

**PETITION TO**  
**UNITED NATIONS**  
**WORKING GROUP ON ARBITRARY DETENTION**

Chair-Rapporteur: Mr. Seong-Phil Hong (Republic of Korea)  
Vice-Chair on follow-up: Ms. Leigh Toomey (Australia)  
Vice-Chair on communications: Ms. Elina Steinerte (Latvia)  
Mr. José Guevara (Mexico)  
Mr. Sètonджи Adjovi (Benin)

**HUMAN RIGHTS COUNCIL**  
**UNITED NATIONS GENERAL ASSEMBLY**

In the Matter of  
**PETER BIAR AJAK**

Citizen of the Republic of South Sudan

v.

Government of the Republic of South Sudan

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Petition for Relief Pursuant to Resolutions 1997/50, 2000/36, 2003/31, 6/4, 15/18, 20/16, 24/7,  
and 33/30<sup>1</sup>

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<sup>1</sup> Resolutions 1997/50, 2000/36, and 2003/31 were adopted by the U.N. Commission on Human Rights extending the mandate of the Working Group on Arbitrary Detention. The Human Rights Council, which “assume[d] . . . all mandates, mechanisms, functions and responsibilities of the Commission on Human Rights” pursuant to U.N. General Assembly Resolution 60/251, G.A. Res. 60/251, ¶ 6 (Mar. 15, 2006), has further extended the mandate through Resolutions 6/4, 15/18, 20/16, 24/7, and 33/30.

## **INTRODUCTION**

As set forth below, the Government of South Sudan is arbitrarily depriving Peter Biar Ajak of his liberty for political reasons. Ajak – a widely-respected economist, scholar, and peace activist – was arrested without a warrant at Juba International Airport by National Security Service (NSS) officials on July 28, 2018. The initial investigation against him focused on possible treason and terrorism charges and looked specifically at his public statements (many of which were critical of the Government), involvement with civil society organizations, and peace-building activities. He spent nearly eight months in prison without charge and without being brought before a court, in flagrant violation of South Sudan’s Transitional Constitution and international law. Ajak was eventually charged, not with any crime relating to the alleged reasons for his arrest, but rather for giving an interview with Voice of America while detained. On June 11, he was convicted and sentenced to 2 years in prison.

Ajak’s arrest, detention, and conviction are politically motivated and directly connected to his public statements, civil society work, and activities as a human rights defender. Over the past several years, Ajak has established himself as a prolific commentator on South Sudan, and he has appeared regularly on regional television programs to discuss the ongoing peace process. He has been openly critical of the current Government and its ability (or willingness) to end the hostilities. Ajak was also active in civil society – he co-founded the South Sudan Young Leaders Forum (SSYLF), which seeks 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. One of the SSYLF’s key messages is that South Sudan needs a “Generational Exit” where the country’s older politicians step aside and retire, allowing the younger generations to take leadership roles and facilitate lasting peace.

Ajak’s life and work should serve as a source of inspiration, not as a cautionary tale. One of the “Lost Boys” of South Sudan, he spent much of his childhood in a refugee camp in Kenya before being resettled to the United States. Once in the US, he excelled academically, first at La Salle University, then at the Harvard Kennedy School. Determined to help South Sudan develop and succeed, he returned as an adult and worked with the World Bank, the International Growth Centre, and the Centre for Strategic Analyses and Research (a think tank he founded in Juba). He has been recognized and honored with several awards and fellowships, and at the time of his arrest, he was working towards his Ph.D. at Cambridge University. With this unique background and training, the Government should have welcomed Ajak’s perspective on the country’s future; instead, it has imprisoned him.

Accordingly, it is hereby requested that the attached Petition be considered a formal request for an opinion of the Working Group pursuant to Resolution 1997/50 of the Commission on Human Rights, as reconfirmed by Resolutions 2000/36 and 2003/31, and Human Rights Council Resolutions 6/4, 15/18, 20/16, 24/7, and 33/30.

## QUESTIONNAIRE FOR PETER BIAR AJAK<sup>2</sup>

### I. IDENTITY

1. **Family name:** Biar Ajak
2. **First name:** Peter
3. **Sex:** Male
4. **Birth date or age (at time of detention):** Nov. 21, 1983; 34 years old when arrested
5. **Nationality/Nationalities:** South Sudan
6. (a) **Identity document (if any):** not available  
(b) **Issued by:** not available  
(c) **On (date):** not available  
(d) **No.:** not available
7. **Profession and/or activity (if believed to be relevant to the arrest/detention):**  
Ajak is an academic and peace activist. His involvement with the South Sudan Young Leaders Forum (SSYLF), appearances on regional media outlets as an expert on South Sudan, criticism of the Government, and peaceful expression of his concerns related to the peace process for South Sudan are believed to be the main reasons for his detention.
8. **Address of usual residence:** Ajak divided his time between Nairobi, Kenya and Juba, South Sudan.

### II. ARREST

1. **Date of arrest:** July 28, 2018
2. **Place of arrest (as detailed as possible):** Juba International Airport, Juba, South Sudan
3. **Forces who carried out the arrest or are believed to have carried it out:**  
South Sudan's intelligence agency, the National Security Service (NSS)
4. **Did they show a warrant or other decision by a public authority?** Ajak was briefly presented with an "arrest warrant." However, it consisted only of the subject line ordering the arrest and the signature of Akol Koor, the Director General of the NSS – it did not indicate the reason for his arrest, nor the crimes he was accused of committing. Moreover, it was not issued by a court.
5. **Authority who issued the warrant or decision:** Akol Koor, Director General of the NSS. The issuance of the arrest warrant by NSS officials violates Section 55 of the National Security Service Act (NSS Act), which requires that warrants be issued by a judge of the High Court.<sup>3</sup>
6. **Reasons for the arrest imputed by the authorities:**  
No reason for the arrest was provided.
7. **Legal basis for the arrest including relevant legislation applied (if known):**  
The NSS Act allows the NSS to arrest individuals for vaguely defined "crimes against the state."<sup>4</sup> Where a person is reasonably suspected of having committed, having attempted to

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<sup>2</sup> Based on MODEL QUESTIONNAIRE TO BE COMPLETED BY PERSONS ALLEGING ARBITRARY ARREST OR DETENTION, U.N. WORKING GROUP ON ARBITRARY DETENTION, accessed May 14, 2019, available at <http://www.ohchr.org/EN/Issues/Detention/Pages/Complaints.aspx>.

<sup>3</sup> National Security Service Act of 2014, at § 55(2), available at <https://paanluelwel2011.files.wordpress.com/2016/04/national-security-services-nss-act-2014.pdf>.

<sup>4</sup> *Id.*, at § 13(15); see also *id.*, at § 7 (defining "crimes against the state").

commit, or being about to commit such crimes, they can be arrested without a warrant (though they must be brought before a judge within 24 hours).<sup>5</sup> For an arrest requiring a warrant, the NSS must obtain one from the High Court,<sup>6</sup> though it is common practice for the NSS to issue and rely upon irregular warrants that are not issued by a judge or court.

### III. DETENTION

1. **Date of detention:** July 28, 2018
2. **Duration of detention (if not known, probable duration):** Since July 28, 2018: as of the date of filing of this petition, he has been detained for approximately 10.5 months
3. **Forces holding the detainee under custody:**  
From July 28, 2018 to June 11, 2019, he was held by South Sudan's intelligence agency, the National Security Service. After his conviction on June 11, 2019, he was transferred to a prison under the authority of the National Prison Service of South Sudan under the Ministry of Interior.
4. **Places of detention (indicate any transfer and present place of detention):** From July 28, 2018 to June 11, 2019, he was held at the notorious "Blue House," the NSS headquarters in Juba. After his conviction on June 11, 2019, he was transferred to Juba Central Prison.
5. **Authorities that ordered the detention:** From July 28, 2018 to March 21, 2019, Ajak was apparently detained based on the "warrant" issued by NSS Director General Akol Koor. On March 21, 2019, Ajak was brought before the High Court and the court denied his request for bail (and later denied several additional requests for bail). On June 11, Ajak was convicted by the High Court and sentenced to 2 years' imprisonment.<sup>7</sup>
6. **Reasons for the detention imputed by the authorities:** On August 15, 2018 – more than two weeks after his arrest – Ajak's lawyers learned that the NSS was investigating him for a variety of serious crimes relating to treason and terrorism.<sup>8</sup> The terms of reference for this investigation instructed investigators to look into Ajak's Twitter and Facebook posts, TV appearances, involvement with the SSYLF, meetings in Nairobi and Rwanda, and travel within South Sudan. On September 13, police informed his lawyers that he was being investigated for possible additional charges.<sup>9</sup> Ajak was never actually charged with these crimes. From March 21, 2019 to June 11, he was denied bail pending trial on

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<sup>5</sup> *Id.*, at § 54(1)–(2).

<sup>6</sup> *Id.*, at § 55(1)–(2).

<sup>7</sup> Sam Mednick, *South Sudan Sentences Prominent Activist to More Prison Time*, WASHINGTON POST, June 11, 2019, available at [https://www.washingtonpost.com/world/africa/south-sudan-sentences-prominent-activist-to-more-prison-time/2019/06/11/6b721206-8c42-11e9-b6f4-033356502dce\\_story.html?utm\\_term=.5fcb882ece34](https://www.washingtonpost.com/world/africa/south-sudan-sentences-prominent-activist-to-more-prison-time/2019/06/11/6b721206-8c42-11e9-b6f4-033356502dce_story.html?utm_term=.5fcb882ece34) and Denis Dumo, *South Sudan Jails Prominent Economist Over Media Interviews*, REUTERS, June 11, 2019, available at <https://www.reuters.com/article/us-southsudan-rights/south-sudan-jails-prominent-economist-over-media-interviews-idUSKCN1TC1A7>.

<sup>8</sup> Specifically, he was being investigated for possible violations of Penal Code Sections 65 (Concealing Treason), 67 (Insurgency, Banditry, Sabotage or Terrorism), 73 (Harbouring, Concealing or Failing to Report an Insurgent, Bandit, Saboteur, or Terrorist), and 75 (Publishing or Communicating False Statements Prejudicial to South Sudan).

<sup>9</sup> The possible additional charges were under Penal Code Sections 64 (Treason), 68 (Recruiting or Training Insurgents, Bandits, Saboteurs or Terrorists), and 69 (Training as Insurgent, Bandit, Saboteur or Terrorist). An additional basis of criminal responsibility was also asserted under Section 57 (Liability of Abettor for an Effect Caused by the Act Abetted Different From That Intended by the Abettor).

charges<sup>10</sup> relating to an interview he gave to Voice of America. Since his conviction on June 11, he has been detained pursuant to his conviction and criminal sentencing on those charges.

7. **Legal basis for the detention including relevant legislation applied (if known):** From July 28, 2018 to March 21, 2019, there was no legal basis for Ajak’s detention – he was not charged with any crime, nor was he subject to any court order for detention. From March 21, 2019 to June 11, the High Court ordered that he be detained pending resolution of the criminal charges relating to his interview with Voice of America even though there is a presumption of bail under Criminal Procedure Code Section 126. On June 11, Ajak was convicted and sentenced to 2 years in prison.

#### **IV. CIRCUMSTANCES OF THE ARREST AND DETENTION OF PETER BIAR AJAK**

##### **A. Statement of Facts**

##### **1. Background on the Conflict in South Sudan**

In late 2013, only two years after achieving independence, South Sudan descended into a brutal civil war. This war was spurred by months of political infighting between President Kiir and former Vice President Machar, whom President Kiir had dismissed in July 2013 along with the rest of his cabinet and who was later accused of attempting to stage a coup.<sup>11</sup> Violence quickly spread across the country, with fighting often flaring up along ethnic lines – particularly between the Dinka and Nuer ethnic groups, which are generally aligned with President Kiir and former Vice President Machar, respectively.<sup>12</sup> More recently, the fracturing of the opposition and the proliferation of armed groups, especially since 2016, have further complicated the conflict, which “is no longer one single conflict, but a series of inter and intracommunal conflicts, reigniting and encompassing historical localized conflicts and contests over land, resources and power.”<sup>13</sup>

Regional and international actors have pursued numerous ceasefire agreements in attempts to bring an end to the conflict in South Sudan. In August 2015, the regional Intergovernmental Authority on Development (IGAD) brokered a power-sharing arrangement between President Kiir and former Vice President Machar known as the Agreement on the Resolution of Conflict in South Sudan (ARCSS).<sup>14</sup> In 2016, the Transitional Government of National Unity was formed pursuant to the ARCSS; however, the transitional government and peace deal collapsed in July 2016 when fighting resumed in Juba between forces aligned with President Kiir and former Vice President Machar.<sup>15</sup> In 2017, IGAD began work to revive the ARCSS, and on September 12, 2018, the parties to the conflict and other stakeholders signed the Revitalized Agreement on the Resolution

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<sup>10</sup> The charges were under Penal Code Sections 48 (Acts Committed by Several Persons in Furtherance of Common Intention) and 80(2) (Participating in Gathering with Intent to Promote Public Violence, Breaches of the Peace or Bigotry).

<sup>11</sup> KATE ALMQUIST KNOPF, ENDING SOUTH SUDAN’S CIVIL WAR, COUNCIL ON FOREIGN RELATIONS, at 5, Nov. 2016, available at [https://cfrd8-files.cfr.org/sites/default/files/pdf/2016/11/CSR77\\_Knopf\\_South%20Sudan.pdf](https://cfrd8-files.cfr.org/sites/default/files/pdf/2016/11/CSR77_Knopf_South%20Sudan.pdf).

<sup>12</sup> *Id.*, at 8.

<sup>13</sup> REPORT OF THE COMMISSION ON HUMAN RIGHTS IN SOUTH SUDAN, U.N. HUMAN RIGHTS COUNCIL, U.N. Doc. A/HRC/37/71, Mar. 13, 2018, at ¶ 19, available at [https://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session37/Documents/A\\_HRC\\_37\\_71\\_EN.docx](https://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session37/Documents/A_HRC_37_71_EN.docx).

<sup>14</sup> ENDING SOUTH SUDAN’S CIVIL WAR, *supra* note 11.

<sup>15</sup> *Id.*

of the Conflict in the Republic of South Sudan (R-ARCSS). The R-ARCSS establishes a large power-sharing government with five vice presidential positions, 45 ministers, and 550 parliamentary positions.<sup>16</sup>

Despite the signing of the R-ARCSS, fighting has continued in some areas of the country.<sup>17</sup> The effect of this war on the civilian population has been brutal. Both government and opposition forces have been accused of perpetrating crimes against humanity and war crimes, including attacks on civilian targets, sexual violence, arbitrary arrests and detentions, and torture.<sup>18</sup> The conflict has further triggered famine and disease and resulted in a humanitarian crisis – nearly 400,000 South Sudanese have died as a result of the fighting in the past five years,<sup>19</sup> and over 4.3 million others have fled abroad or been internally displaced.<sup>20</sup>

## 2. Crackdown on Civic Space

Ajak’s detention must be understood in the context of an increasingly hostile environment for civil society in South Sudan. As the International Center for Not-for-Profit Law has described, the space for civil society in South Sudan “has now reached an all time low.”<sup>21</sup> Civicus, which tracks threats to civil society worldwide, rates South Sudan’s civil society as “closed.”<sup>22</sup> Similarly, Freedom House rated the freedom for NGOs in South Sudan as zero out of four. There are several key reasons for these poor assessments.

First, as Freedom House has explained, the Government, including President Kiir, “has adopted a hostile stance toward NGOs, particularly groups that focus on political or human rights issues.”<sup>23</sup> This includes two new laws – the Non-Governmental Organizations Act, 2015 and the Relief and Rehabilitation Commission Act, 2016 – that impose restrictive requirements on NGO registration and allow for onerous government oversight.<sup>24</sup> These laws “have been used to justify

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<sup>16</sup> Joshua Mmali, *UNMISS Hails Agreement on Governance as an Important Step in Resolution of South Sudanese Conflict*, UN MISSION IN SOUTH SUDAN, Aug. 6, 2018, available at <https://unmiss.unmissions.org/unmiss-hails-agreement-governance-important-step-resolution-south-sudanese-conflict>.

<sup>17</sup> Tom Wilson, *South Sudan Peace Deal in Jeopardy*, FINANCIAL TIMES, Mar. 17, 2019, available at <https://www.ft.com/content/330171d0-3c3a-11e9-b72b-2c7f526ca5d0> (“[A]fter six months of talks . . . fighting has continued in the south of the country . . .”).

<sup>18</sup> ENDING SOUTH SUDAN’S CIVIL WAR, *supra* note 11, at 15.

<sup>19</sup> F. Checchi et al., *Estimates of Crisis-Attributable Mortality in South Sudan, December 2013–April 2018: A Statistical Analysis*, LONDON SCHOOL OF HYGIENE & TROPICAL MEDICINE, Sept. 2018, available at <https://crises.lshtm.ac.uk/2018/09/25/south-sudan/>.

<sup>20</sup> United Nations Office for the Coordination of Humanitarian Affairs, *Humanitarian Bulletin South Sudan Issue 6*, July 16, 2018, available at [https://reliefweb.int/sites/reliefweb.int/files/resources/20180716\\_OCHA\\_SouthSudan\\_Humanitarian\\_Bulletin%236.pdf](https://reliefweb.int/sites/reliefweb.int/files/resources/20180716_OCHA_SouthSudan_Humanitarian_Bulletin%236.pdf) (noting 1.84 million internally displaced persons and 2.47 million refugees in neighboring countries).

<sup>21</sup> *Civic Freedom Monitor: South Sudan*, INTERNATIONAL CENTER FOR NOT-FOR-PROFIT LAW, last updated Nov. 13, 2018, available at <http://www.icnl.org/research/monitor/southsudan.html>.

<sup>22</sup> *South Sudan*, CIVICUS, accessed May 13, 2019, available at <https://monitor.civicus.org/country/south-sudan/>. Meaning: <https://monitor.civicus.org/Ratings/>. A “closed” rating means: “There is complete closure – in law and in practice – of civic space. An atmosphere of fear and violence prevails, where state and powerful non-state actors are routinely allowed to imprison, seriously injure and kill people with impunity for attempting to exercise their rights to associate, peacefully assemble and express themselves. Any criticism of the ruling authorities is severely punished and there is virtually no media freedom.” See *Ratings*, CIVICUS, accessed May 13, 2019, available at <https://monitor.civicus.org/Ratings/>.

<sup>23</sup> *Freedom in the World 2018: South Sudan*, FREEDOM HOUSE, accessed May 13, 2019, available at <https://freedomhouse.org/report/freedom-world/2018/south-sudan>.

<sup>24</sup> *Civic Freedom Monitor: South Sudan*, *supra* note 21.

the intimidation of civil society activists and the seizure of their assets.”<sup>25</sup> Of particular concern, the Government has required civil society organizations to obtain clearance before conducting their activities.<sup>26</sup>

Second, the Government has “threatened and detained journalists for reports it does not like.”<sup>27</sup> For instance, in 2014, a journalist with UN-operated Radio Miraya was arrested; he was released in 2017 after being detained for three years without charge.<sup>28</sup> In 2015, President Kiir himself threatened that journalists would be murdered if they “work against their country”<sup>29</sup> – a particularly troubling threat, given that a number of journalists have been killed in South Sudan.<sup>30</sup> In early 2016, the NSS detained reporter Joseph Afandi *incommunicado* for several weeks after he criticized the government’s handling of the civil war.<sup>31</sup> Later that year, journalist Alfred Taban was arrested after writing two articles criticizing President Kiir and former Vice President Machar for failing to contain the violence between their forces.<sup>32</sup> Taban was charged with “publishing or communicating false statements prejudicial to South Sudan” and “undermining the authority of or insulting the president.”<sup>33</sup> In a 2018 report, the UN Mission in South Sudan noted that “[j]ournalists continued to be threatened by authorities in relation to articles published or produced by their employers.”<sup>34</sup>

But it is not only journalists who are at risk for speaking out. In that same 2018 report, the UN Mission in South Sudan noted that “at least 45 individuals . . . were arbitrarily arrested and detained in connection to the exercise of their freedom of expression, including community leaders, members of civil society, or elected officials.”<sup>35</sup> Amnesty International has similarly noted that, since 2013, the NSS “has arbitrarily detained perceived government opponents,

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<sup>25</sup> *Freedom in the World 2017: South Sudan*, FREEDOM HOUSE, accessed May 13, 2019, available at <https://freedomhouse.org/report/freedom-world/2017/south-sudan>.

<sup>26</sup> 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 23, available at <https://www.ohchr.org/Documents/Countries/SS/UNMISSFeb2018.pdf> [hereinafter UNMISS REPORT].

<sup>27</sup> *Freedom in the World 2018: South Sudan*, *supra* note 23.

<sup>28</sup> *Id.*

<sup>29</sup> *Reporter Gunned Down Three Days after Presidential License to Kill*, REPORTERS WITHOUT BORDERS, Aug. 20, 2015, available at <https://rsf.org/en/news/reporter-gunned-down-three-days-after-presidential-license-kill>.

<sup>30</sup> *South Sudan*, REPORTERS WITHOUT BORDERS, accessed May 13, 2019, available at <https://rsf.org/en/south-sudan>.

<sup>31</sup> *South Sudan: Journalist Held in Incommunicado Detention: Joseph Afandi*, AMNESTY INTERNATIONAL, Feb. 8, 2016, available at <https://www.amnesty.org/en/documents/afr65/3319/2016/en/> and *Journalist Held Incommunicado for Past Six Weeks in Juba*, REPORTERS WITHOUT BORDERS, Feb. 11, 2016, available at <https://rsf.org/en/news/journalist-held-incommunicado-past-six-weeks-juba>.

<sup>32</sup> *South Sudan Editor Detained for Criticizing Leaders*, REUTERS, July 19, 2016, available at <https://www.reuters.com/article/us-southsudan-security-media-idUSKCN0ZZ1LC>.

<sup>33</sup> *South Sudan: Further Information: Detained Newspaper Editor Charged: Alfred Taban*, AMNESTY INTERNATIONAL, July 28, 2016, available at <https://www.amnesty.org/en/documents/afr65/4550/2016/en/>.

<sup>34</sup> UNMISS REPORT, *supra* note 26, at 15, 21.

<sup>35</sup> *Id.*, at 24.

sometimes for over a year.”<sup>36</sup> Moreover, “[t]he NSS tracks and intimidates perceived critics of the government and is believed to use telephone surveillance to monitor opponents.”<sup>37</sup>

### 3. 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”<sup>38</sup> – 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.<sup>39</sup> 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.

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.<sup>40</sup> Once in the United States, Ajak focused on his studies. He graduated from La Salle University with a degree in Economics and obtained a Master of Public Administration in International Development from Harvard University’s John F. Kennedy School of Government. Prior to his arrest, he was working towards his Ph.D. in Politics and International Studies at Cambridge University (UK).<sup>41</sup>

In his professional life, Ajak has worked tirelessly to secure a peaceful future for his country. In pursuit of this goal, he has worked in think tanks, his national government, and institutions supporting development and peace.<sup>42</sup> As the World Bank’s In-Country Economist in South Sudan, he advised the Government on the development of the South Sudan Development Plan, the South Sudan Growth Strategy, and South Sudan Vision 2040, among other policies.<sup>43</sup> He also joined the International Growth Centre – a policy and research center based in the London School of Economics and Political Science – as a Senior Adviser.<sup>44</sup> Ajak is the founder of the Centre for Strategic Analyses and Research, an independent policy think tank based in Juba.<sup>45</sup>

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<sup>36</sup> DENIED PROTECTION OF THE LAW: NATIONAL SECURITY SERVICE DETENTION IN JUBA, SOUTH SUDAN, AMNESTY INTERNATIONAL, Apr. 2016, at 1, *available at* <https://www.amnesty.org/download/Documents/AFR6538442016ENGLISH.pdf> (“Since . . . December 2013 . . . the National Security Service (NSS) has arbitrarily detained perceived government opponents, sometimes for over a year. NSS detainees are not charged by prosecutors, and they do not appear before magistrates for judicial review of the lawfulness of their continued detention.”); *see also South Sudan: Events of 2017*, HUMAN RIGHTS WATCH, *accessed* May 13, 2019, *available at* <https://www.hrw.org/world-report/2018/country-chapters/south-sudan> (“The government continued to . . . unlawfully detain people for perceived opposition.”).

<sup>37</sup> *Freedom in the World 2017: South Sudan*, *supra* note 25.

<sup>38</sup> *Peter Biar Ajak*, INTERNATIONAL GROWTH CENTRE, *accessed* May 13, 2019, *available at* <https://www.theigc.org/person/peter-biar-ajak/>.

<sup>39</sup> *The Lost Boys of Sudan*, INTERNATIONAL RESCUE COMMITTEE, Oct. 3, 2014, *available at* <https://www.rescue.org/article/lost-boys-sudan>.

<sup>40</sup> Jeff Gammage, *International Rights Activist Jailed in South Sudan Got His Start in Philadelphia*, THE INQUIRER, Aug. 10, 2018, *available at* <https://www.philly.com/philly/news/peter-biar-ajak-sudan-lost-boys-philadelphia-activist-jail-20180810.html>.

<sup>41</sup> *Peter Ajak: Founder and Director*, Centre for Strategic Analyses and Research, ATLANTIC COUNCIL MILLENNIUM FELLOWSHIP, *accessed* May 13, 2019, *available at* <http://www.millenniumfellowship.org/peter-ajak/>.

<sup>42</sup> *Tutu Fellows: Peter Biar Ajak PhD*, AFRICAN LEADERSHIP INSTITUTE, *accessed* May 13, 2019, *available at* <https://aloinstitute.org/tutu-fellows/about-fellows/287-peter-biar-ajak>.

<sup>43</sup> *Peter Ajak: Founder and Director*, *supra* note 41.

<sup>44</sup> *Id.* and *Peter Biar Ajak*, *supra* note 38.

<sup>45</sup> *Peter Ajak: Founder and Director*, *supra* note 41.

Ajak's achievements received additional recognition when he became one of the Atlantic Council's Millennium Fellows and a 2016 Archbishop Desmond Tutu Leadership Fellow.<sup>46</sup> In June 2018, Ajak was also awarded the Crans Montana Forum's New Leader for Tomorrow Award by Moussa Traoré, former President of Mali.<sup>47</sup>

Ajak has also dedicated himself to creating opportunities for dialogue among South Sudanese youth. As the CEO of South Sudan Wrestling Entertainment, he organizes wrestling tournaments across the country to bring young people together and to celebrate South Sudan's unique culture.<sup>48</sup> He also co-founded the South Sudan Young Leaders Forum (SSYLF),<sup>49</sup> whose mission is to bring together young leaders across ethnicities and political affiliations and to encourage youth throughout the countryside to deliberate the challenges facing South Sudan through peaceful dialogue.<sup>50</sup> 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. He also helped establish the Red Army Foundation, a national veterans' association.

Ajak is married and has two young children.

#### 4. Activism Preceding His Arrest

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 fact, just two weeks before his arrest, he appeared on NTV Kenya to discuss the Generational Exit; during his presentation, he criticized the current leaders and specifically called out Salva Kiir and Riek Machar by name.<sup>51</sup> In addition, he frequently posted political comments on Facebook and Twitter, and in the weeks before his arrest, he reiterated his call for the current leaders of South Sudan to step down.<sup>52</sup>

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<sup>46</sup> *Id.* and Tutu Fellows: Peter Biar Ajak PhD, *supra* note 42.

<sup>47</sup> *Trust & Truth in the Digital Era: New Leaders for Tomorrow Special Program*, CRANS MONTANA FORUM, June 28, 2018, available at <http://www.cmf.ch/index.php?page=15&gale=760>.

<sup>48</sup> *Tutu Fellows: Peter Biar Ajak PhD*, *supra* note 42 and Lillian Leposo, *Wrestlers Fight to Unite World's Newest Nation*, CNN, Aug. 16, 2011, available at <http://edition.cnn.com/2011/WORLD/africa/08/16/south.sudan.wrestling.ajak/>.

<sup>49</sup> Further information about the SSYLF can be found on the group's website at [www.ssyf.org](http://www.ssyf.org), as well as via the Twitter page of "NxGenSouthSudan" at <https://twitter.com/NxGenSS>.

<sup>50</sup> FINAL AND OFFICIAL RESOLUTIONS OF THE SSYLF, SOUTH SUDAN YOUNG LEADERS FORUM, Jan. 9–10, 2017, available at <https://www.ssyf.org/documents>.

<sup>51</sup> 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>.

<sup>52</sup> *See, e.g.*, Tweet by Peter Biar Ajak (@AjakPeter), TWITTER, July 11, 2018, 2:27 am, available at <https://twitter.com/AjakPeter/status/1016977265232670721> ("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!"); Tweet by Peter Biar Ajak (@AjakPeter), TWITTER, July 9, 2018, 2:15 am, available at <https://twitter.com/AjakPeter/status/1016249365739032578> ("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"); and Tweet by Peter Biar Ajak (@AjakPeter), TWITTER, July 3, 2018, 10:16 pm, available at <https://twitter.com/AjakPeter/status/1014377477366599680> ("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!").

## 5. Arrest and Detention

On the morning of July 28, 2018, Ajak was at Juba International Airport, scheduled to fly to the town of Aweil to attend Martyrs' Day celebrations organized by the Red Army Foundation. Before he could board his flight, however, NSS officials arrested him.<sup>53</sup> At the time of the arrest, Ajak was briefly shown a "warrant" which consisted only of a subject line ordering the arrest and the signature of NSS Director General Akol Koor. It was not issued by a judicial authority. The "warrant" did not indicate the reason for the arrest, nor was he told this information verbally. Ajak was transported directly to the "Blue House" – the NSS headquarters – which has been described as South Sudan's "most-feared prison."<sup>54</sup>

Ajak was not brought before a judge, nor told why he was being detained, but it quickly became clear that he was being targeted due to his human rights activities, advocacy for political change, and work with civil society. On July 31, one of his lawyers was able to view the "terms of reference" for the investigation against him, which instructed investigators to look into his Twitter and Facebook posts, TV appearances, involvement with the SSYLF, meetings in Nairobi and Rwanda (for the SSYLF), and travel within South Sudan (much of which related to his work with the SSYLF). Two days later, on August 2, the NSS established a three-member committee to investigate Ajak's social media activities and political commentary and the activities of the SSYLF.<sup>55</sup>

It was not until August 15 – over two weeks after Ajak's arrest – that any information was provided regarding possible criminal charges. That day, one of his lawyers was able to review preliminary notes about the investigation at the police station, which indicated that Ajak was being investigated for possible charges relating to treason and terrorism.<sup>56</sup> On September 13, Ajak's lawyers again met with the police, who presented an expanded set of possible charges.<sup>57</sup>

During this time, Ajak's lawyers and family were repeatedly denied access to him. One of Ajak's lawyers reported having been turned away from the prison and denied access to Ajak on 11 separate occasions. His lawyers were finally able to meet with him for the first time on September 12, 2018 – nearly seven weeks after his arrest – and they were able to have only one other visit with him in 2018. Ajak's wife and father were also repeatedly denied visits, though on some occasions they were allowed to see him.<sup>58</sup>

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<sup>53</sup> *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> and *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-detained-activist-denied-access-to-a-lawyer-south-sudan-ua-143-18/>.

<sup>54</sup> *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>.

<sup>55</sup> *South Sudan: Release Peace Activist*, *supra* note 53.

<sup>56</sup> Specifically, he was being investigated for possible violations of Penal Code Sections 65 (Concealing Treason), 67 (Insurgency, Banditry, Sabotage or Terrorism), 73 (Harbouring, Concealing or Failing to Report an Insurgent, Bandit, Saboteur, or Terrorist), and 75 (Publishing or Communicating False Statements Prejudicial to South Sudan).

<sup>57</sup> The additional potential charges were under Penal Code Sections 64 (Treason), 68 (Recruiting or Training Insurgents, Bandits, Saboteurs or Terrorists), and 69 (Training as Insurgent, Bandit, Saboteur or Terrorist). An additional basis for criminal responsibility was also asserted under Section 57 (Liability of Abettor for an Effect Caused by the Act Abetted Different from That Intended by the Abettor).

<sup>58</sup> *Urgent Action Update*, *supra* note 53 (noting that Ajak "has only been allowed sporadic family visits while in detention").

## 6. Protest at Blue House

In October 2018, a number of detainees at Blue House held an armed protest against rights abuses in the prison, and in particular, denial of basic due process.<sup>59</sup> Ajak was not involved in the protest in any way, and in fact he urged the detainees to lay down their weapons and helped negotiate a peaceful end to the protest. Ajak gave a short interview with Voice of America on October 8 in which he talked about the protest and reported basic facts that were already public knowledge, including that many prisoners in the Blue House had been detained for a long time without charge or trial. A transcript of Ajak's statements during the interview is attached as **Annex A**. The protest ended when the detainees voluntarily surrendered their weapons.

Ironically, the government responded to this incident by further denying the detainees their basic due process rights. Ajak, for example, was denied all access to legal counsel from October 7, 2018 to least January 25, 2019.<sup>60</sup> He was also not allowed any visits by family members from October 5, 2018 to January 20, 2019.

## 7. Court Proceedings and Criminal Charges

Ajak was brought before a court for the first time on March 21, 2019, nearly eight months after his arrest. The proceedings had nothing to do with the initial investigation against him or the apparent reasons for his arrest, but rather related to the prison protest. The preliminary charges were issued on March 25 under Penal Code Sections 48 (Acts Committed by Several Persons in Furtherance of Common Intention), 67 (Insurgency, Banditry, Sabotage or Terrorism), 72 (Possession of Dangerous Weapons), and 83 (Disorderly Conduct in a Public Place) and Section 57 of the NSS Act (Espionage, Terrorism, Attempts to Overthrow a Constitutionally Established Government, Spying). The court denied Ajak's request for bail. The court proceedings continued through the end of March and into April. The prosecution presented several witnesses, but none implicated Ajak in any wrongdoing. To the contrary, the prosecution's own witnesses stated that, during the protest, Ajak did not have a weapon and that, in fact, he asked the other inmates to put their guns down and initiated dialogue with the government to peacefully end the protest. Several witnesses did note that Ajak spoke to a reporter with Voice of America, and the prosecution played a recording of his interview for the court (a transcript of his statements during the interview is attached as **Annex A**).

On April 26, the Court dismissed the charges against Ajak, but declared that the criminal proceedings would continue under Penal Code Sections 48 (mentioned above) and 80(2) (Participating in Gathering with Intent to Promote Public Violence, Breaches of the Peace or Bigotry). The judge made clear that the new charges were based on Ajak's interview with Voice of America, explaining that "Biar . . . participated in media interviews that have created fear and

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<sup>59</sup> Ayen Bior, *Prison Standoff in South Sudan's Blue House*, VOA NEWS, Oct. 7, 2018, available at <https://www.voanews.com/a/prison-standoff-in-south-sudan-blue-house/4603052.html>; *South Sudan: Juba Prison Revolt Underscores Deep Problems in Justice System*, AMNESTY INT'L, Oct. 7, 2018, available at <https://www.amnesty.org/en/latest/news/2018/10/south-sudan-juba-prison-revolt-underscores-deep-problems-in-justice-system/>; and Robert A. Portada III, *South Sudanese Prisoners Demand Justice*, SUDAN TRIBUNE, Oct. 8, 2018, available at <http://www.sudantribune.com/spip.php?article66391> (listing the detainees' demands).

<sup>60</sup> *Urgent Action Update*, *supra* note 53 (noting Ajak "has also been denied access to his lawyers since 7 October 2018").

insecurity in the public which is against the law.”<sup>61</sup> The judge denied Ajak’s renewed requests for bail (made on that day and in subsequent hearings as well). During the trial, there were reports of intimidation of witnesses and defense lawyers.<sup>62</sup>

On June 11, Ajak was convicted and sentenced to 2 years in prison.

## **B. Legal Analysis**

For the reasons set forth below, Ajak’s detention constitutes an arbitrary deprivation of his liberty under Categories I, II, III, and V of the Working Group’s Revised Methods of Work. Although South Sudan is not a party to the International Covenant on Civil and Political Rights (ICCPR),<sup>63</sup> the Working Group has the authority to receive and assess this petition. As the Working Group itself has recognized, “South Sudanese citizens used to be Sudanese citizens” and have enjoyed rights under the ICCPR since 1986.<sup>64</sup> Moreover, the Government of South Sudan made a voluntary pledge in October 2013 to “uphold the highest standards in the promotion and protection of human rights and to fully cooperate with the [UN Human Rights] Council.”<sup>65</sup> According to the Working Group, this pledge “extend[ed] the applicability of the pre-existing set of human rights norms,” including the ICCPR.<sup>66</sup> Regardless, as the Working Group has noted, the Universal Declaration of Human Rights, “which has customary value, is undoubtedly applicable to the newly established State.”<sup>67</sup> In assessing whether a detention is arbitrary, the Working Group can also look to other sources, including the Body of Principles for the Protection of All Persons Under Any Form of Detention or Imprisonment (Body of Principles), the UN Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules), and the UN Basic Principles and

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<sup>61</sup> Denis Dumo, *South Sudan Court Drops Treason Charge Against Economist*, REUTERS, Apr. 26, 2019, available at <https://in.reuters.com/article/southsudan-rights/south-sudan-court-drops-treason-charge-against-economist-idINL5N2286MJ>; see also *South Sudan Jails Prominent Economist Over Media Interviews*, NEW YORK TIMES, June 11, 2019, available at <https://www.nytimes.com/reuters/2019/06/11/world/europe/11reuters-southsudan-rights.html?searchResultPosition=9> (“A South Sudanese court sentenced a prominent economist to two years in prison on Tuesday for disturbing the peace because he gave interviews to foreign media . . .”).

<sup>62</sup> Sam Mednick, *South Sudan Sentences Prominent Activist to More Prison Time*, WASHINGTON POST, June 11, 2019, available at [https://www.washingtonpost.com/world/africa/south-sudan-sentences-prominent-activist-to-more-prison-time/2019/06/11/6b721206-8c42-11e9-b6f4-033356502dce\\_story.html?utm\\_term=.d603cdb82c30](https://www.washingtonpost.com/world/africa/south-sudan-sentences-prominent-activist-to-more-prison-time/2019/06/11/6b721206-8c42-11e9-b6f4-033356502dce_story.html?utm_term=.d603cdb82c30) (“Amnesty International said it had received reports of intimidation of witnesses and defense lawyers.”).

<sup>63</sup> The Transitional National Legislative Assembly (TNLA) of South Sudan ratified the ICCPR in early June 2019. Once this decision is signed by the President, the Government will need to deposit instruments of accession to the UN Secretary-General, and the treaty will enter into force for South Sudan three months after the date of accession. *Press Briefing Note on South Sudan*, U.N. HIGH COMMISSIONER FOR HUMAN RIGHTS, June 7, 2019, available at <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24683&LangID=E>.

<sup>64</sup> *Boniface Muriuki Chuma v. South Sudan*, Opinion No. 18/2016, U.N. Doc. A/HRC/WGAD/2016/18, U.N. WORKING GROUP ON ARBITRARY DETENTION, adopted Apr. 27, 2016, at ¶ 18.

<sup>65</sup> Voluntary Pledge of the Republic of South Sudan for Candidature to the Human Rights Council, U.N. Doc. A/68/565, Annex, Oct. 31, 2013, available at <https://undocs.org/en/A/68/565>.

<sup>66</sup> *Boniface Muriuki Chuma v. South Sudan*, supra note 64, at ¶ 19.

<sup>67</sup> *Id.*

Guidelines on Remedies and Procedures on the Right of Anyone Deprived of Their Liberty to Bring Proceedings Before a Court.<sup>68</sup>

The Working Group has emphasized that it “subjects interventions against individuals who may qualify as human rights defenders to particularly intense review.”<sup>69</sup> For the reasons set forth in section IV(B)(4) below, Ajak clearly qualifies as a human rights defender. Therefore, the Working Group should review his case, and the numerous violations contained therein, using this heightened level of scrutiny.

### 1. Category I: No Legal Basis for Detention

A detention is arbitrary under Category I when “it is clearly impossible to invoke any legal basis justifying the deprivation of liberty.”<sup>70</sup> There was no legal basis for Ajak’s arrest on July 28, 2018 or for his extended detention.

Ajak was arrested pursuant to a “warrant” issued by NSS Director General Akol Koor. However, this document was little more than a piece of paper with Koor’s signature – it did not specify the reason or legal basis for Ajak’s arrest, nor what crimes he was suspected of committing, in violation of both the Transitional Constitution and international law.<sup>71</sup> Moreover, the NSS Act explicitly requires arrest warrants to be issued by a judge of the High Court;<sup>72</sup> there is no legal basis for the NSS to issue its own arrest warrants, as apparently happened here.

The NSS Act does allow for warrantless arrest where a person is “found committing” a crime against the state or “is reasonably suspected of having committed, or having attempted to commit or being about to commit such an offence.”<sup>73</sup> However, this cannot be used to justify Ajak’s arrest. Ajak was clearly not “found committing” a crime – he was simply preparing to board a flight at the airport. Nor can it plausibly be claimed that he was reasonably suspected of having committed, having attempted to commit, or being about to commit such an offence – his peaceful political and social advocacy, criticism of the government, and involvement with civil society are protected activities under domestic and international law (as discussed in Section IV(B)(2), below).

Moreover, the NSS Act states that where an individual is arrested without a warrant, they must be brought before a magistrate within 24 hours,<sup>74</sup> and the Transitional Constitution provides:

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<sup>68</sup> METHODS OF WORK OF THE WORKING GROUP ON ARBITRARY DETENTION, U.N. HUMAN RIGHTS COUNCIL, 36th Sess., U.N. Doc. A/HRC/36/38, July 13, 2017, at ¶ 7(e)–(f), (i) [hereinafter REVISED METHODS OF WORK].

<sup>69</sup> *Nega v. Ethiopia*, Opinion No. 62/2012, U.N. Doc. A/HRC/WGAD/2012/62, U.N. WORKING GROUP ON ARBITRARY DETENTION, *adopted* Nov. 21, 2012, at ¶ 39.

<sup>70</sup> REVISED METHODS OF WORK, *supra* note 68, at ¶ 8(a).

<sup>71</sup> Transitional Constitution of the Republic of South Sudan, 2011, Art. 19(2) (“Any person who is arrested shall be informed, at the time of arrest, of the reasons for his or her arrest and shall be promptly informed of any charges against him or her.”); International Covenant on Civil and Political Rights, G.A. Res 2200A (XXI), U.N. GAOR, 21st Sess., Supp. No. 16, U.N. Doc. A/6316, at 52 (1966), 999 U.N.T.S. 171, *entered into force* Mar. 23, 1976, at Art. 19(2) [hereinafter ICCPR] (“Anyone who is arrested shall be informed, at the time of arrest, of the reasons for his arrest and shall be promptly informed of any charges against him.”); and Body of Principles for the Protection of Persons under Any Form of Detention or Imprisonment, G.A. Res. 47/173, U.N. Doc. A/43/49, *adopted* 1988, at Principle 10 [hereinafter Body of Principles], *available at* <http://www.un.org/documents/ga/res/43/a43r173.htm> (“Anyone who is arrested shall be informed at the time of his arrest of the reason for his arrest and shall be promptly informed of any charges against him.”).

<sup>72</sup> National Security Service Act of 2014, *supra* note 3, at § 55(2) (“An application under sub-section (1) under sub-section (1) above shall be made to the judge of the High Court for a warrant under this section.”).

<sup>73</sup> *Id.*, at § 54(1).

<sup>74</sup> *Id.*, at § 54(2).

“A person arrested by the police as part of an investigation, may be held in detention, for a period not exceeding 24 hours and if not released on bond to be produced in court.”<sup>75</sup> International law similarly requires that anyone who is arrested or detained on a criminal charge must be “promptly” brought before a judge.<sup>76</sup> Thus, even if Ajak’s arrest had been legitimate (which it was not), there was no legal basis for his continued detention beyond 24 hours. Yet he was held for nearly eight months without judicial review.

## 2. Category II: Detention Based on the Exercise of Fundamental Rights or Freedoms

A detention is arbitrary under Category II when it results from the exercise of fundamental rights or freedoms protected under the Universal Declaration and the ICCPR.<sup>77</sup> Ajak’s detention is arbitrary because it is a direct result of his exercise of his rights to freedom of expression, association, and peaceful assembly, which are protected under both domestic<sup>78</sup> and international law.<sup>79</sup>

Ajak’s initial arrest and detention were clearly retaliation for his outspoken criticism of the government, political advocacy, meetings domestically and abroad, and association with civil society organizations. As mentioned above, the terms of reference for the investigation against him specifically instructed investigators to look into his Twitter and Facebook posts, TV appearances, involvement with the SSYLF, meetings in Nairobi and Rwanda (for the SSYLF), and travel within South Sudan (much of which related to his work with the SSYLF). In addition, the NSS established a three-member committee to investigate Ajak’s social media activities and political commentary and the activities of the SSYLF.<sup>80</sup> Moreover, during interrogations, government officials asked Ajak about his travel to conferences and the financing of the SSYLF, and he was arrested by national security forces while *en route* to a commemorative event being hosted by the Red Army Foundation, one of his organizations. The Government’s hostility towards the SSYLF is clear from the fact that attempts to register the SSYLF as an official organization have been denied and at least two of its events – both of which Ajak was helping to organize – were shut down by government authorities.<sup>81</sup> Ajak’s current detention is also based on his exercise of his fundamental rights – he was convicted and sentenced to 2 years in prison simply for giving an interview with Voice of America.

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<sup>75</sup> Transitional Constitution of the Republic of South Sudan, *supra* note 71, Art. 19(4).

<sup>76</sup> See ICCPR, *supra* note 71, at Art. 9(3) (“Anyone arrested or detained on a criminal charge shall be brought *promptly* before a judge or other officer authorized by law to exercise judicial power . . . .”) (emphasis added) and Body of Principles, *supra* note 71, at Principle 37 (“A person detained on a criminal charge shall be brought before a judicial or other authority provided by law *promptly* after his arrest. Such authority shall decide without delay upon the lawfulness and necessity of detention. No person may be kept under detention pending investigation or trial except upon the written order of such an authority.”) (emphasis added).

<sup>77</sup> Specifically, detention is arbitrary under Category II “When the deprivation of liberty results from the exercise of the rights or freedoms guaranteed by articles 7, 13–14 and 18–21 of the Universal Declaration of Human Rights and, insofar as States parties are concerned, by articles 12, 18–19, 21–22 and 25–27 of the International Covenant on Civil and Political Rights.” REVISED METHODS OF WORK, *supra* note 68, at ¶ 8(b).

<sup>78</sup> Transitional Constitution of the Republic of South Sudan, *supra* note 71, Arts. 24(1), 25(1).

<sup>79</sup> Universal Declaration of Human Rights, G.A. Res. 217A (III), U.N. Doc. A/810, *adopted* 1948, at Arts. 19, 20(1) and ICCPR, *supra* note 71, at Arts. 19(2), 21, 22(1).

<sup>80</sup> *South Sudan: Release Peace Activist*, *supra* note 53.

<sup>81</sup> 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>.

All of these activities are protected under international law. The UN Human Rights Committee, for example, has explained that the right to freedom of expression includes political discourse, commentary on public affairs, and discussion of human rights.<sup>82</sup> The Committee has similarly emphasized that freedom of expression “includes the right of individuals to criticize or openly and publicly evaluate their Governments without fear of interference or punishment.”<sup>83</sup> The Working Group has stated that giving an interview with a media outlet “falls clearly within” the right to freedom of expression, and in 2017, it found the detention of a Tibetan activist to be arbitrary because it was based on an interview he did with the New York Times.<sup>84</sup> Moreover, as the Working Group has made clear, “belonging to a human rights organization . . . is simply legitimate exercise” of the right to freedom of association (among other rights)<sup>85</sup> and “[h]aving a public meeting without violence is a right [protected under] article 20 [of the Universal Declaration], which enshrines the right to freedom of peaceful assembly.”<sup>86</sup>

While these rights can be restricted in certain circumstances, including to protect public order or national security,<sup>87</sup> neither of these grounds can justify Ajak’s detention. As the UN Human Rights Committee has explained, public order and national security “may never be invoked as a justification for the muzzling of any advocacy of multi-party democracy, democratic tenets and human rights.”<sup>88</sup> The Committee further emphasized: “It is not compatible with [the ICCPR] . . . to suppress or withhold from the public information of legitimate public interest that does not harm national security or to prosecute . . . human rights defenders, or others, for having disseminated such information.”<sup>89</sup> The UN Human Rights Council has similarly affirmed 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 or dissent.<sup>90</sup> Furthermore, the Johannesburg Principles on National Security, Freedom of Expression and Access to Information<sup>91</sup> – which have been endorsed by the UN Special Rapporteur on Freedom of Opinion and Expression and have regularly been referenced by the UN Human Rights Council<sup>92</sup> – state that advocating for the non-violent change of government policy, or even the

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<sup>82</sup> *General Comment No. 34 on Article 19: Freedoms of Opinion and Expression*, U.N. HUMAN RIGHTS COMMITTEE, U.N. Doc. CCPR/C/GC/34, Sept. 12, 2011, at ¶ 11.

<sup>83</sup> *De Morais v. Angola*, Communication No. 1128/2002, U.N. Doc. CCPR/C/83/D/1128/2002, U.N. HUMAN RIGHTS COMMITTEE, *adopted* Mar. 29, 2005, at ¶ 6.7.

<sup>84</sup> *Tashi Wangchuck v. China*, Opinion No. 69/2017, U.N. Doc. A/HRC/WGAD/2017/69, U.N. WORKING GROUP ON ARBITRARY DETENTION, *adopted* Nov. 20, 2017, at ¶ 34 (“The Working Group considers that Mr. Wangchuk’s advocacy, including his interview with the New York Times, falls clearly within the right under article 19 of the Universal Declaration of Human Rights to ‘seek, receive and impart information and ideas through any media and regardless of frontiers.’”).

<sup>85</sup> *Afif Jamil Mazhar v. Syria*, Opinion No. 10/1993, U.N. Doc. E/CN.4/1994/27, U.N. WORKING GROUP ON ARBITRARY DETENTION, *adopted* Apr. 29, 1993, at ¶ 5(h).

<sup>86</sup> *Ryad Hamoud Al-Darrar v. Syrian Arab Republic*, Opinion No. 15/2006, U.N. Doc. A/HRC/4/40/Add.1, U.N. WORKING GROUP ON ARBITRARY DETENTION, *adopted* May 12, 2006, at ¶ 15.

<sup>87</sup> ICCPR, *supra* note 71, at Arts. 19(3)(b), 21, 22(2).

<sup>88</sup> *General Comment No. 34*, *supra* note 82, at ¶ 23.

<sup>89</sup> *Id.*, at ¶ 30.

<sup>90</sup> 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).

<sup>91</sup> Johannesburg Principles on National Security, Freedom of Expression and Access to Information, *in* 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, *available at* [http://ap.ohchr.org/documents/alldocs.aspx?doc\\_id=700](http://ap.ohchr.org/documents/alldocs.aspx?doc_id=700) [hereinafter Johannesburg Principles].

<sup>92</sup> UNMISS REPORT, *supra* note 26, at 9 n.40.

government itself, cannot be considered a threat to national security, and nor can criticism of the government, its agencies, or public officials.<sup>93</sup>

Thus, Ajak's detention is arbitrary under Category II.

### 3. Category III: Due Process Rights

A detention is considered arbitrary under Category III “[w]hen the total or partial non-observance of the international norms relating to the right to a fair trial, established in the Universal Declaration of Human Rights and in the relevant international instruments accepted by the States concerned, is of such gravity as to give the deprivation of liberty an arbitrary character.”<sup>94</sup> As Government of South Sudan has violated numerous procedural requirements under both international and domestic law in this case, Ajak's ongoing detention is arbitrary under Category III.

#### a. Ajak Was Arrested Without A Valid Warrant

Article 9(2) of the ICCPR provides that “[a]nyone who is arrested shall be informed, at the time of arrest, of the reasons for his arrest and shall be promptly informed of any charges against him.”<sup>95</sup> South Sudan's Constitution contains a similar provision.<sup>96</sup> Under the Body of Principles, an arrest “shall only be carried out strictly in accordance with the provisions of the law” and “[a]nyone who is arrested shall be informed at the time of his arrest of the reason for his arrest and shall be promptly informed of any charges against him.”<sup>97</sup>

As discussed above, Ajak was arrested at Juba International Airport without a valid warrant. He was briefly shown a piece of paper signed by NSS Director General Akol Koor, but it did not contain any information about the reasons for the arrest or any possible charges he would be facing; nor was he told this information verbally. Moreover, the “warrant” was not issued by a court as the NSS Act explicitly requires.<sup>98</sup> While the NSS Act allows for warrantless arrest in certain circumstances, for the reasons discussed earlier, these circumstances were not applicable to Ajak.

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<sup>93</sup> Johannesburg Principles, *supra* note 91, at Principle 7(a)(i)–(ii).

<sup>94</sup> REVISED METHODS OF WORK, *supra* note 68, at ¶ 8(c).

<sup>95</sup> ICCPR, *supra* note 71, at Art. 9(2); *see also id.*, at Art. 14(3) (“In the determination of any criminal charge against him, everyone shall be entitled to the following minimum guarantees, in full equality: (a) To be informed promptly and in detail in a language which he understands of the nature and cause of the charge against him . . . .”) and Body of Principles, *supra* note 71, at Principle 12(1) (“There shall be duly recorded: (a) The reasons for the arrest; (b) The time of the arrest and the taking of the arrested person to a place of custody as well as that of his first appearance before a judicial or other authority; (c) The identity of the law enforcement officials concerned; (d) Precise information concerning the place of custody.”).

<sup>96</sup> Transitional Constitution of the Republic of South Sudan, *supra* note 71, Art. 19(2) (“Any person who is arrested shall be informed, at the time of arrest, of the reasons for his or her arrest and shall be promptly informed of any charges against him or her.”).

<sup>97</sup> Body of Principles, *supra* note 71, at Principles 2, 10; *see also* Transitional Constitution of the Republic of South Sudan, *supra* note 71, Art. 12 (“[N]o person shall be subjected to arrest, detention, deprivation or restriction of his or her liberty except for specified reasons and in accordance with procedures prescribed by law.”).

<sup>98</sup> National Security Service Act of 2014, *supra* note 3, at § 55(2) (“An application under sub-section (1) above shall be made to the judge of the High Court for a warrant under this section.”).

b. Ajak Was Not Promptly Brought Before A Judge

ICCPR Article 9(3) states: “Anyone arrested or detained on a criminal charge shall be brought promptly before a judge.”<sup>99</sup> The UN Human Rights Committee has explained that this normally means within 48 hours, unless there are exceptional circumstances, 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.”<sup>100</sup> ICCPR Article 9(4) similarly provides that a detained person is “entitled to take proceedings before a court, in order that that court may decide *without delay* on the lawfulness of his detention.”<sup>101</sup> The Body of Principles reiterate the necessity of bringing a detainee before a judge in a timely manner.<sup>102</sup> South Sudan’s domestic law is even more stringent – the Transitional Constitution requires that detainees be brought before a judge within 24 hours of their arrest.<sup>103</sup>

Ajak was arrested on July 28, 2018 but was not brought before a court or judge until March 21, 2019, which represents a blatant violation of both domestic and international law.

c. Ajak Was Denied the Right to the Presumption of Bail

The ICCPR contains a presumption against pretrial detention. Article 9(3) states that “[i]t shall not be the general rule that persons awaiting trial shall be detained in custody.”<sup>104</sup> The UN Human Rights Committee has explained that pretrial detention “must be based on an individualized determination that it is reasonable and necessary . . . for such purposes as to prevent flight, interference with evidence or the recurrence of crime.”<sup>105</sup> Section 126 of South Sudan’s Criminal Procedure Code similarly provides that, when someone is accused of a crime punishable by ten years or less in prison, “such person shall be released on bail unless the Public Prosecution Attorney, Magistrate or Court, for reasons to be recorded considers that by reason of granting of bail, the proper investigation of the offence would be prejudiced or a serious risk of the accused escaping from justice be occasioned.”<sup>106</sup> Because Ajak was accused (and later convicted) under

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<sup>99</sup> ICCPR, *supra* note 71, at Art. 9(3).

<sup>100</sup> *General Comment No. 35 on Article 9: Liberty and Security of Person*, U.N. HUMAN RIGHTS COMMITTEE, U.N. Doc. CCPR/C/GC/35, Dec. 16, 2014, at ¶¶ 32–33.

<sup>101</sup> ICCPR, *supra* note 71, at Art. 9(4) (emphasis added).

<sup>102</sup> Body of Principles, *supra* note 71, at Principles 4 (“Any form of detention or imprisonment and all measures affecting the human rights of a person under any form of detention or imprisonment shall be ordered by, or be subject to the effective control of, a judicial or other authority.”), 11(1) (“A person shall not be kept in detention without being given an effective opportunity to be heard promptly by a judicial or other authority.”), 32(1) (“A detained person or his counsel shall be entitled at any time to take proceedings according to domestic law before a judicial or other authority to challenge the lawfulness of his detention in order to obtain his release without delay, if it is unlawful.”), 37 (“A person detained on a criminal charge shall be brought before a judicial or other authority provided by law promptly after his arrest.”).

<sup>103</sup> Transitional Constitution of the Republic of South Sudan, *supra* note 71, Art. 19(4) (“A person arrested by the police as part of an investigation, may be held in detention, for a period not exceeding 24 hours and if not released on bond to be produced in court.”); *see also* National Security Service Act of 2014, *supra* note 3, at § 54(2) (“Any person arrested under the provisions of this section shall, whether or not the Service inquiries are completed, be brought before a magistrate as soon as is reasonably practicable within 24 hours.”).

<sup>104</sup> ICCPR, *supra* note 71, at Art. 9(3).

<sup>105</sup> *General Comment No. 35*, *supra* note 100, at ¶ 38; *see also* *Teymur Akhmedov v. Kazakhstan*, Opinion No. 62/2017, U.N. Doc. A/HRC/WGAD/2017/62, U.N. WORKING GROUP ON ARBITRARY DETENTION, *adopted* Aug. 25, 2017, at ¶ 41 (“[P]retrial detention must be an exceptional measure and as such should be justified in each individual case and assessed by a competent, independent judge . . .”).

<sup>106</sup> Code of Criminal Procedure Act, 2008, at § 126, *available at* <http://www.ssbalaw.org/downloads/>.

Penal Code Section 80, which carries a maximum punishment of five years' imprisonment,<sup>107</sup> he was entitled to the presumption of bail under Section 126 of the Criminal Procedure Code.

Since Ajak was first brought to court on March 21, 2019, the court repeatedly denied his requests for bail without making an individualized determination or providing any explanation or reasons justifying his pretrial detention. Therefore, his right to the presumption of bail under both domestic and international law was violated.

#### d. Ajak Was Denied Access to Counsel

Under Article 14(3)(b) of the ICCPR, everyone has the right, “[i]n the determination of any criminal charge against him,” to “communicate with counsel of his own choosing.”<sup>108</sup> This requires that an accused be given “prompt access to counsel.”<sup>109</sup> The Basic Principles and Guidelines on Remedies and Procedures on the Right of Persons Deprived of Their Liberty to Bring Proceedings Before a Court, drafted by the Working Group, clarify that detainees have the right to legal assistance “immediately after the moment of apprehension.”<sup>110</sup> The Body of Principles further provides that a detainee’s communication with counsel “shall not be denied for more than a matter of days.”<sup>111</sup>

Ajak was completely denied access to counsel for the first 46 days of his detention – from his arrest on July 28, 2018 until September 12, when his lawyers were first able to meet with him. One of his lawyers reported being turned away from the prison and denied access to him on 11 separate occasions. Furthermore, Ajak had only one other meeting with counsel in 2018 and was again completely denied access to counsel from October 7, 2018 to January 25, 2019.

#### e. Ajak Was Denied Access to Family

The Body of Principles state that “communication of the detained or imprisoned person with the outside world, and in particular his family . . . shall not be denied for more than a matter of days.”<sup>112</sup> They further provide: “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.”<sup>113</sup> The UN Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules) similarly assert: “Prisoners shall be allowed . . . to communicate with their family and friends at regular intervals,” including “[b]y receiving visits.”<sup>114</sup>

As set forth above, Ajak was consistently denied full access to his family. In particular, from October 5, 2018 to January 20, 2019, he was not allowed any visits by family members. Family visits were also denied on numerous other occasions.

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<sup>107</sup> Penal Code Act, 2008, at § 80(1), available at <https://wipolex.wipo.int/en/text/250684>.

<sup>108</sup> ICCPR, *supra* note 71, at Art. 14(3)(b).

<sup>109</sup> *General Comment No. 32 on Article 14: Right to Equality Before Courts and Tribunals and to a Fair Trial*, U.N. HUMAN RIGHTS COMMITTEE, U.N. Doc. CCPR/C/GC/32, Aug. 23, 2007, at ¶ 34.

<sup>110</sup> REPORT OF THE WORKING GROUP ON ARBITRARY DETENTION, U.N. Doc. A/HRC/30/37, July 6, 2015, at ¶ 12.

<sup>111</sup> Body of Principles, *supra* note 71, at Principle 15.

<sup>112</sup> *Id.*

<sup>113</sup> *Id.*, at Principle 19.

<sup>114</sup> United Nations Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules), G.A. Res. 70/175, U.N. Doc. A/RES/70/175, adopted Dec. 17, 2015, at Rule 58(1).

#### 4. Category V: Discrimination Based on a Protected Class

A detention is arbitrary under Category V when it “constitutes a violation of international law on the grounds of discrimination based on birth, national, ethnic or social origin, language, religion, economic condition, political or other opinion, gender, sexual orientation, disability, or any other status.”<sup>115</sup> The Working Group has clarified that this includes discrimination based on “a person’s status as a human rights defender,” and in particular, “discrimination in the exercise of rights elaborated under declaratory instruments such as the Declaration on Human Rights Defenders.”<sup>116</sup>

As discussed above, Ajak is being targeted for his outspoken criticism of the government, advocacy for peace and political change, meetings domestically and abroad, and association with civil society organizations. All of these activities are protected rights under the UN Declaration on Human Rights Defenders.<sup>117</sup> In fact, in March 2019, five UN special procedures – the UN Special Rapporteur on Freedom of Opinion and Expression, the UN Special Rapporteur on the Promotion and Protection of Human Rights and Fundamental Freedoms while Countering Terrorism, the Chair-Rapporteur of the Working Group on Arbitrary Detention, the UN Special Rapporteur on Peaceful Assembly and Association, and the UN Special Rapporteur on Human Rights Defenders – noted that Ajak’s detention was part of “a clear trend in the use of national security and counter-terrorism legislation . . . to criminalise . . . the *legitimate work of human rights defenders*”; they also called for his immediate release.<sup>118</sup>

Therefore, Ajak’s detention is arbitrary under Category V.

#### 5. Ajak Has Been Subjected to Torture or Cruel, Inhuman or Degrading Treatment

The Universal Declaration, ICCPR, and South Sudan’s Constitution all prohibit torture and cruel, inhuman, or degrading treatment.<sup>119</sup> Ajak was subjected to prolonged solitary confinement, which violates this prohibition,<sup>120</sup> from late July through late September 2018. In addition, at various times during his detention, including after other detainees protested in October 2018, Ajak received restricted food – only one meal per day – and had little or no access to medical care, even when he was ill. However, the Nelson Mandela Rules require that detainees must be provided “at

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<sup>115</sup> REVISED METHODS OF WORK, *supra* note 68, at ¶ 8(e).

<sup>116</sup> *Ny Sokha v. Cambodia*, Opinion No. 45/2016, U.N. Doc. A/HRC/WGAD/2016/45, U.N. WORKING GROUP ON ARBITRARY DETENTION, *adopted* Nov. 21, 2016, at ¶¶ 44–45.

<sup>117</sup> 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 Arts. 5–6, 8, 12–13, 16.

<sup>118</sup> *South Sudan: UN Experts Strongly Urge Immediate Release of Human Rights Defender Peter Biar Ajak*, U.N. HIGH COMMISSIONER FOR HUMAN RIGHTS, Mar. 6, 2019, *available at* <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=24268&LangID=E> (emphasis added).

<sup>119</sup> Universal Declaration, *supra* note 79, at Art. 5; ICCPR, *supra* note 71, at Art. 7; Transitional Constitution, *supra* 71, Art. 18.

<sup>120</sup> *General Comment No. 20 on Article 7: Prohibition of Torture, or Other Cruel, Inhuman or Degrading Treatment or Punishment*, U.N. HUMAN RIGHTS COMMITTEE, U.N. Doc. HRI/GEN/1/Rev.1, Mar. 10, 1992, at ¶ 6 (“The Committee notes that prolonged solitary confinement of the detained or imprisoned person may amount to acts prohibited by article 7.”); *see also* Nelson Mandela Rules, *supra* note 114, at Rule 44 (“Prolonged solitary confinement shall refer to solitary confinement for a time period in excess of 15 consecutive days.”).

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.”<sup>121</sup>

**V. INDICATE INTERNAL STEPS, INCLUDING DOMESTIC REMEDIES, TAKEN**

On June 11, Ajak was convicted under Penal Code Sections 48 (Acts Committed by Several Persons in Furtherance of Common Intention) and 80(2) (Participating in Gathering with Intent to Promote Public Violence, Breaches of the Peace or Bigotry). He was sentenced to 2 years in prison. His defense lawyers are planning to appeal.

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<sup>121</sup> Nelson Mandela Rules, *supra* note 114, at Rules 22(1), 24(1); *see also id.*, at Rules 27(1) (“All prisons shall ensure prompt access to medical attention in urgent cases.”), 31 (“The physician or, where applicable, other qualified health-care professionals shall have daily access to all sick prisoners . . .”).

**ANNEX A: Voice of America News Interview with Peter Ajak, October 8, 2018**  
**Audio recording available upon request**

Presenter: South Sudanese activist Peter Biar Ajak was among the detainees inside the National Security Headquarters on Saturday. Biar was arrested on July 28. Several U.S. lawmakers and activists have been demanding for his release. Again, my colleague, Ayen Deng Bior, got hold of Biar to describe conditions inside the National Security facilities.

Peter Biar Ajak: There a lot of people here that have been detained for a number of months, some have even been detained for more than a year. And there has never been any court cases, and you keep hearing that prisoners have been released, recently there has been a government propaganda that they had released twenty prisoners. This is actually something that took place more than two months ago. So, this has been bringing all sort of rumors inside the prison about what is going on outside. And there has been lack of clear information about what is going on. So as a result of the lack of clear information and the rumors that are going on, and the desperation to which many of prisoners have fell into, this kind of actions emerge. So this is basically how things are. These are young people, they are frustrated, they are tired, they feel like they have no justice in their own country and that they fear that the government will be planning certain things that are not to be good.

Journalist Ayen Deng Bior: Peter, people have been campaigning even here in the U.S. for your release. Thinking about, you know, the situation that you're in right now with the standoff, I understand that there's about 200 prisoners, some armed, some unarmed, and knowing that, you know, all this work has been done, to either get you released or you know, get you in front of a judge, what is going on through your head right now?

Peter Biar Ajak: You know my main worry is about the safety of everybody that is here. Of course, the situation is quite delicate, and it's quite unfortunate that things have turned out to be in this case. Of course, I've been getting briefed about the campaign that is going on about my release, but mind you I'm not the only prisoner that is here. There are a lot of prisoners that are here and many have been detained for years. And no one has been speaking on their behalf. And, some of these people, they feel frustrated, they feel that they're not being listened to, they're not being heard, and as a result, they took this kind of action. So the way I look at this actually, is a result of frustration of how these young people are feeling. Their case are not being heard, they're not being got before a judge. Some people have never even appeared before a committee to investigate them. So they feel that no one is listening to them, and as a result they feel like they have to take this drastic action.

Journalist Ayen Deng Bior: This will be the first time that people hear your voice, you know, since you were arrested. What do you want the world to know?

Peter Biar Ajak: Well, the world might understand that the young people of South Sudan are frustrated. I was talking about this before I was arrested, about how the situation in the country was getting out of control. And how our leaders have been unable to demonstrate the kind of leadership that is required to resolve very big problems, and since I got into the prison, this has become even more clear and more clear. If you listen to some of the cases here, some people are arrested because they impregnated somebody and they're brought here to jail. Some people are arrested because their friend stole something somewhere, and as a result they're brought because

their friend was also here. And they've been keeping for months so this eventually is quite tense and it's important that the government of South Sudan now demonstrate the kind of leadership that is required to resolve this crisis. These young people here, they don't want to fight anybody and they don't want to die. Nobody wants to die, everybody wants to live. So what they desire the most is freedom. They feel like their basic right, which is freedom, has been denied them. And now is the time for the government to show to the world, that it is actually a government that has some sheer legitimacy, it has a ray of legitimacy to it. And if that ability exists, it requires the government now to handle this situation in an amicable way. The most frustrating thing is the propaganda that the government has been putting around, that they have released prisoners, they have released detainees. None of these things has happened. And this creates rumors because we here in prison have no access to any information. So what we get is third grade kind of information that is mixed with also the rumors, conspiracies about what is going on, what some of the security elements are thinking.

Journalist Ayen Deng Bior: And Peter, in your case, have any charges been brought against you and have you been able to speak with a lawyer?

Peter Biar Ajak: I've not heard about any charges brought to me, but I have been able to meet with my lawyers twice. The last time I met with them was a week ago, that's when I saw them. But I've never been brought before a judge. I had only one meeting with the prosecutor, the government prosecutor, he came to me, came to see me only once. And that was during the time of [transcriber note: unintelligible]. And all this time they've not been coming to see me, they've been saying that they're still doing the investigation and I'm not hearing what is the result of this investigation.