

# Tribal Conflict over Natural Resources on the Sudan – South Sudan Border: The Case of the Abyei Territory

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*This paper explores the major causes, processes and consequences of natural resource conflicts between tribes across the Sudan – South Sudan border region, with the main emphasis on the Abyei territory. Data for the study have been gathered from primary and secondary sources. The research revealed that the conflict over ownership of Abyei’s renewable and non-renewable resources has evolved as a contentious issue between Sudan and South Sudan. The situation was complicated by the relationship of the Humr Misseriya and Ngok Dinka and their governments, respectively. Moreover, lack of agreement about who should be considered a resident of Abyei derailed a referendum on the territory’s status. The government of Sudan and Humr Misseriya have not yet accepted all proposals and agreements for resolving the conflict. Despite the fact that there are new and positive political developments between the two countries, mainly in 2019–2020, these have not been extended to the settlement of the final status of Abyei. For a durable peace in the Abyei region and its environment, both governments need to work toward realising mutual benefits based on the agreed principles and proposals stipulated in the Abyei Protocol of 2004–2005 and the African Union High-Level Implementation Panel of 2012.*

**Keywords:** tribal conflict, natural resources, Abyei, Humr Misseriya, Ngok Dinka

## Introduction

The 2005 Comprehensive Peace Agreement (CPA) was the conclusion of more than twenty years of civil war between the governments of Sudan and the Sudan People’s Liberation Movement/Army (SPLM/A). Disputes over borders, resources and unsettled territories, such as the resource-rich Abyei, continue to plague the relationship between South Sudan and the Republic of Sudan, South

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Sudan achieving its independence from the Republic of Sudan on 9 July 2011. Abyei is considered by the *Ngok Dinka* community their permanent territory. The *Ngok Dinka* community is a sub-sect of a predominantly agrarian Christian ethnic group ancestrally domiciled in South Sudan. Seasonally, the *Abyei* area is often used by the *Humr Misseriya* pastoralists, which belong to a large Arab Muslim population in the Sudan, named *Al Baggara*.<sup>2</sup> The *Humr Misseriya* and *Ngok Dinka* have lived together in the *Abyei* area for centuries, with the nomadic *Misseriya* spending part of the year in *Abyei* for grazing and access to water. However, after the Sudanese independence from colonialism, their relationship became tense and confrontational as many *Ngok Dinka* became part of the rebel movements in South Sudan and the *Humr Misseriya* were increasingly recruited into government militias.

Moreover, *Abyei* is one of the core issues in the CPA. Hence, the unresolved impasse between the two governments over a failure to execute the CPA's *Abyei* Protocol adversely affects the relative peace in both countries and threatens to possibly spark off renewed conflict between them, despite a fruitful referendum in January 2011 that endorsed the secession of South Sudan. Even after the removal of President Omar Al-Bashir from power in Sudan in 2019 and the new peace deal for a union government in South Sudan in 2020, the attention given for the *Abyei* issue is too obscure.

## 1. Conceptual issues

Several scholars and policy makers argue that natural resources can cause conflicts, or even escalate, but are not the only goal of the fighting.<sup>3</sup> For example, Porto argued that natural resources that include minerals, oil, timber, productive pastures and farming land can cause armed conflicts, or escalate existing tensions.<sup>4</sup> Le Billon also argued that 'resources have specific historic, geographic, and social qualities participating in shaping the patterns of conflict and violence. The discursive construction and materiality of oil and diamonds, for example, entail distinct social practices, stakes, and potential conflicts associated with their territorial control, exploitation, commercialization, and consumption.'<sup>5</sup> In this regard of strategic importance to foreign and domestic economic and political concerns, resource access and exploitation can become highly contested issues and their territorialisation can generate more territorial stakes than many other economic sectors. This situation

2 Zeru Getachew, 'Conflict Mapping and Conflict Resolution Strategy: The North and South Sudan Conflict on Abyei', *Journal of International Business and Leadership* 1, no 1 (2012), 24–47.

3 Jeffrey Herbst, 'Economic Incentives, Natural Resources and Conflict in Africa', *Journal of Africa Economics* 9, no 3 (2000), 270–294.

4 Joao Gomes Porto, 'Contemporary Conflict Analysis in Perspective', in *Scarcity and Surfeit. The Ecology of Africa's Conflicts*, ed. by Jeremy Lind and Kathryn Sturman (Pretoria: Institute for Security Studies, 2002), 1–50.

5 Le Billon, Philippe: 'The Geopolitical Economy of 'Resource Wars'', in *The Geopolitics of Resource Wars*, ed. by Philippe Le Billon (London: Routledge, 2007), 2.

has often appeared in excessive resource dependent and conflict-ridden developing countries. Moreover, history and political culture, institutions, the individual personality of leaders and the availability of weapons intervene in these conflicts at least as much as the role of political economy of natural resource and their violent escalation, but the security and exploitation of nature represents a source of power and conflicts that should not be overlooked.<sup>6</sup>

According to Morelli, the likelihood of violent conflict is strong when the presence of a local ethnic group coincides with natural resource abundance found in its region which is hardly available in the regions of other ethnic groups.<sup>7</sup> In contrast, if there are no natural resources in the region or if they are evenly distributed in neighbouring areas, there are no reasons for conflict. In other words, it is unlikely to maintain peace when the natural resources of a given area are more valuable (for example diamonds, oil and coca). This idea is supported by Le Billon who argued that ‘contrary to the widely held belief that abundant resources aid economic growth and are thus positive for political stability, most empirical evidence suggests that countries economically dependent on the export of primary commodities are at a higher risk of political instability and armed conflict.’<sup>8</sup> However, ‘the availability *in nature* of any resource is thus not in itself a predictive indicator of conflict. Rather, the desires sparked by this availability, as well as people’s needs, and the practices shaping the political economy of any resource can prove conflictual’<sup>9</sup>

From a political ecology perspective, there are two points that deal with causes of conflicts commonly known as resource scarcity (renewable resources) and resource abundance (non-renewable resources). Advocates of the scarce resource wars hypothesis argued that people or nations may fight each other to get access to the resources essential for their existence. This reflects the statement: the scarcer the resource, the bitterer the fight. On the other hand, advocates of the abundant resource wars emphasised that primary commodities are easily and heavily taxable, and are hence attractive to both conflicting parties. Thus, the availability of abundant resources would therefore increase the risk of armed conflicts as states struggle for territorial control. Yet, ‘low levels of renewable resources endowment are not associated with the risk of armed conflict; while abundant renewable resource in otherwise poor countries and non-renewable resources in all countries increases the likelihood of armed conflict.’<sup>10</sup>

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6 Ibid.

7 Massimo Morelli and Dominic Rohner, ‘Natural Resource Distribution and Multiple Forms of Civil War’. *Households in Conflict Network (HICN) Working Paper 80*. Falmer, Brighton: University of Sussex, the Institute of Development Studies, 2010.

8 Philippe Le Billon, ‘The political ecology of war: Natural resources and armed conflicts’, *Political Geography* 20, no 1 (2001), 562–563.

9 Ibid. 563.

10 Ibid. 565.

## 2. The dynamics of the Abyei conflict

The CPA was signed between the Government of Sudan (GoS) and SPLA/M in Nairobi on 9 January 2005. Among others, the CPA included the Protocol on the resolution of conflict in Abyei, which was signed in Naivasha, Kenya, on 26 May 2004.<sup>11</sup>

The Abyei Protocol defined the territory of Abyei as the area of the nine *Ngok Dinka* Chiefdoms transferred from Bahr el Ghazal to Kordofan by the Anglo–Egyptian Condominium rule in 1905 for administrative and security reasons.<sup>12</sup> The colonial administration transferred the area to treat victims and perpetrators under the same provincial administration and to address concerns of slave raiding.<sup>13</sup> However, the transfer took place without consulting the predominantly *Ngok Dinka* population of Abyei.<sup>14</sup>

The Abyei Protocol also confirms that the *Humr Misseriya* and other nomadic peoples should keep their traditional rights for grazing cattle.<sup>15</sup> Moreover, it specifies that during the interim period, Abyei should be administered by a local executive council elected by the residents of Abyei, which was a special administrative status. It was also stipulated that net oil revenues from Abyei should be divided among six parties during the interim period.<sup>16</sup>

As boldly written in the protocol, the residents of Abyei would cast a separate ballot, simultaneously with the referendum in South Sudan, to decide whether Abyei is to remain in the South Kordofan state of Sudan or join the Bahr el Ghazal state in South Sudan.<sup>17</sup> This type of decision is not new for the Abyei people. For example, in

11 The Comprehensive Peace Agreement between the Government of the Republic of the Sudan and the Sudan People's Liberation Movement/Army. s. a.

12 Abyei Protocol, 9 January 2005. Resolution of the Abyei Conflict, Chapter IV of the Comprehensive Peace Agreement between the Government of the Republic of the Sudan and the Sudan People's Liberation Movement/Sudan People's Liberation Army, Nairobi, Kenya.

13 Some sections of Humr Misseriya continued raiding the *Ngok Dinka* as slaves; and this situation led the Anglo–Egyptian Condominium Government to transfer the territory of the *Ngok Dinka* from Bahr al Ghazal to Kordofan province in 1905. (Joshua Craze, *Creating Facts on the Ground: Conflict Dynamics in Abyei*. Geneva: Small Arms Survey, Graduate Institute of International and Development Studies, 2011) Similarly, the Humr Misseriya tribe was suffering from the *Ngok Dinka* cattle rustling. (Kwesi Sansculotte-Greenidge, 'Abyei: From a Shared Past to a Contested Future', *Accord* no 7 [2011], 1–8)

14 Sansculotte-Greenidge, 'Abyei'.

15 Abyei Protocol, 9 January 2005. Resolution of the Abyei Conflict: Chapter IV of the Comprehensive Peace Agreement between the Government of the Republic of the Sudan and the Sudan People's Liberation Movement/Sudan People's Liberation Army, Nairobi, Kenya.

16 The National Government: 50 per cent, the Government of South Sudan: 42 per cent, Bahr el Ghazal region: 2 per cent, Western Kordofan: 2 per cent), locally with the *Ngok Dinka*: 2 per cent and locally with the *Misseriya* people: 2 per cent. See Abyei Protocol, 9 January 2005. Resolution of the Abyei Conflict: Chapter IV of the Comprehensive Peace Agreement between the Government of the Republic of the Sudan and the Sudan People's Liberation Movement/Sudan People's Liberation Army, Nairobi, Kenya.

17 UN Mission in Sudan/UNMIS, *Principles of Agreement on Abyei in General: Abyei Protocol*, fact sheet, 2009.

1972, the Addis Ababa Agreement was signed, which ended the first North–South Sudan war. According to the agreement, the Abyei community, the *Ngok Dinka* were given the opportunity to vote in a referendum on whether to remain in the North or to be integrated into the newly formed Southern Sudan Region.<sup>18</sup> During this time, Abyei was given a special administrative status under the office of the President. Later, the GoS, however, unilaterally abrogated the Agreement, including the Abyei referendum clause because of resource and political motives, which set the scene for renewal of another war in the South.<sup>19</sup>

To define and demarcate the boundary of Abyei, the *Abyei Boundaries Commission* (ABC) was established, which has a reflection where to lay the resources of Abyei. In terms of Abyei’s security structure, it was decided to be the inclusive security forces from the GoS, SPLA and the UNMIS.<sup>20</sup>

On 14 July 2005, the ABC report was presented to the presidency and set the boundary of the Abyei area 87 km north of Abyei town, which included the Heglig, Diffra and Bamboo oil fields. All villages recently settled by *Ngok Dinka*, as well as the areas from which the *Ngok Dinka* had been forcefully evacuated and occupied by the *Humr Misseriya* were placed in a zone of shared rights.<sup>21</sup> Both the GoS and the *Humr Misseriya* voted against the report but for different reasons.

The reason for the GoS’s rejection was that the ABC had found that the Heglig, Diffra and Bamboo oil fields were located within the Abyei area. On the other hand, the *Humr Misseriya* declined to recognise the ABC, because of the resentment that they were not consulted and the concern that they would lose the renewable resource in Abyei forever.<sup>22</sup> On the contrary, the *Ngok Dinka* and the Government of South Sudan (GoSS) considered the ABC decision fair which should be recognised and implemented by all the signatories.<sup>23</sup>

18 The Addis Ababa Agreement on the Problem of South Sudan, 27 February 1972.

19 Apart from the pressure from the *Humr Misseriya*, the abrogation of the agreement was directly associated with the discovery of oil within and around the Abyei area in 1979. In this case, the *Humr Misseriya* militias were used by the government in the north of the Abyei territory to remove *Ngok Dinka* inhabitants and open up a path to the exploitation of oil reserves. Besides, apart from securing the oil fields from possible guerrilla attack, the GoS also used the Misseriya militias as part of its national policy of Arabisation in Sudan. (Craze, *Creating Facts on the Ground*) The failure to implement the referendum clause in the Addis Ababa Agreement and the GoS’s strong support to the acts of the *Humr Misseriya* were determinant factors that led to some *Ngok Dinka* to form the ‘Anyanya 2’ guerrilla group and were instrumental in the formation of the SPLA in 1983. (Douglas H Johnson, ‘Why Abyei Matters, the Breaking Point of Sudan’s Comprehensive Peace Agreement?’, *African Affairs* 107, no 426 [2008], 1–19)

20 Abyei Protocol, January 9, 2005. Resolution of the Abyei Conflict, Chapter IV of the Comprehensive Peace Agreement between the Government of the Republic of the Sudan and the Sudan People’s Liberation Movement/Sudan People’s Liberation Army, Nairobi, Kenya.

21 Sansculotte-Greenidge, ‘Abyei’.

22 Craze, *Creating Facts on the Ground*.

23 Abdalla A Muna, *Situation Report: Abyei Natural Resources Conflict* (Pretoria: Institute for Security Studies, 2010).

The ABC report was rejected by the GoS and *Humr Misseriya*. Following this, Abyei was the cause of direct confrontations between the Sudanese Armed Forces (SAF) and the *Humr Misseriya* militia on the one side and the SPLA and *Ngok Dinka* on the other. The dispute exploded into violence in May 2008, which led to the razing of Abyei town and the displacement of over 60,000 people.<sup>24</sup> Moreover, in January 2020, the militia killed more than 30 civilians including children in the village of Kolom in the Abyei area.<sup>25</sup> Such type of violence was frequent, particularly following the Sudanese independence, where the first Sudanese civil war (1955–72) had created a deeper rift between the *Humr Misseriya* and the *Ngok Dinka*, as the latter were increasingly recruited into the *Anyanya* first rebel movement and the former joined the government militias. This rift aggravated in 1965, when 72 *Ngok Dinka* civilians were burned alive in Babanusa.<sup>26</sup> After a year of the Babanusa massacre, for the first time, the *Humr Misseriya* claimed parts of Abyei up to the river Ngol entirely for themselves<sup>27</sup> and some among them started permanently to settle in the area.<sup>28</sup>

To address the June 2008 deadly violence, the GoS and GoSS came up with the Abyei Roadmap document, which refers the case to the Permanent Court of Arbitration (PCA) in The Hague for a final and binding decision.<sup>29</sup> In the ruling of the PCA, the GoS and GoSS were the only two parties officially represented while *Humr Misseriya* were not adequately represented in the proceedings.<sup>30</sup>

In 2009, the PCA declared its final decision, which reduced the size of the Abyei area set forth by the ABC. The decision placed the Diffra oil field<sup>31</sup> in the Abyei area while the other two oil fields (Heglig and Bamboo) became parts of South Kordofan (that is, the Sudan).<sup>32</sup>

Similarly to the ABC report, the PCA decision accorded *Humr Misseriya* the right to use the Abyei area to graze cattle. However, *Humr Misseriya* and the GoS declined to accept the PCA ruling and declared to halt the physical demarcation of the boundary on the ground unless *Humr Misseriya* was permitted to vote in the referendum. Contrary to this, the *Ngok Dinka* and the GoSS declared their acceptance of the PCA ruling and opposed the idea of *Humr Misseriya* voting in the referendum.<sup>33</sup>

24 Sansculotte-Greenidge, 'Abyei'.

25 United Nations Security Council, Security Council Press Statement on Abyei, 29 January 2020.

26 Francis M Deng, *War of Visions: Conflict and Identities in the Sudan* (Washington, D.C.: Brookings Institution Press, 1995).

27 Craze, *Creating Facts on the Ground*.

28 Concordis International Sudan Report, *More than a line: Sudan's North–South Border* (United States Institute of Peace, 2010).

29 Craze, *Creating Facts on the Ground*.

30 Small Arms Survey, *The Crisis in Abyei* (Geneva: Human Security Baseline Assessment [HSBA], 1 March 2013).

31 Since the PCA decision in 2009, Diffra is the only oilfield in Abyei. See Angelina Sanders, 'Sudan and South Sudan's Oil Industries: Growing Political Tensions', 2012.

32 Roberto Belloni, 'The Birth of South Sudan and the Challenges of Statebuilding', *Ethnopolitics* 10, no 3–4 (2011), 411–429.

33 Concordis International Sudan Report, *More than a line*.

Still, the GoS and Humr Misseriya have never given up that Abyei is an integral part of South Sudan.<sup>34</sup>

Contrary to the PCA decision, in May 2011, SAF and *Humr Misseriya* militia invaded Abyei and caused the displacement of more than 110,000 civilians into Warrap, Northern Bahr el Ghazal and Unity States.<sup>35</sup> They also killed more than 1,500 people.<sup>36</sup> Recently, the United Nations Security Council condemned the tribal attacks by *Humr Misseriya* militia on a *Ngok Dinka* village in Kolom in January 2020, which claimed the lives of 33 *Ngok Dinka*, 18 were wounded, including 15 children missing and 19 houses burned.<sup>37</sup>

There was no military response from the GoSS because of the fact that the party's focus was on South Sudan's formal declaration of independence on 9 July 2011. Later, on 20 June 2011, the GoS and GoSS signed an agreement in Addis Ababa, which committed both sides to the total withdrawal of their military forces from the area and the reestablishment of a local administration. In support to this agreement, the UN Security Council passed Resolution 1990 on 27 June 2011, which authorised the establishment of the United Nations Interim Security Force for Abyei (UNISFA).<sup>38</sup> The resolution authorised the deployment of 4,200 Ethiopian UN peacekeeping forces to the *Abyei* area after leaders from the two Sudans signed an agreement in Addis Ababa brokered by the African Union.<sup>39</sup> The UNISFA is the only UN force responsible for providing security in Abyei and authorised to precede a full military withdrawal by SAF and SPLA in order to enable the *Ngok Dinka* to return to their territory.<sup>40</sup> Since September 2019, the UNISFA military component stood at 4,150 personnel (3,871 troops, 140 military observers and 130 staff officers).<sup>41</sup>

The former South African President Thabo Mbeki was assigned by the African Union to chair the African Union High-level Implementation Panel (AUHIP) in mediating on Abyei and other post-referendum issues. In doing so, the AUHIP put forward a number of compromise proposals to end the crisis in Abyei.<sup>42</sup> For example, on 21 September 2012, it proposed that Abyei's referendum should be voted on by members of the *Ngok Dinka* community, and "other Sudanese residents" of the

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34 United Nations Security Council, Adding Civilian Component to Abyei Interim Force Essential for Matching 'Reality on the Ground', Peacekeeping Chief Tells Security Council. 8519th meeting, SC/13796, 30 April 2019.

35 United Nations Office for the Coordination of Humanitarian Affairs, South Sudan Humanitarian Bulletin, 27 August – 2 September 2012. OCHA.

36 UNSC Report: Monthly Forecast, July 2011.

37 UN Office for the Coordination of Humanitarian Affairs, Sudan Situation Report 2020.

38 Small Arms Survey, *The Crisis in Abyei*.

39 Tesfa-Alem Tekle, 'Ethiopian Peace Force to Abyei Begins Operation Next Week'. *Sudan Tribune*, July 23, 2011.

40 United Nations Security Council, Report of the Secretary-General on the situation in Abyei. S/2018/293, 3 April 2018; Small Arms Survey, *The Crisis in Abyei*.

41 United Nations Security Council, Report of the Secretary-General on the situation in Abyei. S/2018/293, 3 April 2018.

42 Craze, *Creating Facts on the Ground*.

territory in Abyei in October 2013. But, unlike the CPA, it defines these residents as those “having a permanent abode within the Abyei Area”. It also proposes that the referendum commission should include two representatives from the two countries, and a chairperson appointed by the AU. Besides, it proposed to set up the Abyei Referendum Facilitation Panel (ARFP), to be composed of three “individuals of international stature”, to mediate any disagreement in the referendum commission, as well as to deliver advisory services.<sup>43</sup>

The proposal decided to create a Common Economic Development Zone (CEDZ) to transform the existing conflict between the adversaries of the two Sudans. Moreover, regardless of the outcome of the referendum, it guarantees *Humr Missiriya*'s migratory rights in the area.<sup>44</sup> Consequently, the AUHIP's proposal was endorsed by the African Union Peace and Security Council (PSC) in October 2012, and appreciated it as a fair and feasible one to the conflict. Then, the AU requested the two countries to further negotiate over a six-week period on the basis of the proposal.<sup>45</sup> But, the progress so far is not as remarkable as to say that the potential oil reserve of Abyei would go to South Sudan.

At its 750<sup>th</sup> meeting held on 6 February 2018, the African Union PSC stated the activities of the AUHIP for Sudan and South Sudan. The council disclosed that no progress had been made in resolving the final status of Abyei. As a result, the council requested the leaders of both Sudans to continue their discussion on the final status of Abyei. It further noted that the discussion should be based on the AUHIP's Proposal on the Final Status of Abyei Area adopted in 2012. However, the final status of the Abyei area is not yet determined as can be read from the Sudan situation report of February 2020.<sup>46</sup>

### 3. Observable challenges

Even though there have been multiple efforts by the conflicting parties and other regional and international stakeholders, multifaceted challenges in Abyei and its environment are making worst the works to improve the situation on the ground and ways to find sustainable solutions. In this part, some of the major challenges associated with the Abyei crisis are discussed.

#### 3.1 State–society relations

The bondage between the *Humr Misseriya* and the GoS is not always consistent; rather it is one of the most dynamic political games in Sudan. To mention a few,

43 Small Arms Survey, *The Crisis in Abyei*, 7.

44 Ibid. 8. For more information see <https://enoughproject.org> (17. 01. 2013.)

45 Renata Rendón and Amanda Hsiao, *Resolving the Abyei Crisis* (Washington, D.C.: Enough Project, 2013).

46 UN Office for the Coordination of Humanitarian Affairs, Sudan Situation Report 2020.

the *Humr Misseriya* believed that they were betrayed by the NCP-led government they fought for during the second Sudanese civil war and felt that the end of the war did not result in any visible improvement in their life.<sup>47</sup> Rather, they felt that the CPA was negotiated against their interests and that they are politically and economically marginalised. As a result, some unhappy former fighters built alliances with the Justice and Equality Movement against the GoS.<sup>48</sup> To mitigate the observed resentment, the GoS developed a strategy to work with and use *Humr and other sections of the Misseriya* tribe to ensure control of South Kordofan and the Blue Nile states.

Moreover, retaining the loyalty of the Misseriya is beneficial to the GoS because of the importance of the Misseriya constituency to the ruling National Congress Party. For these reasons, any move by the GoS to execute the PCA borders would produce a hostile relationship with the *Humr Misseriya*. In other words, the GoS fears losing their support if it makes any concessions on the political future of *Abyei* that would make the *Humr Misseriya* feel their grazing resource was in danger. Between 1988 and 1989, President Al Bashir was assigned in Muglad as officer in charge with the rank of brigadier general, which enabled him to directly supervise the *Humr Misseriya* militias on how to offensively attack SPLA and its supporters. After Bashir seized power in a coup in 1989, he promulgated the Popular Defense Forces Act that includes *Humr Misseriya* militias.<sup>49</sup> Since this time, President Al Bashir and his party have been telling the *Humr Misseriya* that *Abyei* belongs to them.<sup>50</sup> In this respect, the GoS encouraged the *Humr Misseriya* to look to *Abyei* as “their” area, for grazing cattle and other development projects. Within this context, any move which would denounce the likelihood of *Abyei* becoming “their” area must have seemed like another infidelity.<sup>51</sup>

Similarly, because of strong historical connections between the SPLA and the *Ngok Dinka*, it is unlikely for the GoSS to be reluctant on the *Abyei* issue. This is one of the principal reasons why the South Sudan Government may not accept any proposal that makes *Abyei* and its resources remain in the Southern Kordofan of Sudan. Thus, the GoSS has often been very active in working both with internal and external stakeholders to make sure that *Abyei* would join South Sudan.

47 Tim Flatman, ‘Abyei: Predicting the future’, *Sudan Tribune*, May 9, 2011.

48 Since the launch of the CPA, JEM has been increasingly active in recruiting from among the *Humr Misseriya* tribe. Some from this tribe are serving in the leadership position of the movement such as a *Humr Misseriya* man who led JEM’s delegation to the peace talks in Doha in February 2010. (Craze, *Creating Facts on the Ground*)

49 Under Sudan’s current government, the *Humr Misseriya* militias and other similar groups were formally integrated into the Popular Defense Forces (PDF) in 1989, which had a legal entity to serve as a de facto reserve for the national army. This action further polarised the dispute between *Ngok Dinka* and *Humr Misseriya* as the government was redistributing the land of the *Ngok Dinka* to *Humr Misseriya* and other groups. (International Crisis Group, *Sudan’s Comprehensive Peace Agreement: Beyond the Crisis*. Africa Briefing N°50. Nairobi–Brussels, 13 March 2008)

50 Craze, *Creating Facts on the Ground*.

51 Flatman, ‘Abyei: Predicting the future’.

Recently, however, there are new relationship developments between the *Ngok Dinka* and *Humr Misseriya* communities. For example, Akonon Ajuanja, a *Ngok Dinka* chief in Abyei said “our communities have accepted to live together here”. “We have no problem with the *Misseriya*. Our problem is with the Sudanese government.” Doelbit Ali, a *Misseriya* nomad, on his part said: “Each person says this land is theirs, but we don’t want to get involved with the politics.” He further said they do not have a problem with *Ngok Dinka* and want the politicians to “stay away”. In spite of this new development, the final status of the Abyei area is not yet determined as there is no concrete agreement on the ground between the two governments.<sup>52</sup>

### 3.2 Disagreement on issues of referendum and settlement

Both governments (the GoS and the GoSS) have disagreed on the demarcation of Abyei’s territorial boundary and the criteria that determine voters’ eligibility in the area. This ultimately derailed the referendum on the Abyei’s future status.

As highlighted above, the residents of Abyei have the right to participate in the Abyei referendum. However, the problem is that there is no agreement on who should be considered a resident of Abyei. According to the Protocol, the Abyei Referendum Act, which passed into law in December 2009, has not been able to form the indisputable Abyei Referendum Commission (ARC) to be responsible in defining the criteria for residence because of the disagreement on the composition of the commission.

The GoS argued that there should not be a referendum in Abyei without the participation of *Humr Misseriya*.<sup>53</sup> *Humr Misseriya* also claim that they have the right to participate in the future referendum in order to enjoy not only an equitable share of the natural water and grazing pasture resources of the area, but also to gain the right to domicile, possess property, as well as invest in the Abyei area and its environment, in which they have inhabited with the *Ngok Dinka* for more than 30 decades.<sup>54</sup> Still, the GoS has the same stand that *Humr Misseriya* should be permitted to participate in the referendum.<sup>55</sup>

Despite the fact that an average of 25,000 *Humr Misseriya* nomads have often spent six to seven months in a year in the Abyei area for grazing, the GoS claims that an estimated maximum number of 400,000 *Misseriya* must be endorsed to vote if the referendum is to go ahead. The reasoning behind this is that if the 400,000 *Misseriya* as a tribe are allowed to vote in the Abyei referendum, then their numbers will swamp the estimated 70,000 *Ngok Dinka*, thereby securing the territory for the

52 Sam Mednick, ‘Conflict in Abyei Could Reignite South Sudan’s Civil War’, *Foreign Policy*, June 6, 2018.

53 Douglas H Johnson, ‘The Road Back from Abyei’, January 14, 2011.

54 Abdalbasit Saeed, ‘Peace in Sudan: so near ... so far?’, in *Proceedings of the National Civic Forum Dialogue Sessions 2007–2008*, ed. by H A Ati and G E Tayeb (Khartoum: National Civic Forum and EDGE for Consultancy and Research, 2009), 104.

55 Sudan Tribune, ‘Ngok Dinka and Misseriya discuss peaceful coexistence in Abyei’, March 29, 2019.

Sudan.<sup>56</sup> But, in 2019, the migration season began in October, with 37,000 seasonal *Misseriya* herdsmen having entered the Area.<sup>57</sup> In response to this, officials of the GoSS claim that the *Humr Misseriya* have historically held their permanent residents in South Kordofan of Sudan and could not be considered permanent residents in two areas simultaneously. From this discrepancy, it can be inferred that it was logically inconsistent for the CPA to guarantee the grazing rights of the *Humr Misseriya* in Abyei if they are not to be counted as permanent residents. The GoSS also argued that the claims by the GoS on the *Humr Misseriya* being given the right to vote is also inconsistent with the precedent of the South Sudan referendum in which seasonal migrants did not get the right to vote. Moreover, the GoSS and the *Ngok Dinka* have overruled this due to the fact that they have a well-grounded concern that if the *Humr Misseriya* pastoralists are allowed to vote in the referendum, the GoS will strongly continue flooding the north of the territory with pro-government *Humr Misseriya* in order to make the referendum in favour of *Humr Misseriya*.<sup>58</sup>

The *Humr Misseriya* leaders expressed that they would continue to prevent the demarcation of the Abyei area on the ground and precede their plan of settlements in the area. In this regard, the SPLM spokesman in Abyei reportedly alleged that 2,000 Popular Defense Forces (PDF) had been mobilised from outside Abyei to settle in the north of the area to facilitate the settlement in the northern part of the Abyei region.<sup>59</sup> Several reports also revealed that the GoS had been settling *Humr Misseriya* in the northern part of Abyei for permanent settlement beyond the seasonal migration period. For example, the UNSC reported that in October 2019, the number of *Misseriya* settlers had reached more than 35,000.<sup>60</sup> In fact the settlement in the north of Abyei started earlier in August 2010, which was approximately 25,000 *Misseriya* settlers.<sup>61</sup> This practice has continued to worsen the situation in the Abyei Area.

In October 2013, while the GoS and *Humr Misseriya* leaders have expressed their rejection of the AUHIP's proposal for a referendum, the GoSS and the *Ngok Dinka* accepted it without any question. Following this, several *Humr Misseriya* leaders have announced their intention to settle in Abyei, creating permanent abodes, so as to ensure full participation in the referendum.<sup>62</sup> The GoS argued that the AUHIP did not consider the lifestyle of the *Humr Misseriya*, which "is inimical to the concept of permanent abode."<sup>63</sup> Because of this stand, both countries were not able to conduct a referendum to decide the future of the Abyei region as they have to agree first on

56 Sansculotte-Greenidge, 'Abyei'.

57 United Nations Security Council, Report of the Secretary-General on the situation in Abyei. S/2018/293, 3 April 2018.

58 Craze, *Creating Facts on the Ground*.

59 Concordis International Sudan Report, *More than a line*.

60 United Nations Security Council, Report of the Secretary-General on the situation in Abyei. S/2018/293, 3 April 2018.

61 Craze, *Creating Facts on the Ground*.

62 Rendón and Hsiao, *Resolving the Abyei Crisis*.

63 Small Arms Survey, *The Crisis in Abyei*.

who can participate in the vote.<sup>64</sup> This is one of the major challenges that impede the progress in Abyei until this day.

### 3.3 *Humr Misseriya's past experience-based fear*

Despite assertions in the CPA, the Abyei Protocol and PCA Report, the *Humr Misseriya* continue to feel uncomfortable about the loss of their grazing and water access rights if the CPA is effectively applied.<sup>65</sup> Their fears are based on past experiences, more precisely, the fact that it is difficult to separate 'traditional rights' from national politics. For example, after the Addis Ababa Accord, clashes were frequent between the then southern police forces and the *Humr Misseriya* tribe. Similarly, following the CPA, the *Humr Misseriya* has been blaming SPLA/M activities such as grazing time restrictions, requirements to disarm and taxes, which have often led to confrontations with it at the Unity and Warrap State borders.<sup>66</sup>

In some border areas, *Humr Misseriya* pastoralists were asked to pay the SPLA SDG 15,000 (USD 6,300). Apart from money in 2007, they were also obliged to pay SPLA soldiers one to two calves per herd to access the Southern provinces for grazing cattle. Moreover, in 2008 the majority of the *Humr Misseriya's* cattle stayed and suffered a shortage of both grazing and water.<sup>67</sup> In a meeting held on 14 December 2012, *Dinka* chiefs and other local authorities agreed to block *Humr Misseriya* entry to the Abyei region as there were insufficient water resources and security threats from the *Humr Misseriya* militias.<sup>68</sup>

### 3.4 *The issue of oil*

In spite of the fact that the PCA placed most of the contested oilfields (Heglig and Bamboo) outside of Abyei (that is, in the north of the Kiir North), the GoS still wants to get access to current and future oil revenues in the Abyei region.<sup>69</sup> Mirroring the same idea, Craze argues that apart from the stated political and economic factors, the GoS and GoSS have strong interest on the existing and potential lucrative oil resources in the Abyei area.<sup>70</sup> As a strategy, for example, the *Humr Misseriya* militias have been used by the GoS in the northern part of the territory to displace the *Ngok Dinka* inhabitants so as to exploit the oil reserves without any problem. Thus, regardless of any political or legal questions, and given the NCP's behaviour of using proxy militias

64 Sudan Tribune, 'Ngok Dinka and Misseriya discuss'.

65 Vanessa J Jiménez, *Seeking Solutions to the Crisis in Abyei, Sudan* (Washington, D.C.: Public International Law & Policy Group [PILPG], 2010).

66 Concordis International Sudan Report, *More than a line*.

67 Craze, *Creating Facts on the Ground*.

68 Small Arms Survey, *The Crisis in Abyei*.

69 Belloni, 'The Birth of South Sudan'.

70 Craze, *Creating Facts on the Ground*.

in the area, one can argue that the GoS may not tolerate any decision that endangers its future access to oil.<sup>71</sup>

### 3.5 *Continuous recruitment of militias*

From the *Ngok Dinka* vantage point, the primary threat to peace is providing arms to the *Misseriya* pastoralists by the GoS.<sup>72</sup> As a tactic to prevent the PCA's implementation program, the GoS officials have been actively recruiting militia among the *Humr Misseriya*, especially since mid-2010. In fact, since 2005, more than twelve militia training camps have been established along Abyei's northern border, with new recruits reportedly receiving around SDG 50 (USD 21) per month.<sup>73</sup> Apart from handing out some financial incentive, the GoS had been motivating the new recruits by indoctrinating them that Abyei is a territory that belongs to *Humr Misseriya*.<sup>74</sup> Moreover, the GoSS officials claimed that after the 2005 CPA, 'the PDF has been reorganised and equipped with trucks, motorcycles, 12.7 mm machine guns, 82 mm mortars, RPGs, anti-tank weapons and small arms. The *Humr Misseriya* militias are receiving such weapons from the SAF.' All this help from the GoS enabled them to destroy much of Abyei town and the surrounding villages mainly *Todac*, *Tajalei*, *Maker*, *Wungok* and *Dungop*.<sup>75</sup> This situation contributed to the January 2020 attacks by armed *Humr Misseriya* militias on a *Ngok Dinka* village in Kolom, which left 33 local civilians killed, 18 wounded, 15 children missing and 19 houses burned.<sup>76</sup>

### 3.6 *The question of identity*

The issues of identity, mainly in attachments to the land are essential in explaining the way the *Humr Misseriya* and *Ngok Dinka* have expressed their territorial identities and institutional allegiances. Both have lived and worked on this land for many years and both have a strong moral claim to it. Abyei also has a strong sentimental attachment due to religious and cultural significance that shaped and strengthened their ways of life for generations, as well as covers a significant part of their history, legends, values and traditions. However, because of multifaceted historical and contemporary factors, these identities and attachments have resulted in an adverse impact on the relationship between the two peoples, as each group claims Abyei as

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71 Ibid.

72 Abdalbasit Saeed, *Challenges Facing Sudan after Referendum Day 2011: Persistent and Emerging Conflict in the North–South Borderline States* (Chr. Michelsen Institute [CMI]: Sudan Report SR 2010).

73 Small Arms Survey, *Armed Entities around Abyei* (Geneva: Human Security Baseline Assessment [HSBA], December 2010).

74 Ibid.

75 Craze, *Creating Facts on the Ground*, 48.

76 UN Office for the Coordination of Humanitarian Affairs: Sudan Situation Report 2020.

its exclusive territory.<sup>77</sup> This perception has contributed to the collapse of multiple proposals to deal with the Abyei issue. However, with the help of UNISFA, the two communities have made regular conferences to strengthen peaceful coexistence and peaceful resolution of conflicts at grass root level.<sup>78</sup>

### 3.7 *Negligence of traditional conflict resolution mechanisms*

The *Humr Misseriya* shared the land in Abyei and its environment with the *Ngok Dinka* for more than three centuries and settled most of the disputes on the basis of custom and tradition. Since the signing of the CPA, *Humr Misseriya* and *Ngok Dinka* traditional leaders have been attempting at the local level to find ways for peace and prevent a worse conflict. However, these efforts are not well recognised and supported by the international community, including by both governments.<sup>79</sup> For example, the GoS and the GoSS were the only two parties officially represented at the ABC, PCA, as well as AUHIP and this created a feeling of marginalisation, especially among the *Humr Misseriya*.<sup>80</sup> However, amid efforts by the *Ngok Dinka* and *Humr Misseriya* communities to make dialogue for peace, governments of Sudan and South Sudan have made no progress on the issue of Abyei.<sup>81</sup>

### 3.8 *The state officials' political rhetoric*

Political rhetoric on Abyei by officials on both sides has also created a tense relation between both governments. Sudan's former President Omar al-Bashir said that the problem of Abyei cannot be solved without the participation of Arab *Humr Misseriya* nomads in a referendum: 'We are saying, loud and clear, that there will be no referendum on Abyei without the *Misseriya*.'<sup>82</sup> President of South Sudan, Salva Kiir Mayardit, in turn said that the North-aligned *Humr Misseriya* do not have any territorial right in the area except access to water and pasture for their cattle; rather Abyei belongs to the nine *Ngok Dinka* chiefdoms. 'The truth is here with us, Abyei belongs to us. Whether Omar al-Bashir likes it or not, one day Abyei will rejoin the South.'<sup>83</sup> From this narrative, it is apparent that state officials' statements have been exacerbating the situation on the ground.

77 Muna, *Situation Report*.

78 Sudan Tribune, 'Ngok Dinka and Misseriya discuss'.

79 International Crisis Group, *Sudan's Comprehensive Peace Agreement*.

80 Small Arms Survey, *The Crisis in Abyei*.

81 United Nations Security Council, Adding Civilian Component to Abyei Interim Force Essential for Matching 'Reality on the Ground', Peacekeeping Chief Tells Security Council. 8519th meeting, SC/13796, 30 April 2019.

82 News24, 'Bashir: No Abyei vote without Misseriya', March 31, 2011.

83 Sudan Tribune, 'South Sudan's Kiir talks tough on oil, Abyei', July 19, 2011.

#### 4. The prospect for peace

Following the PCA decision, the GoS negotiating position looks likely to remain that the *Humr Misseriya* must play a full part in the Abyei referendum. This position is entirely contrary to the Abyei protocol ruling (that is, the nine *Ngok Dinka* chiefdoms and other permanent residents being eligible to participate in the Abyei referendum), the referendum experience by the GoSS, and the interest of the international community. Given these views, the prospect for the *Humr Misseriya* as a tribe to be part of the referendum will not be practically attainable. Therefore, there is a need for a serious negotiated agreement between the two governments regarding the question of referendum. There is no doubt that if an agreement is not supported by age-old customary norms and traditions of the *Humr Misseriya* and *Ngok Dinka* communities, the prospect for sustainable peace in and around the area will not be feasible. Indeed, the good efforts by the *Ngok Dinka* and *Humr Misseriya* communities to achieve peace through dialogue should be encouraged and supported by all the stakeholders. Moreover, building upon the recent positive developments of bilateral relations between the two governments need to resume direct talks to resolve provisions of their agreements in relation to the final status of Abyei.

Based on the CPA and the PCA rulings, the *Humr Misseriya* have unconditional land usage rights in the Abyei area before and after the referendum. However, if the *Humr Misseriya* continues to be prevented to access grazing land and water in South Sudan by the GoSS' military wing and some traditional leaders of the *Ngok Dinka*, this will put further strain on grazing resources in Abyei. Above all, given the practice on the ground, the *Humr Misseriya* may enter into a violent conflict with the *Ngok Dinka* and SPLA if Abyei goes to South Sudan. Conversely, if the GoS and the *Humr Misseriya* did not drop the intent of land ownership rather than land-use rights in Abyei, the prospect for sustainable peace in and around the area will be unattainable.

Unless the two Sudans sign up to a demilitarised zone or soft border that would allow trans-human groups to cross freely, which relies on the good faith of the two governments not to send proxy militias across the Abyei area, it will be hard to achieve sustainable peace between the conflicting parties. The GoSS should also prove its commitment to the *Humr Misseriya* right to access grazing lands and water in the border areas of South Sudan including the Abyei region through political decisions, such as promulgation of state legislation.<sup>84</sup>

Despite the fact that the AUHIP proposal attempted to give a workable solution for the referendum impasse, the two governments have not yet agreed on the Abyei referendum. In fact, this proposal seems in favour of the GoSS and the *Ngok Dinka* due to the fact that it indicates that the *Humr Misseriya* pastoralist are not full residents of Abyei, and thus not eligible to vote. If this persists, especially the failure to agree on the AUHIP's final proposal, the PSC announced it would endorse the Proposal as

<sup>84</sup> Hsiao, Amanda: 'Sudan–South Sudan Negotiations: Can They Meet the Deadline?', September 6, 2012.

final and binding, and would request an endorsement by the UN Security Council.<sup>85</sup> If this happens, the AU and UN Security Council may take some actions against the GoS to force it to review its stand towards the proposal. From this scenario, it is easy to understand that the proposal reveals that Abyei has the prospect to go to South Sudan in a popular vote. Indisputably, this may satisfy the GoSS and *Ngok Dinka*; still, the implementation process can only be smoothly conducted when the other side will be convinced by and will accept the proposal.

As argued above, following the CPA, some pro-government *Humr Misseriya* groups have already permanently settled in the northern part of the Abyei area as a strategy to participate in the referendum, thereby altering the demographic make-up of the area. To prevent such manipulation, it is essential to check the registration of voters in those South Kordofan localities that were considered part of Abyei in the 2008 census. This may help to identify who should be included on the basis of their 2008 self-identification to move to the next step.<sup>86</sup>

In order to attain sustainable peace and security in the Abyei area, the two governments should permit and support the *Ngok Dinka* and *Humr Misseriya* communities and religious leaders as well as representatives of peace building civil society organisations to meet and discuss the security situation in the Abyei area and its environment. This can help communities to address problems that were a direct legacy of the conflict, between *Ngok Dinka* and *Humr Misseriya*. Moreover, it may add a value to the overall efforts done by the African Union and other stakeholders as they attempted to address a number of core issues in the conflict such as natural resource, migration and cross boundary security related concerns. In fact, there is a good deal of work going on recently by the two communities to prevent violent conflicts and insecurities in the area, which are not recognised by both governments.

## Conclusion

Under the 2005 CPA, members of the nine *Ngok Dinka* chiefdoms and other residents of Abyei are entitled to a referendum in which they will vote on whether the territory should be part of Sudan or South Sudan. But, the referendum has not yet been held because of the disagreement between the Governments of Sudan and South Sudan. In breaking this impasse, despite the fact that there have been several efforts by the conflicting parties and other stakeholders, multifaceted challenges on the ground tend to complicate the prospect of finding a sustainable solution. Among others, strong reciprocal relationship between the GoS and *Humr Misseriya* on one side and the SPLM/A and *Ngok Dinka* on the other side; disagreement to define the criteria determining voters' eligibility; *Humr Misseriya's* Settlement controversy; crave for current and potential lucrative oil; negligence to Traditional Conflict Resolution

85 Small Arms Survey, *The Crisis in Abyei*.

86 Aly Verjee, 'Race against time: the countdown to the referenda in Southern Sudan and Abyei', November 1, 2010.

Mechanisms; and state officials' political rhetoric are some of the intricate challenges that make the peace process inexorably gloomy.

Moreover, because of the past experiences of intimidation by the SPLA of the South Sudan, the *Humr Misseriya* pastoralists are not yet sure to get guarantees for their grazing and water access rights if the CPA is fully implemented. Needless to say, the proposal presented by the AUHIP in September 2012 has put forward a compromising solution to end the overall crisis in Abyei, which required the two countries to make further negotiation. Recently, there are new changes in both countries and paid reciprocal head of government visit in Khartoum and Juba. Nonetheless, the Abyei progress so far has not been impressive.

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