The long awaited and highly anticipated awarding of Abyei arbitration by The Hague based Permanent Court of Arbitration is finally granted. Abyei is the area that belonged to the nine Ngok Dinka chiefdoms in Bahr el-Ghazal region of South Sudan. In 1905, the Anglo-Egyptian colonial power annexed the area to the Kordofan region in North of Sudan for administrative purposes. In subsequent years, the region becomes contested between the South and North of Sudan, especially with raising stakes of oil discoveries in the region and succession tendencies of South Sudanese people. In 2005, Comprehensive Peace Agreement signed between the Sudan People Liberation Movement/Army (SPLM/A) and Khartoum regime under the rule of the National Congress Party (NCP), Abyei was then treated with special provision known as the Abyei Protocol. The Abyei Protocol stipulated, among other things, the establishment of Abyei Boundaries Commission

(ABC) whose sole mandate was “to define and demarcate the Area of the nine Ngok Dinka Chiefdoms transferred to Kordofan in 1905.” However, upon submission of its final report, which was supposed to be ‘binding and final,’ the ABC report was rejected outright by the NCP on the ground that the commission exceeded its mandate.

Consequently, the Abyei dispute was referred to the Permanent Court of Arbitration in The Hague. According to the agreement of the arbitration, the court must decide whether the ABC actually exceeded its mandate in determining the Abyei boundaries and if the court so discern that the ABC exceeded its mandate, then it must go ahead in delimiting the Abyei boundaries based on the evidence provided by the two disputed parties to the court. The court has just made its final award with four arbiters in the majority ruling against one; Judge Awn Shawkat Al-Khasawneh has dissenting view. The dissenting view of Judge Al-Khasawneh, a Jordanian born, is significant to be noted for the purpose of setting the context of this ruling. In his dissenting view, Judge Al-Khasawneh argues that he finds the conclusions reached by majority of his colleagues, “unpersuasive, self-contradicting, result oriented, and in many respects cavalier, insufficiently critical, and unsupported by evidence, and indeed flying in the face of overwhelming contrary evidence.” Judge Al-Khasawneh goes on to add that the decision taken by majority of his colleagues in the Tribunal is “in other words very similar to the ABC Experts’ Report itself and like it as far in excess of mandate as it is removed from historical and contemporary reality.”

Even though in its ruling the Court states that the ABC never exceeded its mandate, it goes on to also assert that the ABC did exceed its mandates in other instances. Therefore, the Tribunal then redraws a new map for Abyei. In the new map, the Court confirms Abyei boundaries to the north, at latitude 10º10’N. It however denies the Ngok Dinka their sharing rights to the land farther north at latitude 10º35. To the East, the court draws an intriguing line, purposely isolating the oil fields from Abyei area. To put this ruling in perspective and comparisons, the court new map reduces Abyei area to merely less than a half in size awarded by ABC—which is from 25,293 km²/9,765mi² awarded by ABC to only10, 460 km²/4,039mi² of the reduced size of the Tribunal Court.

This ruling can hardly be accepted for the facts that it grossly deprives South Sudan of its sovereignty and outlaws Ngok Dinka from the rights to their land. At the heart of this dispute and ruling is the natural resource of Abyei, the oil; the very reason NCP clings to the Abyei area. The NCP makes its intention and position on this very clear. Nonetheless, it is ironic that the SPLM/A is giving up its claims of Abyei natural resources, when the movement went to the bush to struggle for equitable share of the country’s wealth. Whatever case, this issue is far from over as long as South Sudan aspires to be a sovereign nation.

Equally troubling is the denial to the Ngok Dinka their rights to swath of their lands that they utilize for generations. Land and its resource, especially pasture and water has been the root causes of ethnic conflicts in mankind history. It is nevertheless baffling that these historical facts are being ignored, even by presiding arbiter of the Abyei Tribunal, Pierre-Marie Dupuy who claims that boundaries are not obstacles to cross for ethnic groups. In contrary to Dupuy’s misconceived view, boundaries are not just sources for economic survival for the ethnic groups, but they are rather a cause of pride and conflicts, especially if those ethnic groups are divided along racial and religious lines as they are in the case of Ngok Dinka and Massiriya. The historic relationship between the Nomadic Arabs in the North with their Southern counterparts has always been a bitter one, starting with old age slavery, constant violent raids, and current scotch-earth-policy, planned and enforced by regimes in Khartoum. This relationship is not as peaceful as some commentators may want people to believe. If anything, the current government set up in Khartoum only makes such relationship not any better, but worse, given that the government specializes in fueling ethnic cleansings.

In conclusion, the Tribunal flagrant and partial ruling creates one more step in another long and bitter dispute between the South Sudan and its Ngok Dinka kinfolk on one hand, and government in Khartoum and Massiriya in the other. No one should be under any illusions that this dispute, which was created back in 1905, and complicated by violent histories of many parties involved, is over. The SPLM/A officials with their mistaken public pronunciations, might have already shot themselves on the foot as they cannot exert any meaningful public relation campaigns to change the outcome of the ruling, but the will and determination of the South Sudanese people and their aspirations for sovereign state will most likely never die in the face of such adversity and blatant violations of their rights. Perhaps the real showdown between the SPLM/A and NCP will come during the implementations of this ruling and demarcation of South-North boundaries. Salva Kiir, the chairman of SPLM/A and President of South Sudan at the press conference in awake of the ruling already hinted into this by claiming that he is very sure all the oil fields stolen by the NCP on behest of the Tribunal ruling will fall within South Sudan borders when the boundaries are demarcated. May be the new SPLM/A strategy to recover the already lost valuable land is during the demarcation of South-North boundaries, but how possible is that?

In short, the dispute is never over.

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