AMINA ABDIKHEIR FARAH

KENYA AND SOMALIA MARITIME CONTROVERSY AND

MASTER THESIS

2024

NEAR EAST UNIVERSITY

INSTITUTE OF GRADUATE STUDIES

DEPARTMENT OF INTERNATIONAL LAW

KENYA AND SOMALIA MARITIME CONTROVERSY AND THE ICJ JUDGMENT

LLM THESIS

AMINA ABDIKHEIR FARAH

Nicosia

May, 2024

NEAR EAST UNIVERSITY
INSTITUTE OF GRADUATE STUDIES
DEPARTMENT OF INTERNATIONAL LAW

KENYA AND SOMALIA MARITIME CONTROVERSY AND THE ICJ JUDGMENT

LLM THESIS

AMINA ABDIKHEIR FARAH

Supervisor
DR. ERKUT ZİYA SİVRİKAYA

Nicosia
May, 2024

i

Approval

We certify that we have read the thesis submitted by Amina Abdikheir Farah titled "**Kenya and Somalia Maritime Controversy and The ICJ Judgment**" and that in our combined opinion it is fully adequate, in scope and in quality, as a thesis for the degree of Master of International Law.

Examining Committee	Name-Surname	Signature
Head of the Committee:	Dr. Erkut Ziya Sivrikaya	.....
Committee Member*:	Dr. Ayten Erçoban	.....
Committee Member:	Assoc. Prof. Dr. Nabi Berkut	.....

Approved by the Head of the Department

...../..../2024

.....

Assoc. Prof. Dr. Nabi Berkut

Head of the Department

Approved by the Institute of Graduate Studies

...../...../ 2024

Prof. Dr. Kemal Hüsnü Can Başer

Head of the Institute of Graduate Studies

Declaration of Ethical Principles

I, Amina Abdikheir Farah, affirm that the dissertation titled “Kenya and Somalia Maritime Controversy and The ICJ Judgement” was supervised and written under the assistance of Dr. Erkut Ziya Sivrikaya as part of my academic requirements at Near East University's Graduate School of Social Sciences. I confirm that the dissertation has been examined for copyright violations and breaches.

Amina Abdikheir Farah

…../05/2024

Day/Month/Year

Acknowledgments

I would want to begin by expressing gratitude to the almighty God, from whom all benefits emanate. Furthermore, I would want to appreciate my loved ones, particularly my parents, for their essentially unchanged dedication to ensuring an improved educational setting.

To my professors, I want to thank you from the bottom of my heart for all the ways they have supported me and helped me achieve academic success. Assisting me throughout my time at university has been an honor.

I am incredibly grateful to Dr. Nabi Berkut, the chair of the department, For his careful attention to our concerns during these difficult times. My course adviser, Mr. Tafadzwa Chigumira, has been an incredible rock throughout this journey, And I am grateful to him. Upon completing my thesis, I particularly like to convey my appreciation to my supervisor, Dr. Erkut Ziya Sivrikaya, for his tremendous assistance and guidance.

Amina Abdikheir Farah

Abstract

Kenya and Somalia Maritime Controversy and The ICJ Judgment

Amina Abdikheir Farah
M.Sc., Department of International Law
May 2024, 50 pages

Since 2009, Somalia and Kenya have been engaged in a maritime conflict following their mutual decision to restrict their maritime boundaries in the east African region. The hostility between the two nations originated when Kenya endeavored to extract oil and gas in their mutually claimed territory. Somalia dispatched a correspondence to the companies. Allegedly, their operation within Somalia's territory is illegal. Somalia determined to submit the matter to the court for a verdict. Kenya asserted that it had a memorandum of understanding with Somalia and that there were no issues with the maritime boundary, upon evaluating Somalia's allegations of Kenya's unauthorized incursion into Somalia. The court rendered a decision on the dispute between the two states, delineating the territorial sea and the enlarged exclusive zone. Kenya acquired 11,450 km² (equivalent to 22.7% of the uncontested region), whereas Somalia obtained 39,017 km² (representing 77.3% of the disputed zone). While Somalia's president, Mohamed Abdullahi Farmaajo, commended the court for its commendable rulings, the government of Kenya dismissed everything.

Key Words: Territorial Sea, Dispute Settlement, Maritime Controversy, International Court of Justice Ruling.

Özet

Kenya ve Somali Denizcilik Anlaşmazlıkları ve UAD Kararı

Amina Abdikheir Farah

Yüksek Lisans

Uluslararası Hukuk Bölümü

Mayıs, 2024, 56 sayfa

Somali ve Kenya, Doğu Afrika bölgesindeki deniz sınırlarını kısıtlamaya yönelik ortak kararları sonrasında 2009 yılından bu yana bir deniz çatışması yaşıyor. İki ülke arasındaki düşmanlık, Kenya'nın karşılıklı olarak hak iddia ettiği bölgelerde petrol ve doğalgaz çıkarmaya çalışmasıyla ortaya çıktı. Somali şirketlere bir yazı gönderdi. İddiaya göre Somali topraklarındaki operasyonları yasa dışı. Somali, karar için konuyu mahkemeye sunmaya karar verdi. Kenya, Somali'nin Kenya'nın Somali'ye izinsiz giriş yaptığına ilişkin iddialarını değerlendirerek, Somali ile mutabakat zaptı bulunduğunu ve deniz sınırıyla ilgili herhangi bir sorun olmadığını ileri sürdü. Mahkeme, iki devlet arasındaki anlaşmazlık hakkında, karasularının ve genişletilmiş münhasır bölgenin sınırlarını belirleyen bir karar verdi. Kenya 11.450 km² (tartışmasız bölgenin %22,7'sine eşdeğer) alırken, Somali 39.017 km² (tartışmalı bölgenin %77,3'ünü temsil etmektedir) elde etti. Somali Devlet Başkanı Mohamed Abdullahi Farmaajo övgüye değer kararlarından dolayı mahkemeyi överken, Kenya hükümeti her şeyi reddetti.

***Anahtar kelimeler**:* Denizcilik Uyuşmazlıkları, Karasuları, Uyuşmazlıkların Çözümü, Uluslararası Adalet Divanı Kararı.

Table of Contents

CHAPTER II

CHAPTER III

CHAPTER IV

List of figures

List of Abbreviations

LOSC:	LAW OF THE SEA CONVENTIONS.
UN:	UNITED NATIONS.
UNCLOS:	UNITED NATIONS CONVENTION OF THE LAW OF THE SEA.
ICJ:	THE INTERNATIONAL COURT OF JUSTICE.
PCIJ:	PERMANENT COURT OF INTERNATIONAL JUSTICE.
EEZ:	EXCLUSIVE ECONOMIC ZONE.
ITLOS:	INTERNATIONAL TRIBUNAL FOR THE LAW OF THE SEA.
NFD:	NORTHERN FRONTIER DISTRICT.
NPPP:	NORTHERN PROVINCE PEOPLE'S PROGRESSIVE PARTY.
OAU:	ORGANIZATION OF AFRICAN UNITY.
NFDL:	NORTHERN FRONTIER DISTRICT LIBERATION FRONT.
NFDLM:	NORTHERN FRONTIER DISTRICT LIBERATION MILITARY.
WWII:	WORLD WAR TWO.
SYL:	SOMALI YOUTH LEAGUE.
WSLF:	WESTERN SOMALI LIBERATION FRONT.
MOU:	MEMORANDUM OF UNDERSTANDING.
CLCS:	COMMISSION ON THE LIMITS OF THE CONTINENTAL SHELF.

CHAPTER I
Introduction

A Brief Rundown of the Controversy

Countries located in the eastern region of Africa that share borders. The waterline between the Federal Republic of Somalia and the Republic of Kenya extends for a distance of 681 km (423 miles) through the Indian ocean in a south-eastern direction. In 1927, Italy and Britain, who were once imperial rulers, created Juba land border that separates Somalia and Kenya. This region has been incorporated into the territorial jurisdiction of Somalia. Although the precise position of the baseline remained unknown, the two governments exchanged diplomatic correspondence in 1933.

Despite gaining sovereignty in 1960 and 1963, Kenya and Somalia did not construct a territorial line. The contested shoreline area has been long a source of contention between the two countries due to the financial importance of petroleum, marine resources, and maritime transit operations[1].

Both nations covet the region as a means to enhance their financial systems. Kenya and Somalia endeavoured to resolve their problem through conversation, but they ended up failing to achieve a consensus. Somalia, an autonomous nation, decided to introduce this issue to the court to secure an impartial verdict. Kenya violated the law when entered with prominent oil firms, particularly ENN and total, to produce gas in the contested zone. Somalia asserts that Kenya has encroached upon its sovereignty by extracting oil on its soil regardless of its consent, a violation of international law[2].

---

[1]Mohammed, Y.A., Maritime Border Dispute between Kenya and Somalia in the Indian Ocean. 2023. Mersin University Journal of Maritime Faculty, pp.2.

[2]Maritime delimitation in the Indian Ocean (Somalia v. Kenya) <https://www.icj-cij.org/case/161> accessed 5 December 2023.

Kenya and Somalia engaged in multiple summits in 2014 in an attempt to work out their conflict. Nevertheless, despite the discussions, they were unsuccessful in reaching a consensus due to conflicting viewpoints. The situation worsened when Kenya failed to attend the summit that was supposed to be planned on august 25 and 26 of 2014, without providing a sufficient explanation[3].

In earlier times, countries had permission to utilize violence and engage in warfare to resolve conflicts between nations. During the second half of the nineteenth century, European nations employed warfare as a method of settling conflicts, and states engaged in it as a means of asserting their sovereignty. The utilization of intimidation by authorities is presently constrained and categorically prohibited under international law; nations are only allowed to employ authority for protection or individual application, as well as in specific exceptional situations delineated in customary law[4]. Article 2 section 3 of the 1945 united nations charter ‘‘all member countries are required to tackle conflicts through tranquil way to safeguard global peace, security, and justice forbade of the application of violence established by the convention is not just a treaty, but also a customary norm of international law that all nations are obligated to adhere to[5].

In line with article 33 of the un charter, countries should strive to achieve a consensus through debate, mediation, agreement, legal development, regional organizations or contracts, or other peaceful methods to prevent actions that may undermine global ease and safety. According to article 279 of the law of the sea treaty (LOSC), which specifically mentions articles 2(3) and 33 of the United Nations charter, countries that are subject to the treaty must resolve disputes collaboratively.[6]

---

[3]Fayokemi Olorundami, The Kenya/Somalia maritime boundary delimitation dispute in Zeray Yihdego and others (eds), Ethiopian Yearbook of International Law 2017, vol 2017 (Springer International Publishing 2018) pp74.

[4]Lowell Bautista, "Dispute Settlement in the Law of the Sea Convention and Territorial and maritime disputes in Southeast Asia: issues, opportunities, and Challenges" (2014) 6 Asian Politics & policy, pp 377.

[5] Bautista (n 4) pp 377.

[6]Preamble to the United Nations Convention on the Law of the Sea <https://www.un.org/depts/los/convention_agreements/texts/unclos/part15.htm> accessed 6 December 2023.

The court is the main court of the United Nations, as specified in article 92 of the un charter. The court has jurisdiction over disagreements concerning sovereign states and entities governed by international law. Under the rules of article 36(1) of the 1945 court constitution and the shared comprehension of both sides involved, the matter will be considered for admission if both sides consent to submitting the matter to the court. The court is renowned for its expertise in resolving issues about continental and baselines[7].

In 1947, Corfu channel case became the initial naval and territorial conflict matter heard by the court. (example of Corfu channel, 1949 was a second case)[8] and both of them, coupled with (Nicaragua v. Colombia) in 2012, conclusively established the court's authority in international law[9].

The issue among both governments revolves over the precise location at which the waterline must commence. Somalia argues that the line should follow a parallel, southward trajectory from its land border, extending into the water. Kenya suggested that the marine border should start at the point how strong the land frontier ends and proceed to the latitudes wherever Somalia's land boundary concludes, towards the east. In contemporary times, all coastal nations possess the right to employ unrestrained force inside their own maritime territories. In cases where two neighbouring countries are in close proximity and their respective accurate forecasts may intersect, nations must establish an international maritime boundary through a process of division. This is done to allocate and separate their overlapping rights, hence mitigating potential problems. As a state expands and covers a larger area, it becomes necessary to establish and maintain clear geographic boundaries to accommodate the growth and changes of countries[10].

---

[7]United Nations, 'Chapter XIV: The International Court of Justice (articles 92-96)' (United Nations) <https://www.un.org/en/about-us/un-charter/chapter-14> accessed 6 December 2023.

[8] Corfu Channel (United Kingdom of Great Britain and Northern Ireland v. Albania)' <https://www.icj-cij.org/case/1> accessed 6 December 2023.

[9]'Territorial and maritime dispute (Nicaragua v. Colombia)' <https://www.icj-cij.org/case/124> accessed 6 December 2023.

[10]Marianthi Pappa, 'The impact of judicial delimitation on private rights existing in contested waters: implications for the Somali-Kenyan maritime dispute' (2017) 61 Journal of African law, pp 396.

Current countries are now distinguished by their territorial sovereignty and limits. Frontiers are defined as the demarcation points that establish the boundaries of a certain region.

they specifically refer to the constraints on the unified marine power of both nations. The primary objective of establishing boundaries is to enable authorities to precisely delineate their area of authority in offshore areas. In addition, borders serve to accomplish greater legal, political, and bureaucratic objectives[11].

Johnston classifies such objectives as "state principles" and divides them into two basic groups: the targets encompass both metaphor objectives, including national safeguards, authenticity, and the protection of national authority as well as practical targets, such as achieving economic stability and environmental sustainability through economic endeavours like farming, trade, tourism, fishing, and the extraction of hydrocarbons and reserves of minerals[12].

Nonetheless is important to understand that it is not obligatory for the outer limits of a state to be fully delineated. This is relevant to both underwater and overland bounds splitting can be employed as an effective method for resolving global maritime conflicts. These conflicts often emerge due to discrepancies among nations over the specific demarcation of their boundaries or the criteria to be employed in their establishment. An overseas dispute is a controversy that has been clearly and openly stated and remains unresolved for a significant period of time. It is distinct from a generic expression of differing viewpoints on a single area. A significant debate only arises when this distinction is clearly stated as a separate assertion[13].

Methodology

Materials that include the 1982 united nations conference on the law of the sea, the international sea litigation resolution procedures, and other reliable sources will be employed in the qualitative investigation. Additional treaties pertaining to maritime law.

---

[11]Mc Mahon, A. Henry. International boundaries.1935. Journal of the Royal Society of Arts, vol 84, pp.4.

[12]Mitchell Victoria. Maritime boundaries and maritime security. Global Challenges in Maritime Security: An Introduction. Springer Nature Switzerland 2020, pp112.

[13] Pappa (n 10) pp 397.

Research Design

The work applies an established legal study approach to create a thesis that presents the author's assessment, synopsis, and interpretations of several sources from the literature. Activities such as doing literature reviews, analysing articles, books, and journals, and engaging in discussions to define problems. The information presented is grounded on current evidence and is communicated through verbal or written explanations rather than numerical data. This study employs judicial and case methodologies.

Purpose of Study

The primary intent of this investigation is to thoroughly investigate and consider all relevant facts about the coastal disagreement involving Somalia and Kenya. Once all alternative methods of addressing the issue had been completely used, the two countries reached a consensus to deliver the case before the court, which subsequently issued a ruling. The historical backdrop of the disagreement is particularly emphasized. The dispute will result in substantial political, security, and economic ramifications for neighbourhood and worldwide international and bilateral relations. To exploit assets such as oil or hydrocarbons in the waters of the area in dispute, one of the nations must adhere to the previous agreement. Several African nations now face unresolved maritime conflicts, which offer valuable insights into the field of ocean resolution of conflicts.

Research Questions

In the subsequent parts, the author will analyse the role of the court in addressing water-related disputes, with a particular emphasis on the 2021 case between Kenya and Somalia. Furthermore, the author will evaluate the degree to which the conclusion of these disputes depends on the 1982 un convention on the law of the sea.

Data Collection

The contributor's data acquisition method starts with the identification of a dependable journal detailing the settled maritime disputes between Kenya and Somalia, adjudicated by the court. To get citations, one can exploit pertinent online platforms such as the academic scholar database and similar platforms.

upon conducting a comprehensive search for suitable references containing the requisite data, the authors diligently comprehend and scrutinize the acquired material, while also discerningly sifting through the information obtained from reports, journals, and references. Moreover, the author evaluates the precision and appropriateness of

the material obtained from citation materials. The citations used in this article are derived from reputable sources, such as google scholar, libraries, and other online platforms. The information used in this work is derived from scholarly articles, academic journals, and other trustworthy sources that are suitable for citation.

Limitations of The Study

Numerous papers and publications have been written on this specific issue, each publisher approaching it uniquely. One crucial limitation is the lack of identification of the root reason for the issue at hand, coupled with inadequate tools.

Statement of The Problem

Somalia is categorized as a nation in transition due to its weak governance, which may be attributed to several factors. Conversely, Kenya is also considered a growing nation but it is known for an established and strong administration. After the unification of both nations, the land boundary was clearly defined. Unfortunately, the maritime line remained unresolved. Kenya asserted its claim over the disputed territory, while Somalia's administration was preoccupied with settling an internal armed struggle.

The contested region is abundant in precious resources, and both countries aim to utilize these assets to enhance their societal, economic, and political domains. Several foreign nations desired Kenya to prevail in the legal case, but, the outcome did not unfold as anticipated. The two nations convened several times to address their displeasure, but they were reluctant to pursue a negotiating process. Consequently, they opted to take their dispute to the court. Who emerged as the verdict in the legal issue after the ruling, and did both parties perceive the resolution as fair and equitable? Additionally, what is the current state of relations between the two governments?

The Objective of The Research

The inquiry aims to examine the international court governing the maritime lawsuit within Somalia and Kenya. It seeks to gather relevant data regarding the matter, including the actions taken by the two nations in settling it, the specific reasons that led these individuals to bring the complaint to the court, alternative methods they considered for resolution, the challenges faced during the proceedings, and the organizations present in the disagreement.

Significance of The Research

The coastal issue is an exceptional subject that is now being addressed by several governments, notably several African nations. The Kenya-Somalia case

exemplified the necessity for each country engaged in a conflict to independently settle it, given the arduous nature of submitting the issue to the court. The ICJ has adjudicated several maritime disagreements, which makes it an exceptional authority in matters affecting Somalia, Kenya, and other countries.

Structure of The Research

The appearance will deal with the subjects discussed in four separate chapters. The court ruled on a unique dispute involving Somalia and Kenya. The initial segment of the study will delineate the maritime conflict between Kenya and Somalia, along with presenting a concise overview of the case and study design of this settled disagreement. Additionally, it will encompass the elucidation of terminologies employed in maritime dispute settlement.

The subsequent segment of the research will conduct a comprehensive examination of the laws and guidelines that regulate maritime activities. The researcher will analyse topics such as state sovereignty in the context of safeguarding maritime areas, territorial entitlements, and the difficulties posed by ambiguous boundaries, specifically in the maritime sphere. In addition, the subject will examine techniques for settling maritime issues through the use of mediation.

Section three of the investigation will analyse the influence exerted by imperial powers on east African nations and their deliberate division of these nations, which subsequently resulted in border disputes and battles. Moreover, a division emerged within the Somali population, challenging the concept of a cohesive Somalia.

In the fourth section of this investigation, we will delve further into the difficulties encountered by the two governments in settling their maritime dispute and the impediments they faced in seeking a settlement through the court. Did the court's judgment demonstrate reasonableness or prejudice? Did all the parties engage in the issue express contentment with the outcome? In addition, the text aims to discuss the settlement of the case and the decision regarding the maritime controversy between Kenya and Somalia, in addition to the suggestions derived from the research.

International Court of Justice

The International Court of Justice (ICJ) is a crucial organ of the United Nations (UN) that possesses exclusive jurisdiction to adjudicate and decide on matters applicable to the global community of the un or nearly all countries worldwide. A multitude of judgments are rendered to address valid international disputes. Regrettably, some other nations decline to adhere to its rulings or recognize its

jurisdiction. However, the court continues to serve as a powerful representation of the potential for a global legal framework[14].

The initial functioning court was known as the permanent international court, which commenced operations in 1922 and flourished during the late 1920s and early 1930s. During that period, it rendered judgments within two instances a year. The PCIJ became outdated for governance in 1930 because of the rise of a monarchy and the challenges arising from the depths of the depression. Furthermore, its importance diminished upon the establishment of the international league of nations, and it remained entirely dormant for the entire World War II. The United Nations founders revived the permanent court of international justice (PCIJ) under a different name. The world court was conceived to establish a more robust institution compared to the league of nations, and the United Nations held the belief that the adoption of this new name would enhance its operational efficiency. The United Nations commended the United States for its exemplary leadership and active engagement in the court.

The ICJ's basic legislation is referenced, although it is not dependent on the un charter. Almost all countries that have signed the un charter are bound by international law, as they fall within the authority of the international court of justice (ICJ). Over time, the legal framework of the ICJ has undergone expansion to encompass external court orders, customs, and other agreements, therefore resolving its initial ambiguity[15].

Maritime Boundaries

Considering maritime limits favour a single nation over another in the allocation of vital assets, they significantly affect distributions. Research on borders conducted by academics is fraught with hazards because it is characterized by bias and driven by ideological factors. The loss of even a small amount of claimed territory can be seen as a threat to the sovereignty and security of a state, providing "rich soil for national rhetoric and flag-waving," because territorial disagreements often include regionally important issues.

The creation of the EEZ idea over the past few years has also greatly enhanced the worth of coastal and island rights. Territories with a chance to become marine zones are frequently the outcome of allegations made by nations in an attempt to exercise

[14]Eric a Posner and Miguel F.P. de Figueiredo, 'Is the International Court of Justice biased?' (2005) 34 the Journal of Legal Studies, pp 600.

[15]Powell, E.J. and Mitchell, S.M., The International Court of Justice and the world's three legal systems. (2007) 69 The Journal of Politics, (pp.397)

authority over maritime assets and impact frontier delimitations instead of the worth of the land itself.

Mixed disagreements are more prone to lead to disagreements when it comes to marine separation often indicating a long-standing enmity within the contending powers. Preventing the escalation of political and economic conflicts requires tackling these issues due to the possibility that these disputes sometimes affect more than simply the states substantially concerned, this matter could impact the number of issues that LOSC tribunals possess in their bench[16].

State Territory

The ability to demonstrate political power over a specific area of land, air, and ocean is essential for the existence of each nation on earth. This area is called a territory. The geographical area under the control of a single nation is called its territory. You might think this is a pretty basic idea. The situation is slightly more complex than that, though[17] a territory encompasses more than simply physical space. How we conceptualize space is affected by the techniques employed for measurement and mapping. Elden demonstrates how developments in cartography and geometrical approaches to area calculation prompted shifts in administrative and legal practices. Territorial power was standardized through bureaucratic organizations and states.

The gathering of information about the land's inhabitants, features, and resources through demographics and associated surveys became an essential part of state creation. The idea of a possessable, manageable, and controllable geographical area emerged as a result. An evident necessity for the functioning of a nation's its land mass, which provides a location for the leadership of the state and a practical region to operate in. However, the state's creation and use of territory elevate it beyond that of a mere asset. State geographical location, territorial evolution, and mapping and computations in space mechanics all contributed to the creation of the region[18].

Concepts of territory evolved alongside the foundation of the nation, and consequently, the territory is an administrative product, despite the fact it facilitates

---

[16]Hasan, M.M., Jian, H., Alam, M.W. and Chowdhury, K.A., Protracted maritime boundary disputes and maritime laws. 2019 Journal of International Maritime Safety, Environmental Affairs, and Shipping, pp 89.

[17]David Storey, 'States, territory, and Sovereignty' (2017) 102 Geography, pp 118.

[18]Strating, R. and Wallis, J. Maritime sovereignty and territorialisation: comparing the pacific islands and South China Sea. 2022, Marine Policy, 141, pp 2.

state operations. Also, the state makes itself visible and palpable through the appropriation of cartographic tools for symbolic, practical, and propagandistic ends; this serves to foster a sense of territorial or national identity.

Over time, the authorities have grown to something well beyond their original bureaucratic and politically objective structure. The state is a place of both identification and choice-making given the strong connection between culture and politics. The choices regarding politics are made by this essential system, which individuals additionally connect with and form lasting ties with[19].

[19]Rodrigues S, Aglan A, Daho G, Richard Y, Videlin JC. Is War Still an Expression of State Sovereignty? Multidisciplinary Round-Table. In War, State and Sovereignty: Interdisciplinary Challenges and Perspectives for the Social Sciences, Springer Nature Switzerland. 2023, pp 22.

CHAPTER II

Legal Requirements of The Sea

The Sea Law on an International Level

The international law of the sea is the corpus of universal international legislation that regulates how nations and non-state entities may peacefully utilize and take advantage of the waters, the other hand, matters the conveyance of goods and insurance coverage ships by private maritime law. In the 17th century, the current arrangement of nation-states came into existence, and the legal framework of the sea developed alongside it. Initially, as a pathway for ships to go across the globe; second, as a vast repository for all kinds of things, living and undetectable alike, the seas have always had significant value. There have been developments in regulations as a result of the roles they play. Throughout the past four decades, this area of international legislation has undergone more significant changes than maritime legislation and highways[20]

The field of study known as "rules of the sea" deals with matters related to creating and preserving safe harbours for ships and their passengers. UNCLOS has codified and unified a significant portion of this body of law[21]. The land controls the sea. This is the underlying idea upon which the law of the ocean is based. A coastal state's maritime entitlements are initially determined by reference to the territorial arrangement of land, according to this principle[22].

At one point, the seas were considered part of every nation's territory. In the seventeenth century, the Portuguese staked asserts to large swaths of oceanic territory. Nevertheless, Grotius came up with the idea of the open seas as an aftermath, setting up an arrangement that encourages a separate system, free from national laws, for the participation of member governments and non-state entities to settle disputes[23].

---

[20]Arif Ahmed, 'International Law of the Sea: An Overlook and Case Study' (2017) 08 Beijing Law Review, pp 21.

[21]Law of the sea | international maritime law | Britannica <https://www.britannica.com/topic/law-of-the-sea> accessed 6 December 2023.

[22] Maritime delimitation and territorial questions between Qatar and Bahrain (Qatar v. Bahrain)' <https://www.icj-cij.org/case/87> accessed 6 December 2023.

[23]William Shipley, 'What's yours is mine: conflict of law and conflict of interest regarding indigenous property rights in Latin American investment dispute arbitration' TDM Journal 2014, pp 3.

Different Sea Boundary and Legislative Bodies

It is the state's responsibility to enforce the following seven nautical zones, as outlined in the United Nations Convention on the Law of the Sea (1982) and the Geneva Convention on Territorial Sea (1958).

There are seven distinct areas:

1) Baseline
2) Inner Waters
3) The Territorial Sea
4) Contiguous Zone
5) Exclusive Economic Zone
6) High Seas
7) Continental Shelf.

Baseline

As a matter of traditional international law, the length of the territorial waterway is defined by the lowest point of the water that encircles the shorelines of the nation. This rule has been stated in several conventions, most notably article 3 of the 1958 Geneva convention on the territorial sea and the contiguous zone and article 5 of the 1982 convention. The coastal states officially recognized large-scale charts serve to precisely demarcate the low-water line along the coast[24].

Typically, the first step of establishing the size of the territorial sea is to locate the low-water line will not likely present any major obstacles. The 1958 agreement on the territorial ocean and the 1982 law of the sea treaty both provide that the lowest point of water of a low-tide elevation may be used as a benchmark to determine the boundaries of the territorial ocean[25]. The UN convention on the law of the sea (UNCLOS) recognises two types of baselines the normal baseline and the straight baseline in article 7. The conventional wisdom holds that the low-tide waterline next to the shore is the best indicator of the territorial sea's extent, as stated in the article.

On top of that, setting a typical baseline is not too complicated. Establishing marine zones above the baseline is a little easier in this specific circumstance. Article 4 of the 1958 Geneva convention and later article 7 of UNCLOS detail the rules governing

[24]Alam, M.S. and Al Faruque, A., The problem of delimitation of Bangladesh's maritime boundaries with India and Myanmar: Prospects for a solution. 2010 The International Journal of Marine and Coastal Law, 25. pp. 4010.

[25] Ibid pp 412,

straight baselines; the ruling of ICJ in the Anglo-Norwegian fisheries case was a major factor in this development[26]. Article 7 of the LOS convention allows for a straight baseline in two specific scenarios: (a) when the baseline has significant indentations or when there is a cluster of islands nearby; and (b) when the baseline is very uncertain due to factors such as a delta and other natural phenomena. In both circumstances, the straight baseline can be established from carefully selected locations along the furthest seaward prolongation of the low waterline.

ICJ has determined that the process of defining marine boundaries has a natural transnational aspect. It does not depend exclusively on the local laws of the coastal nation. Therefore, the development of an unambiguous line is extremely important in identifying marine zones and settling conflicts over ocean borders with surrounding coastal governments. However, the legitimacy of the boundary establishment about other countries depends on international law, even if the demarcation procedure is fundamentally a unilateral activity performed only by a coastal nation[27].

Inner Waters

The term inner waters refer to the parts of the seafloor that are physically part of the baseline of a country rather than being part of the international waters, applicable zones, or territorial waters. Within the borders of nations and other sections, the oceans that comprise them are defined by the baselines used to measure their breadth. These waterways can be lakes, rivers, or harbours, and they are subject to international law by the tribunal's judgment, which they make after considering trade customs, agreements, and any other pertinent demands or modifications[28].

Territorial Sea

The notion of territorial waters, as defined by the United Nations convention on the law of the sea, pertains to a specified expanse of shoreline waters that extends about 12 nautical miles from the mainland of a coastal nation. As to article 3 of the law of the sea (LOS) convention, the territorial sea is delineated as a limit that does not surpass more than twelve nautical miles from the starting point. Article 15 of the treaty outlines regulations for determining the boundaries of the territorial sea. The

---

[26] Fisheries (United Kingdom v. Norway) <https://www.icj-cij.org/case/5> accessed 6 December 2023.

[27] Ibid (n 26).

[28] Bangert, K., Internal waters., Max Planck Encyclopedia of Public International Law, 2018, pp 2.

law mandates that if the coastlines of two states are immediately opposite or next to one other, no state is entitled to extend its territorial waters above the line that defines the median. The equal point across the closest points of the two countries' standards is referred to as this line. Article 15's second sentence considers the possibility of extending the territorial sea beyond the centre point in situations when such extension is considered suitable based on ancient titles or other exceptional justifications[29].

Exclusive Economic Zone

An exclusive economic zone (EEZ) refers to a defined area of coastal waters and seafloor that is located within a certain distance from a country's coastline. In this area, the government claims sole authority to participate in many economic activities, including fishing, drilling, and other associated pursuits. The concept of an (EEZ) was codified during the third session of the United Nations conference on the regulation of the sea. It involves assigning laws to a state with a baseline to allow for the investigation and use of marine resources within the adjacent part of its continental shelf. The jurisdiction is defined as a contiguous area extending 200 nautical miles from the shoreline[30].

The controversy about fishing areas has been a major driving force for promoting the creation of a 200-mile special economic area. The 1958 Geneva treaty on territorial waters was unable to produce a unanimous deal over the generating of fishing zones. Furthermore, article 24 of the treaty lacks a precise and conclusive foundation for claiming sole jurisdiction over these zones. The court's statement indicated that a dispute might be defined as a disagreement or clash of interests between two parties, encompassing differences in either legal or factual concerns. It is crucial to distinguish this situation from one that might potentially lead to international tension or incite a conflict. The indicated distinction is subtle but important since the effective functioning of the settlement process depends on the existence of well-defined and specific issues that need to be resolved[31].

---

[29] Oxman, B.H., The regime of warships under the United Nations Convention on the Law of the Sea. 1983, Va. J. Int'l L., 24, pp 817.

[30] Kearney, M., The Exclusive Economic Zone, Territory, and Territorial Jurisdiction in the Rome Statute. 2020, international criminal law review, 20(6), pp 1199.

[31] Kadagi NI, Okafor-Yarwood I, Glaser S, Lien Z. Joint management of shared resources as an alternative approach for addressing maritime boundary disputes: the Kenya-Somalia maritime boundary dispute. Journal of the Indian Ocean Region. 2020, pp 352.

Continental Shelf

The phrase "continental shelf" refers to natural rocks that are distinguished by prominent ledges that extend beyond the earth's surfaces into the oceans. The cliffs are usually submerged under a thin layer of water, often around 150 to 200 meters deep, before progressively dropping to the significantly deeper parts of the ocean, which may reach levels of thousands of meters. The cliffs or shelves, comprising around 7 to 8 percent of the total sea surface, display notable disparities in their size in various geographical areas. The breadth of the western coast of the United States measures less than 5 miles. In contrast, the whole underwater area in the North Sea and the Persian Gulf can be identified by the presence of a shelf structure[32].

An important characteristic of continental shelves is their substantial reservoirs of oil and gas goods, which often overlap with extensive fishing grounds. The notion of acceptability frequently arises as a contention that, regardless of the court's authority and the expected veracity of the applicant's disclosed facts, there are reasons for the court to refrain from examining the core of the issue[33].

A definition of the shelf's geography that differed from the traditional geological concept was put forward in article 1 of the 1958 convention on the continental shelf. Rather, it highlighted the possibility of extracting resources from the shelf. The article defined the phrase "global shelf" to include the subsurface and seabed of areas under the surface that are adjacent to the shore, excluding the territorial sea.

According to this notion, the thickness may be 200 meters or more, depending on how deep the submerged waters were that could be used to harvest valuable minerals from such areas. Since technological improvements allowed the exploitation of minerals to depths over 200 meters rapidly, the preceding clause brought rise to issues. The result was a lack of clarity on the exact limits of the continental shelf, which is the responsibility of the coastal state. According to the court's analysis of the Norwegian sea continent shelf, article 1 suggests the existence of traditional law[34]. Note that the continental shelf's ownership has been officially recognized since the geographic

[32] Emery KO. The continental shelves. Scientific American, a division of Nature America, Inc Vol. 221, No. 1969, pp107.

[33] Ibid pp 108.

[34] Oda S. The Concept of the Contiguous Zone. International & Comparative Law Quarterly. 1962 Jan;11(1):pp 62.

organization in issue was not able to be included in the statute's applications pool during that time[35].

Contiguous Zone

Various nations' governments have, at various points in history, claimed exclusive jurisdiction over certain parts of the ocean. As coastal states' authority has grown to include more and more of the high seas, the idea of freedom of the seas has seen less use, but this growth has been constrained to achieve certain goals. Coastal nations have created or maintained constrained authority zones for a variety of reasons, such as to safeguard their immigration, sanitary, and customary laws; to preserve their fishing stocks, and to acquire exclusive or principal entitlements to the assets of the announced zone.

Without ever having to extend its maritime limits to the open ocean, these techniques allow the coastal state to protect its perceived important or substantial interests. Thus, since it is classified as a legal dispute, the previously indicated scenario might be viewed as a solution that harmonizes the shoreline state's interests with the interests of other states engaged in maritime affairs[36].

The decline in the importance of contiguous regions in global politics in recent years may be ascribed to the convergence of constraints placed on these regions and the regulatory limits mostly cantered on customs, safety, and immigration issues. As to article 33 of the 1982 convention, a coastal state is allowed to exercise its control over a continuous zone that stretches out to 24 nautical miles from the baselines. This is done for the same purposes as stated in the 1958 rules. Due to the universally recognized territorial sea limit of 12 miles, it was necessary to carry out an extension to maintain the aforementioned concept. A notable difference exists between the 1958 system and the 1982 treaty on the status of the contiguous zone. While the former considered it as part of the high seas, the latter designated it as an essential component of the exclusive economic zone. The outcome will unquestionably exert a substantial impact on the attributes of the area[37].

---

[35] Fair bridge, R.W., The changing level of the sea. 1960, Scientific American, 202(5), pp.75.
[36] Ibid pp. 76.
[37]Bateman, S., UNCLOS and its limitations as the foundation for a regional maritime security regime. 2007. The Korean Journal of Defense Analysis, 19(3), pp.24.

High Seas

The basic notion beneath the notion of the autonomy of the high seas is that no country is allowed to exercise dominion or claim ownership over certain zones within these marine regions[38]. The given value is quantitative. The concept indicated above acts as a broad rule, but its validity depends on the implementation of the principles of acknowledgment, acceptance, and medication. These principles admit that certain parts of the high seas near the territorial waters of coastal states may come under the control of such governments if they have been consistently and officially used by other nations. The importance of this was emphasized in the Anglo-Norwegian fisheries case[39].

The notion of the high seas first appeared in article 1 of the Geneva agreement on the high seas in 1958. As per this stipulation, the term "high seas" referred to any portions of the sea that were not included within the territorial sea of a nation or inner waters. The above description was consistent with existing customary global law. Nevertheless, via further advancements, the scope of the high seas was broadened in article 86 of the 1982 convention. According to this updated definition, the high seas now refer to any parts of the sea that are not covered by a country's exclusive economic zone, the coastline, external waters, or the archipelagic waters of an archipelagic state. Article 87 of the 1982 convention elaborates on article 2 of the 1958 Geneva convention on the high seas. It states that all nations have the right to access the high seas and that the freedom to navigate and conduct activities on the high seas is governed by the rules set out in the protocol and other developed rules of universal law[40]. The meaning of this encompasses several aspects, including the freedoms related to the navigation of vessels, the passage of airplanes across airspace, the establishment of undersea cables and tunnels[41], the creation of synthetic islands and other buildings in compliance with global legal norms, fishing operations, and the conduct of scientific research. The implementation of these rights should be carried out with due regard to the principles and beliefs of other nations and their use of the

[38] Scott, K.N., Conservation on the high seas: developing the concept of the high seas marine protected areas. 2012, The International Journal of Marine and Coastal Law, 27(4), pp.851.

[39] Fisheries (United Kingdom v. Norway) <https://www.icj-cij.org/case/5> accessed 7 December 2023.

[40] Malanczuk, P., Akehurst's modern introduction to international law. 2002. Routledge. pp 185.

[41] Aust, A., Handbook of international law. 2010, Cambridge University Press, pp 299.

court. The court has recognized that the degree of connection across the accusations must be assessed by considering both scientific and legal explanations[42].

International Tribunal for The Law of The Sea (ITLOS)

The international tribunal for the law of the sea (ITLOS) was the result of much effort following the November 16, 1994, adoption of the United Nations agreement on the rules of the sea. A full complement of twenty-one tribunal commissioners was selected in august 1996 in keeping with the notion of "equitable geographic allocation." in response to a request from the third un congress on the regulation of the sea, a global organization known as the international tribunal for the law of the sea (ITLOS) was founded. The ratification of the United Nations agreement on the regulation of the sea took place at Montego Bay, Jamaica, on December 10th, 1982, marking the foundation of the convention.

On October 21, 1996, the international tribunal for the law of the sea (ITLOS) was established. Keep in mind that the members' participation is crucial for ITLOS to exercise its freedom of choice, rather than a mandated one. The judiciary is made up of 21 members who are chosen at large according to their well-deserved reputation for being impartial, truthful, and knowledgeable in maritime law. A world-spanning legal structure regulating all elements of ocean space, including its use and assets, has been constructed by the German-based tribunal. For any state that accepted the 1982 un convention on the regulation of the ocean, the global tribunal for the rule of the sea is available[43].

The Commission on the Limits of the Continental Shelf (CLCS)

Article 76 LOSC offers a precise explanation of what constitutes the continental shelf, while article 77 describes the specific entitlements and privileges that the coastal state possesses over this continental shelf. According to article 76(1), the coastal state's continental shelf extends to a minimum of 200 nm from the baselines, independent of the features of the sea-bed and ocean bottom. The sole limitation is if there are continental shelves of states with opposing coastlines. Additionally, article 76(8) stipulates that:

---

[42]Walker, G.K. and Noyes, J.E., Definitions for the 1982 Law of the Sea Convention. 2001, Cal. W. Int'l LJ, 32, p.5.

[43]Keyuan, Z. The International Tribunal for the Law of the Sea: Procedures, Practices, and Asian States. 2010. Ocean Development & International Law, 41(2), pp.132.

Coastal states are required to report material on the continental shelf's boundaries beyond 200 nautical miles to the commission on the limits of the continental shelf, which is established under annex 2. The commission is responsible for recommending the coastal states on issues associated with the determination of the continental shelf's outer borders[44].

Different from other types of delimitation, continental shelf delimitation relies on the verbal or tacit consent of the relevant governments to be valid. The international tribunal assigned to resolve a specific issue will not be able to conduct a single delimitation if any party opposes to it in writing. Delimitation by agreement, delimitation based on international law, and reaching an equitable solution are the international laws on the continental shelf[45].

The relevant states must reach an agreement in order to implement maritime delimitation, which includes setting up the temporary arrangements. Treating states fairly depends on their natural circumstances; states with different natural circumstances should be treated unequally. When defining the boundaries of a broken continental shelf, an equidistance line is inappropriate because it would violate the no encroachment principle by attributing to the narrow-margin state regions that naturally extend the territory of the wide-margin state.

the continental shelf delimitation should consider the geological and geomorphological features of the relevant seabed region, with coastal geography being the most essential relevant situation. One possible way to prove that the delimitation line is fair is to employ the test of proportionality[46].

The Settlement of Disputes by Peaceful Means

There are two primary methods for resolving conflicts: diplomatic processes and adjudication. The former entails an effort to settle a dispute through communication and information gathering on the part of the disputing parties or with the assistance of third parties. Arbitration processes encompass the resolution of legal

---

[44]Kwiatkowski, B., Dotinga, H., Molenaar, e., Elferink, A.O. and Soons, A., commission on the limits of the continental shelf (CLCS). 2002 in international organizations and the law of the sea 2000. pp 30.

[45]Gao, J.J., international rules on the continental shelf delimitation 2009. KMI international journal of maritime affairs and fisheries, pp.92.

[46] Charney, J.I., Maritime Delimitation in the Area between Greenland and Jan Mayen. 1994, (Den. v. Nor.). 1993 ICJ Rep. 38. American Journal of International Law, pp.109.

and factual matters through the involvement of an impartial third party, typically achieved through arbitration or the decision-making process of judicial bodies. The diplomatic approach to resolving disputes can be categorized into two distinct categories. In chapter 22, the initiatives implemented by the United Nations are evaluated individually due to their unique characteristics. While it is common to analyse each way of settling disputes individually for convenience, it is important to acknowledge that multiple mechanisms may be employed in any particular case.

An illustrative instance of this phenomenon can be observed in the effective resolution of the territorial conflict between Chad and Libya. After a protracted duration of disagreement and combat that commenced in 1973, both states entered into a comprehensive pact on the diplomatic resolution of the territorial conflict on 31 august 1989. This commitment obligated them to pursue a solution that was peaceful within a timeframe of one year. If a political compromise displays unattainable to achieve the involved parties have committed to bringing the issue before the international court[47]. Upon completion of fruitless negotiations, both parties notified the international court of their intention to invoke the international arrangement to resolve the issue[48]. The court's ruling was issued on February 3, 1994. The court agreed with Chad's claim that the boundary between its country and Libya was established in the Franco-Libyan treaty of 10 august 1955[49].

There is no denying the importance of politics in resolving disputes between nations, and many agreements can only be fully appreciated when placed in their right international political setting. It's also important to note that political considerations will shape a state's strategy in a conflict. For example, the existence of regional procedures will frequently be of political relevance, whereas a state's willingness to subject a dispute to mandatory outside resolution will depend on how the dispute is deemed to harm essential interests as opposed to how technical the issue is.

The United Nations charter states in article 2(3) that all members must resolve their international conflicts by using peaceful methods in an approach that does not

---

[47] Sohn, L.B., Peaceful settlement of disputes and international security. 1987, Negot. J., 3, p.155.

[48] Merrill's J and De Brabandere, international dispute settlement 2022, Cambridge University Press 2005; pp 2.

[49] Summary of the judgment of 3 February 1994 | international court of justice' <https://www.icj-cij.org/node/103836> accessed 7 December 2023.

compromise global stability, security, or justice the concepts of mutual relations and collaboration among states, as outlined in the 1970 declaration on principles of international law concerning cooperation and friendly relationships among states[50] provide additional details on this concept.

It acknowledges that accordingly, states should work toward a speedy and fair resolution of international conflicts through channels such as direct talks, international tribunals, regional organizations, and treaties. Article 33(1) of the un charter mandates the same dispute resolution procedures but in the context of conflicts whose continuation is likely to undermine the security and peace of the world.

the 1970 declaration, which is more open-ended, states that the parties should use whatever peaceful procedures they mutually agree are suitable given the specifics of the situation and the nature of the disagreement to resolve the conflict as soon as possible and fairly. Since no one approach is required under any circumstances, it appears that there is no intrinsic hierarchy among the methods described. The methods that states use to resolve their differences are entirely up to them[51].

Diplomatic Methods of Dispute Settlement

Negotiation

Among the several methods available, negotiating is by far the most common and user-friendly. It comprises primarily of talks amongst the concerned parties to bridge gaps in understanding and, hopefully, agreement. In contrast to other methods of conflict resolution, this one does not involve any outside parties, at least not yet. The participants mutually choose the most effective approach to address their disagreements during negotiation, making it both an extremely active technique of settlement and the forerunner to other settlement methods[52].

It works wonderfully at elucidating, although not always settling, complex conflicts. The disagreements and counterarguments can be better understood by open dialogue among the parties involved. Since all parties are involved in the negotiation process, it tends to produce the best results. Of course, negotiations don't always work because they require both parties to be in a good mood, flexible, and sensitive. The procedure

---

[50]Goodrich, L.M., The Peaceful Settlement of Disputes. 1955. Journal of International Affairs, pp.15.

[51]Ibid pp 16.

[52]Brett, J. and Thompson, L., Negotiation. Organizational Behavior and Human Decision Processes, 2016, vol 136, pp.68.

may be fatally complicated by mutual distrust and the opposition of hostile public opinion in one state. The political climate may be such that no reasonable compromise is possible[53].

Under some conditions, there may be an obligation to engage in discussions that stem from specific bilateral or multilateral agreements. According to article 283(1) of the convention on the law of the sea, 1982, if an issue arises among the participating nations regarding the evaluation or implementation of the summit the involved parties are obligated to promptly engage in a discussion to explore potential resolutions through negotiation or other peaceful methods certain agreements may require the use of external methods if negotiations are unsuccessful[54].

Conciliation

The conciliation procedure entails the involvement of an outside observer who conducts an inquiry into the underlying causes of the disagreement and then presents a report containing recommendations for a potential resolution. Conciliation, as a technique, encompasses aspects of both inquiry and mediation. It is worth noting that the development of conciliation procedures can be traced back to deals that established institutional discussion panels[55]. Conciliation states, in their nature as suggestions, lack the authority to be considered legally binding determinations[56]. Therefore, they reveal dissimilarities when compared to arbitration awards. The years between the wars witnessed a significant prominence of conciliation commissions, with numerous treaties incorporating provisions for their utilization as the technique of settling conflicts. Despite this, the utilization of this technique has not been extensively implemented and has not adequately substantiated the confidence placed in it by nations during the period from 1920 to 1938[57].

Conversely, it is important to acknowledge that conciliation processes do hold significance in some contexts. They possess a high degree of adaptability and have the potential to foster talks between parties through the process of elucidating information

---

[53]Waibel, Michael, The Diplomatic Channel (September 9, 2010). The Law of International Responsibility, James Crawford and Alain Pellet, eds., Oxford University Press, 2010, pp 1086.

[54]Ibid pp. 1087.

[55]Burton, S.J., Combining Conciliation with Arbitration of International Commercial Disputes. 1994, Hastings Int'l & Comp. L. Rev., 18, p.639.

[56]Ibid pp. 640.

[57]Merrills j and de Brabandere e.2022, international dispute settlement. Cambridge university press 2005, pp. 67.

and engaging in discourse regarding proposed ideas. The regulations about conciliation were further developed in the 1928 general act on the pacific region solution of international matters, which underwent revision in 1949. The intended function of the commissions was defined to include both investigative probes and facilitation procedures. The aforementioned commissions were planned to comprise a collective total of five individuals with one representative selected by each opposing faction and the remaining three representatives chosen through mutual consensus from among the population of neutral nations. The measures mentioned above were planned to be completed within a six-month frame and were intended to be carried out privately. The primary objective of the conciliation method was to address cases with a combination of legal and factual elements, while also ensuring a prompt and informal process[58].

The extent to which the many recent efforts to revive the conciliation method achieve their goals is an open question however, conciliation is a mechanism for conflict resolution that is outlined in several international agreements[59]. Conciliation is addressed in various international accords and regulations, including the European convention for the tranquil managing of issues (1957), the American agreement of pacific resolution (1948), the 1964 protocol on the procedures of mediation, usually and arbitration to the law of the organisation of African unity (now the African union), the Vienna tradition on the legislation of agreements (1969), the treaty setting the organisation of eastern Caribbean nations (1981), the 1975 convention on the rights of states in their connections with international organisations, the 1978 Vienna tradition on learning of states about treaties, the 1982 convention on the legislation of the sea, and the 1985 Vienna convention on the safeguarding of the ozone layer. Iceland and Norway undertook a mediation effort to settle their dispute about the demarcation of the continental shelf between Jan Mayen Island and Iceland[60].

[58]Hyde, C.C., April. The place of commissions of inquiry and conciliation treaties in the peaceful settlement of international disputes. 1929, In Proceedings of the American Society of International Law at its annual meeting (1921-1969) (Vol. 23. Cambridge University Press. pp 145.

[59] Malcolm, N. Shaw. international law, 2008. Cambridge University Press, 6th edition, pp275.

[60] Ibid pp. 276.

Good Offices and Mediation

The use of good offices and solution procedures requires the involvement of an outsider, which may include a person, a collection of people, a country, an alliance of nations, or possibly a world body. The primary objective of this involvement is to facilitate and motivate the contending parties to reach a mutually agreeable resolution. Negotiation is a process that seeks to assist the parties involved in a disagreement to independently arrive at mutually agreeable terms for resolving the issue, in contrast to litigation and conviction. The explicit provisions for resolving the issue are unspecified[61].

The phrase excellent offices pertain to situations when an impartial intermediary attempt to have an impact on opposing sides to facilitate discussions. On the other hand, mediation involves the direct involvement of an outside observer in the actual negotiation process. Distinguishing between these two strategies might be challenging since they often blend depending on the specific circumstances[62].

Inquiry

When there is a conflict among parties due to differing perspectives on important issues, a frequently used method is to form an independent panel of inquiry. The commission, comprised of reputable viewers, is assigned the duty of impartially scrutinizing the contested facts to ascertain their exact characteristics[63]. The formulation of protocols for these investigations was originally devised during the 1899 Hague assembly and was seen as a potential substitute for litigation[64]. However, it is crucial to acknowledge that this specific method has its constraints. Its relevance is limited to international conflicts that do not pertain to concerns of honour or vital interests for the parties involved. Moreover, its effectiveness is limited to cases when

[61]Hamza, A.M. and Todorovic, M., 2017. Peaceful settlement of disputes. Global Journal of Commerce & Management Perspective, 6(1), pp.14.

[62]Baala, G.T. and Jaja, T.V.P., 2021. Good Offices and Mediation as Mechanism for International Dispute Settlement. Unpublished LL. B. Thesis, Department of Business Law Faculty of Law, Rivers State University, Port Harcourt. pp. 5.

[63]Wright, Q., 1930. The General Act for the Pacific Settlement of International Disputes. American Journal of International Law, 24(3), pp.586.

[64] Ibid 587.

the disagreement is cantered on a genuine discrepancy over certain facts that may be resolved by an unbiased and thorough inquiry[65].

The implementation of the investigation demonstrated to be exceedingly efficient after the dagger bank incident of 1904, whereby Russian naval vessels erroneously confronted British fishing conveyances and were mistakenly identified as Japanese rocket warships presenting a danger. The implementation of the Hague rules and the subsequent dissemination of the conclusions by the global investigation panel greatly contributed to the mutually beneficial resolution of the situation. The user's content lacks clarity and insufficiently provides details to be rewritten. However, it can be stated that the approach was further refined during the 1907 Hague conference, resulting in a heightened degree of endorsement for its use. From 1913 to 1940, the United States participated in the drafting of forty-eight agreements and partnerships among states, every contract had procedures for the creation of a dedicated inquiry panel. The previously mentioned agreements were widely known as the 'Bryan treaties'[66].

[65]1899 convention for the pacific settlement of ınternational-disputes.pdf' https:// https://docs.pca-cpa.org/ > accessed 8 December 2023.

[66] Coletta, P.E., Bryan, McKinley, and the Treaty of Paris. 1957, The Pacific Historical Review, pp.137.

CHAPTER III
Greater Somalia

Shifta War (1963-1967)

The northern, central, and southern regions of Somalia were proclaimed as territories by the Italians in 1908 under the name Somalia Italia, expanding from cape Gardafu (Ras asir) in the north to the juba river in the south. This decision was made in response to the results of the berlin conference in 1884–1885, which sought to divide Africa. The Juba land territory acquired a member of the British east Africa province after the sultanate of Zanzibar had previously in 1895 claimed authority over the coastal regions of Juba land and southern Somalia, and surrendered its coastal territories to Britain[67].

Italy was rewarded for its World War one alliance with England in 1924 when Italy received the eastern area of Juba land from England in keeping with the conditions of the 1915 treaty of London agreement. Nevertheless, England kept control over the western region of Juba land. The western region of Juba land was united by Britain to Kenya province one year later. It changed its name to northern frontier district (NFD) and ultimately merged with sovereign Kenya in 1963. The primary goals of the incorporation were to avoid a Somali south-westward enlargement, discourage the Ethiopian rulers from joining the Borana and Gabra areas in NFD, and create a line of defence between Ethiopia and Italian Somaliland on the one side and the east African railway and white colonists in the mountains on the other[68].

The imperial powers distributed Somali communities over many regions in the horn of Africa, including Somalia, Ethiopia (specifically the Ogaden region), Kenya (in the north-eastern counties), and Djibouti. Hence, the Somali community in Kenya's northern frontier district and the Somali community in Somalia has consistently advocated for unification within a single nation. Somalia repeatedly attempts to achieve a greater Somalia by actively striving to include all regions populated by

[67]Alio, M.S., Kenyan NFD Muslim Communities: The Painful Past and Pending Justice. 2022, International Journal of Islamic Thought, pp 74.

[68]Nyamweno, B., Not Set in Stone: An Assessment of the Impacts of Ethnicity on Statehood and Social Cohesion in Kenya, 1963-2022. International Journal of Research and Innovation in Social Science, 8(2), 2024, pp.1437.

individuals of Somali ethnicity[69]. Article 7, section 3 of the Somalia constitution codifies as follows:

"*dhulka jamhuuriyadda federaalka soomaaliya ee khilaafaadka soohdimaha caalamiga ka dhasha in xalintooda loo maro tub nabadeed iyo iskaashi waafaqsan qawaaniinta dalka udagsan iyo kuwa caalamiga ah.*"

which means:

The Somali republic will work to unite Somalia's territory through legitimate and nonviolent means[70].

Shifta is a popular word in Amharic, Tigrinya, Oromo, and the Borana dialect; it means "bandit," "rebel," or "guerrilla." the word originates from the Ge'ez language. The NFD population was competing for reunification with Somalia, thus the recently established Kenyan government used this word in its publicity campaign to criticize them. Northern province people's progressive party (NPP) leadership sparked the conflict by publicly opposing NFD's incorporation into Kenya and rallying their followers to fight for political autonomy[71].

There was undoubtedly political manoeuvring taking place in the NFD regardless of the severe steps taken by the colonial government to maintain authority over the populace, particularly in Mogadishu. The Somali youth league emerged in 1943 to promote pan-Somalism and the unification of all Somalis under one nation and support the desires of various Somali communities[72].

---

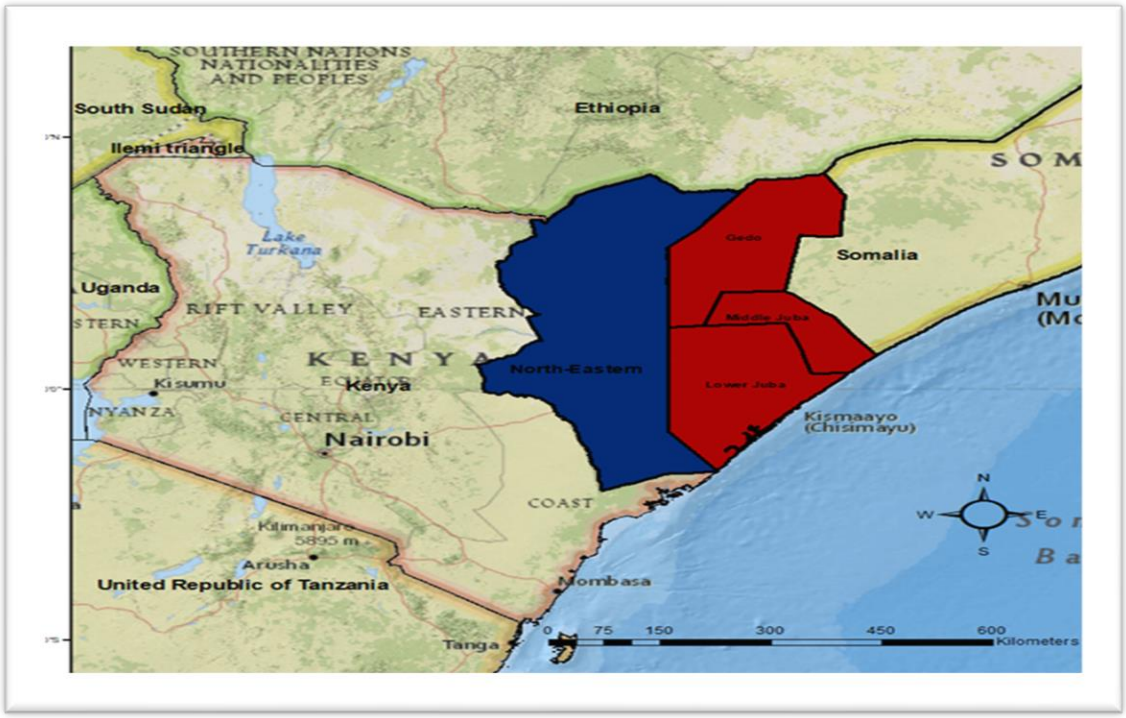
[69]Onditi, F., Kenya-Somalia Gray Zone Dynamism: Are Response Mechanisms Equipped with Appropriate Doctrine? Peace Research: 2022, The Canadian Journal of Peace and Conflict Studies, 54(2), pp.13.

[70]Somali federal constitution final version https://unpos.unmissions.org. [accessed 10 April 2024.]

[71]Abdullahi, A., Colonial policies and the failure of Somali Secessionism in the Northern Frontier District of Kenya Colony, 1997, c. 1890-1968 (Doctoral dissertation, Rhodes University), pp. 96.

[72] pp.165.

Figure 1 Kenya – Somalia Disputed Land[73]



The NFD Somali felt greater urgency to affiliate with other people in Somalia as ascribed to Syl's the impact spreading throughout the whole Somali residence location, despite attempts by the Italian governance administration of the 1950s and 1960s to crush it. Syl acquired headquarters with assistance from clan members in the NFD. Eliminating Somali participation in national politics and outlawing the Syl in the "closed zone" were two ways the British administration tried to stifle these changes in politics. For example, in the 1957 national voting, the citizens of the NFD were not given the right to vote, and in 1959, only one Somali person was appointed to the parliament to look after their concerns[74].

Kenya sent soldiers to NFD to quell rebel insurgents shortly after gaining sovereignty and affirmed an urgent situation on 28 December 1963. A large number of individuals from NFD banded together and began striking governmental and police sites in Kenya using crude weapons nicknamed "Dhuunbuur". Civilian individuals

[73]Onditi, F., Kenya-Somalia Gray Zone Dynamism: Are Response Mechanisms Equipped with Appropriate Doctrine? Peace Research: 2022, The Canadian Journal of Peace and Conflict Studies, 54(2), pp.14.

[74]Tipis, J., The Somali conflict and Kenya's foreign policy: 2012, a critical assessment (Doctoral dissertation, University of Nairobi, Kenya, pp. 36.

who were not associated with any military organization made up the majority of the troops. The NFD army division was known alternately as the northern frontier district liberation front (NFDLF) or the northern frontier district liberation military (NFDLM), according to different sources[75].

The independence of Somalia in 1960 spurred the growing regional rebellion advocating for Somali unity. Somalia's legislative framework has ambitious political objectives aimed at unifying all Somali communicators in the horn of Africa. This vision is symbolized by the country's flag, which features a five-pointed white star on a sky-blue scenery. The five dots symbolize the five regions in the horn of Africa that were divided by oppressive boundaries: namely, the Ethiopian Ogden, British Somaliland, the previous Italian Somaliland, Djibouti, and the northern frontier district (NFD) of Kenya[76].

Mohamed haji Ibrahim Egal the prime minister of the first Somali republic, eloquently expressed the Somali national philosophy as he declared:

"*shakshi ahaan waxaan aaminsanahay in dadka ku nool waddan wadaaga sharci mid ah, wajaha khataro isku mid ah, isla markaana wadaaga hido, dhaqan iyo dimuqraadiyad, ku dhisan afka, diinta iyo dhaqanka, wadaagana hab nololeed gaar ah, waa in ay si lama huraan ah u horumariyaan deegaanka, dabeecada iyo sidoo kale xeer falsafadeedka mideeya.*"

Which meant:

In my view, it is only natural for a nation's inhabitants to adopt similar habits and outlooks, in addition to a shared framework for morality with a philosophical basis and rules, when they are subject to the same weather, dangers, history of democracy, language, religion, culture, and the pursuit distinguished of a common lifestyle.[77]

It was more pertinent when Somali president Mr. Aden Abdullah Osman spoke at the first global meeting of the OAU in Addis Ababa in May 1963. According to him, the Somali nomads' political downfall was triggered by imperial boundaries, Somalia's grappling with boundary disputes that sprang with colonialism and have permeated the

[75]Alio, M.S., Kenyan NFD Muslim Communities: The Painful Past and Pending Justice. 2022, International Journal of Islamic Thought, pp 78.

[76]Khalif, Z.K. and Oba, G. 'Gaafa dhaabaa-the period of stop': Narrating impacts of shifta insurgency on pastoral economy in northern Kenya, 2013, c. 1963 to 2007. Pastoralism: Research, Policy and Practice, 3, pp.2.

[77] Ibid pp. 3.

entire nation, encroaching upon the traditional fields of our nomadic people. Like certain other African nations, the issue stands out since no other African nation suffers total border-to-border separation from its people[78].

"*dadka ka soo horjeeda fikradda ah in la isku keeno dhulka soomaalida ayaa u arka in shacabka soomaaliyeed ay midnimadooda tahay qaab qabiil. Mucaaradka noocaan ah waxay sameyn doonaan wax kasta oo ay ku wiiqayaan sharcinimada sheegashada shacabka soomaaliyeed ee dhalasho ahaan iyo dhulahaan. Marka si walba loo eego, soomaaliya waa qaran.*"

The Somali people's yearning for integration is being portrayed as a type of rebellion by those who are against reuniting the Somali lands. Opponents like these will stop at nothing to discredit the Somali people and their claims of nationality. The Somali people are without a doubt a country.

As the prime minister spoke about the solidarity of Somali communities with neighbouring countries, the president continued to back him up in his speech at Addis Ababa in May 1963:

"*The defining qualities of a nation include its people, their shared language and customs, their shared history, and their racial origin and characteristics that set them apart from other similar groups its inherent characteristics make it inseparable.*"

The Somali people have a shared religion in addition to all these other commonalities. Everyone in the academic community agrees that Somalis are a distinct nation. The sense of national belonging is deeply felt by every Somali, whether they reside within or outside of the republic's borders[79].

It is widely accepted among experts that the Shifta war officially began in November 1963. It was now obvious that the Soviet Union would provide the Somali republic with military backing to aid the NFD rebels. In addition, an insurrection was initially communicated by the northern frontiers districts liberation army (NFDLA), which was also launching malicious assaults on government targets. However, Kenya and Ethiopia had concluded an alliance agreement that was primarily considered as a means of defending themselves from their mutually irredentist neighbour[80].

---

[78]Speeches & statements made at the fist Organization of African Unity (O.A.U) summit <https://au.int/en/speeches/> [accessed 21 May 2024].

[79] Ibid pp. 109.

[80]Ndzovu, H., Muslims in Kenyan politics: political involvement, marginalization, and minority status. 2014, Northwestern University Press, pp. 37.

One month after Kenya gained its liberty, in November 1963, there were no signs that the NFD had split from it, and the conflict had escalated from discrete incidents on public properties. Bold assaults on Kenyan territory were carried out by guerrillas who were specially equipped and disciplined by the Somali national army (SNA) within the Somali republic. For example, on November 22, six police officers were killed when the Shifta raided a king's African rifle camp in Garissa. The Shifta managed to exploit the broad and weak frontier once more and escape into the Somali republic despite the Kenyan government's deployment of Kenyan troops in retaliation.

That revolutionary struggle war broke out in 1963, not long after Somalia and Kenya gained their sovereignty, and it continued up to 1967. It ended on October 28, 1967, with the execution of the Arusha peace agreement, which was handed over by the then-president of Zambia, Kenneth Kaunda. While Somalia invaded what was then the northern frontier district (NFD) in north-eastern Kenya, Kenya swore it would not give up a single inch of territory of land[81].

Several years later, in 1974, the allied liberation front of western Somali brought up the issue of integration on an occasion of officials from the organization of African unity (OAU) in Mogadishu. As a result, a portion of the country it controlled was surrendered. Kenyans, regardless of whether they are boranes or Somalis, who failed to demonstrate encouragement to Kenya, will relocate to Somalia with their camels. The expression suggests that Kenya is past the 21st century. In the Somalia-Ethiopian war of 1977, Somalia tried to seize the Ogden area in Ethiopia as part of its aspiration to establish a larger Somalia. The war of 1977 and the Shifta war in Kenya (1963-1967) gave rise to the disputed sense of nationality among Somalis in Kenya and Ethiopia, particularly[82].

Ethiopia – Somalia War 1977-1978

The Ogaden region has been the geographic centre of the Somali-Ethiopian conflict. Regardless of being inhabited to racial Somali citizens, the territory was formally admitted to Ethiopia through the Anglo-Ethiopian treaty of 1897. Since the line of demarcation was not clearly defined till the 1930s, a dispute developed about the specific spot of the frontier as a result of the split of land. To summarize, the key

[81]Kirui, P., The Kenya-Somalia Historical Relations and The Contemporary Maritime Dispute: Implications for Bilateral Relations and Regional Peace. 2022, pp. 4.
[82] Ibid pp. 5.

problem was over who got authority over that territory. It launched demonstrations in the '60s and sparked a war in 1977[83].

the United States favoured Somalia and the Soviet Union sponsored Ethiopia, the matter brought the ashes of the cold conflict to Eastern Africa and proved of greater consequence compared to other territory conflicts. There had been contention over the Ogaden for quite some time before the fighting in 1977. As Ethiopia joined with the allied nations in WW-II, Great Britain gave up its authority to the land and Ogaden territories as part of British Somaliland considering Ethiopia was previously an associated nation during the conflict. The area was subsequently governed by the government of Somalia, which gained its independence in 1960 and included British Somaliland. Shortly after the 1969 military invasion of Somalia and the massacre of president Abdi Rashid Ali Shermarke, they reinforced the grip on power[84].

Figure 2 Somalia- Ethiopia disputed area[85]

[83]Kigen, E.C., The impact of the Cold War on the Ethiopia-Somalia relations, 1960-1990 (Doctoral dissertation) 2002, pp. 79.

[84] Ephrem yared, 'Ethiopian Somali war over the ogaden region (1977–1978) •' (21 march 2016) <https://www.blackpast.org/global-african-history/ethiopian-somali-war-over-ogaden-region-1977-1978/> accessed 15 December 2023.

[85]Remembering the Ogaden war 45 years later: four and a half lessons towards a peaceful future (accord) <https://www.accord.org.za/publication/remembering-the-ogaden-war-45-years-later/> accessed 4 January 2024.

In September of 1974, an armed council called the DERG successfully overthrew Emperor Haile Selassie, who had been ruling Ethiopia for an extended time. The country had reached a state of chaos and multiple revolts developed in response to instability in politics. The western Somali liberation front (WSLF), an association formed of Somali residents in the Ogaden province of Ethiopia, advocated the incorporation of their occupied territory into Somalia. The Somali administration, which formerly obtained massive quantities of soviet support, afterward sent weaponry and provisions to the WSLF. In July 1977, a force of 35 thousand Somali national military warriors, following the leadership of Mohamed Said barre and with the assistance of 15,000 WSLF fighters, launched an invasion in Ethiopia's Ogaden province[86].

The Somali national army (SNA) advanced toward the Ogaden area in July 1977 to seize power of the entire province. By September, the unified troops of the SNA and WSLF had taken control of almost 90% of the area, having achieved early success. The United States of America shifted its backing from the deposed Haile Selassie regime to Somalia shortly after the war, while the Soviet Union, which had formerly assisted Somalia, shifted its backing to the new communist administration in Ethiopia. Soviet and Cuban troops, together with supplies from the south of Yemen and east Germany, helped Ethiopia reclaim the Ogaden territory. The announcement of the fight leaving of Somali soldiers was made by Said barre on march 8[87].

Following the battle, ties descended into a frosty period as each side employed allies to undermine each other. As usual, things reached a boiling point in 1980 and erupted into open warfare. Regardless of this chaos, the African union and other countries like Italy, Madagascar, and Uganda tried to mediate settlement for peace on multiple occasions. The war ended with a calm melting in 1988 after years of unsuccessful peace efforts. The dispute between the two nations ended when their respective armies retreated out of the border area, captives of battle were swapped, and diplomatic contacts returned. Although the peace settlement included a promise to

[86]Blakey, L.R.M., Making the hard choices between power and principle: 2003, The Ogaden War, 1977–1978. Saint Louis University pp. 1.

[87]Ephrem Yared, 'Ethiopian Somali war over the Ogaden region (1977–1978) •' (21 march 2016) <https://www.blackpast.org/global-african-history/ethiopian-somali-war-over-ogaden-region-1977-1978/> accessed 15 December 2023.

recognize the sovereignty of both nations alongside their former imperial frontiers, it failed to specifically deal with the question of claims to territory regarding the Ogaden area, making the result rather contentious[88].

Yemen and Somali Bilateral Relations

The historical and financial ties connecting Somalia and Yemen are strengthened by their coastal regions, which are home to significant port cities like Bossaso (in Puntland) and Berbera (in Somaliland) in Somalia, and Mukalla and Aden in Yemen, serving as crucial hubs. Furthermore, there are other smaller ports and coastal landing sites located along both shores. In the course of historical events, port cities and coastal towns have been vital in facilitating the passage of a wide range of goods, including animals, charcoal, food, fish, oceanic products, scent, weaponry, and people, both voluntarily and enslaved.

During the latter half of the 19th century, Somalis been acknowledged as a prominent community in Aden, a city that drew traders from around the globe due to its exceptional natural harbour. Aden served as an export market for Somali businesspeople, who mostly traded sheep, animal products, and charcoal. This trade activity was particularly prominent after Aden fell under British administration and transformed into a military base in the early 1900s. The Berbera-Aden Sea corridor continues to serve as a significant commercial and transport channel right now, however, its prominence has been diminished by the emergence of Djibouti and Dubai and, and to a lesser degree, Bossaso, as key centres in the broader maritime area[89]

The Bossaso-Mukalla maritime trade to the east has an extensive heritage of commerce and movement, connecting several Somali and Yemeni neighbourhoods and their surrounding territories to those that follow the Berbera-Aden route. The fishing industry in the eastern region of Bossaso connects many minor marine towns, such as Bargaal, Bareedo, Tooxin, and Xaabo on the Somali side, to Mukalla and the more remote seaports of Al Shihir and qusay'ir on the Yemeni coast.

The two main lineage-based communities in the area, often called "tribes" in past research, control the Bossaso-Mukalla gateway, which includes the fishing sector

[88]Tareke, G., The Ethiopia-Somalia war of 1977 revisited. 2000, The International Journal of African Historical Studies, 33(3), pp.637.

[89]Somalia and Yemen's cross-border maritime economy | rift valley institute' pp. 6 <https://riftvalley.net/publication/somalia-and-yemens-cross-border-maritime-economy> accessed 17 December 2023.

and its distribution system. Two main groupings, each with its own set of clans and sub-clans, are the Hadrami of Yemen and the Harti of north-eastern Somalia, with ties to Puntland and the contentious districts of Sool and Sanaag. It is well acknowledged that the Hadrami people, who are mostly found in the Hadramawt governorate, are the most notable group of Yemeni migrants. They have established communities of expatriates in faraway places including southeast Asia, India, the horn of Africa, and the Swahili coast.

Nations were less fragmented than they are present. Individuals enjoyed unrestricted mobility and were able to establish their residence according to their personal preferences.

Hadramawt is near Somalia both geographically and culturally the Hadrami's have been migrating to Somalia for generations. They primarily engage in commercial activities.

They were fleeing from destitution in Hadramawt, we consistently engaged in the act of blending and merging. We reciprocated hospitality and nourished one another. We traversed each other's domain without any limitations.[90]

Kenya and Somalia Bilateral Agreements

The head of state of Somalia, H.E. Hassan Sheikh Mohamud, made a presidential trip to Kenya from July 15th to 16th, 2022, at the invitation of Kenya's president, H.E. Uhuru Kenyatta, at state house Nairobi on Friday both leaders of nation engaged in bilateral discussions and leading officials from both nations joined.

H.E. President Uhuru Kenyatta complimented H.E. President Hassan sheikh Mohamud for his successful re-election as president of the federal republic of Somalia and simultaneously praised the citizens for their participation wishing a tranquil election and flawless change in Somalia. Both leaders of state conducted their delegations in substantive bilateral discussions, encompassing a broad spectrum of bilateral, regional, and international matters, with a particular focus on enhancing the current bilateral relations among both states[91].

Addressing this matter, both leaders:

---

[90] Ibid pp. 7.

[91] Joınt-communıque-kenya-somalıa-2.pdf'<https://mfa.go.ke/wp-content/uploads/2022/08/joınt-communıque-kenya-somalıa-2.pdf> accessed 17 December 2023.

1. Stated the significance of the friendly bilateral ties, historical ties, and shared fate between the Somali and Kenyan peoples, who are united in their pursuit of a better world marked by friendship for the independence and sovereignty of both Somalia and Kenya.
2. Reiterated the two nations' common ambition to improve ties and collaborate on projects of common concern.
3. In pursuit of such a goal, the two leaders reaffirmed their dedication to combat terrorist acts. To guarantee effectiveness, they instructed the intelligence agencies of both nations to collaborate in their projects, aiming to safeguard and defend the citizens of both countries, while intensifying their attempts to combat terrorist attacks.
4. Kenya and Somalia consented to work together with other regional and international entities to deliver essential humanitarian aid to alleviate the impact of the ongoing drought in the horn of Africa region.
5. It was officially determined that Kenya airways (KQ) will return to its planned operations in Mogadishu without delay, by the current bilateral air service agreement (BASA). The BASA will undergo evaluation by the appropriate regulatory bodies.
6. Additionally, all parties have pledged to enhance, expand, and encourage trade and economic collaboration between the two nations. Facilitated the prompt exchange of fish and fish products between Somalia and Kenya, as well as the reinstatement of trade in chat (miraa) from Kenya to Somalia, to commence immediately.
7. Meanwhile, it was the appropriate authorities to carry out the implementation of providing honour tourist visas at no cost, upon arrival, for guests of honour, senators, and ambassadors who possess diplomatic passports and a notification verbal from each of their ministry of foreign affairs. Holders of Somali service passports are eligible to receive gratitude visas free of charge upon arrival. These visas will be awarded within 48 hours after completing the internet visa entry and providing a note verbal from the ministry of foreign affairs and international relations.
8. Emphasized the urgency of expediting visa processing for individuals with regular passports, ideally within a maximum of ten (10) business days.

9. They came to a consensus to initiate the reopening of the frontier between the two nations to facilitate the mobility of individuals and promote the exchange of products and services.
10. Organized to set up the joint commission for co-operation (JCC) between Kenya and Somalia in Mogadishu in august 2022. The purpose of this meeting is to engage in discussions and reach agreements on topics of shared interests, including joint security operations, protection, food production, commerce, intelligence sharing, healthcare, education, training in diverse areas, and ongoing evaluation of the visa system.
11. Instructed the relevant foreign affairs ministries to guarantee the execution of the matters that were mutually agreed upon by the two presidents within two (2) weeks starting from the date of the official announcement[92].

Kenya and Uganda Transboundary Dispute

Lakes serve as frontiers that provide natural resource that are significant to nations engaged in transboundary conflicts. The occurrence of lake transboundary issues related to the control of wealth associated with resources from nature is not a recent phenomenon. Border demarcation concerns are widespread in eastern Africa, where there are frequent conflicts and unexpected findings of mineral wealth in lakes. Previous instances of transboundary disputes have occurred about Lake Victoria. The Kenya Uganda transboundary issues are particularly difficult, comprehensive, and enduring among all conflicts over borders. Usually, they address matters of autonomy, in addition to cultural heritage, religion, culture, and feeling of membership. Furthermore, they encompass natural resources, such as the availability of water, waterways, and transportation systems.

Kenya-Uganda transboundary disagreements are influenced by physical and topographical factors, as they are typically connected to inquiries regarding the characteristics of the terrain or the assets present in both water and land. These factors contribute even more to the intricacy of the matter at hand. On top of that, the presence of historical events such as colonialism, annexation, and relocation hinder the process of resolving these conflicts. The transboundary controversies are intricately linked to the particular issues of inhabited territories and the residents of the disputed regions.

[92] Ibid pp. 2.

These transboundary disputes are justified by multiple grounds, typically stemming from an intricate and unsettled past[93].

Contended that the Kenya-Uganda boundary delineated groups consisting of individuals who had formerly similar the same heritage of culture. The Lucha, Iteso, Sabaot, Pokot, and Luo tribes had been separated by the border. Upon achieving political secession in 1962 and 1963, Uganda and Kenya faced complex issues in managing their territories, especially on a global and regional basis. Contends that the OAU charter prioritized the concept of maintaining the boundaries of nations and refraining from involvement in the domestic affairs of its member nations. Consequently, it was necessary to capitalize on pre-existing boundaries to establish independent nations and conceptualize national political organizations.

In Kenya and Uganda, adherence to Pan-African values was only significant in situations if they were not inconsistent with national priorities. Similar to the un, its governing body, the body of African unity (OAU), emphasized in article III (3) and (4) of its charter. This pertains to upholding the autonomy and unity of each nation and resolving conflicts peacefully via discussions, negotiation, conciliation, and arbitration. Therefore, by endorsing the preservation of the colonial frontiers, the OAU emerged as an influential group in shaping these limits and in establishing policy structures that promoted rigorous respect for the integrity of nation-state boundaries[94].

Both Kenya and Uganda had not just complied with the limits they received at liberty, as stated by the 1964 organization of African unity settlement, nevertheless, they additionally complied with the mapping and marking of borders that took place after the 1926 imperial rule. Nevertheless, the two nations lack a legal pact regarding their international border. Aseka believes that territory transformation often entails major financial consequences, affecting not only the persons and groups residing in the affected areas, but also worldwide and the nations engaged.

The conflict surrounding the assets of Lake Victoria exemplifies a typical case inadequate delineation, separation, and management. The British settlers in Kenya and Uganda paid less consideration to the borderline between the two countries compared

---

[93] Mwinyi, M., Okoth, P.G. and Maloba, E.W., The Nature of Lake Victoria Transboundary Disputes and Economic Security Management between Kenya and Uganda. 2022. Open Journal of Political Science, 12(4), pp.515.

[94] Warui, D.N., The East African Community and Dispute Settlement (A Case of Migingo Island) 2013, (Doctoral dissertation, University of Nairobi,).pp 56.

to the frontiers with Belgian-Congo, German Tanganyika, Italian-Somalia, and Ethiopia, as evidenced by their historical records. Because Kenya and Uganda were under British administration as an annexation and dominion of British east Africa, the possibility of combining them was made possible. From 1902 to 1970, geographical swaps occurred across the two nations due to various causes, including the preservation of tribal cohesion and bureaucratic expediency. The border issue arises due to inadequate control over financial stability, which is a substantial issue for most parties[95].

[95]Okumu, W., Resources and border disputes in Eastern Africa. 2010, Journal of Eastern African Studies, 4(2), pp.279-297, pp. 283.

CHAPTER IV

Kenya – Somalia Controversy and The ICJ Judgment

The Dispute

Somalia and Kenya have a contiguous land border in east Africa, that extends to the south-eastern coast until it touches the Indian ocean. Both countries have shown a strong interest in exploiting the substantial oil and gas deposits believed to exist in this coastal region.

Both Somalia and Kenya are members of UNCLOS and were hence obligated to adhere to its requirements. In 2009, Kenya and Somalia entered into an agreement of collaboration, whereby the two countries committed to establish their baseline through talks. The deal was subsequently overturned by the Somali parliament. In 2012, Kenya sought rights to investigate 8 offshore areas in the Indian ocean to international oil corporations, such as Eni from Italy, total from France, and Anadarko petroleum from the United States[96].

Somalia has written statements to these firms asserting that a portion of the land that has been allocated by Kenya lies in inside its exclusive economic zone. Somalia also contends that the oil companies' operations in the area are unlawful and intends to levy daily penalties on them for allegedly encroaching on its territorial integrity. Kenya and Somalia have taken part in negotiations to resolve the conflict, but they are still not at a consensus. Somalia initiated the procedure at the ICJ.

As stated by Somalia's memorial, the negotiations held in 2014 were characterized by opposing perspectives from both sides, failing to achieve a compromise. The complexity of the situation was further exacerbated by the non-attendance of the Kenyan representatives at the talks scheduled on august 25 and 26, 2014, as requested by Kenya. Moreover, the Kenyans did not offer a reason to Somalia for their inability to attend[97].

---

[96]Chan, K.C., The ICJ's Judgement in Somalia v. Kenya and Its Implications for the Law of the Sea. 2018, Utrecht J. Int'l & Eur. L., 34, p.195.

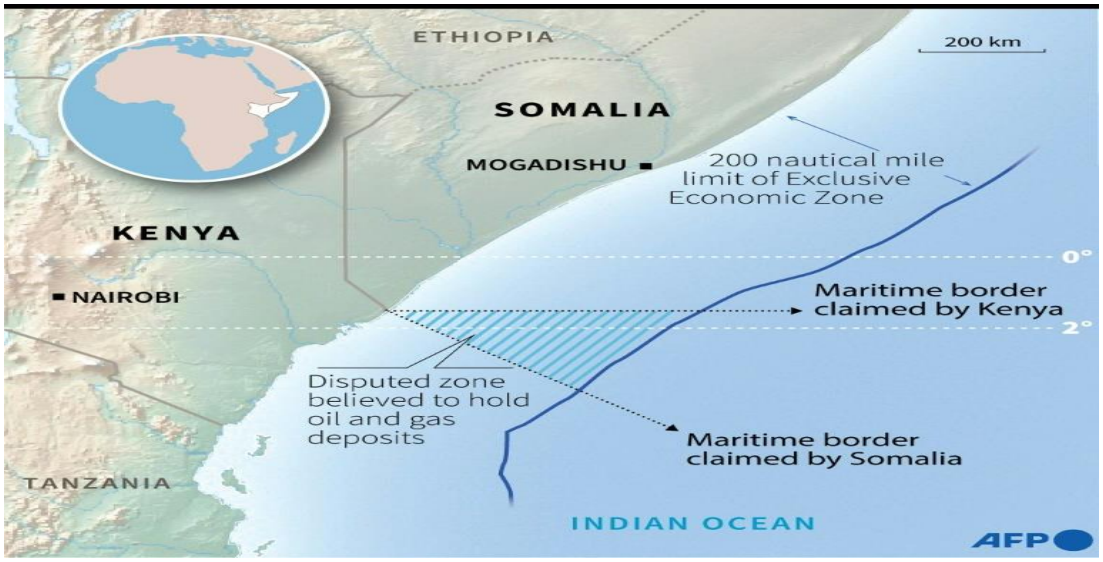
[97]Gunawan, Y., Salim, A.A., Asirwadana, E. and Prasetyo, S.B., Perspective of International Law on Maritime Dispute: Case Between Kenya and Somalia. 2021, Journal Hukum, 37(2), pp 70.

Somalia filed an objection, arguing that Kenya had infringed on Somalia's legislation no. 37, which establishes the boundaries of Somalia's continental shelf and (EEZ)[98]. Both entities embraced essentially distinct procedures with regards to the demarcation of maritime boundaries. Mogadishu contended that its maritime border ought to line up with the south-easterly route that constitutes the shared land border of the nations. Hence, using an unaltered equidistance line overall maritime region would attain the fair outcome mandated by international law.

Kenya argued that both sides were currently at a consensus on a maritime boundary, as Somalia had accepted a line that aligned with the parallel of latitude. Kenya asserted that its border ought to form a 45-degree angle at the shoreline and proceed in a straight line along a latitude. Kenya would have greater accessibility to a much bigger portion of the contested maritime region.

Somalia subsequently filed to the ICJ to certify alleged Kenya had infringed upon Somalia's territorial integrity, autonomy, and jurisdiction by permitting energy projects, such as seismic research and drilling, in the contested region. Somalia also claimed that Kenya was infringing on the United Nations convention on the law of the sea (UNCLOS) and common international law[99]

Figure 3 Kenya and Somalia maritime border claim



[98]Wu, X., Case Note: Maritime Delimitation in the Indian Ocean (Somalia v. Kenya), Judgment on Preliminary Objections. 2018, Chinese Journal of International Law, 17(3), pp.843.

[99] Ibid pp. 844.

The conflict pertains to a triangular area of over 100,000 square kilometres (almost 40,000 square miles) in the Indian ocean, which is believed to possess significant reserves of oil and gas[100].

Somalia's Request and Claims

Somalia informed the ICJ that there is no established maritime boundary separating these two coastal nations. In addition, Somalia argued that Kenya's singular activity in the questioned Indian maritime area, particularly regarding the exclusive economic zone and continental shelf, not only violated Somalia's rights as a sovereign but also contradicted the values outlined by the United Nations convention on the law of the sea (UNCLOS).

By established protocols, Somalia has petitioned the ICJ to 1) establish the precise geographical position of the shared maritime boundary between Kenya and Somalia, extending into the continental shelf beyond 200 nautical miles; 2) identify the entire length of the provided maritime boundary; and 3) rule that Kenya infringed international law, primarily Somalia's legitimate rights, and authority, and therefore have to compensate in full[101].

Kenya's Defence and Objection

Kenya's defence presented initial challenges to Somalia's argument, asserting the presence of a longstanding accepted boundary between the two countries that have been consistently observed. Kenya confirmed the validity of a fair demarcation. In addition, Kenya contended that there was no controversy or issue before 2014, and therefore its actions in the Indian ocean were carried out in an honest manner and in accordance with the law consequently, Kenya has formally asked the ICJ to reject all of Somalia's allegations and confirm the previously established maritime boundaries and longstanding maritime customs among the two coastal nations[102].

Somalia's Counter-Defence

Somalia has presented its counter-defence in response to Kenya's preliminary objection. In compliance with articles 15, 74, and 83 of the UNCLOS, Somalia

---

[100]Bangkok post public company limited, 'top un court to rule on bitter Kenya-Somalia border spat' Bangkok post <https://www.bangkokpost.com/world/2196527/top-un-court-to-rule-on-bitter-kenya-somalia-border-spat> accessed 4 January 2024.

[101]Maritime delimitation in the Indian ocean (Somalia v. Kenya)' <https://www.icj-cij.org/case/161> accessed 27 December 2023.

[102] Kinyua, C.C., The Implications of Territorial Jurisdiction for International (Income) Taxation: The Kenyan Case Study (Doctoral dissertation, University of Nairobi) 2017, pp 40.

contended that the main requirement for establishing a maritime boundary among coastal nations is explicit approval, whether documented or verbal. Somalia rejected Kenya's claim that its quiet implied consent, asserting that the absence of objection to Kenya's independent action did not indicate approval. Somalia argues that being silent should not be interpreted as agreement. Somalia extra specified the exact moment of Kenya's unilateral action, noting that it occurred during a period of internal conflict in Somalia when there was no functioning administration to oversee the maritime limits of the Indian ocean. Consequently, somalin was unable to register its concern due to its lack of capacity[103].

ICJ's Ruling

After examining articles 15, 74, and 83 of the UNCLOS, the ICJ emphasized that the customary method of indicating consent is typically by writing means. While the court did not completely dismiss the idea of an oral agreement, it emphasized the importance of certain key components for establishing a "common understanding." such an understanding can be determined via either "acquiescence" or a silent agreement.

After evaluating the current case based on the previous foundation, the court discovered the lack of 'mutual comprehension' between the two parties. In addition, the court noted Kenya's statement during its preliminary resistance hearing and 'note verbalise' to the UN regarding the absence of an approved accord.

As well, the ICJ also considered the circumstances of Somalia's domestic civil conflict, during which there was a lack of a functioning administration system. Kenya did not contest this fact. Therefore, considering Somalia's lack of capacity to protest from 1979 to 2014, the court rejected the idea that Somalia's action could be seen as agreement, citing its lack of clear and consistent compliance with maritime practices.

Ultimately, the ICJ determined that there was inadequate proof to support that it was a standard procedure in the Indian ocean. As a result, Kenya's preliminary objection was rejected[104]

---

[103]Mohammed, Y.A., Maritime Border Dispute between Kenya and Somalia in the Indian Ocean. 2023, Mersin University Journal of Maritime Faculty, 5(1), pp.2.

[104] ICJ (2021). "Maritime delimitation in the Indian ocean (Somalia vs. Kenya)." https://www.icj-cij.org/public/files/case-related/161/161- 20211012-JUD-01-00-EN.pdf [Accessed 12 March 2024].

‘All UN members are obligated to follow the rulings of the international court of justice in any case where they are involved’’, as stated in article 94 of the un charter[105]. Kenya had claimed that Somalia already had a maritime boundary, but the ICJ denied this and suggested a line that would split the contested territory in half (see map 4). Paragraphs 2, 3, and 4 constitute the primary ruling in the Kenya-Somalia dispute. In paragraphs 2 and 3, the bench reached a majority conclusion, whereas in paragraph 4, an overwhelming decision was reached.

The Court's Procedure for Resolving Maritime Boundary Disputes

Kenya and Somalia are respective signatories to the United Nations convention on the law of the sea (UNCLOS). Consequently, the ICJ chose to establish a medium line over the waters under its jurisdiction, by article 15 of the United Nations convention on the law of the sea (UNCLOS). Additionally, the ICJ used the widely accepted three-stage process as the foundation for determining the boundaries of the exclusive economic zone (EEZ) and the continental shelf.

Delimitation of The Territorial Sea

When determining the boundary for the territorial sea, the ICJ chose specific sites across the main coastlines of the involved parties, disregarding minor features located offshore. Refer to the diagram the court chose four fundamental points for each section, labelled S1-S4 and K1-K4.

Regrettably, the court seems to have descended on the aforementioned British admiralty chart, which portrays the baseline as being somewhat inland from its current position. As a result, the judiciary has chosen base sites that are far further inland than the real coastal position. Research indicates that the basepoints chosen by the court are typically situated more than 100 meters away from the coastline. Additionally, Somalia’s base point (s1) is positioned 64.2 metres within the Kenyan territory, relative to the land border. This is particularly puzzling considering the court's previous attempts to determine the initial point of the baseline on the low-water line, namely to the southeast of pb 29.

By excluding minor island characteristics like the Diua Damasciaca islets, the ICJ established six sites, in addition to "point a," to define the territorial sea boundary.

[105]United Nations, ‘chapter XIV: the ICJ (articles 92-96)’ (United Nations) <https://www.un.org/en/about-us/un-charter/chapter-14> accessed 27 December 2023.

These locations were determined based on the principle of equidistance, using only the eight main reference points. Although the court intended to establish the territorial sea boundary at the 12 m limit, the coordinates stated by the court for the endpoint of the boundary at point a are situated around 12.91 m away from the endpoint of the land frontier on the shore[106].

Figure 4 Water, as determined by the international court of justice (ICJ) to create this boundary

[107].

Delineation of EEZ And Continental Shelf

The ICJ proceeded to the initial phase of the 3-step procedure and established a temporary equidistance line. İn the following phase, which involves examining the appropriate factors that could result in adjusting the temporary line, the court noted that since the oceans of Kenya and Somalia are considered separately, there is no noticeable shape.

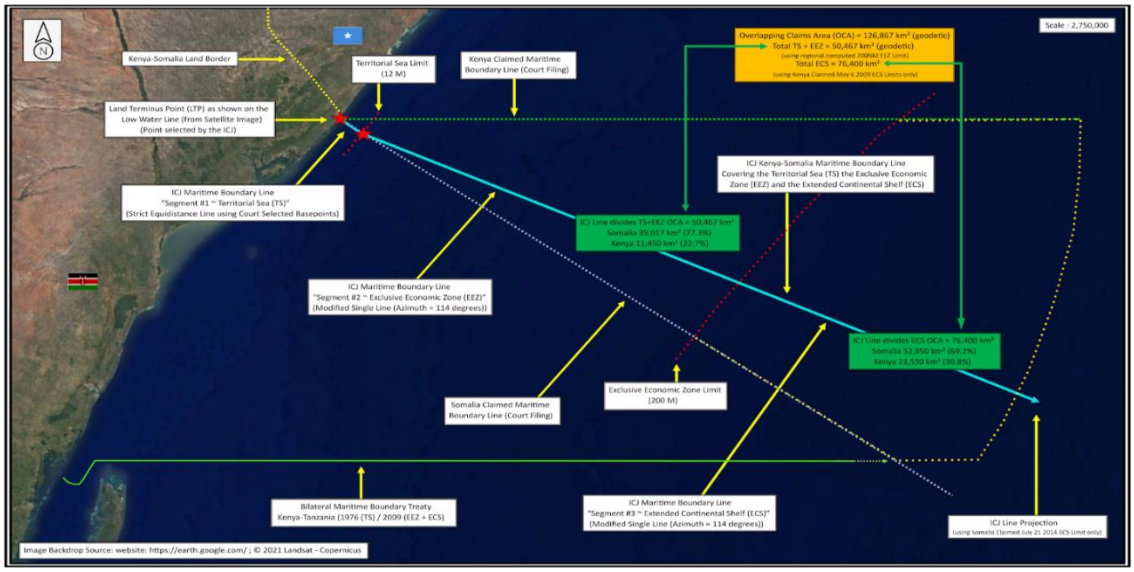
Nevertheless, the court considered the concave shape of the baseline and the wider continental context of east Africa, considering the oceanfront of Tanzania. Considering this, the court concluded that Kenya's territorial extension was restricted, resulting in a major decrease in its rights to navigation within a 200 nautical mile distance from the shoreline. Therefore, the ICJ modified the line that marks the

[106]Schofield, C., Bekker, P. and van de Poll, R., The world court fixes the Somalia-Kenya maritime boundary, 2021, technical considerations and legal consequences. ASIL Insights, pp. 2.

[107]Somalia-Kenya Case, Preliminary Objections (Feb. 2, 2017), https://www.icj-cij.org/en/case/161.

boundary of the exclusive economic zone (EEZ) by moving it in a northerly direction. In particular, starting from point a, the line now follows a compass bearing of 114°. The tally for the preceding segment was 10 in favour and 4 against[108].

Figure 5 İndicate the EEZ and continental shelf [109]



The Establishment of The Continental Shelf Exceeding 200 Nautical Miles from the Baseline

Regarding the segmentation of the continental shelf beyond the 200 nautical miles exclusive economic zone (EEZ) boundaries, the ICJ determined, with a majority of 9 votes to 5, that extending the amended line to the outer boundaries of the countries' continental shelves was the suitable method of action. Due to the disagreement in the position of point a, certain parts of the outer continental shelf were assigned to Somalia instead of Kenya. The Somali side of the border line has roughly 324.1 km2 or 94.4 square nautical miles of the combined EEZ and continental shelf areas beyond the 200 m EEZ boundaries, rather than the Kenyan side.

Because Somalia's presented outer continental shelf boundaries to the conference of the parties on the limits of the continental shelf (CLCS) extend substantially more out to sea than Kenya's filed restrictions for portions of the continental shelf on the Kenyan portion of the determined borderline, Kenya's outer continental shelf limits may need

[108] Gesami, B. and Kasembeli, G., The East African Maritime Domain Dispute: 2021, The Case of Kenya and Somalia, pp. 4.

[109]Somalia-Kenya Case, Preliminary Objections (Feb. 2, 2017), https://www.icj-cij.org/en/case/161.

to be readjusted. In addition, the (ICJ) recognized that its decision could create a "grey area" beyond 200m from Kenya but within 200 m of Somalia, specifically on the Kenyan side of the separation line. This means that Kenya would have authority over the ocean floor in this area, while Somalia would have authority over the water column[110].

Conclusion

Kenya and Somalia are two east African nations that share a land border as well as a sea one. However, before 2021, the maritime border between the two states was unclear, leading to a disagreement that strained relations. Unfortunately, Kenya decided to produce oil and gas in the overlapping area, which irritated Somalia. In response, Somalia decided to send a message to the oil companies, claiming that the area was under its territory and that Kenya's manufacturing was illegal. The dispute began in 2009 when both states decided to limit their maritime borders.

The division of Somalia into several parts and the subsequent partition of its population among Ethiopia, Kenya, and Somalia occurred during the colonial era when the land borders of east African countries including the three countries we just mentioned were being drawn.

This led to a history of distrust between the two democratic nations. In 1963, greater Somalia was born out of a desire to bring the country's divided population back together. Until 1967, Kenya and Somalia were at war with one another. Another failed attempt to merge the Somali people of Ethiopia with Somalia was the 1977–1978 war between the two countries. Due to the country's ability to join collectively as a whole, Somalia is adamant about defending its maritime territory at all costs. In 2014, the two countries

scheduled a negotiation to resolve their maritime dispute, but Kenya failed to show up and offered no satisfactory explanation, exacerbating the problem.

According to Somalia's request to the ICJ, the court should indicate the length of the boundary between the two states, that exceeds 200 nm. Because the sole purpose of the court's establishment was to resolve such disputes on a global scale, it granted Somalia's request for full compensation after hearing arguments that Kenya had illegally invaded Somali land.

---

[110] Gao, J., Delimitation of the Extended Continental Shelf in Somalia v. Kenya in the ICJ: A Critique. 2023, Chinese Journal of International Law, 22(1), pp. 94.

Kenya stated that it had a memorandum of understanding (MOU) with Somalia and there were no issues with the maritime boundary before 2014 and requested the court to dismiss the accusation and reject the case. However, Somalia clarified to the court that the country had experienced a civil war and barely survived that battle. Subsequently, the nation had religious conflicts and was unable to collaborate with other countries on addressing such issues. The decision was made to define the centre point in the waters udder's control, as outlined in article 15 of the UNCLOS. Also, the ICJ employed the universally recognized three step procedure for the foundation to establish the limits of the EEZ and the continental shelf.

The court decided to divide the area under contention into a couple of sections: the territorial sea including the exclusive economic zone is 50467 km^2, and the extended exclusive zone is 76400 km^2. The total size of the controversial area between the two states is 126867 km^2.

The court decided to establish an equidistance line that begins at the land border and extends to the territorial sea within a distance of 12 nautical miles. This line oriented at a bearing of 114 degrees east, serves as the boundary for the exclusive economic zone, covering an area of 50,457 kilometres square. Kenya was awarded 11,450 kilometres square, which represents 22.7% of the disputed area, while Somalia acquired 39,017 kilometres square, accounting for 77.3%.

The extended exclusive zone measured 76,400 kilometres square. Kenya was awarded 23,550 kilometres square, which represents 30.8% of the contested territory, while Somalia received 52,850 kilometres square, accounting for 69.2% of the disputed area. Kenya stated that the court's decision was unfair and its privileged Somalia, therefore it overturned the ruling, meanwhile the ruling was well-received by Somalia, and its leader, Mohamed Abdullahi-Farmaajo, expressed his gratitude to the court and complied with the outcome.

Recommendation

I recommend that future academics on this topic emphasize analysing the diplomatic ties between the two states after the court's verdict, the consequences of the decision, Somalia's capacity to safeguard its marine zones, and the successful implementation of maritime legislation in both Somalia and Kenya. Is it feasible for Somalia to commence domestic oil production?

Somaliland and the government of Ethiopia agreed to execute a memorandum of understanding (MOU) on 01/01/2024. The deal provides Ethiopia accessibility to a

seaport in exchange for the global legitimacy of Somaliland. Somaliland is an unrecognized state that separated from Somalia in 1991 and has declined to unite. Will Somalia approve the choice concerning the new deal with Somaliland?

REFERENCES

CASE LAWS:

Fisheries (United Kingdom v. Norway) 1951.

Corfu channel (United Kingdom of Great Britain and Northern Ireland v. Albania) 1947.

Maritime delimitation in the Indian ocean (Somalia v. Kenya) 2021.

Territorial and maritime dispute (Nicaragua v. Colombia) 2007.

Maritime delimitation and territorial questions (Qatar v. Bahrain) 1994.

Somali federal constitution final version (2012).

LEGISLATION:

1899 convention for the pacific settlement of international disputes.

1928 General act of arbitration.

Joint communiqué ministry of foreign affairs Kenya-Somalia agreements 2022.

Somali federal constitution (final version 2012)

United Nations conference on the law of the sea (UNCLOS 1982).

United Nations, 'chapter XIV: the international court of justice (articles 92-96).

Bibliography

PRIMARY SOURCES

Abdullahi, A., Colonial policies and the failure of Somali Secessionism in the Northern Frontier District of Kenya Colony, 1997, c. 1890-1968 (Doctoral dissertation, Rhodes University).

Alam, M.S. and Al Faruque, A., The problem of delimitation of Bangladesh's maritime boundaries with India and Myanmar: Prospects for a solution. 2010 The International Journal of Marine and Coastal Law, 25.

Alio, M.S., Kenyan NFD Muslim Communities: The Painful Past and Pending Justice. 2022, International Journal of Islamic Thought.

Aust, A., Handbook of international law. 2010, Cambridge University Press.

Baala, G.T. and Jaja, T.V.P., 2021. Good Offices and Mediation as Mechanism for International Dispute Settlement. Unpublished LL. B. Thesis, Department of Business Law Faculty of Law, Rivers State University, Port Harcourt.

Bangert, K., Internal waters., Max Planck Encyclopedia of Public International Law, 2018.

Bateman, S., UNCLOS and its limitations as the foundation for a regional maritime security regime. 2007. The Korean Journal of Defense Analysis, 19(3).

Brett, J. and Thompson, L., Negotiation. Organizational Behavior and Human Decision Processes, 2016, vol 136.

Burton, S.J., Combining Conciliation with Arbitration of International Commercial Disputes. 1994, Hastings Int'l & Comp. L. Rev., 18.

Castagno, A.A., The Somali-Ken Yan controversy: Implications for the future. 1964, The Journal of Modern African Studies, 2(2).

Chan, K.C., The ICJ's Judgement in Somalia v. Kenya and Its Implications for the Law of the Sea. 2018, Utrecht J. Int'l & Eur. L., 34.

Charney, J.I., Maritime Delimitation in the Area between Greenland and Jan Mayen. 1994, (Den. v. Nor.). 1993 ICJ Rep. 38. American Journal of International Law.

Coletta, P.E., Bryan, McKinley, and the Treaty of Paris. 1957, The Pacific Historical Review.

David Storey, 'States, territory, and Sovereignty' (2017) 102 Geography, pp 118.

Emery KO. The continental shelves. Scientific American, a division of Nature America, Inc Vol. 221, No. 1969.

Eric a Posner and Miguel F.P. de Figueiredo, 'Is the International Court of Justice biased?' (2005) 34 the Journal of Legal Studies, pp 600.

Fair bridge, R.W., The changing level of the sea. 1960, Scientific American, 202(5).

Fayokemi Olorundami, The Kenya/Somalia maritime boundary delimitation dispute in Zeray Yihdego and others (eds), Ethiopian Yearbook of International Law 2017, vol 2017 (Springer International Publishing 2018).

Gao, J., Delimitation of the Extended Continental Shelf in Somalia v. Kenya in the ICJ: A Critique. 2023, Chinese Journal of International Law.

Gao, J.J., international rules on the continental shelf delimitation 2009. KMI international journal of maritime affairs and fisheries.

Gesami, B. and Kasembeli, G., The East African Maritime Domain Dispute: 2021, The Case of Kenya and Somalia.

Goodrich, L.M., The Peaceful Settlement of Disputes. 1955. Journal of International Affairs.

Gunawan, Y., Salim, A.A., Asirwadana, E. and Prasetyo, S.B., Perspective of International Law on Maritime Dispute: Case Between Kenya and Somalia. 2021, Journal Hukum, 37(2).

Hamza, A.M. and Todorovic, M., 2017. Peaceful settlement of disputes. Global Journal of Commerce & Management Perspective, 6(1).

Hasan, M.M., Jian, H., Alam, M.W. and Chowdhury, K.A., Protracted maritime boundary disputes and maritime laws. 2019 Journal of International Maritime Safety, Environmental Affairs, and Shipping.

Hyde, C.C., April. The place of commissions of inquiry and conciliation treaties in the peaceful settlement of international disputes. 1929, In Proceedings of the American Society of International Law at its annual meeting (1921-1969) (Vol. 23. Cambridge University Press.

Kadagi NI, Okafor-Yarwood I, Glaser S, Lien Z. Joint management of shared resources as an alternative approach for addressing maritime boundary disputes: the Kenya-Somalia maritime boundary dispute. Journal of the Indian Ocean Region. 2020.

Kearney, M., The Exclusive Economic Zone, Territory, and Territorial Jurisdiction in the Rome Statute. 2020, international criminal law review, 20(6).

Keyuan, Z. The International Tribunal for the Law of the Sea: Procedures, Practices, and Asian States. 2010. Ocean Development & International Law, 41(2).

Khalif, Z.K. and Oba, G. 'Gaafa dhaabaa-the period of stop': Narrating impacts of shifta insurgency on pastoral economy in northern Kenya, 2013, c. 1963 to 2007. Pastoralism: Research, Policy and Practice, 3.

Kigen, E.C., The impact of the Cold War on the Ethiopia-Somalia relations, 1960-1990 (Doctoral dissertation) 2002.

Kinyua, C.C., The Implications of Territorial Jurisdiction for International (Income) Taxation: The Kenyan Case Study (Doctoral dissertation, University of Nairobi) 2017.

Kirui, P., The Kenya-Somalia Historical Relations and The Contemporary Maritime Dispute: Implications for Bilateral Relations and Regional Peace. 2022.

Kwiatkowski, B., Dotinga, H., Molenaar, e., Elferink, A.O. and Soons, A., commission on the limits of the continental shelf (CLCS). 2002 in international organizations and the law of the sea 2000.

Lowell Bautista, "Dispute Settlement in the Law of the Sea Convention and Territorial and maritime disputes in Southeast Asia: issues, opportunities, and Challenges" (2014) 6 Asian Politics & policy.

Malanczuk, P., Akehurst's modern introduction to international law. 2002. Routledge.

Malcolm, N. Shaw. International Law, 2008. Cambridge University Press, 6th edition.

Marianthi Pappa, 'The impact of judicial delimitation on private rights existing in contested waters: implications for the Somali-Kenyan maritime dispute' (2017) 61 Journal of African law,

Mc Mahon, A. Henry. International boundaries.1935. Journal of the Royal Society of Arts, vol 84.

Merrill's J and De Brabandere, international dispute settlement 2022, Cambridge University Press 2005.

Mitchell Victoria. Maritime boundaries and maritime security. Global Challenges in Maritime Security: An Introduction. Springer Nature Switzerland 2020.

Mohammed, Y.A., Maritime Border Dispute between Kenya and Somalia in the Indian Ocean. 2023. Mersin University Journal of Maritime Faculty.

Mwinyi, M., Okoth, P.G. and Maloba, E.W., The Nature of Lake Victoria Transboundary Disputes and Economic Security Management between Kenya and Uganda. 2022. Open Journal of Political Science, 12(4).

Ndzovu, H., Muslims in Kenyan politics: political involvement, marginalization, and minority status. 2014, Northwestern University Press.

Nyamweno, B., Not Set in Stone: An Assessment of the Impacts of Ethnicity on Statehood and Social Cohesion in Kenya, 1963-2022. International Journal of Research and Innovation in Social Science, 8(2), 2024.

Oda S. The Concept of the Contiguous Zone. International & Comparative Law Quarterly. 1962 Jan;11(1).

Okumu, W., Resources and border disputes in Eastern Africa. 2010, Journal of Eastern African Studies, 4(2).

Onditi, F., Kenya-Somalia Gray Zone Dynamism: Are Response Mechanisms Equipped with Appropriate Doctrine? Peace Research: 2022, The Canadian Journal of Peace and Conflict Studies, 54(2).

Oxman, B.H., The regime of warships under the United Nations Convention on the Law of the Sea. 1983, Va. J. Int'l L., 24.

Powell, E.J. and Mitchell, S.M., The International Court of Justice and the world's three legal systems. (2007) 69 The Journal of Politics.

Rodrigues S, Aglan A, Daho G, Richard Y, Videlin JC. Is War Still an Expression of State Sovereignty? Multidisciplinary Round-Table. In War, State and Sovereignty: Interdisciplinary Challenges and Perspectives for the Social Sciences, Springer Nature Switzerland. 2023.

Schofield, C., Bekker, P. and van de Poll, R., The world court fixes the Somalia-Kenya maritime boundary, 2021, technical considerations and legal consequences. ASIL Insights.

Scott, K.N., Conservation on the high seas: developing the concept of the high seas marine protected areas. 2012, The International Journal of Marine and Coastal Law, 27(4).

Sohn, L.B., Peaceful settlement of disputes and international security. 1987, Negot. J., 3, p.155.

Strating, R. and Wallis, J. Maritime sovereignty and territorialisation: comparing the pacific islands and South China Sea. 2022, Marine Policy.

Tareke, G., The Ethiopia-Somalia war of 1977 revisited. 2000, The International Journal of African Historical Studies, 33(3).

Tipis, J., The Somali conflict and Kenya's foreign policy: 2012, a critical assessment (Doctoral dissertation, University of Nairobi, Kenya.

Waibel, Michael, The Diplomatic Channel (September 9, 2010). The Law of International Responsibility, James Crawford and Alain Pellet, eds., Oxford University Press, 2010.

Walker, G.K. and Noyes, J.E., Definitions for the 1982 Law of the Sea Convention. 2001, Cal. W. Int'l LJ, 32.

Warui, D.N., The East African Community and Dispute Settlement (A Case of Migingo Island) 2013, (Doctoral dissertation, University of Nairobi,).

William Shipley, 'What's yours is mine: conflict of law and conflict of interest regarding indigenous property rights in Latin American investment dispute arbitration' TDM Journal 2014.

Wright, Q., 1930. The General Act for the Pacific Settlement of International Disputes. American Journal of International Law, 24(3).

Wu, X., Case Note: Maritime Delimitation in the Indian Ocean (Somalia v. Kenya), Judgment on Preliminary Objections. 2018, Chinese Journal of International Law, 17(3).

SECONDARY SOURCES

Arif Ahmed, 'International Law of the Lea: An Overlook and Case Study' (2017) 08 Beijing law review.

Bangkok post public company limited, ‘top un court to rule on bitter Kenya-Somalia border spat’ Bangkok post <https://www.bangkokpost.com/world/2196527/top-un-court-to-rule-on-bitter-kenya-somalia-border-spat> accessed 4 January 2024.

Corfu Channel (United Kingdom of Great Britain and Northern Ireland v. Albania)’ <https://www.icj-cij.org/case/1> accessed 6 December 2023.

Ephrem Yared, ‘Ethiopian Somali war over the Ogaden region (1977–1978) •’ (21 march 2016) <https://www.blackpast.org/global-african-history/ethiopian-somali-war-over-ogaden-region-1977-1978/> accessed 15 December 2023.

Fisheries (United Kingdom v. Norway) <https://www.icj-cij.org/case/5> accessed 6 December 2023.

ICJ (2021). “Maritime delimitation in the Indian ocean (Somalia vs. Kenya).” https://www.icj-cij.org/public/files/case-related/161/161- 20211012-JUD-01-00-EN.pdf [Accessed 12 March 2024].

Joınt-communıque-kenya-somalıa-2.pdf’<https://mfa.go.ke/wp-content/uploads/2022/08/joınt-communıque-kenya-somalıa-2.pdf> accessed 17 December 2023.

Law of the sea | international maritime law | Britannica <https://www.britannica.com/topic/law-of-the-sea> accessed 6 December 2023.

Maritime delimitation and territorial questions between Qatar and Bahrain (Qatar v. Bahrain)’ <https://www.icj-cij.org/case/87> accessed 6 December 2023.

Maritime delimitation in the Indian Ocean (Somalia v. Kenya) <https://www.icj-cij.org/case/161> accessed 5 December 2023.

Maritime delimitation in the Indian ocean (Somalia v. Kenya)’ <https://www.icj-cij.org/case/161> accessed 27 December 2023.

Preamble to the United Nations Convention on the Law of the Sea <https://www.un.org/depts/los/convention_agreements/texts/unclos/part15.htm> accessed 6 December 2023.

Remembering the Ogaden war 45 years later: four and a half lessons towards a peaceful future (accord) <https://www.accord.org.za/publication/remembering-the-ogaden-war-45-years-later/> accessed 4 January 2024.

Somali federal constitution final version https://unpos.unmissions.org. [accessed 10 April 2024.]

Somalia and Yemen's cross-border maritime economy | rift valley institute' pp 6 <https://riftvalley.net/publication/somalia-and-yemens-cross-border-maritime-economy> accessed 17 December 2023.

Somalia-Kenya Case, Preliminary Objections (Feb. 2, 2017), https://www.icj-cij.org/en/case/161.

Speeches & statements made at the fist Organization of African Unity (O.A.U) summit <https://au.int/en/speeches/> [accessed 21 May 2024].

Territorial and maritime dispute (Nicaragua v. Colombia)' <https://www.icj-cij.org/case/124> accessed 6 December 2023.

United Nations, 'chapter XIV: the ICJ (articles 92-96)' (United Nations) <https://www.un.org/en/about-us/un-charter/chapter-14> accessed 27 December 2023.

United Nations, 'Chapter XIV: The International Court of Justice (articles 92-96)' (United Nations) <https://www.un.org/en/about-us/un-charter/chapter-14> accessed 6 December 2023.

AMINA THESIS.docx

ORIGINALITY REPORT

19%	16%	13%	%
SIMILARITY INDEX	INTERNET SOURCES	PUBLICATIONS	STUDENT PAPERS

PRIMARY SOURCES

1	discovery.dundee.ac.uk Internet Source	1%
2	9jalegal.com.ng Internet Source	1%
3	dergipark.org.tr Internet Source	1%
4	cdn.upgrad.com Internet Source	1%
5	Md. Monjur Hasan, He Jian, Md. Wahidul Alam, K M Azam Chowdhury. "Protracted maritime boundary disputes and maritime laws", Journal of International Maritime Safety, Environmental Affairs, and Shipping, 2019 Publication	<1%
6	docs.neu.edu.tr Internet Source	<1%
7	rsisinternational.org Internet Source	<1%