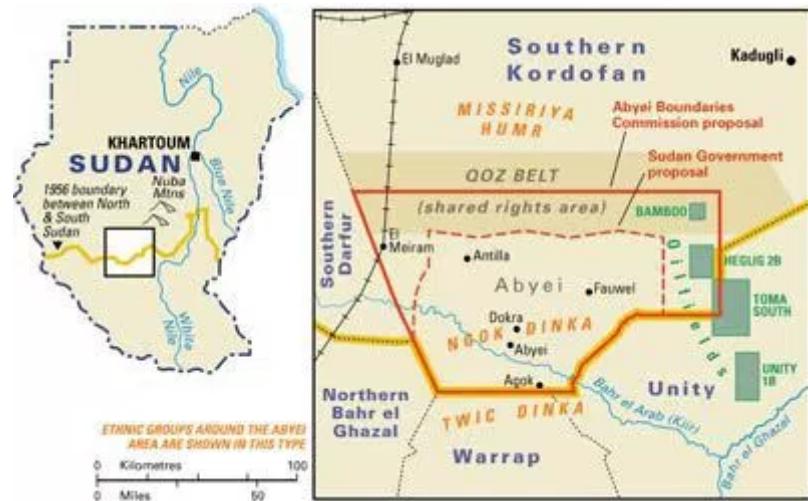


Abyei's courtship by the two Sudans – Where will it end?

LSE alumnus Jacob Dut Chol looks at challenges facing the Abyei Referendum in October this year.

Two years later than planned, the Abyei Referendum will finally take place in October 2013. In July 2013, the Abyei community in Juba launched a campaign for people of Abyei to return home to register and participate in the forthcoming Referendum. I was among those attending the launch and I must admit to being pessimistic at the way it is unfolding.



The Abyei Protocol is embodied within the Comprehensive Peace Agreement, a brainchild of the American government. However that was not enough to make the Abyei Referendum a reality, as was in the case of the South Sudan plebiscite. There was one pitfall in the Abyei Referendum – it emanated from the engineering of the protocol as a readymade “one-size-fits-all blueprint”. The US government exerted so much pressure during the negotiations that the Sudan government conditionally accepted the Abyei Agreement under what a peace expert would call “interest-based mediation” and a common feature of the US in Palestine-Israel conflict resolution. Due to the failure to implement the Abyei Protocol, there have been several intermittent conflicts and insurgencies including the killing of Abyei Paramount Chief Kuol Deng Kuol (also known as Kuol Adol) on 4 May 2013. The Misseriya Arabs have been the targets of a large number of attacks because of the promise by the government of Sudan of protection over their grazing rights in exchange for their taking up arms. By doing so, the Sudanese government has been misinterpreting the Abyei Protocol, with the view that it infringes on the rights of the Misseriyas. Yet, the accord provides social and cultural rights for the Misseriya Arabs through the seasonal movement of their animals in search of pastures and water points in Ngok Dinka areas.

The parallel alignment of the two ethnic groups in Abyei is embedded in socio-cultural ties. The Ngok Dinka aligns itself to the South Sudan government while the Misseriya Arabs support the government of Sudan. The deepening ethnic allegiance and the loyalties of the two groups towards the two opposing governments bear a resemblance to the adherence of residents of Kashmiri-contested land by the Indian and Pakistan governments. I agree with Sumantra Bose's analysis that “to the citizen of Jammu and Kashmir whose fundamental allegiance lies with India, the only legitimate unit of governance is India – including Kashmir and to the citizen whose basic identity is with Pakistan, the only legitimate unit of governance is Pakistan – including Kashmir”(Bose, 1999:155). This makes Kashmir stalemate difficult to resolve.

Under the Abyei Protocol, the people of the region should have conducted their referendum at the same time as the people of South Sudan, but it was postponed because of disagreements

between the North and South Sudanese leaders. These differences centred on the eligibility of votes. The South Sudan ruling party, the Sudan Peoples' Liberation Movement (SPLM) maintained that only the nine Ngok Dinka chiefdoms are eligible to vote as permanent residents of the area. However, the Khartoum-based National Congress Party (NCP) refutes this and argues that the Misseriya Arabs, who are temporary residents, should be allowed to participate in the referendum. Although the Protocol specifies Abyei residents as eligible voters, it remains unclear who the legal inhabitants really are as the Ngok Dinka see Abyei as their own territory and acknowledge Misseriya Arabs and other nomads as having traditional grazing rights of movement of their animals across to Abyei during dry seasons. Notably, the Venice Commission Guideline on the Holding of Referendums defines resident requirements to mean those with "habitual residence"¹. This tends to exclude seasonal migrants as in the case of the Misseriya Arabs.

The conundrum has been that each party takes a zero-sum position jeopardising the level playing field. The SPLM's claim that the Ngok Dinka should exercise their right of self-determination as spelled out in the CPA is based on the historical and cultural relations of the Ngok with the Dinka in the South among whom the SPLM dominate. On the other hand, the government of Sudan views the loss of Abyei as potentially disastrous after losing South Sudan and its resources. The prospect of Abyei joining South Sudan is very high. Back in 2010, it was revealed that if the plebiscite was conducted then, 80.6% of voters would choose to be annexed to South Sudan (Chol, 2010: 95). This caused concern among the Misseriya Arabs who believe that they will be expelled from a South Sudan-annexed Abyei.

The designation of Abyei as the homogenous home of the Ngok Dinka creates a plebiscitary-majoritarian scheme that excludes other members of ethnic groups, particularly the Misseriya Arabs, which the SPLM views as a political victory, although it compromises minority rights. This oversight in the Abyei Protocol was revealed during the negotiations of the accord when western countries proffered incentives to put the Sudan government under pressure. This included the promise of improved relations with the west which would lead to sanctions being lifted if there were improvements in human rights issues in the west Sudanese region of Darfur and a resolution to the conflicts in South Kordofan and the Blue Nile States. However, it is only fair that the voting rights of the Misseriya Arabs should have been considered as they have lived in Abyei permanently for the last fifty years.

The eligibility of the Misseriya Arabs may have been compromised in mediation considering the numerical size of each ethnic group and whether or not those numbers were maintained during the dry season when they come to graze their animals. Another factor could be related to the fear of gerrymandering the registration of voters by the Sudan government, possibly through a systematic relocation of Misseriya Arabs from Muglad and Babanusa towns. However, these could have been tackled to avoid the plebiscitary-majoritarian situation that brought the Kashmir right of self-determination to a standstill. In Kashmir, as in Bosnia, recourse to the plebiscitary-majoritarian was simply a disastrous option, given that neither India nor Pakistan will agree to it, unless a third option of independence is excluded (Bose, 1999: 155). Pakistan's view has been that the right to implement a referendum must come from India and itself. The hysteria over the independence option from Pakistan relates to its fears that any new neighbouring sovereign state would perhaps weaken its militia group establishments, such as Hizbul- Mujahideen.

The most constructive approach in this courtship of Abyei by the two Sudans is the exercise of genuine engagement and the building of trust in implementing the Abyei Protocol. There should be a mutual pursuit of tolerance, accommodation and coexistence between the two belligerents' governments. Both parties should restrain from the "maximalist approach" but instead adopt a "moderate style". There is no readymade "one-size-fits-all blueprint" for resolving the Abyei debacle but each stalemate requires a unique treatment for the realisation of legitimate peace. Although Abyei remains one of the most contested regions in the world, it does not need to remain so (Bose, 2007: 3). Chronic confrontation is not inevitable or immutable, and compromise and coexistence remain eminently feasible objectives. The challenge is immense, but the dividends are so great, and the alternatives so grim, that the struggle for peace is worth every ounce of sweat and toil.

Jacob Dut Chol is a founder and Executive Director of Centre for Democracy and International Analysis (CDIA), a research and academic think-thank in Juba.

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