



FPC Briefing- Abyei: Beyond expediency, towards sustainable peace
Tim Flatman¹

The approximately 120,000 permanent residents of Abyei region, situated on the borders of Northern and Southern Sudan, have become accustomed to their rights being made subject to wider political issues deemed more important or more immediate by regional, national and international elites. In 1905, the status of Abyei was made subject to administrative expediency when Abyei was transferred to the North. In 1972, the right to a referendum moving Abyei back to the South it was “culturally and geographically” a part of², was made subject to the economic needs of the Northern government and its political relationship with the Misseriya³. The Abyei Protocol itself was insufficiently fleshed out and contained loopholes not all of which were properly resolved in the implementation modalities, in order to ensure both NCP (National Congress Party) and SPLM (Sudanese People’s Liberation Movement) representatives put their signatures on a piece of paper. In 2008, the SPLA (Sudanese People’s Liberation Army) were convinced not to enter Abyei to defend the Dinka Ngok⁴ from attack by Misseriya & SAF (Sudanese Armed Forces), so as to guarantee the Southern referendum, and in late 2010 and early 2011, the Dinka Ngok were persuaded to delay discussions amongst themselves on how to ensure their right to self-determination was implemented, in order to minimise the possibility of disruption to the Southern referendum.

Yet, the future status of Abyei is also recognised as the issue that has the potential to derail peaceful separation of the South. It is difficult to find scholars or diplomats who currently believe the North is willing to engineer a full-scale war to protect the territorial status of Abyei, but similarly few rule out a proxy conflict either in the immediate future or following a breakdown of relations in the medium term following separation of the South. Some “realists” may be willing to accept a proxy conflict as a way of allowing the two sides to appease hardliners through entrenchment on a peripheral question while the substantive issue of implementing separation is worked through. Others are concerned that conflict in Abyei could easily escalate due to the links local communities have with high-level political and military figures in both North and South, and that while a return to full-scale conflict may not be desired by either side, it could be an unintended consequence of the failure to resolve the status of Abyei permanently.

In either case this discourse is symptomatic of wider reasons why implementation of the Abyei protocol has fallen significantly behind implementation of other aspects of the Comprehensive

¹ Note: The author spent three months in Southern Sudan and border areas surveying attitudes towards post-referendum negotiations and arrangements. He spent two weeks in Abyei and maintains regular contact with multiple sources on the ground. Great care has been taken to protect the identity of sources. To contact him please email tflatman@gmail.com

² Article 3, c), The Addis Ababa Agreement on the Problem of South Sudan, 27 Feb 1972

³ A nomadic Arab tribe who live in the southern reaches of Northern Sudan, one sub-tribe of whom traditionally travel into Abyei to graze their cattle during the dry season and who have at various times been used by successive Northern governments to attack Southerners in Abyei

⁴ A Southern tribe related to Dinka tribes located throughout Southern Sudan. The Dinka Ngok make up the vast majority of the permanent residents of Abyei alongside small numbers of their cousins in other Dinka tribes who have settled with them, and a handful of Misseriya families



Peace Agreement (the popular consultation process in Southern Kordofan region notwithstanding). Abyei has consistently been viewed through the lens of North-South relations, rather than being seen as an issue in its own right. Fear of derailing the Southern referendum has stalled progress on Abyei to a point where conflict is significantly more likely due to the difficulties of resolving tricky and sensitive issues in the short time available, yet many still view Abyei in the context of its potential to create wider instability rather than considering the lives of those the land belongs to as of primary importance.

None of us are innocent in this respect. I have argued that

“lack of agreement on border demarcation and conflict in Abyei would make it more difficult for other nations to recognise an independent South Sudan. This is especially true if Bashir can establish the narrative that both sides are equally to blame for lack of agreement. If the US persists in putting impossible demands on the South to carve up Abyei further, it will be easier for Bashir to establish this narrative by claiming the South are not co-operating. Separation may be delayed, or Southerners may run out of time and end up seceding without Abyei.”⁵

This approach is not totally without merit. It is certainly true that it is in Northern interests to prevaricate & prevent agreement on border demarcation. But the danger is that an approach which emphasises the responses of elites in Khartoum and Juba will focus a solution on expediency: what does it seem reasonable, in this particular moment, for both sides to give up on, in order to secure a way forward? This risks repeating the mistakes of the Abyei Protocol. Peace will only be sustainable if it can be presented as a permanent solution, founded on justice and rooted in the traditions of the permanent residents of Abyei and their historic relations with their neighbours.

Readers expecting a full treatment of those traditions and relations would be best served examining the Abyei Boundaries Commission Report⁶. There is little point in providing an inferior reworking here. However, it is worth saying something about local perceptions of historic events, to aid understanding on how pragmatism or otherwise of competing solutions to the problem of Abyei.

Abyei was acknowledged by the Permanent Court of Arbitration (PCA) at the Hague as the historic homeland of the 9 Dinka Ngok chiefdoms⁷. The Dinka Ngok maintain that were it not for the involvement of external politicians, particularly successive governments in Khartoum, they would be able to resolve disputes between Misseriya and themselves as they always had, even before 1905. This is not necessarily indicative of a high level of co-operation; the Dinka

⁵ Visit report for HART UK, available at http://www.hart-uk.org/advocacy/hart_visitreport_sudan_january11.pdf

⁶ Abyei Boundaries Commission Report, IGAD, 14 July 2005

⁷ The Government of Sudan/The Sudan People's Liberation Movement (Abyei Arbitration), Permanent Court of Arbitration, July 22, 2009



Ngok speak of a more even balance of forces in the past, pointing out that their ability to defend themselves prevented the Misseriya belief in their superiority to African tribes asserting itself at a violent level lest they lost their access to the land for grazing purposes during the dry season. It was the interference of the North, in particular by giving the Misseriya superior arms in the 1960s, that changed the balance of forces significantly, leading to Misseriya participation in slave-raiding, violent pillaging and forcible displacement.

The Dinka Ngok are ethnically homogenous and universally regard themselves as Southerners, in common with their Dinka cousins in six other tribes living throughout the South. They regard the 1905 transfer of Abyei from South to North as a mistake made by people who did not understand the consequences of what they were doing. Most describe the transfer as an arrangement motivated purely by administrative ease, although some also factor in attempts to impede the slave-trade, and personal relationships between key figures of the day. They tell their subsequent history as a history of betrayal. The betrayal of the UK in ignoring Southern pleas against unity with the North at the Juba conference in 1948 and again upon independence in 1956 was mirrored in the speedy abrogation of the rights of the Dinka Ngok to decide their future under the Addis Ababa agreement of 1972, which itself precipitated the outright reversal of the accord leading to the resumption of the war in 1983. The Dinka Ngok fought in both Anya-Nya II and the SPLA, being some of the first recruits to the SPLA and helping secure John Garang's leadership following early divisions amongst rebels at Bilpam.

The Comprehensive Peace Agreement (CPA) of 2005 did not put an end to that history of betrayal. Some felt betrayed that despite their prominent role in the war, the permanent residents of Abyei were not rewarded with the outright transfer of Abyei to the South, but had to rely on implementation of the Abyei Protocol promising a referendum to achieve the same, to be held simultaneously with the Southern referendum on separation. The capitulation of the international community in the face of Northern abrogation of earlier commitments to respect the verdict of the Abyei Boundaries Commission which defined the geographic area of Abyei widened that sense of betrayal to include the international signatories to the Comprehensive Peace Agreement. This feeling was reinforced by the failure of the UN to defend Abyei when it was occupied and razed in 2008 and subsequent pressure from the international community on the SPLA to prevent it driving Misseriya and SAF out of Abyei. It was these events which led directly to the formation of Abyei Civil Society, an umbrella group of 12 organisations representing grassroots peoples in multiple and overlapping sectors including women, youth, cattle-owners, teachers, traders, religious congregations, traditional leaders and health workers, who would firmly and independently assert the Abyei's right to self-determination.⁸

The verdict of the Permanent Court of Arbitration continued to reduce the size of Abyei region. The NCP first accepted the results and celebrated their gains, then disavowed them. The

⁸ As evidenced by a series of independently-organised petitions presented to the UN in 2010



international community did not enforce the results but allowed disagreements over the land constituted by Abyei and questions over who could vote in the referendum to drag on until it became too late to hold the referendum. The Dinka Ngok interpreted this variously as weakness or conspiracy, but it became clear that whether the Troika⁹, the UN¹⁰, Thabo Mbeki¹¹, or the Hague, the Dinka Ngok could not put their trust in international actors/institutions. This has been compounded by their frustrations at the inability of international mediators to see through Misseriya claims, particularly on voting rights. Neither Misseriya nor the NCP demanded voting rights for anyone other than permanent residents of Abyei until the last minute. Dinka Ngok do not understand why this claim is not seen as vexacious: an attempt to find an issue on which agreement is not possible so as to block the referendum. They feel the request for voting rights should have been rejected out of hand, and by approaching Misseriya leaders to ask them their conditions for a referendum, mediators have “wakened sleeping dogs” who were otherwise content with the settlement. NCP agents hide the truth about the generous SPLM offer to Misseriya while giving them instructions to make demands to international mediators that will hold up referendum.

It is hardly surprising these frustrations and the ensuing inability to trust the international community to implement the Abyei Protocol have seen the Dinka Ngok discuss amongst themselves how their right to self-determination might be enacted. The Dinka Ngok are desperate not to be left behind while other Southerners secede from the North. The Abyei Ngok Dinka Consultative Conference, Juba, November 15-16, discussed how local people might put pressure on the SPLM, NCP and international actors to resolve Abyei’s status by the date of the Southern referendum. A deadline of 30th November¹² was set for an external solution after which they would continue to discuss the matter themselves. Their dilemma was obvious – how to make sure they were not left behind as the South separated without allowing the North to paint them as in violation of the Comprehensive Peace Agreement and using the excuse to repeat 2008 on a grander scale. The SPLM clearly stated that the Dinka Ngok had the right to free speech and assembly, and that they could not stop the Dinka Ngok from discussing their rights.¹³ Political reality, the need to guarantee the safe arrival of returnees from the North and high level representation from the SPLM calmed the situation to some extent. But speculation was rife and some Misseriya misinterpreted the situation, attacking and killing at least 24 Dinka Ngok on the weekend of the Southern referendum on the misunderstanding that unilateral action to transfer Abyei to the South would be taken that weekend, and in an attempt to stop it.

⁹ The quartet of USA, UK, Norway & Italy. The US’ reputation amongst the Dinka Ngok has taken a nosedive. Many believe Obama’s strategy of reaching out to the Islamic world has resulted in a reluctance to apply the necessary pressure on the NCP. John Kerry and Scott Gration are viewed as naive, weak and ill-informed following attempts to persuade the South to reduce the size of Abyei further: Gration’s move to Kenya provides an opportunity for the US to win back trust by the temporary re-appointment of John Danforth as US Special Envoy to Sudan

¹⁰ Apart from the failure to intervene in 2008, many Dinka Ngok allege that UN troops, particularly those of Egyptian origin, consistently turn a blind eye to SAF/Misseriya violations of the Abyei protocol

¹¹ Many Dinka Ngok allege that President Mbeki has financial ties to the Government of Sudan through family members. This author has no evidence of such ties, what is important is that this is the common perception of the Dinka Ngok

¹² See Resolutions of the Abyei Ngok Dinka Consultative Conference, Juba, Southern Sudan, November 15-16, 2010

¹³ SPLM Press Release on Abyei, January 2011



Dr Douglas Johnson calls in a recent article for a

“recognition by the US government that the recent interventions of their mediators have made a resolution less, rather than more likely, and a reversal of their current attempt to mediate through the imposition of a further territorial compromise”¹⁴

This author concurs. Once it became clear a referendum commission for Abyei would not be set up in time for a simultaneous referendum, and knowing the feelings of the community in Abyei, the US pressed for a presidential decree from President Bashir transferring Abyei to the South. In order to achieve this, they made it known they would support further compromise on the territories concerned.¹⁵ This was something Bashir could agree in principle to, in the knowledge that the permanent residents of Abyei could never agree, and would look like the party at fault. The Dinka Ngok could not agree to such a solution for numerous reasons. Compromise was already embodied in the Abyei Protocol, Abyei Boundaries Commission Report and PCA verdict, with successively less land allocated to the Dinka Ngok each time. Enough was enough. The Dinka Ngok were also unwilling to barter the homelands of some of their community for the sake of the rest of it. It is not a sustainable solution for them to leave some of their community behind in the North after separation is implemented.¹⁶ There was more recognition from the Dinka Ngok than there was from the international community that to base land rights on an arbitrary compromise, undermining international institutions in the process, would be less secure an agreement than basing it on the decision of the Hague. Perhaps most importantly, further compromise on land was unacceptable to them because it would reward recent forced displacement of Dinka Ngok by Misseriya from the lands under question. If claims to land can be derived from forced displacement, the question of where the boundary lies will always be subject to the balance of forces between the Dinka Ngok and the Misseriya. The history of relations between the Dinka Ngok and the Misseriya confirms that this is the status quo – the Dinka claim that before Misseriya were handed arms by the North, their boundaries were maintained because the Dinka were capable of defending them. A break from the status quo must be based on something concrete that can be defended rationally – like the Hague’s verdict – rather than on a compromise brokered at a snapshot in history.

Despite being an obvious non-starter, the US insistence that Abyei could be carved up further was damaging to the prospects of peaceful resolution to the issue because it emboldened the North to imagine they could gain further land by holding out for longer. Yet further delays are damaging to the prospects of resolving the issue peacefully. Pagan Amum’s assurances to the Dinka Ngok in January¹⁷ were not made public but they were sufficient to placate them. Riek Machar set an unofficial deadline when he announced that the issue must be resolved by

¹⁴ Douglas H Johnson, *The Road Back From Abyei*, January 17, 2011

¹⁵ cf Johnson, *The Road Back From Abyei*

¹⁶ See SPLM Press Release on Abyei, January 2011 for more detailed argument on this point

¹⁷ SPLM’s Amum says Abyei referendum must happen or President should transfer region to south, Sudan Tribune, Jan 13, 2011



March¹⁸. He is not commonly seen as the type to set arbitrary deadlines. The Dinka Ngok themselves need to see some sign of progress on a referendum or other means of transferring Abyei to the South if they are to be convinced that the CPA can be implemented through negotiation between the SPLM and NCP rather than through other means.

Those commentators who fear that now the referendum has passed, there is no unifying goal for the South should also consider the effect of leaving Abyei's status unresolved on unity, first of the permanent residents of Abyei, then of the South more generally. This author believes fears of the South becoming a failed state were always exaggerated, but unity of the South remains a major concern demonstrated by the necessity of the South-South dialogue and recent deadly skirmishes between troops loyal to George Athor and SPLA. As fear of being left behind grows, cracks in the unity of action of the Dinka Ngok will widen, with a heightened possibility of unintended consequences proceeding from weakened consensus. The actions of individuals are largely determined by consensus on political strategy, but if unity diminishes this consensus will be harder to individuals to interpret. Recent violence in Abyei market, proceeding from a misunderstanding about a Northern trader's intentions, is an early warning of this.¹⁹ The leadership of the SPLM is cogniscent of the impact of wider disunity on Abyei, knowing that refusal to defend the rights of the Dinka Ngok could provoke mutiny from senior officers of the SPLA, given the early history of the SPLA and the prevalence of senior officers with strong links to that region.²⁰ While proxy conflict in Abyei is undesirable, widespread mutiny within the SPLA is less desirable still.

Time, then, is of the essence. But the barriers to implementing the Abyei referendum remain the same. The power to set up a referendum commission remains directly in the hands of an uncooperative President. Compromise on the territories constituting Abyei is not only impossible but the very discussion of it makes a reaching a solution harder. There is no possible compromise on voting rights for the Misseriya. Indeed, it is difficult to determine the authentic voice of the Misseriya at all. Access to the Misseriya is difficult to achieve, and generally restricted to an unrepresentative leadership, in place by virtue of their ability to secure patronage from an Islamist government rather than because they embody the values and mood of a community that is culturally Islamic rather than Islamist. Based on second and third-hand information, we can speculate either that the Misseriya are genuinely concerned that Southerners will not hold firm to the promise of permanent migratory and social rights after separation, and will not allow the transfer of Abyei without further reduction of the land or voting rights, or that their concerns are focussed more on securing a territory where they are the majority tribe, enjoy political dominance and which is developed as a reward for their role during the war. The NCP has made it clear to them that Abyei is such a territory, but there is no reason why these needs could not be met within the North itself, perhaps involving the recreation of a state of Western Kordofan.

¹⁸ Machar urges resolution of Darfur conflict, vows to settle Abyei issue by March, Sudan Tribune, Feb 3, 2011

¹⁹ Calm returns to Abyei after market shooting, Sudan Tribune, Feb 13, 2011

²⁰ Confirmed to this author in personal conversation with a leading SPLM figure



There have been suggestions that youth amongst the Misseriya wish to move away from a nomadic lifestyle. The offer of development from the international community could weaken their dependence on the NCP for patronage, and provide a path to friendlier relations with their Dinka Ngok neighbours. Without direct access to ordinary Misseriya, this is difficult to determine. The key point is that without this direct access, the international community cannot take the word of the NCP and its stooges amongst the leadership of the Misseriya that they are faithfully representing the true position of the Misseriya. The Dinka Ngok have long argued that if there are to be meetings involving UN, NCP, SPLM, Dinka Ngok and Misseriya, they must be open meetings with observers and media present. The failure to guarantee such transparency allows, in their minds, the NCP to manage perceptions of any such event and increase pressure to extract further concessions from the South without any real intention of resolving the issue. Previous attempts to organise such conferences have failed because of suspicion on the part of the Dinka Ngok. But under the scrutiny of genuinely independent observers (for the Dinka Ngok, the UN would not be included in this category) and with comments put on permanent record, the Dinka Ngok believe the Misseriya leadership could not keep up the charade of local demands put into their mouths by the NCP, and their real interests would come out. More so if ordinary Misseriya, and particularly youth, are included in negotiations. The upcoming dialogue between Salva Kiir, President Bashir, Dinka Ngok and Misseriya in Abyei must be managed in this way if it is to be anything but a masquerade.

The international community should make clear that the Misseriya have nothing to hide if their demands of the last few months honestly reflect the priorities of their communities. Without increased access to ordinary Misseriya for mediators and independent observers including media, they cannot accept the NCP version of the Misseriya's demands and must reject voting rights outright. On the referendum commission, Bashir has already violated the Abyei Protocol by refusing to set up the commission in time for a referendum on January 9th. This means no referendum can comply totally with the CPA. A reasonable response might be to say that unless there is immediate progress on setting up a referendum commission, the international community will take the responsibility for doing so out of the hands of Bashir and an external body will oversee the process. Obstacles caused by disagreement over the land constituted by Abyei can be removed simply by making it clear that the verdict of the Permanent Court of Arbitration is not subject to further discussion. Progress towards lifting sanctions and removing Sudan from the list of states sponsoring terrorism must not be delinked from the successful holding of the Abyei referendum and implementation of its results. Such prizes must be awarded only in the context of continued CPA implementation, not for separation of the South alone.

Britain's role is crucial. Aside from influencing the US to take a more robust position, its past colonial role permits it to take a quasi-independent viewpoint. Sanctions, and recovery/forgiveness of debt, are not the preserve of the US only, and the UK has its own right to recognise territories as it chooses. The threat of recognition of the South regardless of what takes place in Abyei, and of choosing to assume that the will of the permanent residents of

The Foreign Policy Centre

Progressive Thinking for a Global Age



Abyei is to transfer back to the South, if there is no referendum, would force the North to negotiate in good faith. Funding from the Arab Partnership Initiative could be used to strengthen the independent voice of the Misseriya and lay the framework for peacebuilding between the Misseriya and the Dinka Ngok, channelled through existing DFID relationships. Boldness in pursuing the only path that can lead to sustainable peace is what is required.