

## **Colonialism and Border Disputes in Africa: The Case of the Malawi-Tanzania Dispute over Lake Malawi/Nyasa**

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### **Abstract**

This study examined how the colonial partition of Africa has become the source of border disputes in Africa with a case study on the Malawi-Tanzania dispute over Lake Malawi/Nyasa—which has been ongoing since 1967. There is no convention governing the delimitation of international lakes like Lake Malawi/Nyasa. Therefore, the study predicts that if the current third-party mediation fails and the disputants decide to submit the case to the International Court of Justice (ICJ), the colonial treaty that delimited the border between the two territories is likely to prevail; thereby upholding Malawi's position on the lake border on the basis of the principle of *uti possidetis*.

### **Keywords**

Africa, colonialism, border dispute, Lake Malawi/Nyasa, Malawi, Tanzania

European colonialism in Africa, from the mid-19<sup>th</sup> century to decolonization in the 1960s and 1970s, left many indelible legacies in the continent. One of the legacies concerns the borders drawn by the European colonial powers. According to Herbst (1989), “between 1885 and 1904 most of the present political map was drawn, a process practically complete by 1919” (p. 674). However, the way in which the African borders were drawn has become the major source of border disputes. The European colonial powers drew the boundaries based on their limited knowledge about the precolonial history, ethnicity, and geography of Africa (Kapil, 1966, p. 659; Herbst, 1989, p. 674). Worse, they left some borders, particularly in areas difficult to gain access to or insignificant to their interests, only partially defined, if not undefined altogether. Eventually, African countries inherited the borders with a strong potential for later disputes.

Despite their faults, African borders have remained almost unchanged to this day (Brown, 1980, p. 575; Herbst, 1989, p. 673). Although there were some pressures for border adjustments when the Organization of African Unity (OAU) was created in 1963, member states decided to abide by the principle of *uti possidetis* (the principle of inheriting the colonial territory in its entirety). Considering the complexity of African states and the challenges new states faced at that time, re-drawing the borders was viewed as difficult, if not impossible. Nonetheless, many inherited colonial borders have been disputed since decolonization. In fact, most interstate disputes in Africa have been border disputes. Some border disputes have even led to war, as seen in the cases of Morocco-Algeria (1963), Somalia-Ethiopia (1976-1978), Burkina Faso-Mali (1985), Libya-Chad (1973-1988), and Ethiopia-Eritrea (1998-2000) (Yoon, 2009, p. 77). According to Chiozza and Choi (2003), “international disputes over territory are more likely to involve the use of military force, to escalate to war, and to reach higher levels of severity than nonterritorial disputes” (252). In Africa, however, the number of territorial disputes that escalated into war is surprisingly small, despite the large number of such disputes. The practically unchanged African borders and the small number of border wars have mostly been attributed to the OAU/African Union (AU)’s adherence to the principle of *uti possidetis* and the principle of peaceful settlement of dispute.

The purpose of this article is to examine how the colonial partition of Africa has contributed to border disputes in the continent with a case study of the Malawi-Tanzania dispute over Lake Malawi/Nyasa. This dispute is one of the longest border disputes in Africa. Nevertheless, it has received almost no attention in the extant territorial dispute literature. A notable scholarly work on this dispute is Mayall’s article in 1973, which focused on the sources of the dispute and the position of each disputant. This study expands the scope of his work by including other issues associated with the dispute. Specifically, apart from what Mayall (1973) discussed

earlier, this study includes the role of the lake's oil and natural gas potential in the dispute, the recent settlement efforts, and the relevance of contemporary international law to the dispute, none of which Mayall discussed. What follows next is a discussion of the colonial partition of Africa, often referred to as the "scramble for Africa." This is followed by the OAU/AU positions on border issues, regarded as the key factor of the almost unaltered African borders and the small number of border wars in Africa. The case study then demonstrates how the colonial partition has become the main source of the border dispute between Malawi and Tanzania, and discusses the issues complicating the dispute as well as the settlement efforts. It also offers some probable outcomes and implications of the dispute.

### **The Colonial Partition of Africa and Problems of African Borders**

The industrial Revolution in Europe, which triggered mass production of machine-made cheap goods, accelerated the European search for colonies for raw materials and markets. Though most of Africa was partitioned between the Berlin Conference (November 15, 1884–February 26, 1885) and 1904 as aforementioned, the partition had begun before the conference, particularly in West Africa, and accelerated after the conference as the European powers competed to augment their territorial possessions. To secure their territorial claims, they ratified numerous delimitation treaties between them (Yoon, 2010, p. 55). Many colonial claims to African territories and subsequent delimitations were based on prior treaties between Europeans and African rulers, in which Africans ceded their rights to Europeans for protection and/or economic gains (Touval, 1966, p. 283; Yoon, 2010, p. 56). According to Touval (1966), the European powers obtained those treaties "through the combined effect of coercion and inducement" (p. 283). They then utilized those treaties to support their claims (Kapil, 1966, p. 661; Touval, 1966, pp. 279-280; Ajala, 1983, p. 179; Griffiths, 1986, p. 207). Therefore, Africans also played a role in the partition process, though inadvertently.

A boundary, to be complete, requires delimitation and demarcation (Brownlie, 1979, p. 3). While delimitation signifies "description of the alignment in a treaty or other written source, or by means of a line marked on a map or chart," demarcation means marking the border site in the ground (Brownlie, 1979, p. 3). The African Union Border Programme (AUBP) estimates that "less than a quarter of African borders have been [clearly] delimited and demarcated" (African Union, 2008a). The lack of delimitation and demarcation created porous borders no one is in charge of securing. This situation has posed many security risks to the continent (e.g., cross border criminal and terrorist activities, and spill-over of intra-state conflicts to their

neighboring countries). Even the delimited colonial borders were drawn in Europe by government representatives who had little or no geographical knowledge about the territories concerned (Brownlie, 1979, p. 6; Ajala, 1983, p. 180; Griffiths, 1986, p. 205). As a result, colonial delimitation treaties left out many details, and were therefore incomplete.

According to Touval (1966), “30% of the total length of African borders follow straight lines; 70% of the total length of African borders which do not follow straight lines were defined mostly in terms of geographical features” (p. 291). Borders defined by geographic features, such as rivers and watersheds, tend to shift due to fluctuating water levels. Natural features, therefore, are not precise delimitation tools to utilize (Brownlie, 1979, p. 4). In addition, African borders, defined with no regard to ethnic boundaries, divided the same ethnic groups into multiple states—which has become a source of ethnic tension in those countries.

### **OAU/AU Positions on Border Issues**

From the beginning, the OAU upheld the borders at the time of independence, despite their shortcomings. Article III (3) of the OAU Charter identified “respect for the sovereignty and territorial integrity of each state” as one of the principles of the organization. The Resolution on the Intangibility of Frontiers [Resolution AGH/Res. 16 (1)], adopted in 1964 by the Assembly of Heads of State and Government,<sup>1</sup> recognized the inherited borders as “a tangible reality” and declared the member states’ pledge to respect the frontiers upon national independence. Like the OAU Charter, the resolution called for the peaceful settlement of dispute between African states. Since the resolution, the principle of *uti possidetis* has become “the legal basis for determining territorial questions on the continent” (Kapil, 1966, p. 671).

The AU—which replaced the OAU in 2002—reiterated the OAU position on border issues. Article 4 (b) of its Constitutive Act denotes “respect of borders existing on achievement of independence” as one of the principles of the organization (African Union, 2000). The AU, however, launched the AUBP in 2007 to “address the problems posed by the lack of delimitation and demarcation” (African Union, 2013). The primary mission of the AUBP is to prevent and resolve border disputes by facilitating delimitation, demarcation, and boundary management. It follows the principles of both *uti possidetis* and the negotiated settlement of border disputes (African Union, 2008a).

The OAU/AU’s adherence to the principle of *uti possidetis* stemmed from the

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<sup>1</sup> The full text is available in Gino Naldi (1992).

complex circumstance of African states—socially diverse, and economically and politically weak. In fact, there appears to be no better alternative to the inherited colonial borders. First, given the large number of ethnic and cultural groups in Africa, redrawing borders based on ethnic and cultural boundaries would create numerous small, weak states. Second, African states have faced bigger challenges, such as weak economies and government institutions. Third, according to Jackson and Rosberg (1982, p. 19), territorial integrity was essential for the survival of weak African governments apprehensive about external interference, particularly by other African states.

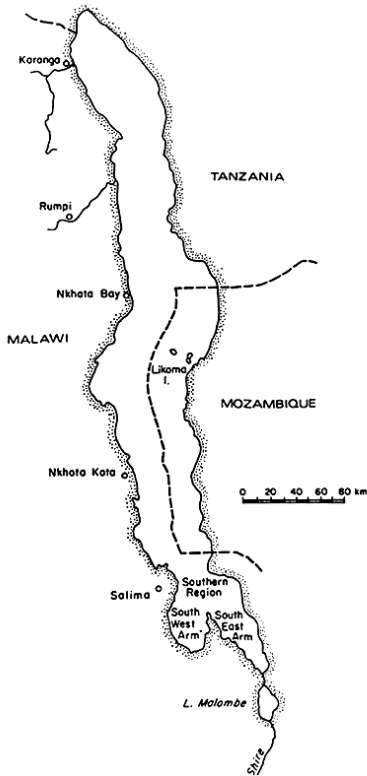
### **The Lake Malawi/Nyasa Border Dispute: A Case Study**

Lake Malawi borders three countries: Malawi in the west, Tanzania in the east, and Mozambique in the south. It is the third largest lake in Africa after Lake Victoria and Lake Tanganyika. It had been known as Lake Nyasa until Malawi changed its name to Lake Malawi in 1967 (Brownlie, 1979, p. 957). However, it is still known as Lake Nyasa in Tanzania. According to Bootsma and Jorgensen (2006), the lake is “the most species-rich lake in the world containing an estimated 500 to 1000 species” (p. 261). It has provided a livelihood to fishermen living alongside the lake on both sides, as well as “water for irrigation, transportation, and hydroelectric generation” (Bootsma & Jorgensen, 2006, p. 259). The lake is also a tourist attraction. Several major rivers, including the Songwe River, which separate Malawi and Tanzania in the north, and the Rovuma River, which forms the border between Tanzania and Mozambique, flow into the lake, but only the Shire River drains the lake water to the sea (the Indian Ocean).

The Lake Malawi/Nyasa border dispute accords with Brownlie’s (1979) claim that “the concept of a dispute involves a disagreement between two states on a point of law or fact, which disagreement is normally manifested by the making of a claim or protest” (p. 13). Tanzania and Malawi have disagreed on their border in Lake Malawi/Nyasa since the Tanzanian government, in 1967, formally questioned the border (Day, 1987, p. 154). According to Malawi, the Tanzanian shore of the lake is the border. According to Tanzania, however, the median line of the lake, not the shore, forms the border. While Malawi bases its claim on the 1890 Anglo-German Agreement, Tanzania relates its claim to the customary state practice of using the median line of a body of water as the border, and the historical evidence it possesses.<sup>2</sup>

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2 Interview with a member of parliament, Dodoma, Tanzania, June 3, 2013.



Map 1. Lake Malawi/Nyasa

Source: Fisheries and Aquaculture Department,  
Food and Agriculture Organization of the United Nations

### Colonization of Malawi and Tanzania

The root of this dispute dates back to complex European colonialism in East Africa. The Portuguese were the first Europeans who explored East Africa. They controlled most of the East African coast by 1506 and ruled Zanzibar, off the coast of Tanganyika (present-day mainland Tanzania), for about 200 years from the early 15<sup>th</sup> century until they were ousted in the late 17<sup>th</sup> century by Omani Arabs (“Tanzania Profile,” 2013). Other Europeans followed suit, and the European competition in East Africa began, only intensifying after the Berlin Conference. In 1884, Germany claimed Zanzibar as its protectorate, but it remained under the rule of the Sultan of Zanzibar (Stoecker, 1986, p. 95). In 1885, Tanganyika became a part of German East Africa, which encompassed present-day Rwanda, Burundi, and Tanzania. With the incorporation of those Great Lakes territories, the German conquest in East Africa was complete (Sunseri, 2005, pp. 1537-1538). The Anglo-German Partition Agreement of 1886 and the German-Portuguese Agreement of 1886 then fixed the boundaries of the German protectorate in East Africa (Stoecker, 1986,

p. 95). Shortly afterwards in 1891, Britain established the Nyasaland and District Protectorate (present-day Malawi). The name of the protectorate changed to the British Central Africa Protectorate in 1893, and then to the Nyasaland Protectorate in 1907 (Day, 1987, p. 154). Nyasaland was part of the Federation of Rhodesia and Nyasaland for the period 1953-1963 (Brownlie, 1979, p. 957).

Germany lost its colonial possessions after its defeat in World War I by Article 119 of the 1919 Treaty of Versailles (Reyner, 1962, p. 21). Britain and Belgium, whose troops occupied German East Africa during the war, took over the German colonies in East Africa under the League of Nations mandate system (Shillington, 1995, p. 346). Specifically, Belgium got Rwanda and Burundi, while Britain was awarded Tanganyika. Britain's role as the administering power of Tanganyika officially began in 1922. Due to this change, Tanganyika's border with Nyasaland became an internal administrative division like the administrative divisions in French West Africa (eight French colonies) and French Equatorial Africa (four French colonies). After World War II, Tanganyika became a trust territory of the United Nations (UN), which inherited the territories under the League's mandate system. Tanganyika and Zanzibar became independent from Britain in 1961 and 1963, respectively. They united in 1964 and became the United Republic of Tanzania. The Nyasaland Protectorate changed its name to Malawi when it became a self-governing protectorate in 1963, and became independent in 1964 as Malawi. When Tanganyika and Malawi became independent, the internal administrative division under British rule transformed back to an international border.

### **The Anglo-German Agreement (Heligoland-Zanzibar Treaty) of 1890: The Origin of Controversy**

The Anglo-German Agreement of 1890—also known as the Heligoland-Zanzibar Treaty—defined the spheres of influence of Britain and Germany in East Africa (Articles I & II), Southwest Africa (Article III), and West Africa (Article IV) (Anglo-German Treaty, 1890). Germany agreed to withdraw its claims to Zanzibar and offered Britain Lake Nyasa, Malawi's northern province, and Uganda in exchange for Britain's concession of Heligoland in the North Sea (Che-Mponda, 1972, p. 242; Kennedy, 1980, p. 205). As a result, Zanzibar became a British protectorate in 1890. The agreement was signed by the two governments in Berlin in 1901 (Brownlie, 1979, p. 958).

This is the agreement that delimited the border between Nyasaland and Tanganyika to the eastern shore of the lake, which Tanzania disputes. Specifically, Article I (2) of the agreement demarcates the area as running "To the south by the line that starts on the coast of the northern border of Mozambique Province and follows the course of the Rovuma River to the point where the Messinge flows into

the Nyasa. Turning north, it continues along the eastern, northern, and western shores of the lake until it reaches the northern bank of the mouth of the Songwe River” (Anglo-German Treaty, 1890). However, the agreement also includes some room for future adjustments of the border. Article VI states, “Any correction of the demarcation lines described in Articles 1 to IV that becomes necessary due to local requirements may be undertaken by agreement between the two powers” (Anglo-German Treaty, 1890). To support their respective positions, Malawi and Tanzania have each singled out a different provision of the treaty. While Malawi has used Article I (2) to keep the eastern shore line border, Tanzania has emphasized Article VI to move the border to the median line through negotiations with Malawi.

### **Inconsistent Evidence Regarding the Border**

While the 1890 Anglo-German Agreement leaves no doubt about the eastern shoreline border, historical documents and maps issued afterwards are inconsistent about the border. While some indicate the median line, others indicate the eastern shoreline of the lake as the boundary between the two territories. For example, according to Day (1987), “official British sources for the period 1916-1934 showed the western border of the [Tanganyika] territory as being the median line through Lake Nyasa” (p. 154). However, “British [annual] reports to [the UN General Assembly and Trusteeship Council] issued between 1947 and 1961 for Tanganyika and Nyasaland generally abandoned the median-line alignment and showed the boundary between the two territories as being the eastern shore of Lake Nyasa in accordance with the 1890 Anglo-German Agreement” (Day, 1987, pp. 154-155). Thus, as Brownlie (1979) succinctly states, “[T]he evidence certainly does not point unequivocally in one direction” (p. 959).

Malawi and Tanzania have utilized different evidence, respectively, that can suit their positions. Particularly, they have based their claims on different maps. However, according to legal scholars and the ICJ, the role of maps in settling boundary disputes is limited, due mainly to the lack of clarity. The ICJ (1986), concerning the territorial dispute between Burkina Faso and Mali in 1986, noted that “in frontier delimitations, maps merely constitute information, and never constitute territorial titles in themselves alone. They are merely extrinsic evidence which may be used, along with other evidence, to establish the real facts. Their value depends on their technical reliability and their neutrality in relation to the dispute and the parties to that dispute; they cannot effect any reversal of the onus of proof.”

### **The Role of the Oil and Natural Gas Potential in the Dispute**

The dispute over the lake-border had been relatively calm for years. However, the oil and natural gas potential in the lake and Malawi’s decision to explore those



resources have intensified the dispute in recent years by elevating the value of the lake. The Malawi Geological Survey of 1970 indicated that sedimentary rocks which could bear hydrocarbon formation and accumulations are present in the northern Lake Malawi area and the lower Shire Valley in the southern region (Matick, 1984, p. 3). Subsequent geological investigations by various sources have supported these findings. In addition, the discovery of oil in nearby Kenya and Lake Albert of Uganda has led Malawi to believe that Lake Malawi might also have oil. To prospect for oil and gas, Malawi awarded a license to the British company Surestream Petroleum in 2011, and to a subsidiary of the South African firm SacOil in 2012. Both Malawi and Tanzania are listed among the UN's "least developed country list." According to the World Bank (2013), the 2012 gross national income per capita in Malawi and Tanzania was \$320 and \$570, respectively. In addition, both countries import oil. Thus, if the prospect of oil becomes a reality, the oil and gas in the lake would significantly benefit the lake's owner. This potential economic benefit has raised the stakes of the dispute, and has strengthened the position of each disputant. A member of the Tanzanian parliament who had participated in an earlier negotiation with Malawi stated that if the lake had only fish, the border might not be such a tense issue between the two countries,<sup>3</sup> which have shared the lake's water and marine resources for decades with no controversy.

### Settlement Efforts

A series of bilateral meetings have been held to review the facts associated with the dispute and to find mutually acceptable solutions. Though the dispute has strained the relationship between the two countries, neither party has expressed an intention to use force to settle it, despite harsh rhetoric from both parties. As their bilateral negotiations reached a deadlock, the two countries asked, in January 2013, the Forum of Former African Heads of State and Government of the Southern African Development Community (SADC) to mediate the dispute. The chairperson of the forum, Joaquim Chissano of Mozambique, created a mediation team, which consists of Thabo Mbeki of South Africa, Festus Mogae of Botswana, and Chissano himself. Both countries are members of the SADC, and decided to utilize the dispute settlement mechanism of the organization before considering taking the case to the ICJ. In June 2013, the forum laid down steps for its mediation, which will end in September 2013 (Chikoko, 2003). Both parties of the dispute have submitted their respective evidence to the forum to make their cases.

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3 Interview with a member of parliament, Dodoma, Tanzania, June 3, 2013.

### **International Law and Lake Delimitation**

What does international law say about the delimitation of an international lake like Lake Malawi/Nyasa, which borders multiple states? There is no convention like the United Nations Convention on the Law of the Sea of 1982 (UNCLOS III) concerning international lakes (Janusz, 2005, p. 4). As Vinogradov & Wouters (1995) elaborate, “the delimitation of international lakes is not at present governed by an established set of rules, nor are there universally accepted customary norms based on uniform state practice” (p. 615). At present, only specific treaties form the basis for delimiting international lake borders. Therefore, a shared ownership of an international lake is not automatic unless specified by a treaty (Lee, 2005, p. 39).

One may question whether UNCLOS III, then, can be applicable to the Lake Malawi/Nyasa case. In fact, Tanzanian government officials, according to Tanzanian media sources, have related the convention—which provides an equitable solution for delimitation of the ocean areas between states with opposite or adjacent coasts—to the Tanzanian claim to the median line border. However, the equitable solution rule is not applicable to this dispute, because Lake Malawi/Nyasa is not a sea. The convention provides rules delimiting the territorial sea (Article 15), the exclusive economic zone (Article 74), and the continental shelf (Article 83), but has no provision for delimiting lakes between states opposite or adjacent to each other.<sup>4</sup> There are various ways to delimit international lakes, and state practices for doing so have varied: the middle of the water, the thalweg,<sup>5</sup> the banks of the lake, or no particular way (Janusz, 2005, p. 4). Of these ways, the middle-line method has been most frequently practiced (Janusz, 2005, p. 4). Due, perhaps, to its frequency, Tanzania views the middle-line method as customary, though it has never been codified to a multilateral treaty like UNCLOS III. Therefore, Tanzania’s claim to the median-line border in Lake Malawi/Nyasa based on international law appears to be baseless.

### **Prospects**

Considering Malawi’s unfaltering stance on the shoreline border, a border adjustment to the median line is unlikely to materialize through current mediation. On July 1, 2013, the Malawi Minister of Information, Moses Kunkuyu, reiterated his country’s position by stating that Tanzania owns no part of the lake, and that the oil explorations will proceed despite Tanzania’s protests (“Malawi minister describes,” 2013). Why, then, has Malawi participated in negotiations with Tanzania? Malawi’s

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4 For the complete text of the treaty, see UN law of the sea treaty (1982).

5 The thalweg means “the median line of the principal channel of navigation” (Brownlie, 1979, p. 17).

intention is to prove its ownership of the lake by offering Tanzania more facts. According to the government spokesperson of Malawi, the country's acceptance of negotiation does not mean its acknowledgement of the validity of Tanzania's claim (cited in "Malawi minister describes," 2013). Rather, the country is more resolute than ever before to settle this long drawn-out dispute once and for all to prevent Tanzania from making the same claim in the future.

If the current mediation fails, the dispute is likely to move forward to the ICJ, as Malawi's president, Joyce Banda, has repeatedly mentioned. If that is the case, this study cautiously predicts, the court is likely to affirm Malawi's sovereignty over the lake based on the principle of *uti possidetis* unless the (unrevealed) historical evidence Tanzania possesses has legal significance, and can legally supersede the Anglo-German Agreement of 1890, which granted Malawi a title to Lake Malawi/Nyasa. This prediction is drawn from the outcome of the Nigeria-Cameroon dispute over the Bakassi Peninsula. Nigeria, like Tanzania, did not accept the validity of the delimitation treaty between Britain and Germany, which colonized Nigeria and Cameroon, respectively. The ICJ awarded the peninsula to Cameroon in 2002 based on the Anglo-German Treaty of March 11, 1913, which placed the peninsula on the German side. By the principle of *uti possidetis*, Cameroon inherited the peninsula.

The principle, which has played such a large role in settling border issues in decolonized areas, is not absolute, however. As Ratner (1996) states, "It is not a norm of *jus cogens*, and precludes states neither from altering their borders nor even from creating new states by mutual consent" (p. 600). In other words, states can change their inherited borders by mutual agreement. However, in the absence of agreement between disputants, no matter how poorly defined the inherited borders in Africa might be, colonial delimitation treaties are still binding to this day based on the principle of *uti possidetis*. Therefore, while ICJ adjudication is a more favorable settlement option to Malawi, bilateral negotiation or third-party mediation, if successful, is a better option for Tanzania to achieve its desired outcomes. In the case of ICJ adjudication, even if the court affirms Malawi's sovereignty over the lake, it is likely to rule that the lake's water resources be shared by both countries. As Tanzania argues, much of the lake's water comes from Tanzania's rivers. In addition, other international lakes in East Africa are shared. For example, Lake Tanganyika is shared by Tanzania and the Democratic Republic of Congo. Lake Victoria is shared by Tanzania, Kenya and Uganda, though not evenly. Lake Jipe is shared by Tanzania and Kenya. Above all, the lake communities in both countries have earned their livelihood from the lake.

Map 1 (p. 80) shows that while Malawi has sovereignty over the entire northern part of the lake, it shares the southern part of the same lake with Mozambique.

The middle of the lake is the border between Malawi and Mozambique until the middle line reaches the Southern Region, which Malawi owns. One may question why there is such a difference between Malawi's two borders in the same lake. Portugal—which ruled Mozambique until 1975—and Britain had readjusted the Nyasaland-Mozambique boundary multiple times through treaties since the initial Anglo-Portuguese Treaty of 1891, which defined their spheres of influence in Africa (Office of the Geographer, 1971, p. 5). The initial treaty defined the eastern shore of Lake Nyasa, known as Lago Niassa in Mozambique, as the border between Nyasaland and Mozambique. The Anglo-Portuguese Agreement of 1954, however, moved the border “from the eastern shore to the median line annexing 2,471 square miles of water surface to Mozambique” (Office of the Geographer, 1971, p. 5).

In the case of Tanzania, due to the German loss of Tanganyika after World War I, its colonial power, responsible for the 1890 delimitation agreement with Britain, was no longer a legitimate party to make any adjustment, as provided by Article VI of the 1890 agreement. Commissioners of the two signatories of the 1890 Anglo-German Agreement had never met to undertake such a task. Some evidence suggests that before Tanganyika became a British protectorate in 1922, Germany had exercised its sovereignty up to the median line of Lake Nyasa (Brownlie, 1979, p. 959). Thus, one could assume that if Germany had not lost Tanganyika, it might have adjusted Tanganyika's boundary with Nyasaland. Britain, which replaced Germany in Tanganyika, only produced inconsistent evidence of the border between the two territories, as addressed above. Perhaps, Britain did not see any need to adjust the border, considering that the lake had been used by both sides without restrictions.

## **Conclusion**

This study discussed the colonial partition of Africa as the source of border disputes in Africa with a case study on the Malawi-Tanzania dispute over Lake Malawi/Nyasa. Though the OAU/AU's consistent adherence to the principles of *uti possidetis* and peaceful settlement of dispute has prevented territorial issues from evolving into crises, the creation of the African Union Border Programme in 2007 speaks volumes for the urgency of working out the details left out, or ambiguously addressed, by colonial delimitations. African leaders set 2012 as the deadline for completing delimitation and demarcation of boundaries. This target date, however, has already proven unrealistic. The tasks of delimitation and demarcation are costly both in time and resources. It is particularly difficult to delimit and demarcate river and lake boundaries, let alone mine-infested border areas (African Union, 2008b).

The Malawi-Tanzania dispute, though still ongoing, has the following implications. A disputant whose claim is based on a colonial delimitation treaty is less likely to concede in bilateral negotiations and third party mediations, and is likely to choose ICJ adjudication for resolution. Potential oil and natural gas reserves are likely to spark new border disputes or rekindle old ones. They also affect the intensity and duration of border disputes, by elevating the economic value of the disputed territories. What has been missed in the border debate is the possible impact of future drillings on the livelihood of the communities adjacent to the disputed site. Potential economic gains from the disputed territories, therefore, tend to dominate the concerns affecting the lives of people.

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### References

- African Union. (2000). Constitutive act of the African Union. Retrieved July 2, 2013, from [http://www.au.int/en/sites/default/files/ConstitutiveAct\\_EN.pdf](http://www.au.int/en/sites/default/files/ConstitutiveAct_EN.pdf)
- African Union. (2008a). Declaration on the African Union Border Programme and its implementation modalities as adopted by the conference of African ministers in charge of border issues held in Addis Ababa, on June 7, 2007. Retrieved July 2, 2013, from <http://www.africa-union.org/root/au/publications/psc/Border%20Issues.pdf>
- African Union. (2008b). 2<sup>nd</sup> international symposium on land, river and lake boundaries management. Retrieved July 5, 2013, from <http://www.peaceau.org/en/article/2nd-international-symposium-on-br-land-river-and-lake-br-boundaries-management>
- African Union. (2013). African Union Border Programme (AUBP). Retrieved July 13, 2013, from <http://aubis.peaceau.org/about-us>
- Ajala, Adekunle (1983). The nature of African boundaries. *Africa Spectrum*, 18(2), 177-189.
- Anglo-German Treaty. (1890). Retrieved July 5, 2013, from [http://germanhistorydocs.ghi-dc.org/pdf/eng/606\\_Anglo-German%20Treaty\\_110.pdf](http://germanhistorydocs.ghi-dc.org/pdf/eng/606_Anglo-German%20Treaty_110.pdf)
- Bootsma, Harvey, & Jorgensen, Sven (2006). Lake Malawi/Nyasa: Experience and lessons learned

- brief. Retrieved July 10, 2013, from [http://www.worldlakes.org/uploads/16\\_Lake\\_Malawi\\_Nyasa\\_27February2006.pdf](http://www.worldlakes.org/uploads/16_Lake_Malawi_Nyasa_27February2006.pdf)
- Brown, David (1980). Borderline politics in Ghana: The national liberation movement of western Togoland. *Journal of Modern African Studies*, 18(4), 575-609.
- Brownlie, Ian (1979). *African boundaries: A legal and diplomatic encyclopaedia*. Berkeley & Los Angeles, CA: University of California Press.
- Che-Mponda, Aleck (1972). *The Malawi-Tanzania border and territorial dispute, 1968: A case study of boundary and territorial imperatives in the new Africa* (Unpublished doctoral dissertation). Howard University, Washington, DC.
- Chikoko, Rex (2013, June 15). SADC seeks solution to Malawi-Tanzania border dispute. *Africa Review*. Retrieved June 17, 2013, from <http://www.africareview.com/News/SADC-seeks-solution-to-Malawi-Tanzania-border-dispute/-/979180/1883676/-/9e7t0e/-/index.html>
- Chiozza, Giacomo, & Choi, Ajin (2003). Guess who did what: Political leaders and the management of territorial disputes, 1950-1990. *Journal of Conflict Resolution*, 47(3), 251-278. doi:10.1177/0022002703252364
- Day, Alan (1987). *Border and territorial disputes* (2<sup>nd</sup> ed.). Burnt Mill, United Kingdom: Longman.
- Fisheries and Aquaculture Department, Food and Agriculture Organization of the United Nations. (2013). Map of Lake Malawi/Nyasa. Retrieved July 19, 2013, from <http://www.fao.org/docrep/005/t0473e/T0473E20.gif>
- Griffiths, Ieuan (1986). The scramble for Africa: Inherited political boundaries. *The Geographical Journal*, 152(2), 204-216.
- Herbst, Jeffrey (1989). The creation and maintenance of national boundaries in Africa. *International Organization*, 43(4), 673-692.
- International Court of Justice (ICJ). (1986). *Case concerning the frontier dispute (Burkina Faso/Republic of Mali): Summary of the judgment of 22 December 1986*. Retrieved July 22, 2013, from <http://www.icj-cij.org/docket/index.php?sum=359&code=hvm&p1=3&p2=3&case=69&k=b3&p3=5>
- Janusz, Barbara (2005). The Caspian Sea: Legal status and regime problems. Retrieved July 15, 2013, from <http://www.chathamhouse.org/sites/default/files/public/Research/Russia%20and%20Eurasia/bp0805caspian.pdf>
- Jackson, Robert, & Rosberg, Carl (1982). Why Africa's weak states persist: The empirical and the juridical in statehood. *World Politics*, 35(1), 1-24.
- Kapil, Ravi (1966). On the conflict potential of inherited boundaries in Africa. *World Politics*, 18(4), 656-673.
- Kennedy, Paul (1980). *The rise of the Anglo-German antagonism 1860-1914*. London, United Kingdom: George Allen & Unwin
- Lee, Yusin (2005). Toward a new international regime for the Caspian Sea. *Problems of Post-Communism*, 52(3), 37-48. Retrieved July 22, 2013, from [http://home.ku.edu.tr/qdufurrena/public\\_html/Hist334/Caspian%20Sea.pdf](http://home.ku.edu.tr/qdufurrena/public_html/Hist334/Caspian%20Sea.pdf)
- Malawi minister describes Tanzania 'ignorant' on lake row, oil explorations to proceed. (2012, July 1). *Nyasa Times*. Retrieved July 1, 2013, from <http://www.nyasatimes.com/2013/07/01/malawi-minister-describes-tanzania-ignorant-on-lake-row-oil-explorations-to-proceed/>

- Mattick, Robert (1984). Petroleum exploration in Malawi. Retrieved August 11, 2013, from <http://pubs.usgs.gov/of/1984/0384/report.pdf>
- Mayall, James (1973). The Malawi-Tanzania boundary dispute. *Journal of Modern African Studies*, 11(4), 611-628.
- Naldi, Gino (Ed.). (1992). *Documents of the Organization of African Unity*. New York, NY: Mansell Publishing Limited.
- Office of the Geographer. (1971). *Malawi-Mozambique boundary* (International Boundary Study No. 112). Washington, DC: Bureau of Intelligence and Research, United States Department of State. Retrieved July 15, 2013, from <http://www.law.fsu.edu/library/collection/limitsin-seas/ibs112.pdf>
- Organization of African Unity (OAU) Charter. (1963). Retrieved July 5, 2013, from [http://www.au.int/en/sites/default/files/OAU\\_Charter\\_1963\\_0.pdf](http://www.au.int/en/sites/default/files/OAU_Charter_1963_0.pdf)
- Ratner, Steven (1996). Drawing a better line: Uti possidetis and the borders of new states. *American Journal of International Law*, 90(4), 590-624.
- Reyner, Anthony (1962). Tanganyika: Africa's newest country. *World Affairs*, 125(1), 19-24.
- Shillington, Kevin (1995). *History of Africa*. New York, NY: St. Martin's Press.
- Stoecker, Helmuth (Ed.). (1986). *German imperialism in Africa*. London, United Kingdom: C Hurst & Company.
- Sunseri, Thaddeus (2005). Tanganyika (Tanzania): German invasion and resistance. In Kevin Shillington (Ed.), *Encyclopedia of African History* (Vol. 3, pp. 1536-1538). New York, NY: Fitzroy Dearborn.
- Tanzania Profile. (2013, June 18). *BBC News*. Retrieved July 24, 2013, from <http://www.bbc.co.uk/news/world-africa-14095868?print=true>
- Touval, Saadia (1966). Treaties, borders, and the partition of Africa. *Journal of African History*, 7(2), 279-293.
- UN law of the sea treaty. (1982). Retrieved August 13, 2013, from <http://www.unlawoftheseatreaty.org/>
- Vinogradov, Sergei, & Wouters, Patricia (1995). The Caspian Sea: Current legal problems. Retrieved July 22, 2013, from [http://www.zaoerv.de/55\\_1995\\_2\\_a\\_604\\_623.pdf](http://www.zaoerv.de/55_1995_2_a_604_623.pdf)
- World Bank. (2013). World development indicators. Retrieved August 11, 2013, from <http://data.worldbank.org/country/>
- Yoon, Mi Yung (2009). European colonialism and territorial disputes in Africa; The Gulf of Guinea and the Indian Ocean. *Mediterranean Quarterly*, 20(2), 77-94.
- Yoon, Mi Yung (2010). Territorial disputes in the Gulf of Guinea: The cases of Nigeria-Cameroon and Gabon-Equatorial Guinea. In Yoon, Mi Yung, & Kilroy, Richard (Eds.), *Colonial history and territorial issues in Africa and Latin America* (pp. 51-82). Seoul, Korea: Northeast Asian History Foundation.