

REPUBLIC OF SOUTH SUDAN
Office of The President

National Committee for the Final Status of Abyei

The Quest for Settlement of the Abyei Area's Final Status:

The Government of South Sudan's Perspective

September 2022's Update

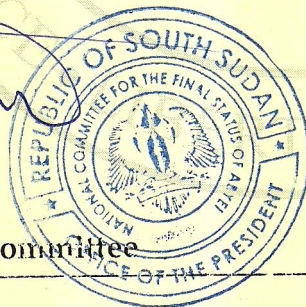
Prepared by:

The National Committee for the Final Status of Abyei,
Office of the President,
Juba-The Republic of South Sudan

Signed:

Deng Alor Kuol,

For/Chairman of the Committee



Brief Background

Abyei, the territory of the Nine Ngok Dinka Chiefdoms, was transferred in 1905, from Bahr el Ghazal Province to Kordofan Province in the (Old) Sudan on grounds, as claimed by the then British colonial administrators, of administrative expediency. This was the text of the transfer order: *"It has been decided that Sultan Rob, whose country is on the Kir River, and Sheikh Rihan of Toj, mentioned in the last Intelligence Report, are to belong to Kordofan Province. These people have, on certain occasions, complained of raids made on them by southern Kordofan Arabs, and it has therefore been considered advisable to place them under the same Governor as the Arabs of whose conduct they complain."*¹

- History says, the NGOK Dinka came to their present area of Abyei approximately, in 1719 from Upper Nile region, while the Missiriya Arabs came to their present areas of el Muglad and Babanusa between 1765-1775 from Wadai Kingdom in today's Chad. The first significant contact between the Ngok Dinka and the Missiriya was in late 19th Century when a chiefly Missiriya clan of Azzoza sought refuge with Chief Arop Biong.
- The conflict between the two neighbouring communities took a political dimension after the independence of the Sudan 1956, when the successive Arab dominated governments in Khartoum started to favour, in general, the people of Arab origin against the indigenous African people.
- The Abyei conflict and problem is unique because the Ngok Dinka, as indicated above, were administratively carved into Kordofan from Bahr El Ghazal in March 1905. This made their political and administrative position ambivalent and precarious.
- Ethnically and culturally, Abyei Area continues to be part of South Sudan. The Dinka of Abyei Area took part in the first war of 1955-1972, between the North and the South of old Sudan. Attempts were made in the Addis Ababa Agreement of 1972, to allow the Ngok Dinka to decide their future in a plebiscite (referendum), but the then government of President Nimeiri could not implement Article 3(iii) in that Agreement, which gave the people of Abyei Area, the right to self-determination.
- However, the people of Abyei Area were in the forefront in the war for National Liberation, led by the Sudan People's Liberation Movement and the Sudan People's Liberation Army (SPLM/A). The resolution of that war and the Comprehensive Peace Agreement (CPA) gave the people of South Sudan

¹ Sudan Intelligence Reports (SIR) No. 128, March 1905, p.3

including Abyei their political rights. The Abyei Protocol was signed on May 26th, 2004, paving the way for a peaceful co-existence for the Ngok Dinka and their neighbours, being they the Missiriya Arabs to the North or the other South Sudanese ethnic groups to the East, South or West. It mainly provided for that, Ngok Dinka of Abyei shall exercise their right to self-determination in a separate Referendum on January 9th, 2011, to choose whether they remain in North Sudan or go back to South Sudan.

- While the People of Abyei, the Ngok Dinka and the SPLM were committed to the implementation of the Abyei Protocol, the then Sudan's ruling National Congress Party (NCP) and the Messiriya showed unprecedented political intransigence. Once again that chance was also denied the Ngok Dinka people of Abyei by Khartoum who instead ordered its armed forces and Messiriya militia to invade and destroy and loot the Area twice (2008 and 2011) killing many and forcing majority of the Ngok Dinka into displacement south of Kiir river.
- It is worth mentioning here that when the Government in Khartoum rejected the recommendations of the Abyei Boundary Commission (ABC) in July 2005, the Parties agreed, later (2008) to resort to international arbitration before the international Permanent Court of Arbitration (PCA) and be abide by whatever outcome. Hence when the said court made its ruling on July 22nd, 2009, defining the current Abyei Area as the territory of the Nine Ngok Dinka Chiefdoms, Sudan initially, accepted, with President Bashiir issuing six Presidential Decrees to effect the Ruling including PD N0.18/2009, to recognize the PCA ruling and PD N0.23/2009, for the formation of the Demarcation Committee, to physically alienate the new Abyei Area boundaries on the ground. But shortly later, Sudan reneged from its commitments and started with terminating the work of the Demarcation Committee.
- In its quest for finding a solution to the Abyei problem, the African Union Peace and Security Council (AUPSC) in its 339th meeting held in Addis Ababa on October, 24th, 2012, passed a number of resolutions on Abyei including accepting the African Union High Implementation Panel (AUHIP) 21 September Proposal which provided, *inter-alia*, for Abyei Referendum to be conducted in October, 2013 as well as asking the AU Commission to organize an international donor conference on Abyei to support safe and dignified return of all the internally displaced persons to Abyei and solicit funds for rehabilitation and reconstruction in the Area.
- In October 2013, the month fixed for Abyei Referendum, the Ngok Dinka community decided to conduct that Referendum unilaterally and decided to join the Republic of South Sudan with an overwhelming majority of 99.8%.

- After the toppling of former Sudanese President Bashiir and his NCP Party in a popular uprising, we saw hopes that the new Government in Khartoum would cooperate with the Government of the Republic of South Sudan to get a final settlement to the Abyei issue. The commitment to respect all regional and international agreements related to Sudan made in the defunct Sudanese Transitional Government's Constitutional Declaration in August 2019 and the statements of former Prime Minister Abdallah Hamdok during his first visit to Juba in September, 2019 that his Government was committed to settle any CPA outstanding issue, were reassuring and reinforcing to those hopes. In May 2021, South Sudan President Salva Kiir Mayardit formed the National Committee for negotiation of the settlement of the Abyei's final status. In August Sudan reciprocated by forming a counterpart committee headed by the Vice President of the Sovereign Council with membership drawn from the Council itself and the Council of Ministers. However, things did not go the way Sudanese December Revolution planned them. The two committees never met until the Sudanese Council of Ministers was dissolved in October 2021 and the Sovereign Council was dissolved in July this year.

Short Chronology of Efforts Made to Solve the Abyei Issue

1. Abyei Protocol of the Comprehensive Peace Agreement (CPA), 2005

The settlement of the Abyei final status was considered during the peace talks in Naivasha-Kenya and was finally accorded what came to be known as the CPA's Protocol N0. IV, also known as the Abyei Protocol, signed on May 26th, 2004. **Article 1.3** of that Protocol provides that, members of the nine Ngok Dinka Chiefdoms and other Sudanese (Now South Sudanese and Sudanese) residents of Abyei Area to exercise their right to decide whether the Area should be in Northern Sudan or Southern Sudan in a referendum to be conducted simultaneously with the Southern Sudan Referendum on January 9th, 2011.

Instead of allowing that Referendum to take place, the Government of Sudan (GoS) and on the eve of a planned visit by the UN Security Council's 15 members to Abyei town and other parts of the Area, decided to invade the town and destroy it on May 20th 2011 as it did earlier in May 2008.

Abyei town and the surrounding villages were burnt to ashes and valuable and movable properties looted by the Sudan armed forces (SAF), the Misseriya and other Militias allied to them. The world media was full of the most disgusting, agonic, and miserable pictures of the internally displaced Ngok Dinka people. Sudan's then President (Bashiir) also unilaterally dissolved the Abyei local

administration that was established earlier in August 2009, by the then Sudanese Presidency (President, 1st Vice President and President of Government of Southern Sudan and Vice President).

The failure to conduct the Abyei Referendum, must be squarely blamed on the Government of Sudan which put all the hurdles in front of that referendum, including its insistence that the Misseriya nomads must take part in the cited referendum, in spite of clear and legal express provisions in the Abyei Protocol (**Art.1.1.3**), that the Misseriya were nomads, and only entitled to their seasonal grazing rights in the Area. Moreover, unlike the Ngok Dinka, the Misseriya were not transferred from their current territory in Sudan to any place to any other place in 1905.

2. The June 20th, 2011, Agreement, Establishment of UNISFA and Continuous GOS' Political Intransigence

The above unjustified invasion of Abyei, prompted the African Region and the international community to intervene. On June 20th, 2011, and with the kind facilitation of the AU Commission, the two Parties (GoS and SPLM [Now Republic of South Sudan) managed to sign an agreement for temporary administrative and security arrangements regarding Abyei Area, including the deployment of UN interim force for Abyei (UNISFA) (*See UNSC Resolution 1990*).

Our humble understanding of the temporary administrative and security arrangements envisaged under the June 20th, 2011, has been that they are not an end, but means to manage the transition to the final status of Abyei. But the Government of Sudan, since the time of former President Bashiir, sees them an opportunity to settle the Misseriya Arabs in the Area despite the PCA Ruling of July 22nd, 2009, that it is the territory of the Nine Ngok Dinka Chiefdoms.

With the understanding stated above, the Government of South Sudan complied with the letter and spirit of the June Agreement, but Sudan surprised everybody by coming up with new conditions and percentages to share the temporary administrative structures. With this political intransigence and impasse in the political process, time passed on and much of the June 20th, Agreement, 2011, became superseded by many developments that followed, chief among them:

- 1) The AUHIP September 21st, 2012, Proposal, which the Government of the Republic of South Sudan accepted on September 25th and Sudan rejected right away. It is worth mentioning that the AUPSC has, several times, accepted the said Proposal as fair, equitable and workable solution to the Abyei problem

(Resolutions 8, 9 and 10 of AUPSC 339th Communiqué of October 24th, 2012-Attached).

- 2) The murder of the Ngok Dinka Paramount Chief Kuol Deng Kuol. That unfortunate security incident has created a setback to any joint temporary arrangements and because it is not settled and culprits are still at large, it will remain one of the main reasons behind the ongoing insecurity and tension in the Abyei Area.
- 3) Ngok Dinka through frustration and anger (See AUPSC description in their Press Statement of November 6th, 2013), conducted a referendum in October 2013, the month fixed and not changed by the AUHIP in their proposal of September 2012. In that communal referendum, Ngok Dinka community overwhelmingly decided to join the Republic of South Sudan and by such move, rejected any joint institutions that connect them once again with Sudan or Missiriya! It is worth mentioning that, in their Press Statement (Attached) issued in Abyei on November, 6th, 2013, after Ngok Dinka conducted their Community Referendum in October, the 15 members of the AUPSC expressed understanding of the deep frustration, anger and concerns of the Ngok Dinka people that led them to their action (Referendum), but still stressed the need to find a final settlement in accordance with AUHIP Proposal of September, 21st, 2012.
- 4) UNSC Resolutions 2445/2018 and 2469/2019, (Attached) by way of properly addressing the realities on the ground, had acknowledged the Juba-appointed administration as *de facto* administration in Abyei Area and had as well directed UNISFA to coordinate Messiriya administrative affairs through their administration based in neighbouring Muglad in West Kordufan State in the Sudan. This in our view has closed the door before any joint administration in the Area.²
- 5) It is worth mentioning here that, up to date, Sudan still insists on holding to Kec/Diffra and ignore calls to complete withdrawal from the Abyei Area contrary to the above cited June Agreement and the subsequent UNSC Resolution 1990/2011, AUPSC Road Map, April, 24th, 2012, UNSC Resolutions, 2046/2012, 2445/2018....etc.

3. The AUHIP Proposal on Abyei

On September, 21st, 2012, the AUHIP commissioned by the African Union Commission, and in fulfillment of the requirements of Article 40 of the June, 20th,

² Paragraph 16 of UNSC Resolution 2445/2018.

2011, Agreement, presented to the two Parties, South Sudan and Sudan, a proposal for the resolution of the final status of Abyei Area, which the Government of the Republic of South Sudan, formally accepted on September, 25th, 2012, but which Sudan openly rejected, then forcing the said Panel to table it before the African Union Peace and Security Council (AUPSC) on October 24th, 2012.

That day, the AUPSC accepted that Proposal as fair, equitable and workable solution to the Abyei issue. But on request from Sudan, the AUPSC granted six weeks during which the two parties should reach a consensus on how best to implement the said proposal, particularly, how to conduct, peacefully and fairly, the Abyei Referendum provided in that Proposal and slated for October 2013.

As a delaying tactics to secure more time to settle the Missiriya north of Abyei in the hope to change the Area's demography, Sudan, unfortunately, spent those six weeks in engaging the rest of the world except, South Sudan! It is worth mentioning that the AUPSC in paragraph 10 of the above cited communiqué (*Of 24th October 2012*), decided that in the event of failure of the two parties to reach consensus on AUHIP Proposal in six weeks, the AUPSC would endorse it as final and binding and would seek the endorsement of the UNSC of the same. Up to date, that Proposal has been accepted by the AUPSC more than six times and yet it has not reached the UNSC.

After the assassination of the Ngok Dinka Paramount Chief Kuol Deng Kuol in May 2013, and the deterioration of the security situation that followed, in Abyei, former South African President Mbeki, the AUHIP Chairperson, made his Panel's position noticeably clear in the concluding words in paragraph 47 of his Report to the AUPSC on July 29th, 2013 (*Attached*), as follows:

"In these circumstances, the AUHIP has no alternative but to reiterate the PSC's view that the AUHIP 21 September Proposal, in its entirety, forms the basis for a fair, equitable and workable solution to the matter of Abyei and should be implemented as it stands and in accordance with the timetable as proposed, unless the Government of Sudan and the Government of South Sudan present agreed amendments to this Proposal." Unquote.

4. RSS President's Letter of October 9th, 2013, to AU Commission Chairperson

Before and after the presentation to and acceptance by the AUPSC of the AUHIP 21 September 2012, the President of the Republic of South Sudan H.E. Salva Kiir Mayardit tried several times to engage his counter-part, former President of Sudan Bashiir, with the view of agreeing to peacefully settle the Abyei's final status, but

all in vain. Khartoum remains politically intransigent over Abyei. This stagnant situation left President Kiir with no option; but to ask the AU Commission to take over the matter of Abyei. This came in his letter cited above, where he stated the following and we quote:

“In a series of summit meetings with President Bashir, we discussed Abyei’s final status particularly the AUHIP Proposal, but without agreement. Examples are our summit meetings of October 2012, January, April, May and September 2013. In light of the chronology stated above, and given the fact that October dateline for the Abyei Referendum has remained with only three weeks, I do not see myself and H.E. President Bashir agreeing soon on any amendments to the AUHIP Proposal and therefore kindly request your esteemed Commission to do the following:

- i. Include the issue of the Abyei Area Referendum and endorsement of the AUHIP September 21st, 2012, Proposal in the Agenda of the upcoming AU Summit of October, 11th, 2013 as an urgent matter.*
- ii. That the AU PSC in an extra-ordinary Summit, finally endorses AUHIP Proposal of September 21st, 2012.*
- iii. That without any unnecessary delay, and as provided in the AUHIP Proposal, the AU Commission forms the Abyei Area Referendum Commission by appointing its chairperson and ask both South Sudan and Sudan to send names of their nominees in order for the Commission to commence registration of voters and conduct the Abyei Area Referendum on time in October, 2013; and*
- iv. Urge the Government of Sudan to unconditionally withdraw from Kec/Diffra, to allow UNISFA full security control over the Abyei Area.” Unquote.*

5. Security Situation and UNISFA Efforts

Despite the efforts UNISFA has been exerting to establish security in the Abyei Area, people are still being killed and robbed of their properties, massacres are being committed. Despite the UNSC resolutions 1990 and 2046, Sudan is still occupying Kec/Diffra and the rest of the northern part of the Abyei Area thereby preventing UNISFA from establishing full control over the Area as mandated by UNSC Resolution 1990, 2011. It is under these circumstances that the Ngok Dinka Paramount Chief Kuol Deng Kuol was murdered in a tragic attack on a UNISFA convoy in Abyei Area on May 4th, 2013, by the Messiriya Militia who mobilized with apparent support of the Sudan Armed Forces (SAF) based at Kec/Diffra inside Abyei Box.

In a resolution passed on May 7th, 2013, the AU PSC asked the AU Commission to form Abyei Area Joint Investigation and Inquiry Committee (AAJIIC) to investigate the security incident that led to the assassination of the Ngok Dinka Paramount Chief Kuol Deng and a UNISFA soldier on May 4th, 2013. The committee was chaired by a nominee of the AU Commission and representatives of UN, South Sudan, and Sudan. AAJIIC finished its work and submitted its final report to the AU Commission on October 1st, 2013, with copies to the UN, the Governments of South Sudan and Sudan. Since then, nothing is heard, neither from the AU Commission nor from the UN. In April 2014, and being the State of the victim, South Sudan sent a letter to the AU Commission Chairperson requesting any updates on the case, but in vain. Our government showed full cooperation during the said investigation and is ready to further cooperate in the next stage of the case.

In a sitting of the AUPSC chaired by South Africa on July 31st, 2015, two important resolutions were passed regarding Abyei. Resolution 10 to transfer the Abyei File to the Chairperson of AU Commission, while Resolution 9 requested the AU Commission to table before the Council, the AAJIIC Report on the assassination of Paramount Chief Kuol Deng.³

Since that year and up to this year, 2022, there have been a series of security incidents in the Abyei Area. The attack on Maker village north of Abyei town which occurred in the morning of March 1st, 2014, ranks as the most heinous crime committed in the Area since the assassination of the Paramount Chief mentioned earlier. In that attack alone, our people lost more than one hundred and thirty lives of their people who returned to settle in their northern villages. Later in 2020, the massacres of Kollom and Mabok were committed in January and April, respectively. No investigations were conducted, though five attackers from Sudan were arrested on spot, by UNISFA. Early this year, Abyei town (Mading-thon) was attacked on 5th and 6th of March, killing 4+28 Ngok Dinka and other South Sudanese in the town. On April 13th was the triple attack on Leu and Noong villages and Amiet market in which the Area lost 40 people on a single day. So far, no investigations conducted, and all those attacks were carried out by combined elements of Missiriya Arab Militias and their military allies. The overall objective of those attacks is to displace more Ngok Dinka and discourage them from returning to their villages in the northern parts of the Abyei Area.

6. Position of the Government of South Sudan on the way forward:

³ See AUPSC's Communiqué in its 529th meeting on July 31st, 2015.

- 1) To unlock the current impasse on the political process regarding Abyei, the position of the Government of the Republic of South Sudan is that the final settlement of the Abyei issue can be achieved through one of the following three options:
 - i. In his letter of 17th September 2012, President Mbeki, Chairman of AUHIP advised both then President Bashir of Sudan and President Salva Kiir of South Sudan, that since Ngok Dinka was mainly the community targeted by the envisaged Abyei Referendum and since the field studies made by his Panel indicated that they would overwhelmingly vote to join South Sudan, it would be good, to save time and resources and avoid possible animosities of a referendum, for the parties to agree a political settlement to reinstate the Ngok Dinka and their Abyei Area to South Sudan from where it was curved out by the British colonial authorities and annexed to Sudan in 1905. South Sudan sees this suggestion as the best option;
 - ii. The two Parties agree to endorse the results of the Ngok Dinka community Referendum held in Abyei in October 2013; or
 - iii. The two parties agree to conduct as soon as possible, the Abyei Referendum based on the AUHIP Proposal of September 21st, 2012.
- 2) The Government of South Sudan does not support any suggestion to create another interim arrangement in the Abyei Area and, also, sees the insistence of Sudan to establish joint institutions in Abyei as a delaying tactics to buy time to illegally settle the Misseriya nomads in the Area with the view to change its demography and with the hope to turn those nomads into resident eligible voters in the future Abyei Referendum.
- 3) The Government of South Sudan suggests that the AU PSC holds an extraordinary meeting, to finally endorse the AUHIP Proposal of September 21st, 2012, and send the same to the UN Security Council for enforcement.
- 4) UNISFA Mission is critical to the security of the Area as it pacifies the ever-competing interests of the two countries, South Sudan, and Sudan, in the Area pending the final settlement of the Abyei issue. However, its capacity needs to be improved including whether it has sufficient manpower, military equipment and all-season passable roads to access all areas in the Abyei Box and efficiently exercises its security mandate.
- 5) The Government of South Sudan urges the Government of Sudan to unconditionally withdraw its armed forces renamed as oil police, from Kec/Diffra, to allow UNISFA full security control over the Abyei Box/Area.
- 6) The Government of South Sudan highly commend the efforts of the incumbent UN Secretary General to engage his colleague the Chairperson of the AU Commission on the quest to find a settlement to the Abyei issue. We appreciate

his letter of September 13th, 2017, which was responded to by the AU Commission Chairperson in his letter of October 23rd 2017 and would appreciate the revitalization of such coordinated efforts.