubling pattern of increasing government repression against its critics since December 2013, when a political dispute between President Salva Kiir Mayardit and his then Vice President Riek Machar led to armed conflict. This latest arrest underlines the need for major reforms to the security service.

Security officials arrested Ajak, a doctoral candidate at the University of Cambridge, on July 28, 2018, at Juba International Airport. Ajak was waiting to board a flight to Aweil County to attend Martyr Day celebrations organized by the Red Army Foundation, a national veterans’ organization. Security officials are holding him in a solitary cell at the NSS Headquarters in Juba, known as the Blue House. They have allowed him family visits, but he is yet to be given access to legal counsel.

The grounds for Ajak’s arrest are not known. He has been a vocal critic of government policies and founded a youth group, the South Sudan Young Leaders Forum, which engages in peace, reconciliation, and state-building activities. On August 2, the security service director established a three-member committee to investigate Ajak’s social media activities, political commentary, and the youth group’s activities, informed sources told Human Rights Watch.

Human Rights Watch has documented widespread harassment and unlawful detention of

journalists, activists, and members of political opposition groups over the past four and a half years, creating an atmosphere of fear and self-censorship. Most of those detained have been held without charge, and often denied access to their families or lawyers.

Many of those released have reported harsh conditions of detention and abuse, including: beatings and torture, and a lack of adequate food, water, and medical care. One journalist released in January, after nine months in detention on the condition of quitting journalism, told Human Rights Watch that security officials routinely abused him, including beating and kicking him, putting him in stress positions, and putting gasoline in his eyes: “There was no air in my cell, it was difficult to breathe, they refused me to take a bath and put me in a room officers used to urinate in.”

Even after his release, he still feels unsafe. “They told me I was still under surveillance... I live in fear, I restrict my movement. My children who are far from me, I cannot see, I fear being kidnapped and killed. I don’t know what to do.”

Another journalist, Joseph Afandi, arrested in December 2015, was held for two and a half months, allegedly in connection with an article he wrote for the newspaper El Tabeer criticizing the ruling Sudan People’s Liberation Movement. He was beaten and otherwise abused in detention.

Another journalist who worked for the United Nations radio Miraya, George Livio, was arrested in Wau on August 22, 2014, and then detained at the Blue House. He was released on May 26, 2017, after two and a half years in detention without charge.

The security service has also been implicated in enforced disappearances. Dong Samuel Luak, a human rights lawyer and a vocal critic of the government, and Aggrey Idri, a member of the political opposition, were abducted in Nairobi, Kenya on January 23 and 24, 2017, respectively. Witnesses told Human Rights Watch they saw the men at the NSS headquarters in Juba on January 27, 2017, before they were moved to a different location. Their current whereabouts and situation remain unknown. Kenyan and South Sudanese authorities have denied holding them.

Two UN national staff members were also forcibly disappeared. National security agents arrested them in 2014, and they were last seen at the Riverside detention facility in January 2016.

In May 2017, Salva Kiir announced that he would release all political prisoners, but human rights monitors report that dozens of people remain detained without charge in the NSS headquarters and other detention sites in Juba.

Authorities should release all unlawfully held detainees and uphold all detainees’ basic due process protections such as for access to a lawyer and family visits. The government should also initiate prompt, effective and impartial investigations into the security agency’s detention practices and revise elements of the NSS Act that violate human rights, Human Rights Watch said.

The Act, which came into force in March 2015, grants the agency sweeping powers of search,

seizure, arrest, and detention. It does not guarantee those deprived of liberty the right to counsel or to be tried within a reasonable period of time, or specify that detainees may only be held in official places of detention. The law also does not explicitly prohibit ill treatment and torture or proscribe the use of force by its officials.

The 2015 peace agreement, the Agreement on Resolution of Conflict in South Sudan, requires revision of the National Security Service Act by a National Constitution Amendment Committee. The committee started drafting amendments in November 2017 but has yet to finalize this process.

“South Sudanese authorities should release everyone being held arbitrarily and change the way the national security agency operates,” Henry said. “National Security officials should be subject to the same oversight as all security forces and held accountable for their abuses.

C) Aug. 10, 2018: Jeff Gammage, International Rights Activist Jailed in South Sudan Got His Start in Philadelphia, The Inquirer.

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International rights activist jailed in South Sudan got his start in Philadelphia

By Jeff Gammage

Peter Biar Ajak was 16 when he stepped off a plane in Philadelphia in January 2001, one of 40,000 "Lost Boys" left homeless by the violence and brutality of civil war in Sudan.

Everything he owned he held in his hands: a manila envelope containing a chest X-ray that proved he did not carry tuberculosis and a sheaf of immigration papers declaring him a refugee who was permitted to live and work in the United States.

His shoes were so ragged, said Dale Long, the resettlement volunteer who met Ajak at the airport, that their first stop was Wal-Mart to buy the teen a new pair of sneakers, size 13.

Today Ajak, 34, has been transformed, dressing in dark, bespoke suits, a sophisticated international economist and activist — and, since July 28, the focus of worldwide demands for his freedom from a notorious South Sudan prison. A critic of his country's repressive regime, Ajak was arrested by national security forces as he boarded a plane in Juba, the capital, to attend a youth conference.

He is being held without charges and may be in solitary confinement, according to human-rights groups.

Friends, colleagues and Western government officials fear for a man who ranks among the foremost scholars and speakers on South Sudan, educated at Harvard and Cambridge Universities, traveling the globe from his home in neighboring Kenya to confer with presidents and diplomats. A month before his arrest, Ajak was in Belgium to receive a New Leader for Tomorrow award from the Crans Montana Forum, a Swiss organization that promotes high-level dialogues.

But before he earned a world-class education, before he joined the World Bank as an East Africa expert, before his views and insights were sought by CNN, the BBC and the New York Times, Philadelphia was his home and launching pad, the place that nurtured his persona and helped shape his thinking.

In a rowhouse in South Philadelphia, at Central High School and La Salle University, friends said, Ajak's charisma blossomed, his ideas expanded, and his Christian faith deepened. Here he turned toward a new future for himself and South Sudan.

"Peter is not some naive idealist," said Christopher Schwartz, a La Salle classmate who is now a journalist working in Central Asia. "He's a man deeply and spiritually committed to the betterment of humanity, and is determined to contribute to that betterment by developing his homeland, at great personal risk."

In the early 2000s, the U.S. agreed to accept and resettle about 4,000 Lost Boys, the nickname for the legions displaced or orphaned during what became known as the Second Sudanese Civil War.

Ajak's hometown had disappeared in flames as he and others in the Christian south fled the Khartoum-based government of the Muslim north. He trekked hundreds of miles by foot, from Sudan to Ethiopia in 1989, then back through Sudan to Kenya in 1992.

After coming to Philadelphia, he described his years of terror, running and wandering this way: People died. All around him, all the time. They died from chicken pox, measles, malaria, cholera, dysentery, and typhoid. They died from starvation. They died when weakness made them prey for lions and leopards. They died when warring tribes or political factions came in the night and shot everyone they could find.

Official accounts estimate that two million died between 1985 and 2005. Ajak was living in a refugee camp in Kenya when he was among the boys chosen by the United Nations High Commissioner for Refugees and the U.S. government to come to America.

Resettlement services assigned Ajak and two other youths to live with Long at his Sixth and Kimball Streets home, not far from the Italian Market.

"You wouldn't believe how bright this kid was," Long said. "Early on, I knew this is a guy with a future."

Ajak enrolled at Furness High School — and hated it. He couldn't believe how students disrespected the teachers, interrupting in class and throwing things in the halls. There was something else, too: He was ridiculed by his classmates, wounding him deeply.

The Dinka people, who with the Nuer comprise Sudan's two largest ethnic groups, can be extremely tall. The late 76ers center Manute Bol, who stood 7-foot-7, was Dinka. Ajak loomed over other students at 6-foot-5, and they mocked him for it, and for his uncertainty over American ways.

"Go back to Africa," kids taunted him.

Mary Yee, the veteran Chinatown activist, knew Ajak through the Newcomer Center she helped run in South Philadelphia. She approached Central High School president Sheldon Pavel, who agreed to admit Ajak. The youth tore into a broad menu of studies, from Greek theater to algebra to Chaucer to Plato.

"Peter was a very bright young man, a very athletic young man, and we all thought he would, in fact, be heard from in a very positive way," said Pavel, who is now retired.

Ajak graduated from Central as an honor-roll student in 2003.

La Salle was easier, at least socially. Ajak found a group of friends, all brainy and philosophical, all focused on rising in academia, business and politics. His charm shone.

"He could really get along with anybody," said classmate Anthony Delcollo, now a Delaware state senator.

La Salle encouraged students to embrace the school nickname, Explorers. Ajak exemplified it, Delcollo said, signing up for outside seminars and programs and becoming involved in campus political and economic associations.

He didn't talk much about his time as a Lost Boy. Ajak was unusually lucky in that his parents also survived, but his suffering was enormous.

"I think he was still processing his feelings," classmate Schwartz said. "But even then, he seemed to have already resolved that what happened to him was transformative and demanded a clear moral perspective on the world."

Ajak excelled at La Salle and in 2007 donned cap and gown to proudly accept his bachelor's degree in economics and international studies.

"There are all kinds of opportunities here to change your life," he told the Inquirer at the time. "Some of my friends look at it as a matter of chance, but I thank God, because there was a 99 percent chance that I would never have been here."

As he grew, he faced internal struggles. Ajak hailed from a prominent southern Sudanese family, and while the civil war had disrupted some hierarchies of class and religion, expectations remained.

Ajak labored to envision a path, friends said, where he could help build his homeland without descending into its ruthless politics. He found that route in activism, in working to better the lives of all South Sudanese, they said.

In 2009, Ajak earned a master's in international relations at Harvard. As he prepared to pursue a doctorate at Cambridge University in England, he was telling people he would return to the land he had fled.

Two years later, the civil war ended in what looked like success, producing an independent South Sudan, population 13 million. But new violence broke out in 2013. And famine followed.

Today, hopes for development and stability have vanished as the government "unleashed a kind of terror on our own citizens which would shock the likes of Idi Amin," former vice presidential press

secretary David Mayen Dengdit wrote on an African news website in a reference to the former Ugandan dictator.

Ajak called for a new, peaceful generation of young leaders to rise and run South Sudan, critical of how President Salva Kiir and former-deputy-turned-rebel-leader Riek Machar have conducted peace talks. The two signed a power-sharing arrangement last week; a similar deal fell apart in 2016.

"We can no longer watch the mess going on in our country without doing anything!" Ajak wrote on Facebook two weeks before his arrest.

He is being held at the headquarters of the South Sudan National Security Service, known as the Blue House because of its tinted windows. Political prisoners there can face starvation or death, and Amnesty International has documented cases of detainees being tortured with knives and beaten with bamboo sticks. Some simply disappear.

People worry that could happen to Ajak.

Five U.S. senators have called for his release. The Juba heads of mission for the U.S., Canada, France, Germany, Norway, Sweden and other nations told the South Sudanese government to release Ajak or charge him.

More than 14,000 people have signed a petition on change.org, and supporters are running social media campaigns under the #FreePeterBiar hashtag and at @FreePeterBiar.

Ajak could have stayed out of South Sudan, friends said, and offered his voice from London or another safe location. He knew the risk. And went anyway.

"They can throw you in a dark room, and you may never be heard from again," Delcollo said. "He nonetheless said, 'I'm going to criticize the violence, and I'm going to stand up for the right thing.'"