

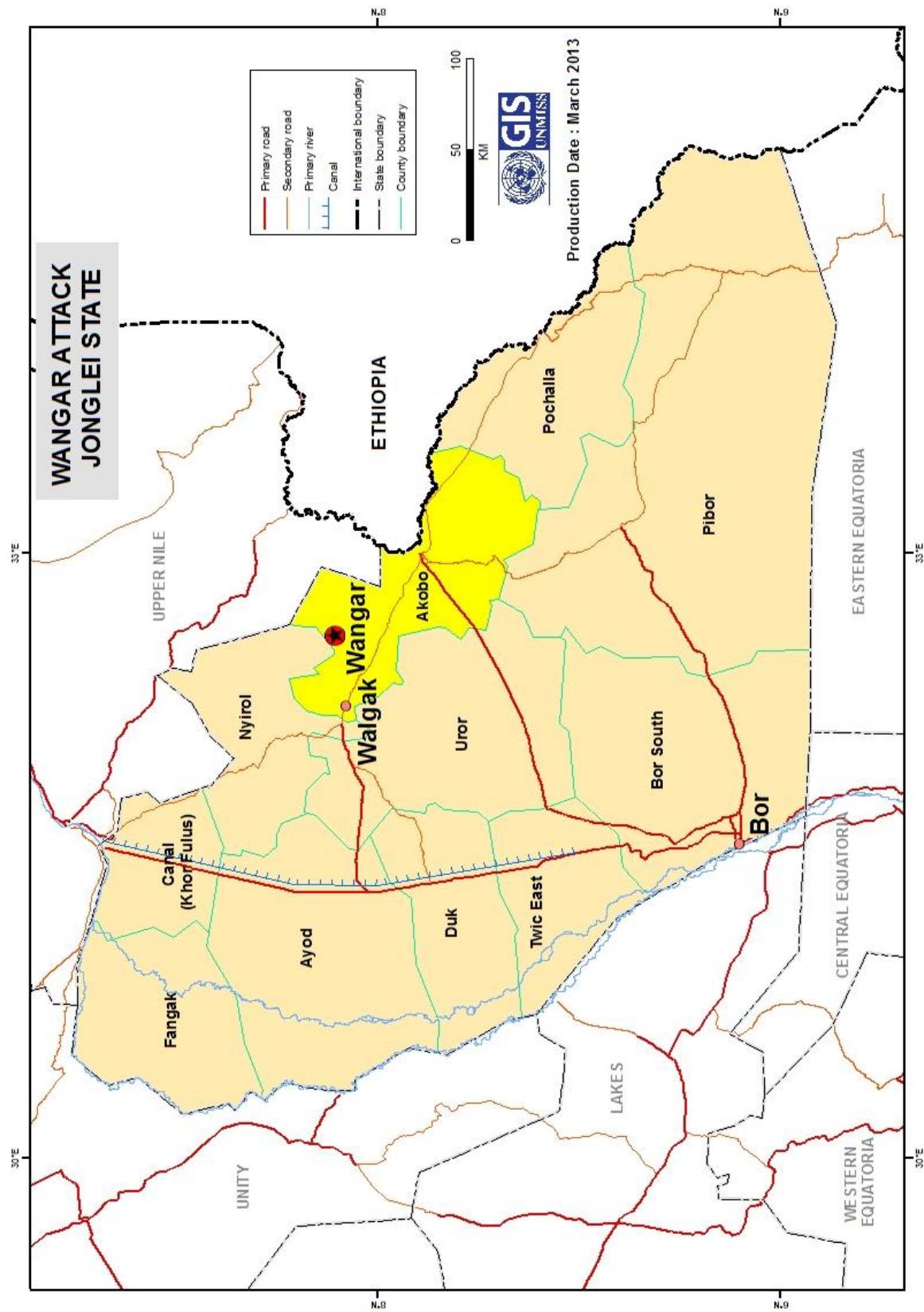


Report on the 8 February 2013 attack on Lou Nuer pastoralists in Akobo West Sub-County, Jonglei State

UNMISS, APRIL 2013

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1. Introduction

On 8 February 2013, a group of Lou Nuer pastoralist community members, who were proceeding from western Akobo, Jonglei State, to the Sobat River as part of their annual migration to reach a grazing area, were attacked by a large group of allegedly Murle armed men at Wangar, located in Buong Payam, 55 km north-east of Walgak, in Akobo West Sub-County. The pastoralist group, which was mainly composed of vulnerable people such as women, children and the elderly, suffered a heavy loss of life. The local authorities reported that 118 people were killed (including 14 SPLA) and 37 injured. The UNMISS fact-finding mission that traveled to the incident site observed 22 bodies and 56 graves apparently containing 63 bodies, amounting to 85 corpses. A Human Rights team that investigated in the Walgak area cross-checked and verified the identities of 69 people killed, including 50 adults (17 civilian men, 29 women and four SPLA soldiers) and 19 children (9 girls and 10 boys). The fact-finding missions received information about a further 37 people injured and 34 unaccounted for. It appears that the number of deaths initially reported by local authorities was quite close to the findings of the fact-finding missions.

The attack was the most deadly in Jonglei during the 2013 dry season, causing the greatest loss of life since the spike in inter-communal violence in December 2011. Previous attacks on a smaller scale took place between October 2012 and February 2013 in Akobo County, which were an indication of the volatile security situation in the area. An armed SPLA escort accompanied the pastoralist group but this was not sufficient to defend the group effectively, nor to prevent the high number of casualties.

This report sets out to examine the human rights concerns related to the incident and to make recommendations to avert further possible violence and seek justice for the crimes committed. The information contained in this report is based on investigations carried out by the United Nations Mission in South Sudan (UNMISS) Human Rights Division (HRD) and other relevant components in accordance with United Nations Security Council Resolution 1996 and with the consent of Government of the Republic of South Sudan (GRSS) authorities. In the course of its fact-finding, the HRD undertook five field missions to the areas concerned as well as meeting with survivors in Malakal town, Upper Nile State.

The report concludes that serious criminal offences were committed by the attackers and recommends, *inter alia*, that the GRSS take all necessary steps to investigate and prosecute the perpetrators. A prime concern is the need to expand the long-term presence of security and rule of law institutions in areas most prone to violence in order to strengthen the protection of civilians. The widespread availability of weapons and ammunition in Jonglei State should also be reduced. Additionally, there is a need to strengthen appropriate mechanisms to determine the identities and the whereabouts of the people unaccounted for to facilitate their possible return to their families.

2. Methodology

Under UN Security Council Resolution 1996 (2011), UNMISS has, *inter alia*, the roles of:

- supporting the Government of the Republic of South Sudan (GRSS) in exercising its responsibilities for conflict prevention, mitigation and resolution and protection of civilians, and
- monitoring, investigating, verifying and reporting regularly on human rights and potential threats against the civilian population as well as actual and potential violations of international humanitarian and human rights law, working as appropriate with the Office of the High Commissioner for Human Rights (OHCHR), bringing these to the attention of the authorities as

necessary and immediately reporting gross violations of human rights to the UN Security Council.

The aim of the fact-finding investigations was to document the incident and its effect on the population, including arbitrary deprivation of life, abductions and other serious crimes, as well as to identify related human rights concerns and possible interventions, to address the needs of victims and prevent recurrence. Specifically the fact-finding missions' objectives were to:

- Confirm disaggregated numbers of persons killed, injured and missing (by gender and age group);
- Determine the modus operandi of the attack;
- Collect descriptions of the attackers (including number, affiliation and ethnic identity); and
- Gather information about the response of the Government before and after the incident.

The report is based on findings that have been collected during missions in Akobo County as well as Malakal and Nassir Counties (Upper Nile State) between 11 February and 1 March. The information used for the report is drawn from interviews held with witnesses, survivors, youth, civil society members and local authority representatives as well as observations made by UNMISS at the incident site (Wangar). Two UNMISS state offices were involved in the gathering of information, Jonglei and Upper Nile States. UNMISS military provided security for civilian staff who walked for two days from Walgak to the incident site at Wangar; the military also assisted with the mapping of the site.

UNMISS carried out five missions in Jonglei and Upper Nile States. Two missions went to Walgak: one took place between 11 and 13 February, while the second was on 19 February. A third mission went to Wangar between 14 and 17 February. It took the team two days to reach the site from Walgak as they had to walk for 55 km to reach Wangar. This team mapped and searched an area of 1.5 kilometers square at the site of the attack. The team members were able to identify unburied bodies and graves. It has to be borne in mind that the team visited the scene of the incident eight days after the attack took place, therefore the location may have been affected by human and natural intervention. A fourth mission went to Walgak between 26 February and 1 March and visited the following neighboring bomas and payams: Padoi Boma,¹ Diror Boma,² Yidit Boma,³ Kuernyon Boma,⁴ Buong Payam headquarters⁵ and Kaikuny Boma.⁶ A fifth mission went to Nassir between 25 and 27 February. Finally, the Human Rights team based in Malakal also met with survivors in Malakal town.

In total, the teams met with 26 survivors (including five SPLA soldiers), five representatives of state authorities, 10 members of the Akobo youth group, nine witnesses of the burial party, six members of a local women's association and four hospital staff.

3. Legal Framework

South Sudan's obligation to respect, uphold and promote human rights is primarily enshrined in the Bill of Rights of the 2011 Transitional Constitution of the Republic of South Sudan (TCSS). Article 9 (2) stipulates that "the rights and freedoms of individuals and groups enshrined in this Bill shall be respected,

¹ 5 km east of Walgak, Diror Payam

² 11 km east of Walgak

³ 8 km north of Walgak

⁴ 5 km west of Walgak

⁵ 18 km north-east of Walgak

⁶ 19 km south-east of Walgak, Diror Payam

upheld and promoted by all organs and agencies of Government and by all persons". Individual articles commit the Government of South Sudan to uphold the preservation of life and human dignity (article 11) and the guarantee of personal liberty (Article 12). The rights to life and the physical integrity of an individual are also protected by South Sudan's criminal law in several provisions of the Penal Code Act (2008) and the Child Act (2008).

The Government of South Sudan has yet to ratify international human rights treaties, although it has expressed its intention to do so on a number of occasions. However customary international law is applicable in South Sudan and the State must abide by it, including human rights norms and standards that have customary international law status.⁷ In addition, on 24 January 2013 South Sudan has reinforced its commitment to human rights by signing the African Charter on Human and People's Rights (ACHPR), and so is obliged to act in accordance with the Charter's provisions. Among the rights protected by the ACHPR, and relevant to this report, are the rights to life and integrity of the person (Article 4).

Furthermore, South Sudan should abide by the provisions of the International Covenant on Civil and Political Rights (ICCPR) which is already enforceable in South Sudan by virtue of the ICCPR having been ratified by Sudan prior to the independence of South Sudan. As noted by the Human Rights Committee, which monitors the implementation of the ICCPR:

The rights enshrined in the Covenant belong to the people living in the territory of the State party . . . [O]nce the people are accorded the protection of the rights under the Covenant, such protection devolves with territory and continues to belong to them, notwithstanding change in government of the State party, including dismemberment into more than one State or State succession.⁸

The following provisions of the ICCPR are applicable in this context:

- Right to life and the prohibition of being arbitrarily deprived of life (Art. 6)
- Right to security and liberty of the person (Art. 9)
- Right not to be subjected to torture or to cruel, inhuman or degrading treatment (Art. 7)
- Right to reparation and remedy (Art. 2)

South Sudan's domestic legislation contains clear provisions regarding criminal offences that could be used to prosecute the serious crimes documented in this report including arbitrary killing, attempted arbitrary killing and abduction. The following provisions of the penal code could be used to ensure accountability for the serious crimes committed in Wangar:

- Murder (life imprisonment or capital punishment) (Arts. 206, 208, 210); bodily injury and intimidation (3 months-10 years imprisonment) (Arts. 223, 224, 225, 230, 232, 233, 235, 237, 238);
- Kidnapping, abduction and violations of personal liberty (7-14 years imprisonment) (Arts. 269-274, 277-279, 283, 284);

⁷ Many of the rights set out in the Universal Declaration of Human Rights are widely recognized to have the character of customary international law. Note also that some rights are recognized as peremptory norms of customary international law, and thus no derogation is admissible under any circumstances and they prevail over any other international obligations. See, for example, OHCHR, International Legal Protection of Human Rights in Armed Conflict (2011), pp. 9-10; Human Rights Committee, General Comment 29, UN doc. CCPR/C/21/Rev.1/Add.1 (2001).

⁸ Human Rights Committee, General Comment No. 26, UN doc. CCPR/C/21/Rev.1/Add.8/Rev. 1 (1997), para. 4.

- Criminal offences relating to possession of dangerous weapons (10 years imprisonment) (Art. 72); armed robbery (10 years to life imprisonment) (Arts. 305, 307); theft (5 years imprisonment) (Art. 293); and damage to or destruction of property (1-5 years imprisonment) (Arts. 315-320);
- Serious public order offences (5-10 years imprisonment) (Arts. 79-80); and
- Conspiracy, attempts to commit serious offences, and aiding and abetting (Arts. 52, 53, 58, 61-63).

4. Background

In June 2012, UNMISS issued a public report on inter-communal violence in Jonglei State covering the period from January 2011 to February 2012, which provided recommendations to end the cycle of violence in Jonglei State and prevent further attacks. Although a GRSS investigation committee was announced to look into the violence, it has never materialized. On 15 March 2012, the Government initiated a civilian disarmament campaign, which constituted a positive development to help improve security but nevertheless was received with mixed feelings amongst some communities, especially in cases of reported human rights violations by the SPLA. By September, the civilian disarmament was unofficially suspended due to the increased actions of the David Yau Yau armed group.

Since the beginning of the 2012-13 dry season, violent cattle raids have been reported in Jonglei. Between 30 September 2012 and 8 February 2013, UNMISS HRD documented 46 cattle raids that took place in Bor, Duk and Twic East Counties. The total number of casualties amounted to 36 people killed, 39 people injured and three people unaccounted for. During the same period, in an area composed of Akobo County, north and east of Uror County and south of Nyrol County, UNMISS HRD documented more than 23 criminal incidents involving serious crimes, such as arbitrary deprivation of life and abduction, including in the context of cattle raids. In total, at least 19 people were reportedly killed, 12 wounded and six female minors abducted during these incidents. Therefore, the 8 February 2013 attack in Wangar (Akobo County) did not take place in a vacuum and appears to be the culmination of a series of crimes. In most cases, local authorities have alleged that the perpetrators were members of the Murle community.

These cases include the following incidents:

On 24 October, in Nyaw Nyaw Boma (Walgak Payam, Akobo County), a dozen people, including a child aged 14, were attacked by armed men and allegedly at least four were wounded by gunfire while trying to retrieve the cattle in the vicinity of their homesteads. Three people interviewed by UNMISS HRD declared that the armed men were wearing "plain green colour" clothes, but they were not able to determine the attackers' origin. However, as far as the local administration was concerned, the persons responsible were allegedly Murle, partly because of the manner in which the victims were attacked, but also because of attacks committed in the past by Murle men in this area.

On 24 December, over 200 members of a Presbyterian congregation on their way to Wogin Boma (Deng Jok Payam, Akobo County) to celebrate Christmas, were ambushed early in the morning. According to one eyewitness, the choir girls were reportedly ahead of the adults, who were delayed while crossing a tributary. The group was on a footpath in the forest when, reportedly, uniformed armed men came out and started shooting and took the girls away into the bush. According to local authorities, three girls are likely held captive in Gakdung Boma (Deng Jok Payam), a large empty area believed to be occupied by cattle raiders. Gakdung is covered in forests, so it serves as a good hiding place. The armed men were believed to be Murle.

On 16 January in Kiere Boma (Deng Jok Payam, Akobo County), at around 2:00pm, during a wedding ceremony, three armed men in green military uniform broke into the gathering and began shooting in the air. According to one victim, who was struggling to rescue her young daughter, she heard one of them speaking Murle. Eventually, this victim was shot in the head and the thigh, but survived. However, her daughter was abducted.

Towards the end of January and in early February 2013, the frequency of criminal acts reported in the area increased. They were not necessarily carried out by the same group but contributed to the climate of insecurity:

- On 25 January, the Akobo West Acting Executive Director informed that alleged Murle gunmen attacked Kuernyol Boma (Buong Payam) and raided 42 cattle and injured one person.
- On 26 January, in Lony Boma (Walgak Payam, Akobo County) county authorities reported to UNMISS that 400 head of cattle were looted in a cattle raid conducted by unknown armed men.
- On 4 February, a total of eight people were killed during a cattle raid reported in Weycol Boma (Pieri Payam, Uror County).
- On 5 February, only three days before the attack at Wangar, about 90 civilians (predominantly women and children) with their livestock, heading from Walgak to Akobo, were reportedly attacked by armed men at Burolian water point, an open area between Akobo and Diror Boma in Walgak Payam. The County Commissioner reportedly dispatched 200 SPLA troops to rescue the civilians from the attackers.

No criminal investigations are known to have been undertaken into any of the above incidents apart from the incident in Kiere Boma where the police initiated an investigation.

A few days before the Wangar attack, the Akobo County Commissioner informed UNMISS that his administration was planning to recruit and deploy 200 police officers to Walgak Payam to commence and strengthen community policing in the area to curtail the increase in cattle raiding and abduction incidents in recent times. He wanted to ensure a police presence in all the different bomas in Walgak, to scale up security and to forestall the rising criminal activities. He added that the plan was a long-term one, in light of the enormous human and material resources that would be required.

The local authorities reportedly discouraged the communities from using the usual trail to go to the Sobat River but the community members disregarded the advice. The local authorities also requested that a military force be dispatched to escort the group of pastoralists that was proceeding to the Sobat River in February.

The 8 February attack should be considered and analyzed in the context of the recurrent violence that has been affecting the counties of Akobo, Uror and Nyrol for many years. Ultimately, these crimes, which in the majority of cases are left unpunished, have created a situation of instability and maintained animosity and fear among Nuer communities towards the Murle population, because of the supposed ethnic origin of these criminals. As a result, reprisals by Lou Nuer have been carried out to recover cattle and abducted children.

5. Findings

Composition of the pastoralist group

Local authorities reported that at the time of the incident in Wangar, there were approximately 6000-7000 Lou Nuer community members who were migrating from western Akobo to the Sobat River as part of an annual migration that takes place during each dry season to reach pasture and water. The County administration stated that 1000 people were directly attacked during the incident. It was reported that a few days earlier, two other groups had already migrated to the Sobat River.

The Lou Nuer community members who were attacked in Wangar set out from their various payams and bomas with their cattle on 6 and 7 February. They reportedly converged in an area called Puljet. They spent one night in Puljet and proceeded on the journey again in the morning of 8 February at 7:00am.

The group consisted primarily of vulnerable people such as women, children and the elderly, with a small number of male youth accompanied by their cattle. The number of cattle was claimed to be over 60,000 by the Akobo youth and local authorities while a more likely assessment, provided by the Akobo County Commissioner, estimated the number of cattle as 3000-4000. The pastoralists were organized according to their clans and bomas, with women and children in the front, while the cattle and other livestock were at the back.

The group was also escorted by approximately 40 SPLA soldiers. The survivors explained that during their movement, the pastoralists were organized into three main sections and each one was escorted by a group of soldiers. Each section was reportedly separated by a distance of several hundred metres. It was the section in the middle that suffered from the main assault. UNMISS was informed that people who were behind this section, upon hearing the shooting, managed to redirect their cattle and escape (*see sketch in Annex*).

Modus operandi of the armed men

At approximately 9:00am on 8 February the group was in Wangar (also referred to as the Mantor area), proceeding north on the journey towards the Sobat River. Two survivors reported that on their way five armed men attempted to approach the middle section of the group from the right (east) side. The SPLA soldiers reportedly fired at the attackers who immediately retreated into the bush without firing back. At this time, the SPLA ordered the women and children travelling in the front to sit down and to wait for the rest of the party behind to arrive with the cattle. When the party arrived, the women and children were told to get up and start the journey again. It was at this point that the attack began.

A large group of armed men started firing indiscriminately at those located in the middle of the group of pastoralists. They attacked from the eastern side of the group but also from the south-west.⁹ The survivors described to UNMISS experiencing fear and panic during the attack, that they threw away their belongings and started running for their lives.

⁹ See sketch in Annex.

"The armed men emerged from the eastern side where they were hiding. There were gun shots and the five SPLA soldiers were killed instantly. I realized that I had been shot in the leg and shoulder. I was lying down on the ground. The guns sounded like big guns of AK 47. There was no specific target either on women, children or me. The armed men continued firing until all the people were dead. Then they started dancing and celebrating in traditional Murle dance. The armed men thought I was dead because I was lying down on the ground." (AH)

According to some survivors, more armed men were hidden in the bush on the south-western side of the cattle trail and were shooting at and chasing the people who were fleeing the attack.

CB, a 15 year-old boy, who escaped the attack, explained that he and other men ran with their cattle. About seven armed men chased them and fired at them. They were chased for a long time until they abandoned their cows. Then, from a distance, he saw the attackers dancing and singing in Murle and firing in the air.

Survivors say that the incident overall lasted approximately six to seven hours, during which the SPLA engaged the attackers.¹⁰ Also, UNMISS was informed that at least one civilian was carrying a rifle and was killed while confronting the attackers.

Through the analysis of the layout of graves and bodies, it appears that the group was attacked from the eastern side and that the victims were trying to flee westwards. Based on the layout as well as interviews with survivors, UNMISS assesses that there were several groups of SPLA soldiers along the east side of the pastoralist group and that the SPLA soldiers further north on the east side were taken by surprise, with no possibility of retaliating, while the group further back managed to retaliate and exchange fire.

Casualties and impact

Killed people

According to local authorities interviewed in Walgak, 104 civilians and 14 SPLA were killed during this attack. Among the civilians were 60 women, 18 men and 26 children.

The UNMISS team that reached the site of the incident counted 56 graves and 22 dead bodies lying aboveground covered with bushes or a piece of cloth as a form of burial over a 1.5 square kilometers area. Among the bodies aboveground, the team noted the bodies of one child, seven SPLA soldiers and two women. One particular area was difficult to access and may have contained additional bodies.

According to local informants, the 56 graves contained 63 bodies. In total, the number of people verified to have been killed at the site amounts to 85 victims. The relatively large amount of household items and women's and children's clothing found on the site indicate that there were many women and children among the group that was attacked. However, the advanced decomposition of the bodies and the fact that a large number had already been buried made this difficult to confirm.

CASUALTIES

Number of people killed: 85
including 69 identified by name (29 women, 17 civilian men, four soldiers, nine girls and 10 boys)
Number of people injured: 37
Number of people missing: 34

¹⁰ Estimating time during the course of incidents like these may be difficult for those subject to attack. The incident may well have been carried out over a shorter time span.

Based on testimonies of survivors, UNMISS cross-checked and verified the identities by name of 69 people who were killed: 65 civilians and 4 SPLA soldiers. Among the civilians were 29 women, 17 men and 19 children (9 girls and 10 boys). Many of the names collected corroborated the names on the list compiled by local authorities, according to which 118 people were killed.

Overall, it appears that the number of deaths asserted by the local authorities (118) is somewhat higher than the number of bodies found (85). The discrepancy may be explained in part by the fact that during its visit to the incident site, the fact-finding mission may have missed some bodies due to the very long grass and lack of mobility. Furthermore, some wounded people may have perished after leaving the site. All in all, it appears that the number of deaths initially reported by local authorities was quite close to the findings of the fact-finding mission.



Items found at the incident site, including a baby cradle¹¹

Wounded and missing people

According to figures collated by UNMISS and on the basis of the information available to the fact-finding missions, at least 37 people were injured during the attack. Up to 19 February, a total number of 15 people were treated at the local health facility in Walgak, including one woman who passed away. In addition, 22 patients were treated in medical facilities in Upper Nile State. Most of the injured suffered bullet wounds, apart from a few victims who were also treated for stab wounds.

Through interviews, HRD collected a total number of 34 people who were unaccounted for. They are presumed to be dead, abducted or in an unknown location. NB reported to UNMISS that she saw her three year-old boy being abducted by the attackers.

"I was shot during the attack and fell down. My three year-old boy tried to run away. Two attackers followed him and took him."

¹¹ Due to their graphic nature, the photographs of graves and bodies taken at the site are not included in this report.

Survivors and affected population

After the attack, the majority of the group of 6000-7000 reportedly continued to the Sobat River while 1500 households returned to Walgak. Further reports indicate that the survivors sought refuge along the Sobat River in Upper Nile State and are in need of humanitarian assistance. The attack not only affected those civilians attacked, but also indirectly affected others by disrupting the annual migrations in the area.

SPLA

According to local authorities, 14 SPLA were killed during the attack. The UNMISS team on the site of the incident observed three SPLA bodies surrounded with bullet casings in the middle of the incident site. At the northern tip of the site, four SPLA bodies were found with no trace of bullet casings. The UNMISS team was informed that the grave of the SPLA commander was in the south-central area of the site.

Cattle

The county and local administration and the Akobo youth claim that as a result of the incident, 65,766 cattle were taken by the attackers (including 36,048 from Walgak Payam, 14,437 from Diror Payam and 15,371 from Buong Payam). On the other hand, the Akobo County Commissioner stated that there were 3000-4000 cattle in total, of which 2100 were retrieved by the SPLA. Notwithstanding the large difference in numbers, even the lower figure represents a substantial loss of cattle and livelihood support.



Dead cow found on the incident site

Armed men

Most of the witnesses described the assailants as being “many”. Two witnesses reported a group of approximately 30 attackers, which refers to only one group of attackers that was seen at one location. It has not been possible to determine the number of attackers but they were enough to overcome a protective force of approximately 40 armed SPLA soldiers.

The survivors described the attackers as having guns and wearing green uniforms without insignia. Some of them were also reportedly wearing camouflage uniforms. Most of the survivors stated that the attackers were from the Murle community. When asked how they knew the origin of the armed men, a few survivors said they recognized Murle facial features and most of the witnesses said that they recognized the intonation of the Murle language or even understood some words. For example, one survivor said that the attackers shouted at them in Murle “Lankuna”, meaning “who are you?!”. In addition, two survivors witnessed the attackers dancing and chanting in Murle around dead bodies after the assault.

The number of attackers killed varies depending on the sources. While the Walgak youth and the SPLA claim that seven attackers were killed, local authorities stated that only three were killed. At the incident site, the UNMISS team witnessed only one body potentially of an attacker, the only body that had not been attended to. His human remains were in the open air which could indicate that he was not considered one of the victims. In addition, the body was found near the supposed line of attack and dressed in green military-style clothes which were not an SPLA uniform. A whistle was found next to the body and it may have been a cattle-whistle but it could have also been used as a tool for communication among the attacking group, as stated by an informant. The UNMISS team observed a tribal object on the remains that may traditionally belong to the Murle tribe. Two Nuer civilians as well as four Murle civilians interviewed identified the object as being a Murle bracelet. One Nuer man stated that this object could be either Nuer or Murle. However, the Murle civilians specified that this bracelet was traditionally worn by Bothonya and Lango Murle age sets.

Analysis of the bullet casings¹²

The UNMISS team examined the bullets and small arms ammunition casings that were found at the incident site. The sample examined likely contained ammunition used by both SPLA and the armed men. One 5.56mm bullet casing, collected by the SPLA from the incident site, matches with other UNMISS-documented ammunition samples used by members of the David Yau Yau armed group and armed Murle civilians. Because of the possible movements of cartridges on site, frequent intermingling and battlefield capture of ammunition and its subsequent re-circulation, and leakage and illegal sale from security forces to the civilian population, it is difficult to definitively ascribe the use of the bullets in this incident to either perpetrator or defender (SPLA) or to definitively determine the provenance or path of the ammunition before this incident.

The manufacturing state of the ammunition can be determined, though, and the sample breaks down as follows: of 58 cartridges, 26 are Chinese, 14 are Russian, nine are Ukrainian, three are Czechoslovakian, two are Sudanese, two are Bulgarian, one is Iranian and one is unmarked. Again, it is difficult to draw conclusions from this information, but the wide variation demonstrates the proliferation of weapons and ammunition in Jonglei, which is contributing to the violence and insecurity in the region.

6. Response of State Authorities

The SPLA has increasingly been addressing cattle-raiding in northern Jonglei. SPLA troops provided a security escort to civilians to the migration site and reportedly defended the civilians and their cattle against the armed attackers. The SPLA has also engaged in retrieving stolen cattle, both on this and other occasions. After hearing the sounds of the attack in Buong Payam, the local administrator, SPLA representatives and community members went to the site of the attack. The SPLA and local authorities assisted in the evacuation of injured civilians and wounded SPLA soldiers to medical facilities in Walgak Payam for treatment.

On 12 February, UNMISS was informed that SPLA forces carried out two operations in Deng Jok (north-east Akobo County) and Tunyi (south-west Akobo), in which 1300 and 800, respectively, cattle stolen in the Wangar attack were reportedly recovered. However, UNMISS was not informed whether any alleged perpetrators were arrested.

¹² A 'cartridge' refers to a complete munition, including casing, powder, primer and projectile (bullet). A 'casing' is the empty shell, with fired primer and propellant (gunpowder) and without a projectile (bullet).

While visiting Akobo County on 12 February, the Deputy Governor of Jonglei State, Hussein Maar Nyuot, condemned the “brutal attack” during the community’s annual migration to cattle camps at the Sobat River. He also praised the work of the SPLA forces in recovering cattle raided during the attack, and said that the SPLA were tracking the alleged armed men and were still hopeful of recovering some of the abducted persons. He appealed to security forces in the region to pursue an urgent campaign of disarmament across the state over the next two months, warning “if it is not done now it will be too late and they [armed men] will cause a lot of insecurity, particularly during the rainy season”.¹³ On the same day, 12 February, hundreds of protesters took to the streets in Bor to condemn the attack, calling on the State Government to implement a comprehensive disarmament campaign in all Jonglei counties. The protesters proceeded to the Governor’s office where they presented a document to him containing their grievances. A copy of the document obtained by the UNMISS Human Rights Division said the conflict between the Lou Nuer and Murle communities has been ongoing since 2006 and has had “devastating consequences”.¹⁴

On 17 February, South Sudan’s Vice-President Riek Machar led a high-level security and humanitarian delegation to the scene of the attack where the delegation paid its condolences to the bereaved families and reassured the affected populations of the Government’s commitment to disarm all the civilian populations in the state.

7. Response of UNMISS

As part of the UNMISS early warning mechanism, the Jonglei state office scheduled a long duration patrol that went to Waat between 30 January and 5 February. The team was composed of representatives of the military and civilian components. The mission had multiple objectives that ranged from deterring possible threats to monitoring the cattle migrations, possible mobilization of armed groups and the human rights situation. Using an MI-26 helicopter, UNMISS transported cars to be able to cover the area by road. Among other locations, the areas of Lankien, Walgak and Pulchol were visited.

The Mission engaged with local authorities and community leaders as late as 5 February. There was general concern about the situation and the security risks to the population, as evidenced by the deployment of an SPLA contingent to escort the pastoralist community moving toward the Sobat River. However, the SPLA deployment, the level of the threat, and specific early warning information about a possible attack in Akobo West Sub-County was not shared with UNMISS. For UNMISS to have been able to deploy military contingents for the protection of civilians in such a remote area, the early warning information would have had to have been accurate and provided ahead of time.

UNMISS also responded to a request from local authorities to deploy a helicopter for security assessment in the area. However, due to increased security constraints following the helicopter incident of 21 December 2012,¹⁵ and additional procedural impediments linked to aviation safety, the special flight was only approved on 8 February – the day of the attack. This is very unfortunate and more must be done to review the prioritization of flights under these circumstances.

UNMISS was informed of the incident on 9 February and submitted a special flight request to Walgak for clearance to the SPLA the same day. While flight safety guarantees were granted from the SPLA Force Headquarters, they were delayed at state and county levels, enabling the first team to arrive in Walgak

¹³ *Comments by the Deputy Governor of Jonglei, Hussein Maar Nyuot, on 12 February 2013:*

<http://www.sudantribune.com/>, “Jonglei Government condemns violence in Akobo”.

¹⁴ *Petition from the Great Akobo Youth Association (GAYA) regarding the Murle attacks in Lou Nuer areas.*

¹⁵ *On 21 December 2012, an UNMISS helicopter was shot down in Jonglei, killing all four crew aboard.*

only on 11 February. They stayed for two days, during which they started the investigations. During their stay, the team members could not identify specific coordinates for a helicopter landing site. Upon the completion of the mission, it was decided that a foot patrol would walk from Walgak to the incident site. On 14 February, a subsequent team arrived in Walgak and started walking to the incident site with an overnight stay in a boma in Boung Payam. They reached Wangar on 15 February, after walking 55 km. After conducting their investigation of the site and managing to take the coordinates onsite, they were extracted on 17 February by helicopter.

On 19 and 20 February, the Special Representative of the Secretary-General (SRSG), Hilde F. Johnson, accompanied by the Force Commander, Maj. Gen. Delali Sakyi, and the Directors of Civil Affairs and Human Rights, visited and held meetings in Bor, Akobo, Walgak and Pibor. The SRSG expressed her condolences to the Jonglei State Government, the local authorities in Akobo and the community leaders and members in Walgak, condemned the 8 February attack and expressed the need for everyone to do better in trying to prevent such attacks from happening, through responding promptly to early warning indicators in order to protect communities. On the latter she explained the need for UNMISS to have advance information to be able to act in a timely manner, due to the logistical constraints of deploying troops to remote locations such as Wangar.

Following the visit, in a press release issued on 22 February, the SRSG expressed her deep concern regarding the recent events in Jonglei State and urged that immediate action be taken by Government and community leaders to ensure stability. She also repeated the UN's condemnation of the attack in Wangar.

In parallel, UNMISS has developed its own contingency plan for Jonglei State by re-deploying troops to sensitive areas of Jonglei and has prepared an appropriate UNMISS civilian, police and military response plan in case of possible future attacks.

8. Analysis

During the dry season, Lou Nuer pastoralist communities migrate with their cattle to areas with greater pasture and water resources in Ulang. However, in an environment rampant with armed groups and possible attackers, migration is exposed with increasing frequency to cattle raids and puts lives in these communities at risk. In that context, preventive and protective measures needed to be instituted and local authorities have ensured that some groups have SPLA escorts. However, in the attack at Wangar, SPLA elements seemed to have been outnumbered by the attackers. Indeed the county administration deplored the insufficiency of the security forces deployed to escort this particular group of migrating pastoralists. It is nevertheless difficult to establish the exact number of SPLA that would have been required to effectively protect this population. Although it is understandable that law enforcement and security forces cannot escort all migrations of people and cattle, a risk assessment should have been carried out by the SPLA in collaboration with the authorities to establish the sensitivity and the vulnerability of this particular movement.

On 30 January, UNMISS Human Rights Officers met with the SPLA Commander in charge in Waat and raised the issue of protection of pastoralist people heading with their cattle to grazing areas. The commander explained that the SPLA faced two different enemies in Waat: cattle raiders and David Yau Yau elements supported by Khartoum. He was aware that different groups of cattle raiders were roaming in the area. However, he clearly said that the SPLA's task was to protect the south of Waat and they had not received instructions from their leadership to protect other areas (i.e. where pastoralists were migrating toward grazing areas).

It is difficult to say whether early warning information to UNMISS in the context of the threats to the pastoralist community moving towards the Sobat River might have made it possible for UN peacekeepers to deploy on time to adequately protect the civilians who were under imminent threat. Very close collaboration with the SPLA contingent escorting the pastoralists would have been necessary, including the provision of coordinates for possible helicopter landing sites in the vicinity.

The Wangar attack constitutes the most deadly attack of the 2013 dry season in Jonglei State, resulting in heavy loss of life and possible further suffering for the survivors who are in need of humanitarian assistance. Criminal cattle raids in Jonglei are not a new phenomenon. They are historically rooted in inter-community relations, in particular between Lou Nuer and Murle in Jonglei State. However, over the years, the acts committed during the raids seem to have become more violent and target more vulnerable groups. The information gathered indicates that during the attack at Wangar, for example, women and children were shot indiscriminately. Gunshot wounds were inflicted in many different locations on victims' bodies, including wounds to the head, arms, abdomen, legs and breast. One survivor told UNMISS that he saw his one year-old grandson hit by a bullet in the back while his mother was picking him up from the ground.

The fact that the attackers were wearing uniforms, that they were equipped with arms and ammunition and that the attack took place in a no man's land on a migration route, suggests that the group of armed men were roaming in the area in order to attack people who had cattle. Notwithstanding that the armed men may have attacked the group in order to raid cattle, the intent to murder may also be adduced by the indiscriminate firing on unarmed civilians, including those who were fleeing the attack.

The authorities' response has been mainly through the use of the SPLA to recover stolen cattle. In the specific case of the attack at Wangar, the SPLA, deployed from Akobo, carried out an operation to recover the stolen cattle in Deng Jok and Tonyi.

Only on rare occasions has UNMISS been informed that alleged perpetrators of cattle raids and/or abductions are arrested following an investigation by the authorities, and even when efforts are made there are clear challenges. For example, in the case of the three girls abducted by unknown armed men in the area of Deng Jok on 24 December (see *Background*), Human Rights Officers raised the issue of the follow up with the local authorities. Twenty Akobo police officers were requested by the Akobo County Commissioner to patrol the area between Wanding and Deng Jok. However, they reportedly declined to be deployed without the protection of SPLA because the area is considered to be too dangerous. The SPLA has not provided the required protection.

In the tense context of Jonglei, the perpetration of cattle raids that result in substantial civilian casualties, if left unaddressed, may at any time be a trigger for a new cycle of violence between the Lou Nuer and Murle communities. However, the identification, arrest, and prosecution of alleged perpetrators, and, where warranted, punishment by way of terms of imprisonment and/or the payment of fines, as well as the return of abductees, could prevent acts of revenge and reduce tensions between communities.

Abductions have been a traditional practice during ethnic violence and the fate of those abducted varies. Abductions of women and girls are very often followed by forced marriage or assignment to captors amounting to rape and other forms of sexual violence. Younger male and female children are kept by the captors as their own children. Finally the large scale looting of cattle also results in direct and indirect consequences for the communities affected such as food scarcity and lack of means of survival.

As stated above, the survivors and the body of the alleged attacker found at the incident scene suggest that the armed men were from the Murle community. On the other hand, there is no clear evidence that the attackers were affiliated to an armed group such as David Yau Yau, or with state security forces.

Accordingly, the Penal Code and other relevant criminal laws should be applied to the attackers. The acts committed constitute crimes under the Penal Code of South Sudan and the perpetrators should be brought to justice within this framework of the law.

The Government is responsible for protecting and upholding human rights. In its 2012 public report on inter-communal violence,¹⁶ UNMISS exhorted the authorities to tackle impunity in the instances of cattle raids. However, no one on either side was held accountable for the cycle of violence of the 2012 dry season. In addition, the nominated Jonglei Investigation Committee was never sworn in and operationalized. On the other hand, the Government did deploy a larger SPLA presence in the area. In this regard, it is acknowledged that the SPLA escort provided some protection and reportedly confronted the armed men. However, the number of soldiers appears to have been too few to provide adequate protection for the migrating Lou Nuer pastoralists and their cattle.

In this regard, the local authorities deplored the lack of sufficient security agents to undertake this escort and also called for an investigation and compensation for those affected. A military analysis could provide more insight into what would be an adequate number of soldiers that should be assigned in those circumstances. The response of the Government following the incident is also encouraging in terms of directing security personnel to pursue the armed men and retrieve some of the cattle. It is further acknowledged that since the incident took place the authorities have been proactive in condemning the attack. Nevertheless, the incident highlights the further need by the Government to act upon early warning, protect civilians under imminent attack, bring to justice the attackers and work in collaboration with all the communities of Jonglei to find peaceful resolutions to the conflict, disarm all communities of the state and prevent the proliferation of arms and ammunition.

9. Conclusions and Recommendations

It is of grave concern to UNMISS that so many people were killed on 8 February. The causes of inter-communal attacks are multiple and complex, ranging from widespread availability of weapons and insecurity to marginalization and lack of development. UNMISS acknowledges the efforts that have been made by the Government to anticipate and respond to the incident and thereby reduce the number of casualties. However, the series of attacks prior to the Wangar incident indicated that there was a risk of deterioration in the security situation. Further attention should have been given to those early warning signs in order to provide an adequate security response. UNMISS also bears early warning responsibilities and took steps to detect potential violence through patrols. However, UNMISS special flights have been hampered following the shooting down of the UNMISS helicopter. Further to that incident, updated procedures were put in place in consultation with the United Nations Headquarters, in order to ensure the safety of UNMISS flights. Requests for flights that are going in “high risk” or extremely “high risk” areas are now subjected to additional levels of clearance including a senior-level committee chaired by the Deputy Special Representative of the Secretary-General and risk assessment meetings. The regular procedure now takes nine days.¹⁷

Given the political climate and the fragile security situation in Jonglei, UNMISS is concerned that the affected communities might prepare a revenge attack. It is of utmost importance that the Government continues to call for restraint and engages with communities to prevent a further escalation of violence. It

¹⁶ Incidents of inter-communal violence in Jonglei State, June 2012, UNMISS.

¹⁷ There can be extraordinary consideration for short notice special flights for which the procedure can be sped up and ad hoc meetings can be scheduled.

is also crucial that the Government undertakes an investigation with a view to bringing the perpetrators of the crimes to justice and seeking redress through compensation. This will constitute a strong deterrent to further criminal intention by all the parties.

In light of the above remarks, UNMISS **recommends** that:

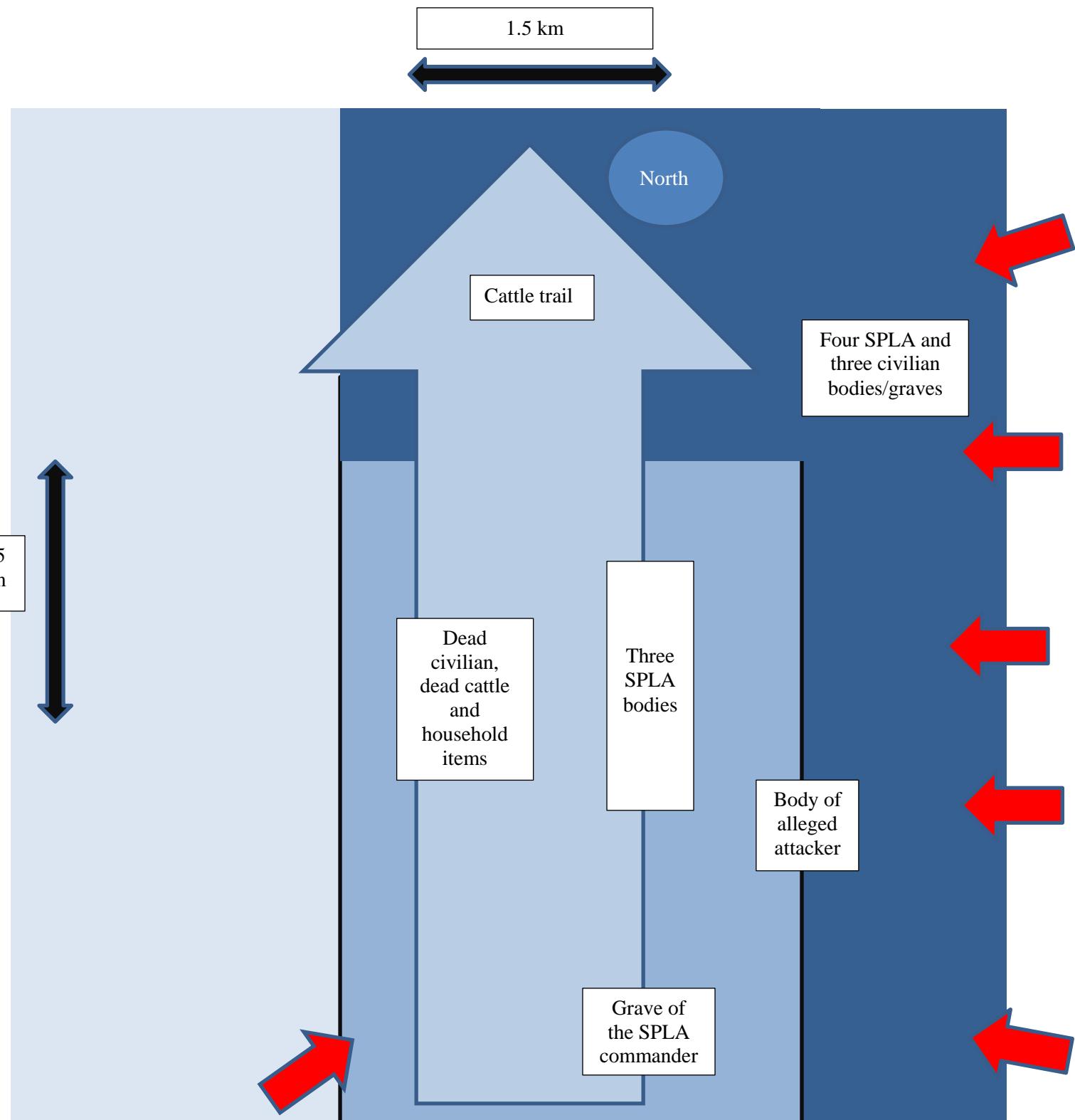
Recommendations to the Government

1. The GRSS, state and local leaders should condemn in the strongest terms killings, abductions, and cattle-theft as serious criminal acts under national laws.
2. The South Sudan National Police Service (SSNPS) should carry out a comprehensive investigation into the Wangar incident. In particular, it should ensure:
 - a. the effective, prompt, thorough and impartial investigation of criminal offences and, where appropriate, the GRSS should prosecute those allegedly responsible in accordance with domestic and international law; and
 - b. the SSNPS, including the Criminal Investigation Department, is adequately resourced and empowered to carry out such investigations and prosecutions.
3. The GRSS should ensure the investigation and, where appropriate, the prosecution of individuals allegedly responsible for illicitly providing weapons and ammunition.
4. The GRSS, in collaboration with local authorities, should ensure adequate protection is provided to civilians in Jonglei State, particularly in security-sensitive areas, including by increasing the numbers and strengthening the capacity of the security forces deployed in those areas. More auxiliary police should be trained and deployed for this purpose. Furthermore, as the capacity of the SSNPS is still limited, the SPLA should set up a quick response unit for rapid deployment in instances of serious violent attacks on civilians.
5. National, state and local actors should reignite the Jonglei peace process and Presidential Committee to support this and continue to address cattle raiding and inter-ethnic disputes through peaceful means.
6. The GRSS and the SPLA should resume peaceful civilian disarmament respectful of human rights standards in all counties of Jonglei State in order to prevent further proliferation of weapons and ammunition.
7. The GRSS and local authorities should make every possible effort to determine the whereabouts and secure the return of abductees, in accordance with their best interests.
8. The GRSS should provide necessary humanitarian assistance to the communities who have been affected by the attack, with the support of international partners.
9. More efforts should be made to ensure timely sharing of early warning information with UNMISS at all levels. In this regard, it should be noted that local communities are key to an effective early warning mechanism and should be encouraged to communicate, to the best extent possible, their concerns to UNMISS components and Government authorities.

Recommendations to UNMISS

1. UNMISS should continue to review and enhance the early warning mechanism by enhancing communication with counterparts on the ground and ensuring improved coordination, with early response capacity.
2. UNMISS should increase efforts to ensure timely sharing of early warning information with the Government at all levels, and review the prioritization of flights in early warning situations, doing its utmost to prevent recent procedural constraints from impeding speedy responses to flight requests from local authorities.

ANNEX: Sketch of the incident site



Area covered in patrol 2.
Total: 2 graves, 5 bodies, 8 animals
spread throughout the zone

Area covered in patrol 1.
Total: 50 graves, 8 bodies, 6 animals spread throughout the zone (concentration indicated in the sketch)

Area covered in patrol 3.
Total: 4 graves, 9 bodies, 6 animals