



Refugee Documentation Centre (Ireland)
LEGAL AID BOARD

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Information on Comprehensive Peace Agreement signed between North and South Sudan in 2005;

What was the outcome of the January 2011 referendum on the South's secession;

Information on the Abyei region including any proposed referenda

A report issued by the *Government of the Republic of Sudan* and the *Sudan People's Liberation Movement/Army* in January 2005, part of the Chapeau of the Comprehensive Peace Agreement (CPA) states:

“...Now herein the parties jointly acknowledge that the CPA offers not only hope but also a concrete model for solving problems and other conflicts in the country...” (Government of the Republic of Sudan and the Sudan People's Liberation Movement/Army (9 January 2005) *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*).

The complete CPA text is at the end of this report issued by the *Government of the Republic of Sudan* and the *Sudan People's Liberation Movement/Army* in January 2005.

In January 2011 a publication from the *Carnegie Endowment for International Peace* states regarding the CPA:

“The CPA is built on and includes a collection of documents negotiated and signed over a period of two years. It is comprised of six documents: the Machakos Protocol of July 2002, the Agreement on Security Arrangements of September 2003; the Agreement on Wealth Sharing of January 2004; the Protocol on Power Sharing of May 2004; the Protocol on the Resolution of Conflict in Southern Kordofan and Blue Nile States of May 2004; and the Protocol on the Resolution of Conflict in the Abyei Area of May 2004” (Carnegie Endowment for International Peace (4 January 2011) *The Comprehensive Peace Agreement*).

Conciliation Resources in an undated publication summarising the CPA notes:

“Machakos Protocol (2002)

A six-year interim period [dated from 9 July 2005] is established during which the southern Sudanese will have the right to govern affairs in their region and participate equitably in the national government. Peace implementation is to be conducted in ways that make the unity of Sudan attractive. After the interim period, southern Sudan will have the right to vote in an internationally monitored referendum either to confirm Sudan's unity or vote for secession. Shari'a law is to remain applicable in the north and parts of the constitution are to be re-written so that shari'a does not apply to any non-Muslims

throughout Sudan. The status of shari'a in Khartoum is to be decided by an elected assembly.

Power Sharing (2004)

Sudan will have both a national government with representation from both sides of the north-south conflict, and a separate Government of Southern Sudan (GoSS). The Southern Sudan Constitution and state constitution must comply with the Interim National Constitution. A Government of National Unity is to be formed. There shall be a decentralized system of government, granting more power to individual states. Positions in the state governments are to be split 70:30 in favour of the NCP in northern states (20% for other northern parties and 10% for the SPLM) and 70:30 in favour of the SPLM in southern states (15% for other southern parties and 15% for the NCP). In Abyei, the Blue Nile State and Nuba Mountains the division will be 55% for the NCP and 45% for the SPLM. The executive will consist of the Presidency and the Council of Ministers. Two Vice-Presidents will be appointed by the President. The First Vice President is the Chair of the SPLM. A bicameral national legislature will be established: the National Assembly will be comprised of specific percentages (NCP 52% SPLM 28% other northern parties 14% other southern parties 6%); two representatives from each state will be represented in the Council of States. Elections will be held by the end of the third year of the interim period.

Wealth Sharing (2004)

A National Land Commission, Southern Sudan Land Commission and state land commissions are to be established. A National Petroleum Commission is to be established to manage petroleum resources. 2% of oil revenue will go to oil-producing states in southern Sudan in proportion to their output. The remaining net revenue will be divided evenly with 50% allocated to the GoSS and 50% allocated to the national government. The GoSS has no power to negotiate any of the oil leases granted by the national government prior to the CPA. The National Government is able to collect revenue from personal income, corporate and customs taxes; the GoSS can collect revenue from personal income taxes, luxury taxes and business taxes in southern Sudan. Taxes that can be collected by states are also outlined. A commission to ensure the transparency of collection and use of revenues will be formed. Two banking systems will be formed in the two areas, with the Bank of Southern Sudan as a branch of the Central Bank of Sudan. Essentially, the dual banking system means that banks will be commonly stationed with two different windows for service. Two separate currencies in the north and south are to be recognized until the Central Bank has designed a new currency that reflects the cultural diversity of Sudan. National and southern funds for reconstruction and development will be established along with two multi-donor trust funds.

The Resolution of the Abyei Conflict (2004)

Abyei will be accorded special administrative status during the interim period, following the definition of the Abyei areas by the Abyei Border Commission. Abyei will have representation in the legislature of Southern Kordofan and Warap states; at the end of the six-year interim period, Abyei residents will vote in a referendum either to maintain special administrative status in the north or to become part of Bahr al-Ghazal (Warap) state in the south. Wealth-

sharing of oil revenues from Abyei is to be split between the north and south (50:42) with small percentages of revenues allocated to other states and ethnic groups: 2% each to: the Ngok Dinka people, the Misseriyya people, Bahr al-Ghazal (Warap) state, and 1% each to Southern Kordofan state (SKS) and the Western Kordofan sub-state component of SKS.

The Resolution of Conflict in Southern Kordofan and Blue Nile States (2004)

The two states will be represented at the national level in proportion to their population size. At the state level, the NCP will comprise 55% and the SPLM 45% of the State Executive and State Legislature. Southern Kordofan State (SKS): the southern portion of West Kordofan State (WKS) will be incorporated into the SKS. The state legislature will have 36 members from the SKS component and 18 from the former WKS component, subject to readjustment following a census. The state executive will have 7 from SKS and 4 from WKS. Al-Fula will have branches of all state ministries and institutions headed by a deputy. The legislature will convene sessions alternatively at Kadugli and Al-Fula. Governorship of each state shall rotate between the NCP and SPLM during the interim period. Wealth sharing: the 2% of SKS oil due to the state is to be shared between the two state components. The 2% share of Abyei's oil due to the state shall be equally divided between two state components. The 2% forming the Misseriyya share in Abyei oil shall benefit the previous Western Kordofan component. The legislature of the two states will evaluate the implementation of the CPA. State Land Commissions are to be established (in case decision clashes with National Land Commission and cannot be reconciled, the Constitutional Court will decide the matter).

Security Arrangements (2003 & 2004)

During the six-year interim period, Joint Integrated Units (JIUs) of 21,000 soldiers are to be formed with equal numbers from the Sudan Armed Forces (SAF) and the SPLA. They are to be deployed to sensitive areas such as the three disputed areas and will be commonly stationed but maintain separate command and control structures. If, after the interim period, the south decides to secede, the JIUs will unify into a 39,000 strong force. The SAF and the SPLA will also continue to operate as separate armies with both considered part of Sudan's National Armed Forces. Each army is to be downsized and the parties are to implement demobilization, disarmament and reintegration (DDR) programmes. No other armed group will be tolerated outside the umbrella of the three services. There is to be a redeployment of 91,000 SAF troops from the south to north within 2 years. The SPLA has 8 months to withdraw its force from the north. A permanent cessation of hostilities is provided for, detailing disengagement and the creation of various committees for enforcement and oversight. DDR and reconciliation are provided for through a number of commissions. Monitoring is to be carried out by a UN mission to support implementation, as provided for under Chapter VI of the UN Charter" (Conciliation Resources (Undated) *A summary of the Comprehensive Peace Agreement*).

An undated document from the *United Nations Mission in Sudan* commenting on the CPA states:

“Six years after Sudan’s peace accord was signed, demarcation of its 2,000-kilometre-long north-south border area is finally about to begin. A complex issue, the borderline directly affects 10 border states and some 13 million people -- nearly one fourth of the country’s total population -- and is intertwined with questions of security and resource sharing. According to the Comprehensive Peace Agreement (CPA), the border must be demarcated as it stood on the day Sudan gained independence from Anglo-Egyptian rule on 1 January, 1956, or along the so-called 1/1/56 line. Border delimitation, or marking the border on paper, was completed in late 2009 by the CPA-established Technical Border Committee, with the exception of five areas or some 500 kilometres” (United Nations Mission in Sudan (Undated) *More than a borderline*).

In January 2011 *BBC News* notes on Abyei that:

“Two rival ethnic groups involved in deadly clashes this week in Sudan's disputed oil-rich Abyei region have signed a deal to end the violence. The hostilities had threatened to overshadow the referendum on independence for the south” (BBC News (14 January 2011) *Sudan deal to end Abyei clashes*).

This news story adding further commentary on Abyei states that:

“The Dinka Ngok think it belongs in the south, while the nomadic Arab Misseriya see it as northern. The heart of their dispute is about grazing rights for cattle, which are central to both communities' traditions and economies” (ibid).

BBC News in January 2011 reports on the referendum, stating:

“Some 99% of South Sudanese voted to secede from the north, according to the first complete results of the region's independence referendum. A total of 99.57 percent of those polled voted for independence, according to the referendum commission. Early counting had put the outcome of the ballot beyond doubt, indicating Southern Sudan had secured a mandate to become the world's newest nation. The poll was agreed as part of a 2005 peace deal to end two decades of war” (BBC News (30 January 2011) *South Sudan referendum: 99% vote for independence*).

The *Small Arms Survey* in February 2011 states, commenting on Abyei that:

“The Three Areas, consisting of Abyei, South Kordofan, and Blue Nile, located along Sudan's volatile North–South border, bore the brunt of decades of armed conflict that ended in January 2005 with the signing of the Comprehensive Peace Agreement (CPA). Thanks to their strategic location and resource wealth, including oil, agricultural land, and water, these front-line areas were deemed critical to achieving long-term stability in Sudan and were awarded a special status in the CPA” (Small Arms Survey (3 February 2011) *Armed Groups and the Risk of Conflict in the Three Areas*).

This report also notes on Abeyi that:

“Fears that the still-unresolved status of Abyei—controlled by South Sudan's Sudan People's Liberation Movement (SPLM) but within the political

boundaries of North Sudan—could derail the peace process rose steeply in early 2011 as the region saw five major clashes in the wake of a vote for independence by South Sudan in January 2011” (ibid).

It is also stated in this document commenting on Abyei that:

“The CPA Protocol on the Resolution of the Abyei Conflict provided for Abyei to have a referendum of its own in January 2011 to decide whether to join an independent South or be part of the North. Disagreement over who is eligible to vote has caused the referendum to be postponed indefinitely. The referendum commission has not yet been set up and Abyei's borders have not been officially demarcated, despite the official acceptance, by both sides, of a 2009 boundary ruling by the Permanent Court of Arbitration in The Hague” (ibid).

In February 2011 a report by *BBC News* on the referendum states:

“On Monday, the Southern Sudan Referendum Commission announced in Khartoum that 98.83% of the voters had backed independence. Those who voted for unity were 44,888, that is, 1.17%. Those who voted for separation were 3,792,518, that is, 98.83%,” commission head Mohamed Ibrahim Khalil said” (BBC News (7 February 2011) *South Sudan backs independence – results*).

In February 2011 an *IRIN News* story commenting on the referendum result states:

“The release of referendum results for Southern Sudan’s historic independence showing that 98.83 percent voted for secession means formal independence is scheduled for 9 July 2011, but key challenges still remain to be negotiated” (IRIN News (8 February 2011) *Analysis: Key challenges for Southern Sudan after split*).

One of the challenges is Abyei and this article later states that:

“The contested border region was due to hold a separate referendum at the same time as the south, when its residents would decide whether to become part of the north or south. But progress on that vote remains in deadlock, with the largely northern-supported Misseriya community - who travel through the region annually to graze their cattle - demanding a right to vote. The largely southern-supported Dinka Ngok people reject that demand, and southerners say only permanent residents should be allowed to vote. The area's future is expected to be wrapped into the huge negotiations ahead, with the south demanding it be ceded directly to join the new nation” (ibid).

Human Rights Watch in February 2011 states in the aftermath of the referendum that:

“Southern Sudan should focus on improving respect for human rights and promoting the rule of law as it becomes an independent state, Human Rights Watch said today. On February 7, 2011, Sudanese authorities announced the final results of the southern independence referendum, confirming the near-unanimous vote for the South's secession from northern Sudan. "Sudanese leaders deserve congratulations for a peaceful referendum," said Daniel

Bekele, Africa director at Human Rights Watch. "But now they need to cement this progress. South Sudan should move quickly to show its commitment to democratic governance, transparency, and human rights." With just five months to independence on July 9, Southern Sudan has enormous tasks ahead, such as reviewing its constitution and laws, reforming its institutions, and making provisions to accommodate the political opposition. Opposition parties have already complained of being excluded from the forthcoming constitutional review by the ruling Sudan People's Liberation Movement (SPLM). Southern Sudan is also faced with enormous human rights challenges, Human Rights Watch said, including inter-communal fighting, abuses by its security forces, a weak rule of law, and a growing culture of impunity. Abuses involving the southern army and reports of abuses by newly trained police officers demonstrate some of the challenges facing the new government and its donors. Some of the worst documented abuses occurred in Upper Nile State, where unrelated clashes in recent days among soldiers in the northern Sudan Armed Forces stationed there killed scores of civilians in Malakal town. Human Rights Watch called on the new government to retain the full bill of rights in the transitional constitution, to strengthen systems for investigating and prosecuting abuses by the military, and to provide better oversight of its police forces. Donors providing assistance to improve security forces should tailor their programs to address these needs" (Human Rights Watch (8 February 2011) *South Sudan: Improve Accountability for Security Force Abuses*).

A report issued by *Freedom House* in February 2011 noting the result of the referendum states:

"According to the final referendum results announced yesterday, nearly 99% of Southern Sudanese opted for secession. The process was largely peaceful and determined to be generally credible by both international and domestic observers" (Freedom House (8 February 2011) *Successful Referendum in Southern Sudan A Historic First Step*).

BBC News commenting on Abyei in February 2011 states:

"At least 10 people have been killed in fighting between rival ethnic groups in Sudan's disputed oil-producing region of Abyei, officials say. The clashes between Arab nomads and the southern Dinka Ngok people are the first since a deal between the two sides was agreed last month" (BBC News (28 February 2011) *Sudan: Abyei ethnic clashes mar peace deal*).

This story also states on Abyei that:

"The region did not take part in last month's referendum in which southerners voted to split from the north. Abyei is due to vote on whether to join the north or south at a later, unspecified date" (ibid).

A report published in 2011 by the *United Nations Mission in Sudan* commenting on the CPA states:

"The Abyei Boundaries Commission (ABC) was mandated to define and demarcate the area of the nine Ngok Dinka Chiefdoms transferred to Kordofan in 1905, referred to as 'the Abyei area'. The ABC submitted its final report to the Presidency on 14 July 2005. However the Presidency failed to

agree on adoption of the report” (United Nations Mission in Sudan (2011) *The CPA Monitor, February 2011*,p.24).

A publication by the *Small Arms Survey* in March 2011 on Abyei states:

“On 7 February Sudanese president Omar al-Bashir announced that South Sudan had overwhelmingly voted for secession from the North. A committee is now negotiating post-referendum arrangements, including the contentious issues of oil revenue, border demarcation, and the future status of Abyei” (Small Arms Survey (March 2011) *The Unresolved Crisis in Abyei*).

This document adding further commentary on Abyei states:

“The 2005 Comprehensive Peace Agreement (CPA) promised residents of Abyei a referendum to decide whether the territory will join North or South Sudan, to be held simultaneously with the vote on South Sudan's independence. The vote did not occur, however, due to a heated dispute between Khartoum and Juba over who should be eligible to vote” (ibid).

A paper issued in March 2011 by the *Congressional Research Service* comments on the CPA noting:

“Implementation of the CPA by the Government of National Unity has been selective and at times deliberately slow, according to United Nations officials and Sudan observers. President Bashir, for example, rejected implementation of the Abyei Boundary Commission (ABC) recommendations, and the formation of the Joint Integrated Units has been slow, although in 2008 important progress was made. The ABC was mandated to “define and demarcate” the area known as the nine Ngok Dinka Chiefdoms transferred in 1905 to Kordofan in North Sudan. The ABC was chaired by former U.S. Ambassador to Sudan Donald Peterson, with active international engagement. In July 2005, the ABC submitted its final report to the Presidency. According to the CPA, “upon presentation of the final report, the Presidency shall take necessary action to put the special administration status of Abyei Area into immediate effect.” The CPA faces serious challenges, despite the number of commissions created and decrees issued by the Presidency to address issues related to the agreement. Government force redeployment from Southern Sudan, as called for in the peace agreement, has been slow, especially in the oil field regions of Southern Sudan” (Congressional Research Service (4 March 2011) *Sudan: The Crisis in Darfur and Status of the North-South Peace Agreement*,p.18).

In March 2011 commentary by the *Satellite Sentinel Project* on Abyei includes:

“The human security situation in the Abyei region of Sudan has rapidly deteriorated in the past week due to renewed violence” (Satellite Sentinel Project (4 March 2011) *Flashpoint: Abyei*,p.1).

This report also states on Abyei that:

“The recent violence in the Abyei region has occurred in the context of apparent increases observed by SSP in the military capacity of both the

Sudan Armed Forces (SAF) and the Sudan People's Liberation Army (SPLA) in regions along the contested border line" (ibid).

In March 2011 *IRIN News* commenting on Abyei states:

"Up to 25,000 people have fled the contested town of Abyei since an estimated 100 people died in violence last week" (IRIN News (8 March 2011) *Sudan: Thousands displaced by Abyei violence "at risk"*).

This news story adds further commentary on Abyei stating:

"The attacks were attributed by officials to Khartoum-backed Arab militia forces targeting villages north of Abyei. UN and Abyei officials said many of those killed were pro-Southern police forces who were supposed to have left the Abyei area following a security agreement signed by the North and South in January. The violence comes as the Arab cattle-herding Misseriya population, which migrates seasonally through Abyei, is seeking to move south towards the River Kiir. The Ngok Dinka residents of the Abyei area have traditionally allowed this movement, but years of political and military tensions between Northern and Southern leaders have heightened mistrust between the local populations of Abyei. With the South on the eve of declaring independence and the future of Abyei undecided, the situation may have reached breaking point" (ibid).

It is also stated in this report covering Abyei that:

"With only four months left until South Sudan declares independence, both sides have yet to reach agreement on a host of unresolved issues regarding their future relations. The thorniest issue by far is Abyei, a fertile and oil-producing region claimed by both sides. In the latest meeting of Sudanese President Omar el-Bashir and Southern leader Salva Kiir, they resolved to reach agreement on the future status of Abyei - which was promised its own self-determination referendum in the 2005 peace deal - by the end of March" (ibid).

In the aftermath of the referendum *IRIN News* in March 2011 states:

"Less than four months before Sudan is due to split into two sovereign states, the future status of more than a million people of southern origin living in the North – and a smaller number of northerners living in the South - remains unresolved. Southern Sudan's ruling party on 13 March suspended negotiations with the North about a wide array of post-secession arrangements – including citizenship rights. The Sudan People's Liberation Movement (SPLM) alleged that the northern government had been training and arming militias to destabilize the South and even topple the SPLM government in Juba" (IRIN News (15 March 2011) *Sudan: As secession nears, citizenship issues still unresolved*).

An introduction to a timeline events surrounding the referendum published by *IRIN News* in March 2011 states:

"After the apparent false dawn of a peaceful secession referendum for Southern Sudan in January, deteriorating relations between Khartoum and Juba, coupled with spiralling insecurity in the South and the disputed region of

Abyei, are raising grave concerns internationally” (IRIN News (18 March 2011) *Sudan: Timeline since the referendum*).

In March 2011 a paper issued by the *Office of the United Nations High Commissioner for Human Rights* refers to Abyei, stating:

“With the referendum out of the way, the key issues confronting the parties to the Comprehensive Peace Agreement (CPA) will be the implementation of the remaining aspects of the 2005 agreement, in particular the Abyei referendum, border demarcation, citizenship, wealth and assets sharing, and meaningful popular consultations in Blue Nile and Southern Kordofan states. In this context, I remain concerned about the continuing deterioration of the situation in the Abyei region. Tension in the region has been high due to the delayed referendum for Abyei and restrictions on the movement of Southerners who returned to cast their ballots in the Southern Sudan referendum” (Office of the United Nations High Commissioner for Human Rights (18 March 2011) *Statement of the independent expert on the situation of human rights in the Sudan*).

The *Associated Press* comments on Abyei in March 2001 stating:

“Southern Sudan voted in January to break away from the north, and it will become the world's newest country in July. Abyei's future is being negotiated, and both sides are trying to stake claim to it” (Associated Press (23 March 2011) *North-south Sudan flashpoint sees troop increase*).

This article adds on Abyei noting:

“Sudanese President Omar al-Bashir and Southern Sudan President Salva Kiir met last week to discuss the future of Abyei, which had been promised a self-determination vote to be held at the same time as the south's independence vote. The two leaders did not announce any progress on Abyei. The Abyei referendum was not held due to a dispute between northern and southern leaders over who was eligible to vote. Two populations warily coexist in the fertile land: the Ngok Dinka farmers, who are loyal to the south and want independence from the north, and the Arab Misseriya cattle herders, who graze their herds in Abyei. Both governments have historically used the populations as proxies to further their own interests in Abyei” (ibid).

Further commentary on Abyei in the report states:

“The Abyei region has seen a wave of attacks over the last month, violence that sent an estimated 20,000 to 25,000 people fleeing south, according to U.N. reports. Three weeks after fleeing, most have not returned” (ibid).

In March 2011 the *Enough Project* states commenting on Abyei noting:

“As South Sudan edges toward independence in July 2011, Abyei remains a critical flashpoint for conflict, as demonstrated by the recent intentional burning of villages by forces reportedly aligned with the northern government, and the displacement of 20,000 residents. Considered perhaps the most difficult issue in talks between North and South, the current security situation is reflective of age-old problems that continue to plague Abyei: a culture of impunity among security forces, abuse and neglect of civilian populations,

culminating in the violence at Maker Abior, Tajalei, and Noong, among other places. Contested by the Ngok Dinka, aligned with the Sudan People's Liberation Movement, or SPLM, and nomadic Misseriya groups that have historically aligned with the North, Abyei has been a point of conflict over land, oil, and identity. The Comprehensive Peace Agreement's Abyei Protocol has never been implemented effectively, with successive international mediation efforts rejected by Sudan's ruling National Congress Party” (Enough Project (24 March 2011) *Brewing Insecurity in Abyei*).

In March 2011 *Agence France Presse* states concerning Abyei that:

“Southern officials say the north is beefing up troop numbers along the border with the disputed region of Abyei, a fertile but impoverished area seen as the most likely flashpoint between the two sides. "The north have sent extra soldiers along the border to the north, and this is a grave concern," said Deng Arop Kuol, Abyei's chief administrator who dismisses northern explanations they are policemen. Satellite images released by US pressure group the Enough Project, appear to back up claims of troop reinforcements and northern "fortified encampments inside Abyei." “ (Agence France Presse (25 March 2011) *Violence overshadows south Sudan party plans*).

This news report additionally referring to Abyei states:

“The southern government worked hard ahead of the referendum to reconcile rebel groups, but distrust from the war years still runs high, when southern forces fought against each other, as well as with the north. With the referendum over, those deals are now falling apart as groups jockey for power. The Small Arms Survey research group has warned of the fragile control the southern government has over "its vast and militarised territory." "It is clear that the ongoing rebellions have the potential not only to challenge the Juba government's authority and destabilise the south, but also to disrupt peaceful north-south relations after July 9," the Swiss-based group said in a recent report. During the devastating 1983-2005 civil war, in which an estimated two million people died, Khartoum armed the militias among southern ethnic groups opposed to the Sudan People's Liberation Movement (SPLM) of the south. Southern leader Salva Kiir, at an emergency meeting with his northern counterpart President Omar al-Bashir last week, agreed to resume negotiations. But the quarrel does not bode well for progress in the negotiations on key outstanding concerns ahead of July, which include Abyei's future status, management of the oil sector, borders, citizenship, security and debt. On top of the violence, south Sudan faces daunting humanitarian and internal political challenges. Over 246,000 southerners who fled north during the civil war have returned to the south since October, according to the International Organisation for Migration, and aid agencies are preparing for the arrival of up to 500,000 more people by August” (ibid).

In March 2011 a report issued by the *United Nations Office for the Coordination of Humanitarian Affairs* states concerning Abyei that:

“The situation in Abyei remains tense and volatile with increasing military presence raising concerns regarding the possible implications for the civilian population if there is a resurgence of violence” (United Nations Office for the Coordination of Humanitarian Affairs (27 March 2011) *OCHA Sudan Weekly Humanitarian Bulletin 18 - 24 March*,p.3).

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This response was prepared after researching publicly accessible information currently available to the Refugee Documentation Centre within time constraints. This response is not and does not purport to be conclusive as to the merit of any particular claim to refugee status or asylum. Please read in full all documents referred to.

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