



THE INFLUENCE OF THE 1890, ANGLO – GERMANY TREATY ON TRANSBOUNDARY WATER COOPERATION AND CONFLICT RESOLUTION IN THE SOUTHERN AFRICA REGION

by

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Outline

- Introduction
- Major Shared Watercourses in SADC Region
- Conference and Act of Berlin 1884 - 1885
- The 1890 Anglo- Germany Agreement (Helgoland Treaty)
- O.A.U/AU Boundary Declarations

- Relevance of Helgoland Treaty in Water Cooperation and Dispute Resolution in SADC Region

- Conclusion



Introduction

The **objective** of this presentation is to:-

- *Provide an account of the influence of the 1890 Anglo – Germany Treaty (Helgoland Treaty)*
- *and international customary law in regards to conflict resolution*
- *and trans-boundary water cooperation in the Southern Africa Region (SADC).*



Major Shared Watercourses in the SADC Region



There are 15 major Shared Watercourses in the SADC Region between the 12 continental member states

70% of water resources are found in shared watercourses





Conference of Berlin 1884 – 1885 and the Act of Berlin

Objective:

- To bring order, respect among European countries in order to avoid conflict and war in scramble for Africa

Output:

- The Act of Berlin 1885 spelt out Articles for guiding possession of territories in Africa by European countries



Conference of Berlin 1884 – 1885 and the Act of Berlin...

Conference of Berlin 1884 and Act of Berlin 1885 led to:-

- Treaties and Agreements between European countries
- Defining limits of spheres of influence in Africa.



Conference of Berlin 1884 – 1885 and the Act of Berlin....

- The Act of Berlin 1885 – laid ground for drawing 1890 Anglo-German Agreement.
- Great Britain, Germany and other European countries were parties to the Act of Berlin 1885
- Both powers held territories in Africa before the 1885 Act, through explorers, missionaries and traders.



How 1890 Anglo Germany Agreement was Drawn

- Sketch maps prepared by sailors and explorers using rudimentary surveying equipment and technologies
- Guesswork and assumptions - Scanty geographical knowledge based on information from explorers and missionaries;
- Ad hoc local treaties between native authorities and explorers, discoverers, etc.



Self Confession of Ignorance of Local Geography

- Great Britain's Prime Minister Lord Salisbury remarked thus on imperial boundary making:

“We have been engaged in drawing lines where no white man's foot ever trod; we have been giving away mountains and rivers and lakes to each other, only hindered by the small impediment that we never knew where the mountains and rivers and lakes were.”



Articles in the 1890 Anglo Germany Agreement

There are 12 Articles:-

- Articles I – IV contain descriptions of bounds or limits of spheres of influence of European countries in different parts of Africa
- Articles V – XI Spell out conditions to be abided with by the Parties in different parts of their territories
- Article XII describes cessation of Helgoland



Articles of Helgoland Treaty

- **Article VI states thus:** - *“All the lines of demarcation traced in Articles I to IV shall be subject to rectification by agreement between the two Powers, in accordance with local requirements”.*
- **Rightful interpretation is necessary**
- Water bodies (rivers and lakes) were used to mark lines of influence in the presence of scarcity of geo information
- **Hence the boundaries of the sovereign states of Africa – Southern Africa region**



Agreements Subsequent to Principal Agreement of 1890

- In 1904 – 1906 a German / British **Joint Boundary Commission** inspected and verified boundary between Tanganyika, Kenya and Uganda.
- **Joint Boundary Commission** prepared a Protocol that was signed in 1910
- A draft boundary agreement between Tanganyika and Kenya was drawn in 1914.



Agreements Subsequent to Principal Agreement of 1890.....

- In 1909 a German / Portuguese Joint Boundary Commission inspected and verified the dry land boundary section between Tanganyika and Mozambique
- Boundary marks were installed from confluence of Ruvuma river and Misinje to Lake Nyasa
- Agreement for the boundary between Germany / Portuguese was signed in 1911



Agreements Subsequent to Principal Agreement of 1890

- In 1911 a Germany - Belgian **Joint Boundary Commission** inspected and verified boundary on Lake Tanganyika
- Agreement for the boundary between Germany and Belgium was signed in 1911 and **shifted the boundary to the middle** of the Lake Tanganyika



Agreements Subsequent to Principal Agreement of 1890.....

- In 1954 a Portuguese - British **Joint Boundary Commission** inspected and verified boundary between Mozambique and Malawi in Lake Nyasa
- Agreement for the boundary between Mozambique and Malawi in Lake Nyasa was signed on **18th November, 1954** which **shifted the boundary from the eastern shoreline to the middle of the Lake.**



Agreements Subsequent to Principal Agreement of 1890.....

- In 1898 a **Joint Boundary Commission (JBC)** was formed, to inspect and verify boundary section between Lake Nyasa and Lake Tanganyika(Article VI).
- **JBC** prepared a Protocol signed *on 11th November, 1898*
- Agreement for boundary between Tanzania and Malawi along Songwe River was signed on *23rd February, 1901*



OAU/AU Declarations and Resolutions on Settlements of Boundary Disputes

- **OAU Charter 1963**

(Article III (4) – Calls for peaceful settlement of disputes by negotiation, mediation conciliation or arbitration)

- **Cairo declaration, July 1964**

Resolution 16(1) – Calls for All members to respect the border existing on their achievement of national independence)

- **AU Resolution 2002**

Call on African States to re-affirm their boundaries by 2012 (later 2017)

- **AU Resolution 2007** - Formation of AUBC to settle boundary disputes



Legal Frameworks for Water Cooperation - SADC Region

- SADC Watercourses Protocol (2000)
- Number of rivers and lakes form boundary between some of the countries - Various Agreements to establish river basin Commissions: - ZAMCOM, ORASECOM, OKACOM, LIMCOM, Ruvuma JWC and **SRBC(Launched on 11th March, 2019)**
- Water in the region is seen as source of piece rather than **conflict**
- **Various joint transboundary programmes and projects**



Evaluating Water Cooperation and Dispute Resolution in the Region

- The governing rule of Equitable and Reasonable Utilization (ERU) – elaborated in the 1997 UNWC
- The creation of Africa's state boundaries based on the 1890 Anglo – Germany Treaty, have created prolonged border disputes
- **Majority of the 103 ethnic and interstate conflicts in Africa were the result of artificial boundaries drawn by colonial powers during the scramble for Africa in the mid-1880s.**



Evaluating Water Cooperation and Dispute Resolution....

- **Experience of border conflict**
- **Example of ICJ case on Sedudu/Kasikili island in Chobe River(Caprivi strip) involving Botswana and Namibia and**
- **Boarder dispute between Tanzania and Malawi in Lake Nyasa/Niassa/Malawi**



The ICJ Award to Botswana

- **Observations:**
- Botswana and Namibia might boast of “**political will**” to solve the conflict between them
- In the absence a question arises: ***what aptitude is required to make plausible decisions to mitigate or resolve border conflicts?***



Conclusions



- The Southern African Region ***faces acute problems with regard to freshwater resources both in terms of availability and in terms of spatial and temporal*** variations.
- The steady ***increase in the population*** coupled with the ***increase in urbanization*** will continue to add ***more pressure to the competing demands on limited water resources***
- Furthermore it is complicated by ***the large number of Trans-boundary Rivers*** in the Region.



Conclusions cont'd.....

- Many of international boundaries in Southern Africa region ***are aligned with rivers and water courses;***
- The locations of these boundaries are the ***legacies of surveys and treaties conducted by earlier colonial powers.***
- ***The proceedings of the Caprivi strip case (Sedudu/Kasikili) between Botswana and Namibia which was ruled by ICJ reveal that, the 1890 Anglo – Germany Treaty has a strong influence on trans-boundary water cooperation and dispute resolution in the SADC region and Africa at large***



Conclusions cont'd



The peaceful settlement of the dispute over the Sedudu/Kasikili Island and the cooperative environment that led to the conclusion of various bilateral and

- Multilateral agreements in the region, should allay any apprehensions and assist in resolving existing and potential disputes
- **Necessary steps must be taken to implement the provisions of the SADC Revised Protocol(2000) and existing bilateral/multilateral agreements by maintaining the cooperative spirit**



Every Stakeholder Matters in TWRM



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Thank You



Q & A

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