



UNIVERSITY OF NAIROBI

INSTITUTE OF DIPLOMACY AND INTERNATIONAL STUDIES

**CHALLENGES OF SUSTAINABLE MARITIME SECURITY IN AFRICA: A
CASE OF THE TANZANIA-MALAWI DISPUTE**

BONUS C NOMBO

REG. No. R50/35348/2019

**Research project submitted in Partial Fulfillment for the award of Master of Arts
Degree in International Studies at the Institute of Diplomacy and International
Studies
University of Nairobi**

NOVEMBER 2020

DECLARATION

This research project is my original work and has not been submitted for any award in any other University or any Institution of higher learning.

Signature..... Date.....

Bonus C. Nombo

REG. No. R50/35348/2019

This research project has been submitted with my approval as University Supervisor

Signature..... Date.....

Dr. Patrick Maluki

Institute of Diplomacy and International Studies

University of Nairobi

DEDICATION

This work has been dedicated to my beloved wife Coronatha M. and my four children Beatrice, Boniface, Bertha and Brice for enduring my long absence during my study period at NDC Kenya.

ACKNOWLEDGEMENT

The accomplishment of this is a result of a convergence views and ideas from various reputable sources. During the time when I was researching and writing this research paper I had considerable assistance from many people especially Lecturers from the Institute of Diplomacy and International Studies (IDIS), University of Nairobi. Greatly I thank Gen V. S. MABEYO (CDF) Tanzania Peoples' Defence Forces for giving me permission and sponsoring my study in NDC Karen-Kenya. I hereby present my thanks to all of them for their support. My deep appreciation goes to my supervisor Dr. Patrick Maluki, for his guidance in preparation and completion of this work. My special thanks to my family, my mum, my sisters and brothers. Finally, I wish to thank the Almighty for giving me the grace and patience to accomplish this task.

ABSTRACT

Challenges of sustainable maritime security in Africa: a case of the Tanzania-Malawi dispute is the research project trying to find solution on the border dispute between “Tanzania and Malawi” on Lake Nyasa. This project has three objectives which are; firstly to investigate the causes of the Tanzania-Malawi border dispute, secondly to examine the maritime security challenges arising from Tanzania-Malawi Border Dispute and thirdly to analyze the efforts towards solving Tanzania-Malawi border dispute. This Research has become useful on identifying how the international border disputes can arise and helps in providing the best step/mechanism for settlement of the international border dispute. The study took various approaches in data collection. The study explored challenges of sustainable maritime security in Africa by utilizing Tanzania-Malawi maritime boarder dispute as a case study. This research has been underpinned by Territorial Theory, which is attributed to upholding territorial integrity of a sovereignty country. The Malawi-Tanzania border dispute re-emerged in 2012 when the Malawi government awarded an exploration license to a “British firm Surestream Petroleum”, to search for oil and gas in Lake Malawi/Nyasa. Since the award of the licence, tensions between the two neighboring states have escalated. However, the causes of the Malawi-Tanzania border dispute can be traced back to the “Heligoland Treaty”, the inconsistent evidence regarding the border and the role of oil and natural gas potential in the dispute escalation. The study established that several initiatives and approaches have been enrolled both by the government and other non-governmental actors, to solve the dispute before its escalation to a full blown inter-state conflict. While mediation had borne positive results, other strategies had also facilitated the solving of the dispute which included arbitration, regional offices and diplomacy. The combination of these factors has ensured the containment of the escalation of the dispute. Therefore in-order to resolve the conflict the two states should adopt an ad hoc joint committee mandated with fast-tracking the sustainable utilization and development of Lake Nyasa basin.

TABLE OF CONTENTS

DECLARATION	i
DEDICATION	ii
ACKNOWLEDGEMENT	iii
ABSTRACT	iv
LIST OF TABLES AND FIGURES	vii
ACRONYMS AND ABBREVIATIONS	viii
CHAPTER ONE	1
1.0 Introduction and Background	1
1.1 Statement of the Problem	4
1.2 Research Questions	5
1.3 Research Objectives	5
1.4 Literature Review	6
1.5 Empirical Literature Review	8
1.6 Theoretical Framework	11
1.7 Justification of the Study	13
1.7.1 Academic Justification	13
1.7.2 Policy Justification	13
1.8 Study Hypotheses	13
1.9 Methodology	13
1.9.2 Research Techniques and Data Collection Methods	14
1.9.3 Data Collection	14
1.9.4 Population and Sample Size	14
1.9.5 Sampling Procedure	15
1.9.6 Data analysis and Presentation	15
1.9.7 Ethical Consideration	16
CHAPTER TWO	19
CAUSES OF THE TANZANIA-MALAWI BORDER DISPUTE	19
2.0 Introduction	19
2.1 Response Rate	19
2.2 Demographic Characteristics	20
2.3 The Area of the Dispute	22
2.4 Causes of the Dispute	26
2.5 The Anglo-German Agreement (Heligoland-Zanzibar Treaty) of 1890: The Origin of Controversy	28
2.6 Competition over Natural Resources	30
2.7 Inconsistent Evidence Regarding the Border	32
CHAPTER THREE	34
MARITIME SECURITY CHALLENGES ARISING FROM TANZANIA -MALAWI BORDER DISPUTE	34
3.0 Introduction	34
3.1 Empirical Data	34
3.2 Overfishing	36
3.3 Illegal/improper Use of Gear	37

3.4	Sedimentation	38
3.5	Invasive Species.....	40
3.6	Climate Change	41
	CHAPTER FOUR	44
	EFFORTS TOWARDS SOLVING THE TANZANIA-MALAWI BORDER DISPUTE	
	44
4.1	Introduction.....	44
4.2	Tanganyika Legislative Council in the Post–Independence Period, 1961–1967	45
4.3	Southern African Development Community	47
4.4	The African Union Border Programme (AUBP).....	49
4.5	President Bingu’s Attempt to Resolve the Case.....	49
4.6	International Law and Lake Delimitation.....	50
4.7	Effective Control	51
4.8	Africa Forum Fact Finding Mission in Malawi	51
4.9	Exchange of Position Documents in Windhoek, Namibia	52
4.10	Africa Forum Fact Finding Mission in Tanzania	53
4.11	Submission of Responses to the Position Papers.....	53
	4.12 Africa Forum’s Reaction to the Formal Positions: The Resource Sharing	
	Proposal	54
4.13	Chapter Summary	56
	CHAPTER FIVE	58
	SUMMARY, CONCLUSIONS AND RECOMMENDATIONS	58
5.1	Introduction.....	58
5.2	Discussion of the Findings.....	58
5.3	Conclusion	60
5.4	Recommendations.....	61
	REFERENCES	63
	APPENDICES	68

LIST OF TABLES AND FIGURES

Table 2.1 Response Rate.....	19
Figure 2.2: Age Distribution.....	20
Figure 2.3: Occupation of the Respondents.....	21
Figure 2.6 Causes of the Tanzania-Malawi dispute.....	29
Figure 2.7: Role of Natural Resources in Escalation of inter-state boundary Dispute .	30
Figure 3.1: Aspects which Cause Dispute.....	34
Figure 4.1: Efforts of Addressing Tanzania-Malawi Border Dispute	43
Figure 4.2 Alternative efforts for solving Malawi-Tanzania Border Dispute	51

ACRONYMS AND ABBREVIATIONS

ADM	-	African Maritime Domain
AIMS	-	Africa's Integrated Maritime Strategy
AU	-	African Union
AUBP	-	The African Union Border Programme
CDF	-	Chief of Defence Forces
CLCS	-	Commission on the Limits of the Continental Shelf
CPUE	-	Catch Per Unit Effect
DRC	-	Democratic Republic of Congo
ECS	-	Extended Continental Shelves
EEZ	-	Exclusive Economic Zone
ETOA	-	Environmental Threats and Opportunity Assessment
ICJ	-	International Court of Justice
ITLOS	-	International Tribunal for the Laws of the Sea
JBC	-	Joint Border Committee
LOS	-	Law of the Sea
NDC	-	National Defence College
OAU	-	Organization of African Union
PCIJ	-	Permanent Court of International Justice
SADC	-	Southern Africa Development Community

UK - United Kingdom

UN - United Nations

UNCLOS - United Nations Convention on the Law of the Sea

WWI - World War One

CHAPTER ONE

1.0 Introduction and Background

The boundaries of a state are determined by lines which differentiate them from other states. The state boundaries are thereby demarcated according to international laws and the process is termed as delimitation. The delimitation is done through use of markers and fence lines. However such demarcation is hardly possible at sea and at ocean. At the sea the demarcation is done through use of buoys which can be removed or damaged. The limitation to their use is related to the high number required to use them. Delineation is thus; “done by means of a set of coordinates that determines the territorial extent of a state”.¹

Post-independent African states have faced a variety challenges and constraints in the process of consolidating their territorial integrity and sovereignty. Upon independence state members of the defunct (OAU) unanimously consented they would retain boundaries that they administered.² The agreement to retain colonial boundaries collapsed many state’s boundaries. Due to the existence of other over-lapping state interest, maritime border disputes were neglected particularly maritime boundaries which remained non-issues of inter-state concern until recently when have re-emerged as issues of international concern.³ Land boundaries were pushed to the periphery until recently, while maritime boundaries remained unchallenged “a phenomenon often referred to as ‘sea blindness’”. For a long time maritime boundary disputes have continued unchecked

¹AUBP.(2013). *Delimitation and demarcation of boundaries in Africa: general issues and case studies*. Available at,<http://www.peaceau.org/en/page/27-au-border-programme-aubp> (accessed 8 August 2019).

²Ikome, F. (2012). *Africa’s international borders as potential sources of conflict and future threats to peace and security*. Pretoria, South Africa: ISS

³The Brenthurst Foundation. (2010). *Maritime development in Africa: an independent specialists’ framework*. Johannesburg, South Africa: Sheaf Publishing

and dormant but have recently bounced back due to the recent ever-growing interest in resources. Currently, there exists a bitter border feud between Côte d'Ivoire and Ghana while in East Africa Kenya and Somalia are engaged in unending maritime dispute which has been referred to ICJ.

Majority of states in Africa have “a small navy or a coast guard” capable of maritime deterrence in their respective territories.⁴ If neglected and left unchecked, maritime disputes could escalate to serious inter-state conflicts which potentially can hamper international cooperation aimed at constructing effective regional maritime security arrangements for instance; “exclusive economic zones and joint anti-crime policies”. Maritime disputes have continued to jeopardize creation of African Blue Economy which forms part of “2050 AIMS”. The maritime disagreement between “Ghana and Cote d'Ivoire” is partly blamed for facilitating inter-state conflicts in West Africa.⁵

The East of Africa is confronted by two un-ending inter-state maritime disputes which feature Kenya and Somalia over Indian Ocean maritime boundaries as well as another one which features Kenya and Uganda over the Lake Victoria waters.⁶ There has been a growing discontentment over maritime boundary between Tanzania and Malawi.⁷ However, “Even though the Lake Victoria and Lake Malawi disputes concerns international boundaries, there is the added challenge of the (UNCLOS) not being

⁴Vogel,A. (2009). *Navies versus coast guards: defining the roles of African maritime security forces*. Washington, DC: Africa Centre for Strategic Studies

⁵ Bledé, B &,Diouf, A. (2015). *Gulf of Guinea: who will win the oil battle?* Available at, <https://www.issafrica.org/iss-today/gulf-of-guinea-who-will-win-the-oil-battle>

⁶Wekesa, PW. (2010). Old issues and new challenges: the Migingo Island controversy and the Kenya-Uganda borderland. *Journal of Eastern African Studies*, 4(2),331–340.

⁷SAIIA. (2013).*Malawi vs Tanzania vs SADC: Regional dispute resolution bites the dust*. Johannesburg, South Africa: SIIA

applicable to lakes. This lacuna requires urgent consideration, given the definition of the (AMD) located in 2050 AIMS”.

Similarly, in mid-2012, there were media reports on disputes where Malawi and Tanzania participated in the border position between them in the Lake Malawi. Tensions came to light after Malawi commissioned the exploration of oil and gas in what is known as "Lake Malawi" to Malawians and "Lake Nyasa" to Tanzanians. The republic of Tanzania urged Malawi to suspend the projects initiated pending deliberations about where to locate the border. While Malawi claims the entire body of water, Tanzania demands the boundary line should have water in the “middle of the northern part of the lake”.

Since independence, the two states have been in a protracted border dispute over the ownership and resource exploitation of Lake Nyasa. Escalation of the dispute recurred in mid-2012 upon Malawi awarding an exploration licence to a UK-based exploration company- Sure Stream Petroleum to search natural resources in the northern zone. This conflict poses a security threat and disrupts peaceful co-existence of the two countries. Additionally, the border row (dispute) creates un-conducive instability which hinders development, while at the same time preventing policy interventions capable of ushering sustainable development in the region in general.

Essentially, the study examines the causes of the Tanzania-Malawi border dispute, analyzes the efforts towards solving Tanzania-Malawi border dispute and documents the challenges to maritime security as posed by the Tanzania-Malawi border dispute as well as providing policy recommendations to solve the Tanzania-Malawi border dispute. It is upon this background, that the researcher is compelled to establish the challenges of

sustainable maritime security in Africa focusing on the boundary disagreement between the two states.

1.1 Statement of the Problem

States in African continent experience maritime security challenges emanating from transnational border disputes that have posed significant socio-economic, safety and security challenges to the regional countries and also to global peace and security despite massive effort by international organizations to solve these problems.

Territorial disputes challenging boundary demarcation are among the most basic sources of inter-state conflicts in Africa. They lead to incessant conflicts, loss of life, destruction of property, displacement of people, problems with refugees, proliferation of SALW, organized criminal activities and other regional security challenges. Even when there are no armed conflicts, the negative peace of permanent disputes is very different from the positive peace between states that have no controversy. Border disputes are very common in contemporary times, due to population pressure and decline of natural resources.

The boundary disagreement between the two countries is linked to the arbitrary delimitation of the border along Lake Malawi, which was established by “the Anglo-Germany Treaty of July 1, 1890”.

“To the south along the line that begins on the coast of the northern border of the province of Mozambique and follows the course from the river Ruvuma to the point in to which the Messinge flows into Ruvuma from here, the line runs westward to the shore of Lake Nyasa .Turning north, it continues along the east, north and west coasts of the lake

until it reaches the north bank of the mouth of the disputes on the border of Songwe River”.⁸

Border disputes trigger a great conflict in society which in turn becomes a security challenge. The resolution of border disputes between Malawi and Tanzania has long traced two different and divergent political priorities between the two countries. In view of this situation, there is a fear that this trend of events if not properly managed represents a threat to development of the two nations and can frustrate economic progress and security between the two countries and the region at large.

Studies to date have not been established to document the challenges to maritime security as posed by the Tanzania-Malawi border dispute in regard to security for both the two countries and the region. Therefore, this study will be the most appropriate for this scenario.

1.2 Research Questions

- i. What are the causes of the Tanzania-Malawi border dispute?
- i. What are the maritime security challenges arising from Tanzania - Malawi border dispute?
- ii. What are the efforts towards solving the Tanzania-Malawi border dispute?

1.3 Research Objectives

- i. To investigate the causes of the Tanzania-Malawi border dispute
- ii. To examine the maritime security challenges arising from Tanzania - Malawi border dispute

⁸Mi Yung, Y. (2014). Colonialism and Border Disputes in Africa: The Case of the Malawi-Tanzania Dispute over Lake Malawi/Nyasa. *The Journal of Territorial and Maritime Studies*, 1(1), 75-89.

- iii. To analyze the efforts towards solving Tanzania-Malawi border dispute

1.4 Literature Review

1.4.1 Theoretical Literature Review

This study has utilized three theoretical paradigms which have helped in comprehending the nexus between territory and eruption of conflicts particularly violent conflict. These paradigms relate to “proximity, interactions, and territorial issues”.

1.4.1.1 Proximity Approach

According to the proximity approach, “the relationship between contiguity and war is due to the proximity between adversaries”.⁹ Physical distance deters states from engaging in wars with each other. In this regard “distance states are likely to have little interaction and therefore, have no stakes over which to fight”.¹⁰ For technologically under-developed societies, “war, like violent crime, is usually a function of physical proximity. In other words states that are close to each other and share common boundary, have a greater ability to fight each other because of their closeness and nearness”.¹¹

In effect, proximity may produce an opportunity for neighboring states to start a war and fight endlessly, though it does not provide motivation for the action. Mandel (1980) opined that; “the frequency of border disputes is highest between two state rather than three-state "mutually-contiguous", states that usually have the most frequent occasions and perhaps the strongest reasons for fighting territorially adjacent states”.¹²

⁹Ben-Yahuda, H. (2004). Territoriality and War in International Crisis: Theory and Finding 1918-2001. *International Studies Review*, 2(6), 86-84

¹⁰Ibid

¹¹ Dougherty, J., & Pfaltzgraff, R. (2004). *Contending Theories of International Relations: A Comprehensive Survey*. New York: Longman publisher

¹² Ibid, p. 268

1.4.1.2 Interaction Approach

This theoretical paradigm presumes that sharing of international boundaries brings states together in a common agenda through interaction and cooperation while unclear boundaries threatens peace and stability.¹³ Zartman asserted this point candidly, when he opined that; “states having a common boundary shared at the least a minimum degree of bond and cannot as it is known, boundaries are important and significant, they defined a state territorially and conferred on states the status of sovereignty, but their closeness and relational nature at the same time becomes an infringement upon the statute of sovereignty”.¹⁴ In this regard, an international boundary can cause violence and dispute between countries.¹⁵ “Contiguous states fight not only because they are close and able to do so, but also because their location creates an increase in interactions between them, thereby raising the probability that their national interests will be in conflict and leads to crisis or eruption of an inter-state war. This input serves us well since it explains why in some instances the location of states creates a struggle over topics that are regarded by all sides as worth the confrontation. However, a higher volume of interaction may lead to war or, by contrast, to peace. Claim to be able to totally ignore each other. But the fact remains that the inability of national and state borders to synchronize have caused much of the sufferings in the modern state system”.

1.4.1.3 Territoriality Approach

This approach dwells on territory as the most important issue splitting conflict between different states. “what makes for war is that; territory once seen as legitimately owned

¹³Zartman, W. (2002). *Preventive Diplomacy: Setting the Stage*. New York: Sage Publication

¹⁴Opcit, p.87

¹⁵John, V., &Marie,H. (2001). Territorial Disputes and the Probability of War 1816-1992. *Journal of Peace Research*, 38(2), 123-140

will be defended by the use of violence where other issues are less likely to be”.¹⁶ Consequently, “preliminary empirical analysis consistently shows that territorial issues that give rise to militarized disputes are more likely to escalate into war than would be expected by chance”.¹⁷ Sovereign states and governments have continued to challenge territoriality, often violently; for instance in the case of Ethiopia and Eritrea.

Contrastingly, “territoriality seems to be in a decline trajectory particularly in the era when territory seems to be in as declining importance, specific territorial attachments can be mobilized in politics and in ways that reinforces conflict”.¹⁸ Hence territoriality defined as; “territorial states clearly influences conflicts, while it could again be said that territorial attachment in turn is a major determinant of the stakes that actors’ particularly, political elites discern in territory”.

1.5 Empirical Literature Review

In African coastal strip (region) natural resources constitute the largest source of border disputes and conflict. The issues of maritime security have become a national concern for majority of states in Africa. The water resources such as seas and lakes have become a valuable asset due the suspected natural resources such as “oil and gas”. Therefore, “the existence of overlapping claims may inadvertently lead to disputes, e.g., if fishermen from one side are arrested by the coastguard of the other side or if traces of oil are discovered in an area of overlapping claims”¹⁹

¹⁶Ben-Yahuda, H. (2004). Territoriality and War in International Crisis: Theory and Finding 1918-2001. *International Studies Review*, 2(6), 86-84

¹⁷John, V., &Marie,H. (2001). Territorial Disputes and the Probability of War 1816-1992. *Journal of Peace Research*, 38(2), 123-140

¹⁸Miles,K. (2004). *Territoriality and Conflict in an Era of Globalisation in Miles Kahler and Barbara Walter (eds), Territoriality and Conflict in an Era of Globalisation*. San Diego: University of California Press.

¹⁹Anderson, D. (2006). *Negotiating Maritime Boundary Agreement: A Personal View. In M. Delimitation (Ed.), Maritime Delimitation (pp. 129-150)*. Dordrecht: MartinusNijhoff Publishers.

John D. Hargreaves²⁰ in his book viewed that in “the boundary conflict there is ample scope for disagreement about the history of the Lake boundary during the colonial period, the original agreement between Britain and Germany does not appear to be in doubt”. “The fundamental document is the Heligoland Agreement of 1 July 1890 which defined spheres of interest in East Africa: Article 1(2) described the German sphere to the south as bounded by the northern limit of Mozambique to the point where that limit touched Lake Nyasa, hence striking northward it follows the Eastern, Northern and Western shores of the Lake to the Northern bank of the mouth of the River songwe”.

Lack of prioritization among African countries on matters related to maritime boundary delimitation is the reason behind the continents poor response on border issues and the slow response to disputes arising from boundaries.²¹The issues of boundary in Africa have led to inter-state conflict most which have remained unsolved to date.²²

The administration of water resources both locally and internationally has brought countries together for collaborative efforts aimed at increasing cooperation for mutual utilization of maritime resources. Majority of the disputes around maritime boundaries occasion due to boundary claims connected with the issues of sovereignty.²³

A report by Majinge asserts that maritime resource disputes have become a sad reality in African continent.²⁴ The report alluded to an increase in disagreement between countries in Africa due to boundary issues next couple of years. According to the report

²⁰ James, D. (1988). *The Berlin Conference, West African boundaries, and the eventual partition*, in S. Forster, W.J. Mommsen and R. Robinson (eds.), *Bismarck, Europe and Africa: The Berlin Africa Conference 1884-1885 and the Onset of Partition*. Oxford: Oxford University Press

²¹Sousa, I. (2014). *Maritime Territorial Delimitation and Maritime Security in the Atlantic*. A Paper Presented at the Atlantic Future Workshop. Pretoria: University of Pretoria.

²²Charney, I., & Alexander, M. (2005). *International Maritime Boundaries*. Dordrecht: MartinusNijhoff Publishers.

²³Ibid

²⁴Majinge, C. (2012). Emergence of New States in Africa and Territorial Dispute Resolution: The Role of the International Court of Justice. *Melbourne Journal of International Law*, 13(2), 8-38.

UNCLOS status of (EEZ) and its (ECS), were not using classified military information. Among the 100 maritime boundary disputes provided, very few cases have been resolved, others have not. Some cases from countries such as “Kenya and Somalia” as well as “Ghana and Ivory Coast” have been referred to the ICJ.

In African continent there has been a rise in the number of border issues resolutions than ever before.²⁵ “Tensions abound in the north, south, east and west.”²⁶ Recent West African boundaries and border disputes include: land and maritime disputes between the Cameroon and Nigeria; Ghana and Cote d’Ivoire”²⁷ there exists a number of territorial disputes over land which exists between Gabon and Equatorial Guinea over a territory named Mbanie.²⁸

Other countries which have engaged in unresolved conflict include the “DRC and Angola”, “Namibia and South Africa conflicting over the Orange River” as well as “Botswana and that of Namibia over the Okavango River”.²⁹ The “Okavango Delta in Botswana” is an area renowned globally for its bird’s species and game animals which form a valuable tourist attraction which streams in a lot of revenue. There are other unresolved boundaries disputes in Africa which continue to sour inter-state relations.

Boundary disputes are quite too often in North Africa, for instance; the “Moroccan” claims over “Spanish territories of Ceuta and Melilla”. The Moroccan government has requested from the republic of Spain the sovereignty to administer

²⁵Roelf, W. (2014).Spike Seen in African Offshore Disputes, Oil Companies Watching. UK: Reuters.

²⁶Oduntan, G. (2015). *International Law and Boundary Disputes in Africa*. London: Routledge

²⁷Ghana v. Cote d’Ivoire (2014).*Case No. 23, ITLOS. Dispute Concerning Delimitation of the Maritime Boundary between Ghana and Cote d’Ivoire in the Atlantic Ocean*. Accra: Ghana

²⁸Okonkwo,T. (2017). Maritime Boundaries Delimitation and Dispute Resolution in Africa.*Beijing Law Review*, 8(1),55-78

²⁹Ibid, p. 2

“Ceuta and Melilla” as well as “Perejil Island”. These territories are not recognized by the “United Nations list of Non-self-Governing Territories”.³⁰

In East Africa, there exist a number of conflicts which include disputes over the Ilemi Triangle between “south Sudan” and “Kenya”. The disputed triangle is rumored to be rich in oil and pasture for livestock. Currently, Kenya controls the area. There is a long-running dispute over the “Migingo Island” between “Kenya and Uganda” which escalates and deescalates often. Astonishingly, recently Ugandan Government accepted to hand over the island to the Kenyan government though, there are cases of accusation of illegal fishing by Kenyan fishermen on the Ugandan side.³¹

1.6 Theoretical Framework

This research has been underpinned by the Territorial Theory. Territory is a concept used collaboratively with sovereignty to indicate the ability of the state which is taken as the primary actor in international relations to defend its land and the ability to make individual decision without coercion or intimidation. In essence, territory is always an aspect of sovereignty. Shaw asserted that; “the state relies upon the foundation of sovereignty which expresses internally the supremacy of the governmental institutions and externally the supremacy of the state as a legal person. But sovereignty itself, with its retinue of legal right and duties is founded upon the fact of territory.” Therefore, individuals are recognized by territories (a primary actor recognized in international relations). Additionally, globally states are recognized, understood and accepted by it.³²

Contrastingly, “territoriality in itself is defined as the most salient bone of contention in an international crisis and as a characteristic of the setting for the

³¹Frank, K. (2015). Ripeness and the 2008 Djibouti-Eritrea Border Dispute. *Northeast African States*, 15(1), 113-138.

³²Malcom,S. (1997). *International Law*, 4th Ed. New York: Cambridge University Press. p. 331

adversaries involved in the case. The first section of this definition assesses the effect of territoriality as an issue over which states rest with during a crisis, whereas the second views territorial location as a contextual element that affects the confrontation between states”.³³

Disputes arising from a territory entails disagreement between one state and another pertaining a colonial demarcation and common homeland. In essence, when countries compete against each other over exercising their sovereignty over a certain territory emergency of inter-state territorial dispute emerges.³⁴ Therefore, boundary disagreement between states exists under; “At least one state-government does not accept the exactness of where the boundary line of its border with another country is presently located, whereas the neighboring state-government takes the position that the existing boundary line is the legal border between the two countries based on a previously signed binding treaty or agreement and one state annexes and occupies the national territory of another and declines to relinquish authority over the territory despite demands and calls by that contesting state to withdraw”.³⁵

In this case, Tanzania and Malawi have disagreed on their border in Lake Malawi/Nyasa since the Tanzanian government, in 1967, formally questioned the border.³⁶ According to Malawi, the Tanzanian shore of the lake is the border. According to Tanzania, however, the median line of the lake, not the shore, forms the border. While Malawi refers its ownership on the 1890 Anglo-German (Treaty) Agreement, Tanzania

³³Hemda, B. (2004). Territoriality and War in International Crisis: Theory and Finding 1918-2001. *International Studies Review*, 6(1), 86-90

³⁴Paul,H. (1998). *Standing Your Ground: Territorial Disputes and International Conflict*. Ann Arbor: University of Michigan Press.

³⁵ Ibid, p. 23

³⁶Alan, D. (1987). *Border and territorial disputes* (2nd ed.). United Kingdom: Longman Publisher

relates its claim to the customary state practice of using the median line of a mass of water as the border, and the historical evidence it possesses.³⁷

1.7 Justification of the Study

1.7.1 Academic Justification

The findings of the Research are useful input to Diplomats, Academicians and International Lawyers.

1.7.2 Policy Justification

This Research has become useful on identifying how the international border disputes can arise and helps in providing the best step/mechanism for settlement of the international border dispute. The Research also is a great help in the historical analysis and settlement of Tanzania-Malawi border disputes.

1.8 Study Hypotheses

- i. The border disagreements between Tanzania and Malawi are as a result of the Oil-prospecting projects.
- ii. The Tanzania-Malawi border dispute has caused maritime insecurity
- iii. Weak African institutions is the major reason to failing to solve Tanzania-Malawi border dispute

1.9 Methodology

This section presents the “research design, study site, data collection procedures, target population, sample size determination, validity and reliability of research instruments, sampling procedures, scope of the study, limitation of the study, data analysis as well as ethical considerations”.

³⁷Interview with a Member of Parliament, Dodoma, Tanzania, June 3, 2013.

1.9.1 Research Design

Descriptive research design was adopted to comprehend the various dimensions on the border disagreements between Tanzania and Malawi. The study took various approaches in data collection. The said approaches were those deemed consistent with this kind of study and stand to be subjected to test of criticism among stakeholders. The study explored challenges of sustainable maritime security in Africa by utilizing Tanzania-Malawi maritime boarder dispute as a case study.

1.9.2 Research Techniques and Data Collection Methods

In collecting primary data the researcher utilized questionnaires and interviews. The data collection instruments (questionnaire and the interview guide) comprised of section A and B respectively. Part A. presents background information of the participants while B to D collected information related to each of the study objectives.

1.9.3 Data Collection

Both qualitative and quantitative data was utilized in this study. Primary data was collected which involved going into the field to collect the necessary data from the respondents. Primary data was obtained through questionnaires that were administered to the target population. Further, secondary data was extracted from books, related documents, journals, articles, magazines, daily and weekly newspapers. The multi-method approach, maximized the range of information available for the study, improve the trustworthiness of the data and enable triangulation of results.

1.9.4 Population and Sample Size

The area had a population of approximately 10,000. The population from which a representative sample was drawn would be that of ordinary people at the Malawi-Tanzania border. A sample of three hundred and fifty respondents, which was a subset of

the population having the properties that make it representative of the population, was purposefully selected. Most of the respondents (27.71%) were between ages 40-49 followed by the age group 30-39 which constituted 22.9% of respondents. Those within age group 10-19 were the least of the respondents. More respondents constituting 272 people were males whilst only 78 were females. This enabled gathering of in-depth information from the sample size.

1.9.5 Sampling Procedure

Interviewing particularly ordinary people living around the boarder of Malawi-Tanzania was a purposeful sampling which involved selecting individuals who have stayed in the area for at least a period of three years. This procedure dominates sampling strategies in qualitative research. The majority of people in the area were engaged in small scale agriculture including fishing. The sampling procedure targeted people who have lived at the Malawi-Tanzania border for quite some time, thus those who have been there from three years and above. The motive behind this reasoning was that the effect of border disputes was a complex issue, which cannot be measured within a short period of time. Purposeful sampling “uses the maximum variation technique described by Patton as the method that involves purposefully picking a wide range of variation on dimensions of interest”.³⁸

1.9.6 Data analysis and Presentation

Data recorded from questionnaires were collated using MS Excel and analyzed using the (SPSS) to derive patterns through descriptive statistics. The analysis was done according to the objectives and variables of the study. Bar graphs were used to represent percentage data and the essential feature being that the size of the bar was proportional to the size of

³⁸ Patton, M. (1990). *Qualitative evaluation and Research Methods (2nded.)*. Washington, DC: Sage Publications, Inc.

the variable. Pie charts were much better for depicting multiple replies on many sources, when the intent was to reveal the proportion of each relative to the whole. All primary qualitative data undergone a content analysis. Qualitative data analysis according to Bogdan and Biklenentails involves “working with data, organizing it, breaking it into manageable units, synthesizing it, searching for patterns, discovering what was important and what could learned and deciding what to put in the report”. Data were interpreted and presented using frequency charts, tables and graphs.

1.9.7 Ethical Consideration

Every document consulted and cited was acknowledged. The confidentiality and anonymity of all respondents were guaranteed as none of the respondents filled their names. The contents of the filled questionnaires were never being discussed with anyone to ensure confidentiality. No respondent participated in the research process without informed consent. This should include obtaining a research permit from NACOST

1.9.8 Scope of the Study

The scope of the study refers to the sphere or degree of coverage of a research. This study was undertaken among the communities living along Tanzanian –Malawi border for at least three years. The main focus seeks to determine the challenges of sustainable maritime security in Africa, utilizing a case study Tanzanian-Malawi dispute. The target population included; fishermen, local administrators, humanitarian groups/organizations, religious leaders as well as NGO’s. The primary data was collected from Tukuyu town which is a small hillside town that lies 58 kilometers South of the city of Mbeya in the Rungwe district.

1.9.9 Limitations of the Study

Limitations allude to any issues that may altogether influence the study and which a scientist has no control over. Given the current global circumstances where movement of people across international boundaries have been suspended due to the current global Pandemic of Covid-19. The collection of data for the study was hampered as a result. Some participants were reluctant to participate or even choose to give false information due to the perceptions that they are protecting their nationalist ideals. These constituted some of the anticipated shortcomings which might have hampered realization of reliable research findings. However, the research was determined to delimit these impediments.

1.9.10 Delimitations of the Study

Delimitations are particular attributes which a study means to concentrate on and which constrain the degree and characterize the limits of a study. The researcher intended to employ technology in administration of questionnaires among the targeted communities living along Tanzanian- Malawi border. This entails using social interaction sites and media such as Whatsapp, Skype and teleconferencing. The researcher intended to offer prior information that, such data will be utilized for policy and academic pursuits only. This guaranteed respondents confidentiality and anonymity.

1.11 Chapter Outline

The study is organized into five chapters. Chapter One outlined an introduction to the study by explaining “the background of the study, statement of the problem, justification, theoretical framework, literature review, objectives of the study, research questions, hypotheses and methodology of the study”. Chapter Two discussed causes of the Tanzania-Malawi border dispute. Chapter three examined the challenges to maritime security as posed by the Tanzania-Malawi border dispute. Chapter Four presented an

analysis of the efforts towards solving Tanzania-Malawi border dispute while Chapter five provides “summary, conclusion and recommendations of the study”.

CHAPTER TWO

CAUSES OF THE TANZANIA-MALAWI BORDER DISPUTE

2.0 Introduction

The chapter provides; “a brief overview of the demographic characteristics of the study participants and findings, that were presented to the respondents”.

A brief highlight of the causes of the disagreement between the two countries is presented. The causes include the Heligoland Treaty, the inconsistent evidence regarding the border and the role of oil and natural gas potential in the dispute. The dispute re-emerged in 2012 when the “Malawi government” conferred an exploration license to a “British firm Surestream Petroleum” to search for “oil and gas” in Lake Malawi/Nyasa. Since the award of the license, tensions between the two neighboring states have escalated.

2.1 Response Rate

The sample of the study was 350 individuals from both countries. Out of these, 70% equivalent to 245 participated in the study and filled the questionnaires while 30% equivalent to 105 were interviewed. From these, 200 questionnaires were effectively filled and returned. Hence the response rate was 87.1% which was considered adequate.

Table 2.1 Response Rate

Questionnaires Issued	Questionnaires returned	Response Rate
245	200	87.1%

Source: Field Data, 2018

2.2 Demographic Characteristics

2.2.1 Gender of Respondents

Most of the respondents (70%) were male while females were (30%). Although male were significantly more, all sexes were well represented in the study since neither had more than two thirds representation. These findings are presented in Figure 2.1 below.

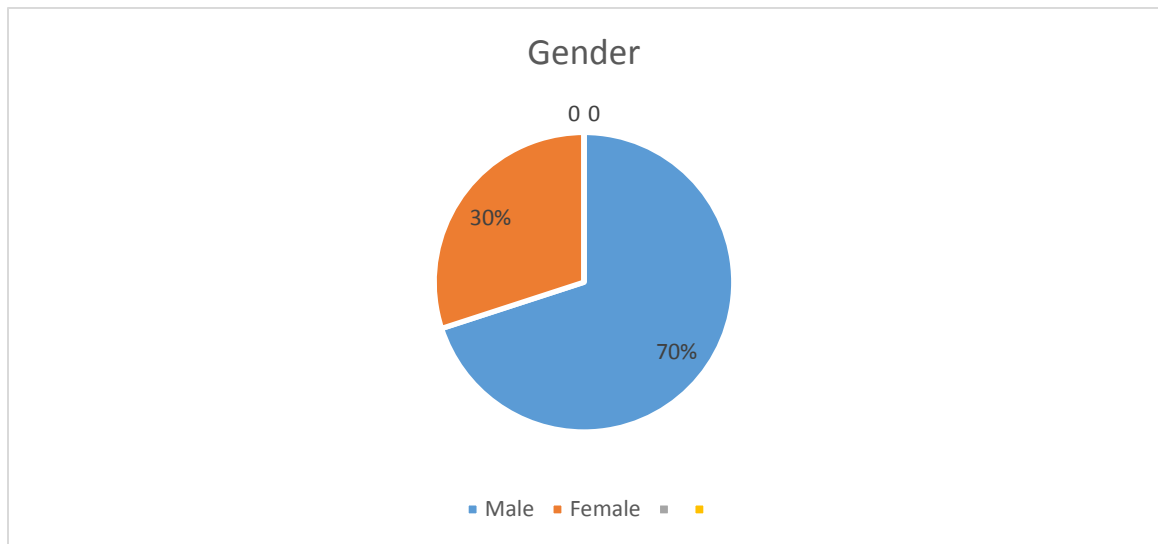


Figure 2.1: Genders of the Respondents

Source: Field Data, 2020

2.2.2 Age of Respondents

More than half of the respondents, were aged 36-50 years. The rest of the participants were aged 65 years and above. It is evident that the respondents were drawn from

various age groups as presented in Figure 2.2. As such, a wide range of responses were anticipated. This could prevent age based biases and avail extensive information.

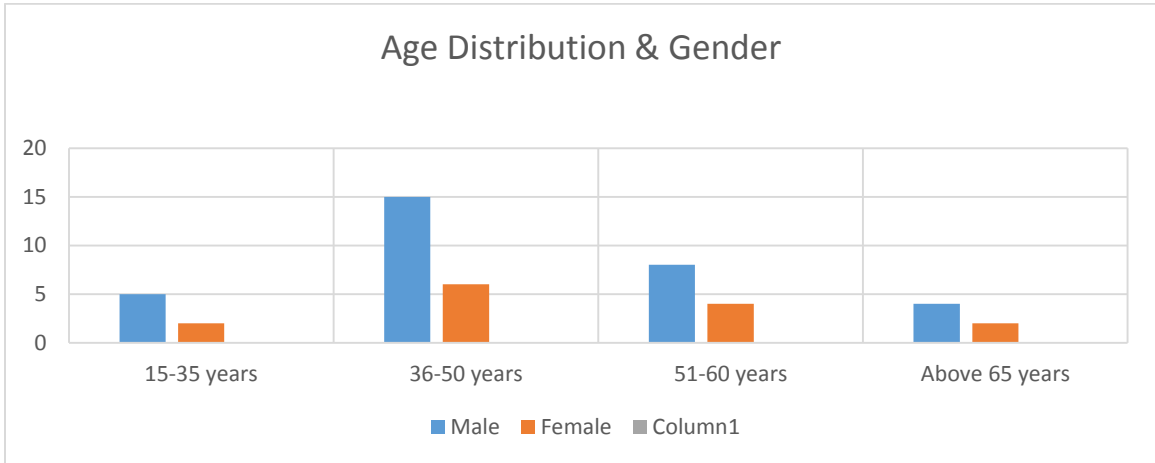


Figure 2.2: Age Distribution

Source: Field Data, 2020

2.2.3 Occupation of the Respondents

The participants were asked to indicate their designation. According to the findings the respondents were entrepreneurs, security officials, local administrators, fishermen and surveyors who all participated in provision of data.

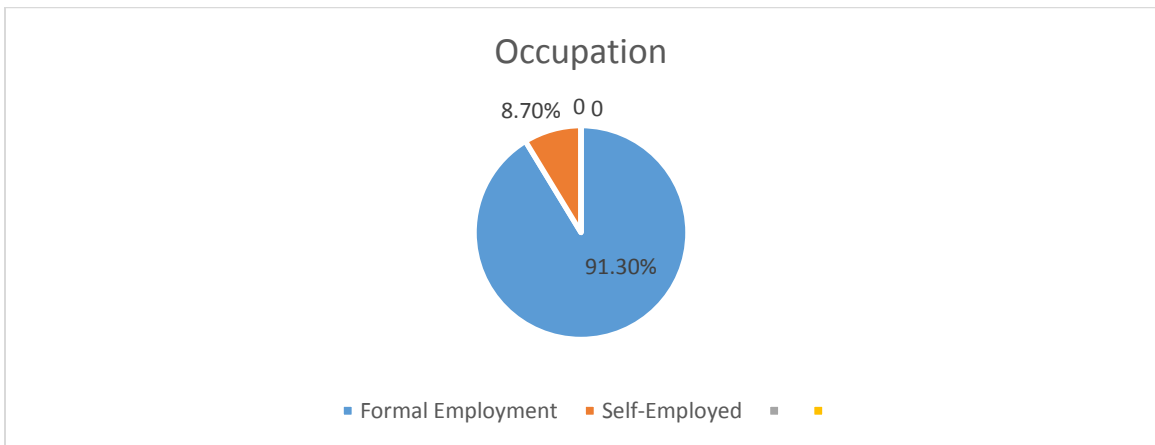


Figure 2.3: Occupation of the Respondents

Source: Field Data, 2020

2.2.4 Country of Residence

In regards to residency, it was established that, 52% of the respondent lived in Tanzania while 48 lived in Malawi. However majority of the participants were citizens in their respective countries.

2.3 The Area of the Dispute

During the “Scramble for Africa” most of the communities were displaced in various parts in the continent (now countries) after boundary lines were demarcated. Lake Malawi borders three countries: “Malawi in the west, Tanzania in the east, and Mozambique in the south”. It’s ranked the third largest fresh water after “Lake Victoria” and “Lake Tanganyika”. Initially it was referred to as “Lake Nyasa” though it was later changed to “Lake Malawi” in 1967.³⁹ However, it is still known as Lake Nyasa in Tanzania. According to Bootmaan and Jorgensen, “the lake is the most species-rich lake in the world containing an estimated 500 to 1000 species”.⁴⁰ It has provided a livelihood to fishermen living alongside the lake on both sides, as well as water for irrigation, transportation and hydroelectric generation.⁴¹ The lake is also a tourist attraction. Several major rivers, including the Songwe River, which separate “Malawi and Tanzania” in the north, flow into the lake, but only the Shire River drains the lake water to the sea (the Indian Ocean).

The Lake Malawi/Nyasa border dispute confirms Brownlie’s claim that “the concept of a dispute involves a disagreement between two states on a point of law or fact,

³⁹Brownlie, I. (1979). *African boundaries: A legal and diplomatic Encyclopedia*. Berkeley & Los Angeles. CA: University of California Press

⁴⁰Harvey,B. (2019). *Lake Malawi/Nyasa, “Experience and Lessons Learned Brief,” Great Lakes Water Institute*. University of Wisconsin-Milwaukee: USA

⁴¹Ibid

which disagreement is normally manifested by the making of a claim or protest”.⁴² Tanzania and Malawi have disagreed on their border in Lake Malawi/Nyasa since the Tanzanian government, in 1967, formally questioned the border.⁴³ According to Malawi, the Tanzanian shore of the lake is the border. According to Tanzania, however, the median line of the lake, not the shore, forms the border. While Malawi refer to the 1890 Anglo- German Agreement, Tanzania on the other hand relates its claim to the customary state practice of using the demarcation line separating the two countries and the historical evidence it possesses.

⁴² Ian, B. (1979). *African boundaries: A legal and diplomatic Encyclopedia*. Berkeley & Los Angeles, CA: University of California Press.

⁴³ Day, A. (1987). *Border and territorial disputes (2nd ed.)*. Burnt Mill, United Kingdom: Longman Publishers

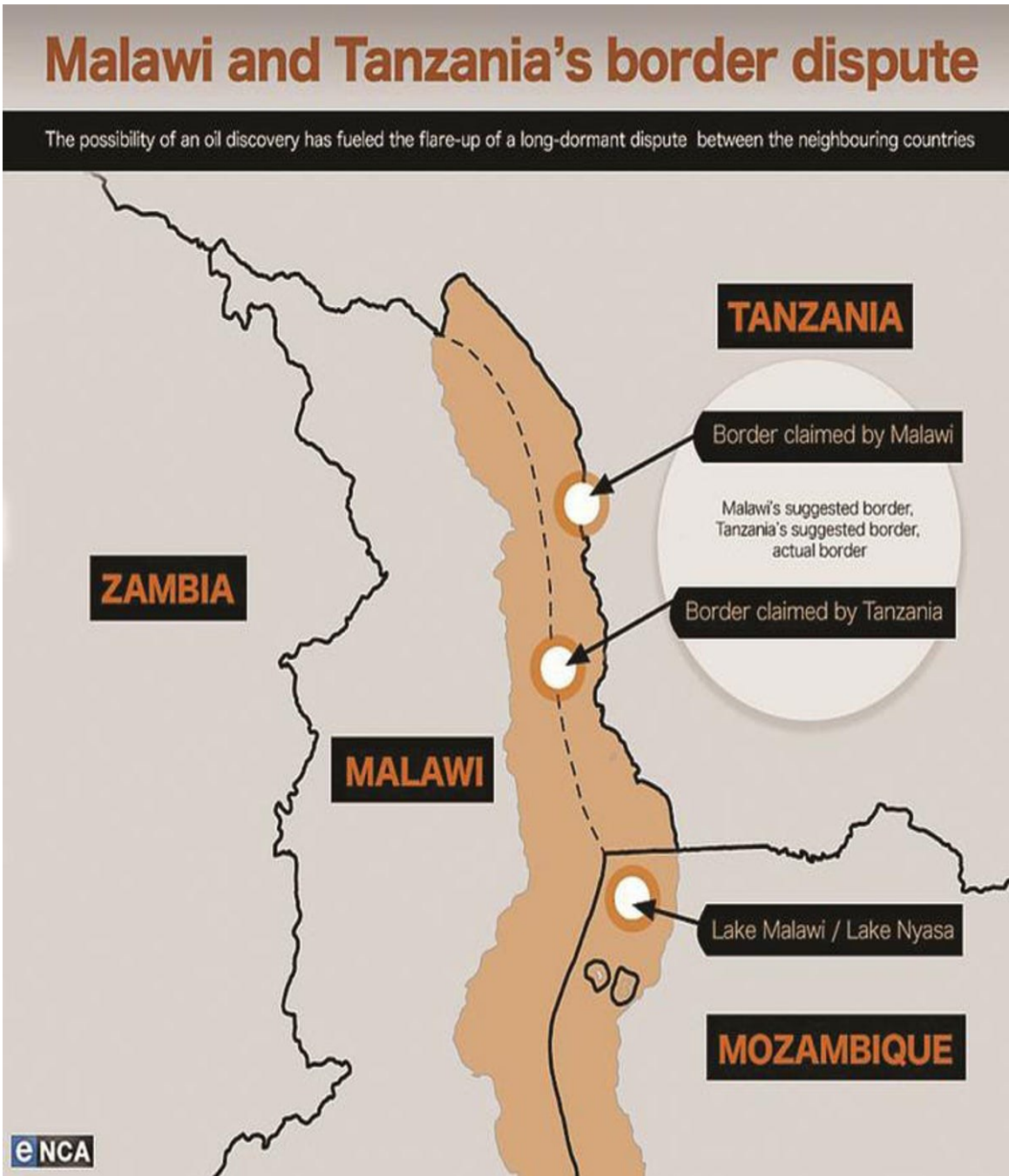


Figure 2.4: Lake Malawi/Nyasa

Source: <https://www.herald.co.zw/malawi-tanzania-border-dispute-flares-up-again/>



Figure 2.5: Tanzania Boundary with Neighbouring Countries

Source: <https://www.britannica.com/place/Tanzania>

According to Malawi the demarcation line ought to pass the boundary line along the Eastern border. However, Tanzania claim that the boundary passes along demarcated line as shown in Figure 2.4. According to Ewan Anderson, “The entire section of the

boundary along the shoreline of Lake Nyasa is under dispute. Tanzania claims that, from the mouth of River Songwe, the boundary should follow the lake's median line to a tri-point with Mozambique which should be on the median line".⁴⁴ According to Tanzania the lake should be shared by the three neighboring countries. Consequently, Malawi asserts that the lake belongs to Mozambique. However, both countries lacks a clear definite name for the lake since the demarcation of the boundaries. Malawi refers to it as "Lake Malawi" and Tanzania as "Lake Nyasa".⁴⁵

Currently, majority of the inhabitants have been benefiting from the natural resources extracted from the lake although they are diminishing at a fast rate. This is intensified by increased high population growth, overfishing by the locals, climate change as well as accelerated environment pollution which causes destruction to the water catchment areas leading to decline in water levels. This situation have continued to trigger hostility and instability between the communities living in the region.¹⁷ Therefore, there is need to address this security threat.

2.4 Causes of the Dispute

The root of the Malawi-Tanzania border dispute dates back to complex European colonialism in East Africa. The Portuguese were the first Europeans who explored East Africa.

They controlled most of the East African coast by 1506 and ruled Zanzibar, off the coast of Tanganyika (present-day mainland Tanzania), for about 200 years from the early 15th century until they were ousted in the late 17th century by Omani Arabs. Other

⁴⁴Ewan W. (2003). *Anderson, International Boundaries: A geographical Atlas*. New York: Routledge

⁴⁵Ibid

Europeans followed suit and the European competition in East Africa began, only intensifying after the Berlin Conference.

In 1884, Germany claimed Zanzibar as its protectorate, under the rule of the “Sultan of Zanzibar”.⁴⁶ In 1885, Tanganyika became a part of “German East Africa”, which encompassed present-day “Rwanda, Burundi and Tanzania”. With the incorporation of those Great Lakes territories, the German conquest in East Africa was complete.⁴⁷ Demarcation of boundaries in GEA was achieved the “Anglo-German Partition Agreement of 1886” and the “German-Portuguese Agreement of 1886”.⁴⁸ Consequently, Nyasaland was established by Britain in 1891 which is currently known as Malawi. In addition, protectorate then changed to “British Central Africa Protectorate” in 1893 and then to the “Nyasaland Protectorate” in 1907.⁴⁹

Germany was succeeded by Britain and Belgium after it was defeated in the WW1. The two spearheaded colonial process in EA under the mandates of League of Nations.⁵⁰ Specifically, Belgium got Rwanda and Burundi, while Britain was awarded Tanganyika. Britain’s role as the administering power of Tanganyika officially began in 1922. This change led to boundary disputes between Tanganyika and Nyasaland just like the administrative divisions in French West Africa (eight French colonies) and French Equatorial Africa (four French colonies). After WWII, Tanganyika became a trustee territory of the UN, which inherited the territories under the League’s mandate system. Tanganyika and Zanzibar became independent from Britain in 1961 and 1963

⁴⁶Stoecker, M. (1986). Colonialism and Border Disputes in Africa. *The Journal of Territorial and Maritime Studies*, 1(1), 75-89

⁴⁷Ibid

⁴⁸Op Cit, p. 95.

⁴⁹Alan, D. (1995). *Border and territorial disputes (2nd ed.)*. Burnt Mill, United Kingdom: Longman Publisher

⁵⁰Ibid

respectively. They united in 1964 and became the United Republic of Tanzania. The Nyasaland Protectorate changed its name to Malawi, when it became a self-governing protectorate in 1963 and became independent in 1964 as Malawi. When Tanganyika and Malawi became independent, internal management of territory under the existing administration now changed to an international border.

A research conducted by Wafula Okumu revealed that, the existing hostility and conflict among the communities was as a result of increased population growth and scramble for scarce resources in the region. He argues that “each of the countries in Eastern Africa has had at least one border dispute with a neighbor, mainly over territorial claims, mostly over lack of clearly defined and marked boundaries, the availability of trans-boundary resources, and security-related matters”.¹⁴ Further, he posits that, western countries demarcated the EA boundaries to foster their own interests in the region. It’s evident that before colonialization super powers such as Britain and Germany, controlled and shared the lake. Germany lost its control in EA to Britain which took over and administered the Tanganyika territory. However, it did not succeed in solving the border issue between Tanzania and Malawi, like it did between the later with Mozambique. This was caused by lack of legit and reliable maps which revealed clear demarcation lines between the two countries.

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

The agreement is also referred to as “the Heligoland-Zanzibar Treaty which defined the spheres of influence of Britain and Germany in East Africa (Articles I & II), Southwest

Africa (Article III) and West Africa (Article IV)".⁵¹ "Germany agreed to withdraw its claims to Zanzibar and offered Britain Lake Nyasa, Malawi's Northern Province and Uganda in exchange for Britain's concession of Heligoland in the North Sea".⁵² As a result, Zanzibar became a British protectorate in 1890. The agreement was signed by the two governments in Berlin in 1890.⁵³ This is the agreement that delimited the border between "Nyasaland and Tanganyika" to the "eastern shore of the lake", which Tanzania disputes. Specifically, "Article I (2) of the agreement demarcates the area as running to the south by the line that, starts on the coast of the northern border of Mozambique Province and follows the course of the Ruvuma River to the point where the Messinge flows into the Nyasa. Turning north, it continues along the eastern, northern, and western shores of the lake until it reaches the northern bank of the mouth of the Songwe River". However, the agreement also includes some room for future adjustments of the border. Article VI states, "Any correction of the demarcation lines described in Articles 1 to IV that becomes necessary due to local requirements may be undertaken by agreement between the two powers".⁵⁴ Each country have referred to different Articles in support of demarcation of the boundary lines. For instance; Malawi uses Article I (2) while Tanzania emphasize on Article VI.

The researcher sought to establish respondent's opinions regarding their understanding of the causes responsible for the inter-state dispute. The findings are illustrated in the figure 2.6 below.

⁵¹Roger, C. (1890). *Anglo-German Treaty*. Washington, D.C., United States : Georgetown University Press

⁵²Ibid

⁵³Ian, B. (1979). *African boundaries: A legal and diplomatic Encyclopedia*. Berkeley & Los Angeles, CA: University of California Press. p. 958.

⁵⁴ Ibid

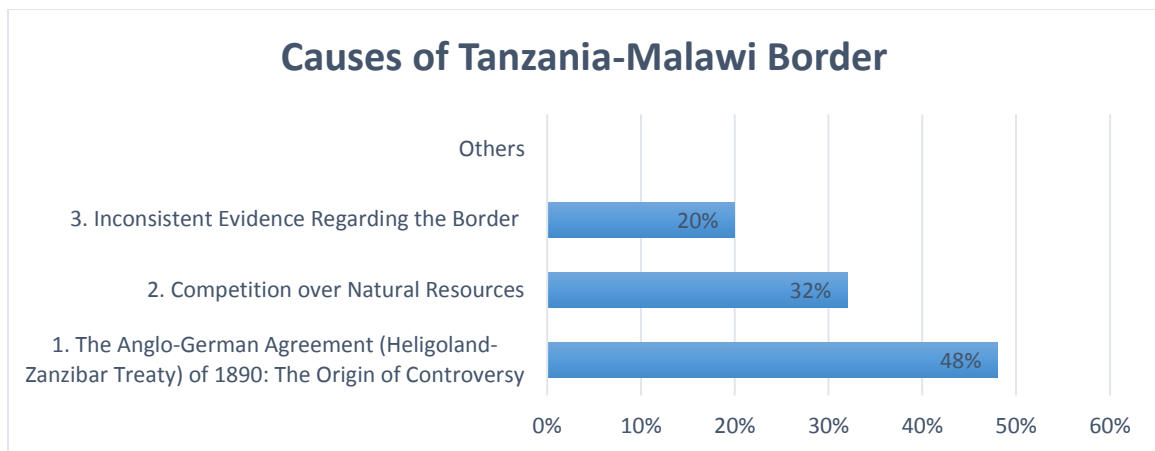


Figure 2.6: Causes of the Tanzania-Malawi dispute

Source. Field Data, 2020

According to Figure 2.6, most of the participants view that, the disagreement can be traced from the binding Anglo-Germany Agreement (Heligoland-Zanzibar Treaty) of 1890. It is evident that 48% of the respondents cited it as the main source of dispute between the two countries. While competition over natural resources ranked second as the main cause of inter-state dispute with 32% of the respondents quoting it, inconsistent evidence regarding the boundary was the cause which attracted the least recognition with 20%.

2.6 Competition over Natural Resources

The dispute over the lake-border had been relatively calm for years. However, the oil and natural gas potential in the lake and Malawi’s decision to explore those resources have intensified the dispute in recent years by elevating the value of the lake. The Malawi Geological Survey of 1970 indicated that, sedimentary rocks which could bear hydrocarbon formation and accumulations exists in the Lake. Subsequent geological investigations by various sources have supported these findings. In addition, the discovery of oil in nearby Kenya and Lake Albert of Uganda has led Malawi to believe that, Lake Malawi might also have oil. Possibility of “oil and gas” prompted the

Malawian government to grant an exploration license to a “British Company Surestream Petroleum” in 2011 and to a subsidiary of the South African Sac Oil in 2012. Both Malawi and Tanzania are listed among the UN’s “least developed countries.” According to the World Bank (2013), the 2012 gross national income per capita in Malawi and Tanzania was \$320 and \$570, respectively. In addition, both countries import oil. Thus, if the prospect of oil becomes a reality, these natural resources would significantly benefit the lake’s owner. This potential economic benefit has raised the stakes of the dispute and has strengthened the position of each disputant.⁵⁵

The researcher sought to establish from the respondents, if they agreed with the sentiment that natural resources were responsible for causing boundary dispute between Tanzania and Malawi. Majority of the respondents (70%) asserted that, natural resources played a greater role in the inter-state boundary conflict. The figure below shows the distribution of responses as established by the study.

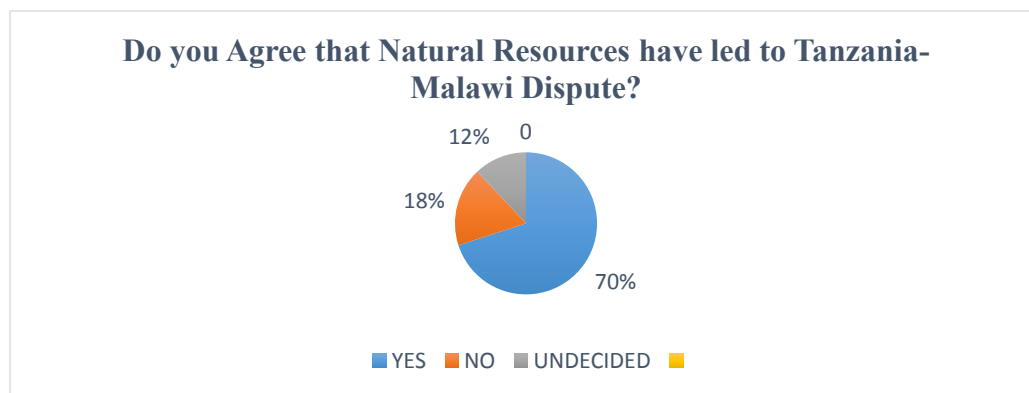


Figure 2.7: Role of Natural Resources in Escalation of inter-state boundary Dispute

Source: Field Data, 2020

From the findings established above, majority of the respondents representing 70% of the total agreed that, natural resources were responsible for causing the rift

⁵⁵ CIA.(2019). *International Disputes, The World Fact book - Field Listing*. Available at <https://www.cia.gov/library/publications/the-world-factbook/fields/326.html>

between Tanzania and Malawi. While 18% of the respondents disagreed with the cause of the boundary dispute being natural resources. Surprisingly, 12% of the respondents were undecided. Majority of people hold the belief that resources and economic gain, contribute to greater extent the occurrence of a conflict between different actors.

2.7 Inconsistent Evidence Regarding the Border

While the 1890 Anglo-German Agreement leaves no doubt about the eastern shoreline border, historical documents and maps issued afterwards are inconsistent about the border. While some indicate the median line, others indicate the “eastern shoreline of the lake” as the boundary between the two territories. For example, according to Day, “official British sources for the period 1916-1934 showed the western border of the Tanganyika territory as being the median line through Lake Nyasa”.⁵⁶ However, “British annual reports to the UN General Assembly and Trusteeship Council issued between 1947 and 1961 for Tanganyika and Nyasaland generally abandoned the median-line alignment and showed the boundary between the two territories as being the eastern shore of Lake Nyasa in accordance with the 1890 Anglo German Agreement”.⁵⁷ Thus, as Brownlie succinctly states, “the evidence certainly does not point unequivocally in one direction”. Malawi and Tanzania have utilized different evidence, respectively, that can suit their positions.⁵⁸ Particularly, they have based their claims on different maps. However, according to legal scholars and the ICJ, the role of maps in settling boundary disputes is limited, due mainly to the lack of clarity. The ICJ (1986), concerning the boundary conflict between “Burkina Faso and Mali” in 1986, noted that “in frontier delimitations, maps merely constitute information and never constitute territorial titles in

⁵⁶Alan, D. (1987). *Border and territorial disputes (2nd ed.)*. Burnt Mill, United Kingdom: Longman, Publicaion. p.154

⁵⁷Ibid, pp. 154 – 155.

⁵⁸Ian, B. (1979). *African boundaries: A legal and diplomatic Encyclopedia*. Berkeley & Los Angeles, CA: University of California Press. p. 958

themselves alone. They are merely extrinsic evidence which may be used, along with other evidence, to establish real facts. Their value depends on their technical reliability and their neutrality in relation to the dispute and the parties to that dispute; they cannot effect any reversal of the onus of proof”.

When asked to explain how inconsistent evidence regarding boundary between “Tanzania and Malawi” caused a disagreement, some of the respondents remarked assertively that;

“Due to uncertainty surrounding the colonial boundaries which independent African countries adopted, there has been a series of border disputes arising from inconsideration of the surveyors to acknowledge ethnic and community ties which existed among indigenous African countries”.

Another respondent explained:

“Many African boundaries are so vague, because they failed to incorporate African states in their demarcation. The current boundaries were drawn by the colonizers during the scramble for African continent. These colonizers never understood the geo-political interests of African countries, henceforth demarcated state boundaries based on the specific colonial interests”.

2.8 Chapter summary

The Tanzania-Malawi dispute can be traced from the binding Anglo-Germany Agreement (Heligoland-Zanzibar Treaty) of 1890, competition over natural resources and inconsistent evidence regarding the boundary conflict has escalated the disagreement. However other factors such as Overfishing which has contributed to reduction of fishes in the lake leading to “fishing down the food chain”. The aspect of overpopulation has also contributed to growth in demand for food, sedimentation and invasion of species have played a role in enhancing the boundary disagreement “Malawi” and “Tanzania” as discussed in the preceding chapter three.

CHAPTER THREE

MARITIME SECURITY CHALLENGES ARISING FROM TANZANIA -

MALAWI BORDER DISPUTE

3.0 Introduction

Maritime security has no definite meaning but it comprises of “threats such as maritime inter-state disputes, maritime terrorism, piracy, trafficking of narcotics, people and illicit goods, arms proliferation, illegal fishing, environmental crimes, or maritime accidents as well as disasters”. It also entails regional states cooperation in safeguarding maritime security and development. Lake Nyasa/Malawi is ranked the ninth largest fresh water lake in the world with variety of species. It also contains around 7% of total earth’s surface water. Due to these two characteristics, it has been accepted as a common heritage.

3.1 Empirical Data

The researcher endeavored to determine the level of agreement or disagreement on the aspects which contributes to Tanzania-Malawi border dispute and established the following aspects as factors, responsible for the disagreement between the two countries as shown in the figure below.

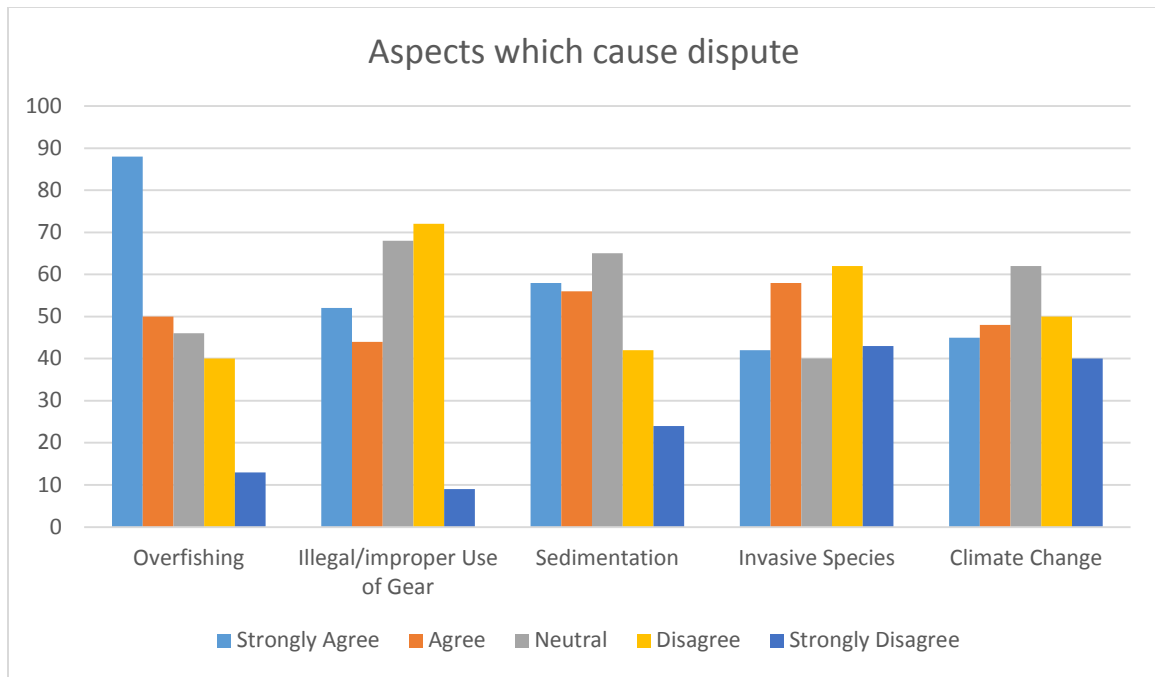


Figure 3.1: Aspects which Cause Dispute

Source: Field Data, 2020

According to the figure 3.1, most of the participants (88.0%) strongly agreed that, overfishing was the leading factor which caused the Tanzania-Malawi dispute. It was cited as the leading cause of the dispute, attributed to growth of population among the two countries. While other aspects had varied responses on their contribution in causing the inter-state conflict, invasive species was the least quoted aspect (42.0%) responsible for causing the boundary dispute under this study. Collectively, the above aspects have been responsible for the disagreement on boundary issues between the two countries.

Corroboratively, 58.0% of the respondents agreed that, sedimentation was responsible for species migration which resulted from disturbed habitation for fish. Once their breeding environment is disturbed, larger fish species migrated to shallow places where they are predated upon, reducing the available stocks, consequently resulting into competition and overfishing. The researcher established that, 72.0% of the

respondents disagreed with the notion of illegal and improper use of gear as the leading cause of dispute among these two countries. While they acknowledged the threat posed by illegal and improper use of gear, they disagreed with it being a leading cause of the conflict.

3.2 Overfishing

According to the findings, most of the participants (88.0%) opined that, overfishing was the leading cause of the dispute arising between Tanzania and Malawi. Overfishing has contributed to reduction of fishes in the lake leading to “fishing down the food chain”. Fishing down the food chain means that, as larger fish are overharvested and disappear, fishers resort to catching smaller fish that are lower on the food chain. However, it is difficult to pinpoint the exact extent of overfishing, because the relative fish downward catch levels coincide with a reduced water level in the lake.⁵⁹ Catch per unit effort (CPUE) rates also coincide with water level and physical chemical properties of the water.⁶⁰ Hence, the relative fish abundance at any given time depends on how much fish has been taken out, as well as on the water level and chemical properties of the water. According to local experts and communities, the open-access regime, which allows migrant fishers unrestricted access to local waters, and a quickly growing local population propel overfishing. Migrant fishers come into the sea of Lake Malawi without authorization or with the blessing of the local chiefs who look after their own interests.

Almost all Lake Malawi communities mention population growth as the most important driver for overfishing and lack of education and resistance to family planning are cited as reasons for the high population growth. Poor governance capacity contributes

⁵⁹FAO. (2005). Geography, Climate and Population – Aquastat Survey. Rome, FAO.

⁶⁰ Macuiane, M, et al. (2006). Reproductive biology and breeding of *Barbuspaludinosus* and *B. trimaculatus* (Teleostei: Cyprinidae) in Lake Chilwa, Malawi: implications for fisheries management. *African Journal of Aquatic Science*, 34(2), 123-130

to the overfishing problem. Fisheries officers and BVC members lack the capacity and resources to restrict access and implement fishing regulations to manage how much fish is harvested. Bylaws have the potential to restrict access and empower the BVCs with enforcement authority. However, there are no working bylaws in place. Bylaws require District Council approval but without elected councilors, the District Councils have been dormant for a decade. With new councilors in place, it is now possible to once again develop and adopt bylaws to implement local fisheries co-management rules.⁶¹

3.3 Illegal/improper Use of Gear

Illegal and improper use of gear (illegal season of use; illegal location of use) and illegal trawler operations (time of day, location, and gear) are among the largest (if not the largest) threat to fish biodiversity and abundance. According to the findings of this study, 52.0% of the participants strongly agreed that, illegal and improper use of gear was major driver of the fishing dispute between the two countries. Further assertively, according to 44.0% of the participants, improper use of gear contributed to the occurrence of the dispute pitting the countries.

There are commercial 10 trawlers operating on the sea of Lake Malawi. A trawler can make revenue of 1 million Kwacha in one day, yet pay no taxes, because it is not registered as a company. The license fees are minimal, and the penalties for fishing infractions are small and rarely enforced encouraging the trawlers to fish illegally to maximize their harvest.⁶² The continued use of illegal gear, such as the nkacha nets that were introduced by fishers migrating from Lake Malombe in 1989, have indiscriminately targeted juvenile fish seeking refuge in the near shore shallower waters. In addition, fishers are increasingly targeting Mbunas, which are sold for consumption by other

⁶¹Ibid

⁶²USAID. (2019). *Environmental Threats and Opportunity Assessment (ETOA) of Four Major Lakes in Malawi. Fisheries Integration of Society and Habitats (FISH)*. Washington, D.C., USAID

neighbouring communities. In the past, Mbunas were not targeted, because it was widely believed that they were inedible.

However, this emerging practice could adversely affect the overall levels of biodiversity within the sea. There are several issues that contribute to illegal and improper use of fishing gear: Lack of co-management and self-enforcement, inadequate financial resources of the Fisheries Enforcement Unit to conduct, surveillance and enforcement activities (staff, boats, fuel), Lack of understanding among fishing stakeholders on what represents illegal gear (and for what areas and when). Poverty, population growth, and lack of education drive illegal and improper use of fishing gear. Through the PRA, both local and migratory fishers use illegal gear. Illegal fishing is rampant because there are very few fisheries extension officers, and they do not have the capacity to enforce. In the past, some communities took it upon themselves to chase away illegal gear owners and trawlers fishing in shallow water. However, lack of compliance, acceptance of illegal fishers by some chiefs, and weak BVCs prevent enforcement.⁶³

3.4 Sedimentation

The study findings indicate that 58.0% of the participants were of the view that, sedimentation was responsible for the occurrence of the dispute. Additionally, 56.0% of the respondents agreed that, it was a leading cause of the inter-state boundary dispute between the two countries. Sedimentation puts stress on multiple fish species, including Mbuna, Chambo, Ningwi, Sanjika, Fwili, and Mpsa. Expanding agriculture and shoreline development for tourism infrastructure, have caused high levels of deforestation in the catchment surrounding the sea and have resulted in increased rates of soil erosion,

⁶³ Ibid

nutrient loading, and the siltation of the lake.⁶⁴ In 2011, tourists increased especially at the beaches adjacent to the sea with the greatest concentration occurring along the western side.⁶⁵ Many of the tourism developers have removed the aquatic macrophytes located along the fringes of the lakeshore to create beaches for their guests. These losses are further compounded by the nearshore and offshore SAV and EAV removed by the seine netting. Population growth is the largest driver of increased sediment loading, and that population pressure leads to deforestation for agriculture as well as cutting wood for sale.

The resultant bare earth is exposed to the elements and erosion, leading to silt and sand entering into river systems, clogging the rivers and river mouths. Increases in the sediment loading have the following adverse impacts on the lake ecosystem: Higher water turbidity and lower light penetration, which in turn reduces the photosynthetic rates of primary producers, loss of benthic habitat complexity and the smothering of important spawning grounds and feeding habitats, negative impacts on the reproductive behavior of haplochromine cichlids that rely highly on visual cues for mate selection.⁶⁶ The stenotopic nature of the rock-dwelling Mbuna and their reliance on the algae species growing on the rocks render these species particularly vulnerable to increased levels of sedimentation. The Mbuna respond to losses in habitat and declining food availability by migrating upwards into shallower waters, which leaves them much more susceptible to predation.⁶⁷

The increased loadings of “nitrogen, phosphorus, and other nutrients” via the inflowing

⁶⁴Weyl, F., Ribbink, A.J., & Tweddle, D. (2010). Lake Malawi: Fishes, Fisheries, Biodiversity, Health and Habitat. *Aquatic Ecosystem Health & Management* 13(3), 241–254.

⁶⁵Hara, M., Donda, S.J., Ngochera, M., & Berge, E. (2014). *Fragmentation of natural resource management on the Southeast Arm of Lake Malawi and the Conceptual Framework*, in: *Fragmentation of Resource Management on the South East Arm of Lake Malawi*. University of the Western Cape South Africa: Institute for Poverty, Land and Agrarian Studies, pp. 1–14.

⁶⁶Ibid

⁶⁷Ngochera, M. (2014). *Southeast Arm of Lake Malawi: Limnology, pollution, siltation, and habitat change*, in: *Fragmentation of Resource Management on the South East Arm of Lake Malawi*. Pretoria: University of Western Cape Press, pp. 44–62.

rivers and atmospheric deposition from biomass burning within the catchment can increase the rates of primary production for the small pelagics. However, excessive amounts can lead to eutrophication and changes in phytoplankton species composition, which in turn can adversely impact the higher trophic levels, by for example disrupting breeding habitats.⁶⁸

3.5 Invasive Species

Multiple local communities state that water hyacinth, *Eichhorniacrassipes*, pose a threat to freshwater biodiversity, because it has the ability to out-compete native vegetation and grow profusely in shallow waters and bays. It was introduced accidentally into Malawi in the 1960s and has become more prevalent over time in the tributaries flowing into the sea.⁶⁹ Within the lake itself, water hyacinth is not very abundant, which is likely due to the lower nutrient concentrations within the open waters of the lake.⁷⁰ However, it does have the potential to become problematic in the future, especially within the sea because of the relatively higher nutrient concentrations found there versus other sections of the lake.

According to study findings, 42.0% of the respondents argued that, invasive species were responsible for eruption of dispute between Tanzania and Malawi. Further, 58.0% of the respondents agreed that, introduction of new species into the lake reduced the fishing grounds and made fish catch decline which led to occurrence of disputes. Local communities dislike the water hyacinths because they harbor crocodiles, which make physical removal difficult and because fishing nets get tangled up in the vegetation. The

⁶⁸Op Cit, pp. 44–62.

⁶⁹Ibid

⁷⁰Bootsma, H. A., & Hecky, R. E. (1999). Nutrient cycling in Lake Malawi/Nyasa. Water quality report: Lake Malawi/Nyasa biodiversity conservation project. Southern African Development Community/Global Environmental Facility (SADC/GEF). *Practical approaches for sustainable use*, 3(1), 215-24

expansion of water hyacinth could have a devastating effects on the lives of the water species.⁷¹

3.6 Climate Change

Next to overfishing and illegal/improper use of fishing gear, climate change is the most important threat. According to the respondents who informed this study, 45.0% of them strongly agreed that climate change was responsible for the occurrence of the current dispute between “Tanzania and Malawi”. The same rhetoric was echoed by 48.0% of the respondents who agreed the changes that are occurring on global scene in respect to biodiversity and climatic patterns, were responsible for decline in fish stocks and caused food insecurities, which collectively caused anarchy and disputes among the people characterized them, hence Tanzania and Malawi dispute.

The ETOA research finds that climate change contributes to varying and uncertain rainfall patterns, heat waves, flooding and drought and more storms. Community members state that rains are less predictable, with both droughts and flooding being more common. The winds have changed and that the strong Mwera winds are more common and unpredictable throughout the year making fishing more difficult and hazardous on the lake. Climate warming might a positive impact on the lakes aquatic ecosystem.⁷²

Although climate change impacts on biodiversity are difficult to isolate,⁷³ changes in both air and water temperature have influenced the productivity of the lake in the past.⁷⁴Records indicate that,“the deep waters of Lake Malawi have warmed 0.29 °C since

⁷¹Ibid

⁷²Van, P., Banda, M.,& Kolding, J. (2011).Selecting Indicators to Assess the Fisheries of Lake Malawi and Lake Malombe: Knowledge base and Evaluative Capacity. *Journal of Great Lakes Research* 37, 26–44.

⁷³Ngochera, M. (2014). *Southeast Arm of Lake Malawi: Limnology, pollution, siltation, and habitat change*, in: *Fragmentation of Resource Management on the South East Arm of Lake Malawi*. Pretoria:University of Western Cape Press, pp. 44–62.

⁷⁴Bootsma, H. A., &Hecky, R. E. (1999). Nutrient cycling in Lake Malawi/Nyasa. Water quality report: Lake Malawi/Nyasa biodiversity conservation project. Southern African Development Community/Global Environmental Facility (SADC/GEF). *Practical approaches for sustainable use*, 3(1), 259–276.

1953⁷⁵ and that the water levels have dropped from 477 m above sea level in the 1980s to about 474.8 m in the last three decades”. Local communities maintain that the lake level drop has negative consequences as it shrinks the shallow breeding and nursery grounds. Scientific evidence supports this, showing high lake levels increase areas available for fish spawning and nursing.⁷⁶ Other records show that between 1939-1999 average water temperatures rose from “22.02 °C to 22.74 °C”, these small changes influence the nutrient cycle.⁷⁷ Hence, small changes become significant during cold and windy times of the year, affecting the phytoplankton and fish productivity. Over the next century, the air temperature is predicted to increase approximately 4° C in this part of Africa.⁷⁸ Parallel to changes in temperatures, rain patterns are changing.

Historical records show that small increments on the rate of precipitation can cause severe flooding, as seen in 1979-80. On the other hand, decreases in the ratio of precipitation have closed the outflow of the lake, as seen in 1915 and 1937⁷⁹ and a near close in 1997. Additionally, increased rainfall increases run-off, triggers sediment and silt loading that changes turbidity, alters the photosynthetic rate in the lake, and can directly smother habitats and interfere with some of the fish reproduction and their behavioral cues.⁸⁰ At the same time, it adds to a nutrient recharge that boosts production. According to local communities, increased intensity of rains in combination with unsustainable

⁷⁵Patterson, G., & Kachinjika, O. (1995). *Limnology and phytoplankton ecology*. In A. Menz (ed.), *The Fishery Potential and Productivity of the Pelagic Zone of Lake Malawi/Nyasa*. Kent, U.K: Natural Resources Institute, Chatham

⁷⁶Bell, R.J., Collie, J.S., Jamu, D., & Banda, M. (2012). Changes in the Biomass of Chambo in the Southeast Arm of Lake Malawi: A Stock Assessment of *Oreochromis*. *Journal of Great Lakes Research* 38(2), 720–729.

⁷⁷Vollmer, M., Weiss, R.F., & Bootsma, H.A. (2002). *Ventilation of Lake Malawi/Nyasa*. *The East African Great Lakes*. Milwaukee, Wisconsin: University of Wisconsin Press

⁷⁸Bootsma, H. A., & Hecky, R. E. (1999). Nutrient cycling in Lake Malawi/Nyasa. Water quality report: Lake Malawi/Nyasa biodiversity conservation project. Southern African Development Community/Global Environmental Facility (SADC/GEF). *Practical approaches for sustainable use*, 3(1), 259–276.

⁷⁹Ibid

⁸⁰Ribbink, A.J., Tweddle, D. (2010). Lake Malawi: Fishes, Fisheries, Biodiversity, Health and Habitat. *Aquatic Ecosystem Health & Management*, 13(2), 241–254.

cutting of trees and poor catchment agriculture practices have led to increased sedimentation, which communities perceive as having negative consequences for the fish ecosystems, by, for example destroying fish breeding and nursery grounds and reducing aquatic productivity. Poverty, population growth and lack of alternative livelihoods make local communities more vulnerable to climate change and contribute to both overfishing and clear cutting as fisheries and forestry are two of the more lucrative livelihoods available to the resource-dependent communities.

3.7 Chapter Summary

Open access and lack of effective governance limits on fishing capacity and catch drive exploitation beyond biological and economic sustainability. Post-harvest losses are due to inadequate fish handling and processing practices, poverty and a general culture of acceptance of spoiled/poor fish quality consumption. Other contributing factors are population growth and lack of alternative livelihood opportunities, poor governance capacity (especially compliance and enforcement of rules). Also corruption characterized by disparities in traditional fishery management across fishing villages and ineffective coordination of traditional and formal fisheries management. Expanding agriculture, charcoal production and shoreline development have caused high levels of deforestation in the catchment surrounding the sea resulting in increased rates of soil erosion, nutrient loading and the siltation of the lake bottom. Expanding agriculture, charcoal production and shoreline development have caused high levels of deforestation in the catchment surrounding the sea resulting in increased rates of soil erosion, nutrient loading and the siltation of the lake bottom. Therefore, there is need for both government to adopt measures and approaches that will help in solving the boundary conflict that is detrimental to the human and national security as discussed in chapter four.

CHAPTER FOUR

EFFORTS TOWARDS SOLVING THE TANZANIA-MALAWI BORDER

DISPUTE

4.1 Introduction

The researcher sought to establish some of the efforts which have been adopted over time to address the boundary disagreement between the two countries. The findings of the study are illustrated by figure 4.1 below.

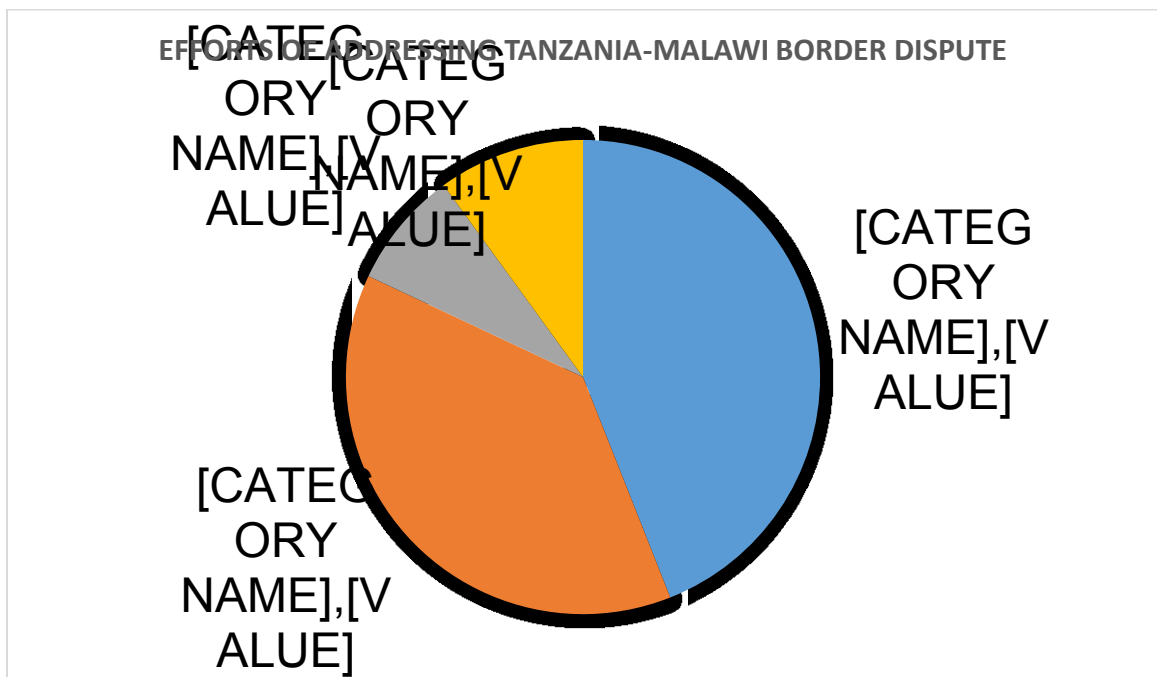


Figure 4.1: Efforts of Addressing Tanzania-Malawi Border Dispute

Source: Field Data, 2020

According to the study findings, most of the participants (44.0%) opined that, mediation was an elaborate strategy which had borne positive outcomes in regards to solving the emergent Tanzania-Malawi border dispute. Further, they stated that, mediation between these two countries had averted a full scale violent conflict, due to the mediation efforts initiated in both countries. The use of arbitration as “a procedure in

which a dispute is submitted by agreement of the parties to one or more arbitrators, who make a binding decision on a dispute” has been employed by both countries, as cited by 38.0% of the respondents. The use of regional offices and diplomacy accounted for 10.0% and 8.0% respectively of the total responses, as some of the efforts employed by the two states to solve the inter-state border dispute. While all these efforts are instrumental in solving the border dispute, they have not been initiated in isolation, but rather a number of other legal and political efforts have been employed to augment the dispute resolution efforts.

4.2 Tanganyika Legislative Council in the Post–Independence Period, 1961–1967

Tanganyika government agreed that the lake did not fall on any area of its administration before and after independence. Demarcation of its boundaries were later confirmed by “Minister for Lands and Mineral Resources” to the “Tanganyika Legislative Council” in 1960. The boundary issues were raised in the TLC and the minister argued that;

*“In the Treaty of Peace made with Germany after the 1914-1918 War, the boundaries of Tanganyika followed those of the Anglo-German Agreement of 1890. The description of the southern boundaries of Tanganyika, which include the boundaries of Nyasaland, are as follows: from the point of confluence of the Ruvuma River with the Msinje River, the boundary runs westward along the parallel of that point until it reaches Lake Nyasa, thence striking northward it follows the Eastern, Northern and Western shores of Lake Nyasa to the northern bank of the mouth of the River Songwe; it ascends that river to the point of its intersection by the 33rd degree of east longitude”.*⁸¹

After a long discussion with “British Colonial Office” in 1959, the TLC was well informed by TAG that: “It was the opinion of the legal advisers to the Secretary of State for the Colonies that, the southern boundary of Tanganyika lies along the Eastern,

⁸¹Maluwa, T. (2016). Oil Under Troubled Waters?: Some Legal Aspects of the Boundary Dispute Between Malawi and Tanzania Over Lake Malawi. *Michigan Journal of International Law*, 37(3), 352-442

Northern and Western shores of Lake Tanganyika [sic] and that therefore not a part of the Lake lies within the boundaries of Tanganyika”.

Despite the long deliberations, some of the “Tanganyika Legislative Council”, members opined that, it would be of great importance for both governments to secure justice for all communities through equitable sharing of the boundary. Some of the members included; Chief Mhaiki, who argued that, “as a result of flooding in 1956, following the construction of the Kariba Dam, Tanganyikan houses and plantations were inundated and the owners had been unable to claim compensation”.⁸² However, his statement was opposed by some of the members in the council since the dam was not located near “Lake Nyasa” but in “River Zambezi”. Hence it was not adopted.

However, the colonial regime followed the previous boundary lines demarcated, but some of the members in the “Minister for Lands, Surveys and Water”, agreed that, the department was accountable for issuing the unreliable and illicit maps, displaying the demarcated boundary lines. They however argued that, “a mistaken impression that this was the correct and natural boundary in all inland waters”. Further, Julius Nyerere agreed that, justice would be served by equally sharing of water resources between the two countries. He said that;

“I must emphasize [again] there is now no doubt at all about this boundary. We know that not a drop of the water of Lake Nyasa belongs to Tanganyika under the terms of the agreement, so that in actual fact we would be asking a neighboring Government [to] change the boundary in favor of Tanganyika. Some people think this is easier in the case of water and it might be much more difficult in the case of land. I don't know the logic about this”.

The issues was upheld until after “Tanganyika’s independence” in 1961, when a motion was raised again by Rashid Kawawa, who retaliated that, “no part of Lake Nyasa

⁸²Maluwa, T. (2016). Oil Under Troubled Waters?: Some Legal Aspects of the Boundary Dispute Between Malawi and Tanzania Over Lake Malawi. *Michigan Journal of International Law*, 37(3), 352-442

fell within German East Africa, the boundary had not been altered by Great Britain after the assumption of the League of Nations mandate and whatever the disadvantages to Tanganyika, the government could not contemplate negotiations with the authorities of the Central African Federation or Great Britain".⁸³ He argued that, if negotiations were to be fruitful there have to be involvement of the government of Nyasaland.

The boundary disagreement between the two countries started between 1967-1968. It further continued in 1964 after Malawi refuted Tanzanian claims on the lake. Though there is no single party that gave an official statement regarding this matter until May 1964.⁸⁴ Tanzania however affirmed the exact position of the border line to Malawi but it never gave an official response. Consequently, Tanzania president Julius Nyerere issued a formal letter to Kamuzu Banda on the same issue, but he later responded by affirming that Malawi exercises authority over the lake.⁸⁵

These accusations have continued over the years between the two leaders, with Malawi using patrol boats to man the lake and its surroundings while Tanzania armed its soldiers and improved communication though the conflict ended in 1968. The situation stabilized under Banda's regime until his regime ended in 1964. The relation between the two countries continued to improve with the preceding regime through signing of peace agreement to end the dispute.

4.3 Southern African Development Community

According to responses obtained by the researcher, SADC was pointed out as one regional organization which has contributed immensely to the de-escalation of the border

⁸³See Statement by Prime Minister Kawawa, quoted in MCEWEN, supra note 13, at 190. Formally known as the Federation of Rhodesia and Nyasaland, comprising Southern Rhodesia (Zimbabwe), Northern Rhodesia (Zambia), and Nyasaland; established on August 1, 1953 and dissolved on December 31, 1963.

⁸⁴Ian, B. (1979). *African boundaries: A legal and diplomatic Encyclopedia*. Berkeley & Los Angeles, CA: University of California Press. p. 958

⁸⁵Maluwa, T. (2016). Oil Under Troubled Waters?: Some Legal Aspects of the Boundary Dispute Between Malawi and Tanzania Over Lake Malawi. *Michigan Journal of International Law*, 37(3), 352-442

dispute, a sentiment which was supported by 31% of all responses, constituting majority of all responses. The (SADC) Tribunal, formed in 2000 exercises its power to solve conflicts between states.⁸⁶ It was endorsed by the international community after resolving majority of southern Africans interstate-conflicts. However, its actions were criticized by the international actors for declaring unfair elections in Zimbabwe, which culminated to formation of the tribunal's de facto 2010 suspension.⁸⁷ Consequently, SADC have played a role in the boundary disagreement between "Malawi" and "Tanzania", though it has received critics and skepticism following biasness of some members, as well as politicization of the whole issue. Malawi has been reluctant to involve SADC and prefers ICJ to resolve the dispute.

However, "the parties, prospective mediators and regional actors should now be attempting to establish a post-election dispute-resolution framework that maximizes enhanced Malawian capacity to reconcile its interests those of Tanzania". Tanzania retaliated that "we will exhaust all diplomatic channels but if need be, we are ready to defend our sovereignty at any cost".⁸⁸ Its position states the internal security capacity of Tanzania, that exceeds that's of Malawi in resolving the dispute. It's evident that, Tanzania is highly militarized than Malawi which has stated that, they will not hesitate to resort to use of force in order to safeguard their lake. On the other hand, Tanzania has retaliated by asserting that "it would not hesitate to respond to any military provocation".⁸⁹

⁸⁶ SADC. (2019). *SADC Tribunal' in Southern African Development Community*. Available at <http://www.sadc.int/about-sadc/sadc-institutions/tribun/>.

⁸⁷ Ibid

⁸⁸ Simbeye, F. (August, 2012). Tanzania: Armed Forces Ready for Action. *Tanzania Daily News*, Available at <http://allafrica.com/stories/201208080118.html>

⁸⁹ Ibid

4.4 The African Union Border Programme (AUBP)

Most OAU/AU member states have not fulfilled the OAU Cairo Declaration of 1964. In 2002 African leaders discussed the issue of insecure borders which led to the establishment of the (AUBP).⁹⁰ One of the aims of the AUBP is to make sure all borders of Africa are delimited and demarcated by 2017. The role played by the AUBP is backed by 18% of the respondents who termed it as effective in solving the border dispute.

Tanzania has argued that it supports the AUBP's mission and it aims to get its border with Malawi delimited and demarcated. It has also stated that it is because of Malawi's unresponsiveness that this is not happening. Tanzania already stands for the median border and wants this dispute to end with its demarcation. It has called upon all African leaders (including Malawi's) to implement the AUBP by 2017.

4.5 President Bingu's Attempt to Resolve the Case

Tanzania brought up the question of Malawi's late President Binguwa Mutharika who had written to the Tanzanian President Mkapa in 2005 with the aim to end the border dispute issue (Nyasa Times, 2012).⁹¹ Mutharika requested for the creation of a JBC to end their long dispute. Tanzania has stated that, Mutharika's letter was an admission that the boundary between the two countries was not properly defined.⁹² However, this was an election year for Tanzania and Mkapa left the issue in the hands of his successor. Unfortunately Mutharika passed away before the talks were fully established.

⁹⁰Oduntan, G. (2015). *International Law and Boundary Disputes in Africa*. London: Routledge

⁹¹ Times, N. (2012). *Tanzania stick to their guns in Lake Malawi border dispute*. Available at <http://www.nyasatimes.com/tanzania-stick-to-their-guns-in-lake-malawi-borderdispute-demands-50>

⁹²Ibid

4.6 International Law and Lake Delimitation

What does international law say about the delimitation of an international lake like Lake Malawi/Nyasa, which borders multiple states?. There is no convention like the UNCLOS III of 1982 concerning international lakes.⁹³ As Vinogradov and Wouters elaborate, “the delimitation of international lakes is not at present governed by an established set of rules, nor is there universally accepted customary norms based on uniform state practice.⁹⁴ At present, only specific treaties form the basis for delimiting international lake borders. Therefore, a shared ownership of an international lake is not automatic unless specified by a treaty”.⁹⁵

One may question whether UNCLOS III, then, can be applicable to the Lake Malawi/Nyasa case. In fact, Tanzanian government officials, according to Tanzanian media sources, have related the convention which provides an equitable solution for demarcation of boundary lines joining coasts to the Tanzanian claim to the median line border. However, the lake cannot be shared equally because it's not a sea. The convention provides “rules delimiting the territorial sea, the exclusive economic zone, and the continental shelf, but has no provision for delimiting lakes between states opposite or adjacent to each other”. There are various ways to delimit international lakes, and state practices for doing so have varied: the middle of the water, the Thalweg, the banks of the lake, or no particular way. Of these ways, the middle-line method has been most frequently practiced. Due, perhaps, to its frequency, Tanzania views the middle-line method as customary, though it has never been codified to a multilateral treaty like UNCLOS III. Therefore, Tanzania's claim to the median-line border in Lake

⁹³Op Cit

⁹⁴UNCLOS.(1973). *The United Nations Convention on the Law of the Sea. Montego Bay, Jamaica:* UNCLOS

⁹⁵Ibid

Malawi/Nyasa based on international law appears to be baseless. Evidence from the respondents indicate that 12% of the total responses affirmed the effectiveness of international Treaties and Agreements in solving the inter-state boundary dispute.

4.7 Effective Control

The other claim by Tanzania has been that throughout colonial and post- colonial periods Tanzania has exercised authority on some parts of the lake.⁹⁶ The government has had regulatory and legal presence in the region. Before the onset of WW1 in 1914, both Germany and Britain deployed gunboats in the lake. Even though Tanganyika leaders had said no part of the lake belongs to Tanganyika, they still had administrative presence in the lake which demonstrates its effective control over the area. Malawi, on the other hand has not exercised sovereignty over the North Eastern part of the lake.

After both documents were submitted, the mediation team reviewed them. They also asked both parties not to make any public announcements regarding the dispute without first communicating with the Forum.⁹⁷

4.8 Africa Forum Fact Finding Mission in Malawi

The researcher sought to establish the role played by the fact-finding missions in Malawi and established that to a greater extent, fact-finding missions had unrevealed conspiracy theories relating to the border status and this was espoused by 18% of the participants who responded. To corroborate such information, President Chissano and Mbeki went to Lilongwe, Malawi on a fact finding mission from 14th to 16th July 2013.⁹⁸ On 15th July,

⁹⁶ Mayall, J. (1973). The Malawi-Tanzania boundary dispute. *Journal of Modern African Studies*, 11 (4),611-628

⁹⁷ Ibid

⁹⁸ Chikoko, R. (2013, July). Banda: No Deal in Border Row. *The Citizen*, Available at <http://www.thecitizen.co.tz/News/Banda++No+deal+in+border+row/-/1840392/1916392//9v4oko/-/index.html>. (Accessed: 29th August 2019).

the mediators had a meeting with President Joyce Banda. She was accompanied by John Tembo (opposition leader in Parliament), Joseph Kubwalo (former Malawian envoy to Tanzania) and George Chabonda (leader of the Democratic Progressive Party) to raise Malawi's concerns.⁹⁹ She said that Tanzania had made threats of going to war over its sovereignty and Malawi would not enter into any interim agreement until the border issue was resolved. She added that if the Forum could not solve the border issue she would take the case to the ICJ. In his response, Chissano promised to discuss Malawi's concerns with Tanzania and would try to speed up the process. He also requested Malawi not engage in activities that may disrupt the mediation process.

4.9 Exchange of Position Documents in Windhoek, Namibia

During the SADC Troika meeting in Windhoek, Namibia in September 2013, Chissano held a meeting on 11th September 2013 with foreign ministers Membe and Chiume.¹⁰⁰ The meeting was held to allow the two parties to exchange views on their position papers that had been submitted to the Africa Forum in early 2013. Chissano handed in the official documents to the government of Tanzania that Malawi had submitted and gave the Malawian government the position paper by Tanzania. Both parties were given three weeks from the meeting date to give comments on each other's position documents.

Second, the Forum gave both parties four questions to respond in three weeks.¹⁰¹ According to Etter-Phoya (2013) the questions were "Does Malawi agree that there is a boundary along the lake between itself and Tanzania?", secondly, What is the legal implication of the absence of ratification on the delimitation in Article 1(2) of the 1890

⁹⁹ Ibid

¹⁰⁰ Etter- Phoya, R. (2013). *Decision on Lake Malawi Dispute by 30 September Unlikely as Malawi and Tanzania Given 3 Weeks to Respond to Each Other's Position Papers*. Available at <http://mininginmalawi.com/2013/09/14/resolution-of-lake-malawi-dispute-by-30-septemberunlikely-as-malawi-and-tanzania-asked-to-respond-to-each-others-position-papers/> (Accessed: 16th December 2019).

¹⁰¹ Ibid

Treaty in relation to the lake?, Third, What is the legal implication of the acceptance by either party of the importance of the lake to the local population along the shoreline and their use of the lake? And lastly, Are there examples of cooperation between the parties in relation to the use of the lake?”.

4.10 Africa Forum Fact Finding Mission in Tanzania

Chissano and Mogae were in Tanzania on 25th and 26th November 2013 on a fact finding mission. They had a meeting with president Jakaya Kikwete, Bernard Membe, Anna Tibaijuka Minister of Lands, Housing and Human Settlements and Mark Mwandosya the Minister of State- President’s Office. Kikwete and his ministers repeated Tanzania’s stand for a median border on the lake.¹⁰² According to responses obtained by the researcher, 18% of the respondents opined that Africa Forum fact finding missions in Tanzania-Malawi had presented tenable facts and approaches which have contributed credible information towards solving the impasse between the two states.

4.11 Submission of Responses to the Position Papers

The responses took more than the agreed three weeks deadline. It was not until 27th November 2013 when Membe and Chiume met with Chissano in Maputo. Membe was accompanied by Fredrick Werema the Attorney General of Tanzania, Shamim Nyanduga the High Commissioner of Tanzania to Mozambique and Elisha Suku- Tanzanian Foreign Service officer. The purpose of this meeting was to give written comments on each other’s position documents and submit the responses to the questions that were asked in

¹⁰² Mkinga, M. (2013). *Chissano Jets in for Nyasa Talks*. Available at <http://www.thecitizen.co.tz/News/Chissano-jets-in-for-Nyasa-talks/-/1840392/2088656//s1n4c4z/-/index.html> (Accessed 31st January 2020).

the September 2013 meeting. Both parties were also able to discuss each other's positions in detail.¹⁰³

4.12 Africa Forum's Reaction to the Formal Positions: The Resource Sharing Proposal

After reviewing the positions, the fact finding missions and the responses to the questions, the Forum held a meeting in Maputo in March 2014 with a resource sharing proposal.¹⁰⁴ The Forum suggested that the best approach was that Tanzania and Malawi should look at the resources found in the lake and find equitable means to optimally use and share these resources. In addition, Chissano suggested that the parties should abandon any legal claims to the border and focus on coming up with mechanism on sharing the resources. Once the resource issues were resolved, the border questions would be managed more easily. The Forum has been advocating for this proposal for over a year without any success. The mediators recently repeated this proposal during the March 2015 AU summit in Addis Ababa.¹⁰⁵

However, this proposal has not been accepted by both parties. At a press briefing in Lilongwe, Chiume stated that both countries intended to resolve the border dispute first before going to resource sharing issues. He claimed that the main concern was to first determine where the demarcated lines lay and the possession of the lake before negotiating the resource issues. Further, he had informed the Forum that more natural resources are discovered in the lake, Malawi would have to involve both its neighbours

¹⁰³ Ibid

¹⁰⁴ Matonga, G. (2015). *Govt rebuffs mediators on Lake Proposal*. Available at <http://mw-nation.com/govtrebuffs-mediators-on-lake-proposal/> (Accessed 31 January 2020).

¹⁰⁵ Ibid

Tanzania and Mozambique. This is because, as a landlocked country, Malawi would need the access of her neighbours to the Indian Ocean.¹⁰⁶

Tanzania agreed with Malawi by repeating the point that in 2005 Mutharika asked Mkapa to establish a JBC to solve the dispute. This explains Tanzania's willingness to resolve the border dispute before embarking on negotiations on resource sharing. Given the stalemate at the March 2014 meeting, both parties agreed to further study the proposal before the resumption of the mediation. Another round of talks was supposed to begin on 7th May 2014; however, due to the elections that took place in Malawi, they were postponed until after the elections.

On 19th November 2014, Peter Mutharika (the new President of Malawi) had a meeting in Malawi with Chissano and Mogae. The mediators went to congratulate him on becoming the new Malawi president and also used the opportunity to brief him on the process of resolving the conflict. Mutharika restated Malawi's stand regarding the Lake Nyasa dispute.

On the question of the dispute, Chissano stated that the aim of the mediators was to bring both parties closer together and if they fail to reach a solution, then they should take the case to the ICJ. Mogae warned that Botswana had taken its border dispute with Namibia to the ICJ, resulting in a very expensive and time consuming process. He said that the ICJ gave full ownership of the area to Botswana but also allowed local Namibians to use the area for fishing and tourism. Namibian access to the islands was already happening before the two sides went to the ICJ).¹⁰⁷

¹⁰⁶ Ibid

¹⁰⁷ Namangale, F. (2014). *Mediation Team Urges Patience from Malawi, Tanzania*. Available at <http://mwnation.com/mediation-team-urges-patience-malawi-tanzania/> (Accessed 31 January 2020).

Another meeting was supposed to be held in August 2015 but it was postponed because one of the chief mediators had fallen sick and was taken to India for treatment.¹⁰⁸ The aim of this meeting was for the mediators to give a final report on the process. At the same time Tanzania was preparing for the October 2015 elections, thus leading to the postponement of the mediation.

Summarily, the researcher established the following strategies and efforts as some of the approaches made so far in a bid to solve the Tanzania-Malawi Border. The researcher summarized them as follows;

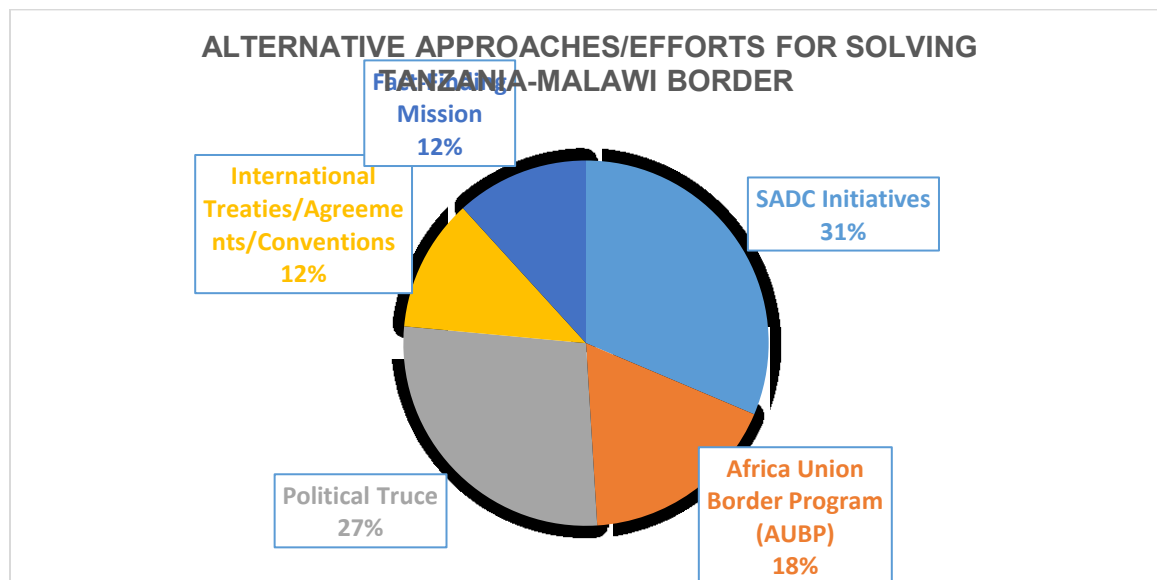


Figure 4.2 Alternative efforts for solving Malawi-Tanzania Border Dispute

Source; Field Data, 2020

4.13 Chapter Summary

According to Malawi, the Tanzanian “shore of the lake is the border” while “Tanzania claims the median line of the lake is the border and not the shore”. “Malawi’s” claim is

¹⁰⁸ Chitsulo, M. (2013). *Lake Malawi Dispute Mediation Yet to Call for Meeting*. Available at <http://www.times.mw/lake-malawi-dispute-mediators-yet-to-call-for-meeting/> (Accessed: 31 January 2020).

based on the “Anglo German Treaty of 1890” while Tanzania relates its claim to the customary state practice of using the median line of the body of water as the border. The dispute had been relatively calm over the years. However, the oil and natural gas potential in the lake have intensified the dispute in recent years. A series of bilateral meetings have been initiated in order to resolve the disagreement. Although the dispute has strained the relations between the two countries, neither party has expressed an intention to use force to settle it, despite the harsh rhetoric from both parties. Currently, the dispute is being mediated by the “Forum of Former Heads of State of SADC” but there are indications that it might be taken to the ICJ if the forum fails to resolve it.

CHAPTER FIVE

SUMMARY, CONCLUSIONS AND RECOMMENDATIONS

5.1 Introduction

This chapter presents the discussions, summary, conclusion and recommendations of the study. The research aimed at assessing “the challenges of sustainable maritime security in African continent by utilizing a case study of the Tanzania-Malawi dispute in trying to find solution on the border dispute between Tanzania and Malawi on Lake Nyasa”. This project had three objectives, which firstly sought to investigate the causes of the “Tanzania-Malawi” border dispute; secondly being to examine the maritime security challenges arising from “Tanzania -Malawi” Border dispute and lastly; to analyze the efforts towards solving Tanzania-Malawi border dispute. The study findings are presented below.

5.2 Discussion of the Findings

The study findings are discussed in the following section. This is done on the basis of the study objectives.

5.2.1 Investigating the causes of the Tanzania-Malawi border dispute

According to the first objective, the study established that the major cause of the “Tanzania-Malawi” dispute can be traced from the binding Anglo-Germany Agreement (Heligoland-Zanzibar Treaty) of 1890. This is opined by 48% of the respondents who cited it as the main source of dispute between the two countries. Competition over natural resources ranked second as the main cause of the inter-state boundary dispute with 32% of the respondents terming it as the genesis of the dispute. This study discovered that inconsistent evidence regarding the boundary which was also the cause of the dispute between the two countries which attracted the least recognition by respondents (20%)

citing it as the cause of dispute. These findings corroborate the study findings by Brownlie and Day Alan on *Border and territorial disputes* which find a close relationship between colonial boundaries and territorial disputes. The findings also buttresses the findings of *International Disputes-CIA*, the World Fact-book.

5.2.2 Maritime security challenges arising from Tanzania - Malawi border dispute

Secondly, the study sought to examine the maritime security challenges attributed to Tanzania-Malawi border dispute. The study established that overfishing was the top most challenge arising from the border dispute. This was affirmed by 88.0% of the respondents who strongly agreed that overfishing was the leading factor which caused the Tanzania-Malawi dispute. It was cited as the leading cause of the dispute, attributed to growth of population among the two countries.

Further, the study found out that poverty, population growth and lack of alternative livelihoods make local communities more vulnerable to climate change and contribute to both overfishing and to the escalation of the boundary dispute. The study established other causes of the inter-state dispute to originate from climate change where 45% of the respondents cited it, while the emergency of an invasive species further compounded the dispute. Sedimentation was referred to by 58% of the respondents while the use of illegal gear attracted 52% of the total responses.

5.2.3 The efforts towards solving Tanzania-Malawi border dispute

This study sought to analyze the efforts towards solving the Tanzania-Malawi border. The study discovered that several initiatives and approaches have been enrolled both by the government and other non-governmental actors to solve the dispute before its escalation to a full blown inter-state conflict. According to the findings established by this study majority of the participants (44.0%) opined that, mediation was an elaborate

strategy which had borne positive outcomes in regards to solving the emergent Tanzania-Malawi border dispute. While mediation had borne positive results, other strategies had also facilitated the solving of the dispute which included arbitration which was cited by 38% of the respondents while the use of regional offices and diplomacy were pointed out by 10% and 8% of the total respondents respectively. The combination of these factors has ensured the containment of the escalation of the dispute.

5.3 Conclusion

The study concludes that, the main cause of the “Tanzania-Malawi” conflict is driven primarily by the binding Anglo-Germany Agreement (Heligoland-Zanzibar Treaty) of 1890 which contrasts (opposes) the first hypothesis which stipulates that border disagreements between “Tanzania” and “Malawi” is as a result of the Oil-prospecting projects. According to majority of the respondents in this study (48%) the Heligoland-Zanzibar Treaty is responsible for the genesis of the dispute. The other notable causes established by the study include competition over natural resources which attracted 30% of the responses.

The study further concludes that overfishing was the major impact (effect) of the dispute arising between Tanzania and Malawi. Overfishing has contributed to reduction of fishes in the lake leading to “fishing down the food chain”. The aspect of overpopulation has contributed to growth in demand for food which in consequence leads to overfishing and dwindling of fish stocks in the lake hence driving a completion induced acrimony among the inhabitants of the two countries. The aspect of overfishing has bred maritime insecurity between the two countries which confirms the second hypothesis which stated that; Tanzania-Malawi border dispute has caused maritime insecurity. While overfishing was a consequence of the dispute, it was further coupled by

other vices which included; illegal use of fishing gear, sedimentation, invasive species and climate change all which facilitated the emergency of the dispute.

Finally, the study concludes that several efforts have been initiated to diffuse the dispute before its escalation by both the respective state governments and other regional and international actors. Some of the most notable mechanisms initiated to solve the dispute include the use of mediation between the two countries while arbitration and use of regional offices mandated with regional peace, security and stability have been adopted to supplement diplomacy as efforts to address the inter-state dispute. The use of these approaches opposes the third hypothesis which stated that; weak African institutions is the major reason to failing to solve Tanzania-Malawi border dispute. These conflict resolution mechanisms have to a greater extend facilitated the de-escalation of the dispute to a conflict.

5.4 Recommendations

This study offers the following recommendations as a remedy to the dispute which entails stability and security of the region. The recommendations have been formulated in respect to the study objectives.

Regarding the first objective, this study recommends that the two state adopt an *ad hoc* joint committee mandated with fast-tracking the sustainable utilization and development of Lake Nyasa basin. The working committee should draw membership from the two countries with equal representation and legal backing, which should formulate tangible and mutual resolutions which are binding to both countries. The committee should facilitate the review of the maritime boundary and incorporate specific country interests. The committee should offer binding solutions, applicable to both states in respect to overfishing, sedimentation and improper use of equipment.

This study recommends an oversight body mandated with enforcement of blue economy standards, which should be adhered to for sustainable utilization of maritime resources. The oversight body should draw membership from the two countries and should adopt a joint and common working policy, which assures each respective state mutual benefits and privileges. The oversight body should be mandated with authority to offer oil prospecting licenses on behalf of the two countries, thereby eliminating controversy on revenue allocation and division of benefits realized.

Further, this study recommends adoption of blue economy resolutions adopted in Nairobi conference in 2018 to foster sustainable development of maritime resources and ensure a secure blue economy. The resolutions should offer the policy guidelines upon which the respective countries should base the development agendas for the lake and the lake basin. In regards to invasive species which continue to hamper economic resourcefulness of the lake, this study recommends a scientific based-approach which ensures eradication of the invasive species in an environmentally secure manner. This calls for proper funding from the two countries and development partners to achieve a sustainable solution to the dispute and the lake development in general.

REFERENCES

- Alan, D. (1987). *Border and territorial disputes* (2nd ed.). United Kingdom: Longman Publisher
- Alan, D. (1995). *Border and territorial disputes* (2nd ed.). Burnt Mill, United Kingdom: Longman Publisher
- Anderson, D. (2006). *Negotiating Maritime Boundary Agreement: A Personal View*. In M. Delimitation (Ed.), *Maritime Delimitation* (pp. 129-150). Dordrecht: Martinus Nijhoff Publishers.
- AUBP.(2013). *Delimitation and demarcation of boundaries in Africa: general issues and case studies*. Available at, <http://www.peaceau.org/en/page/27-au-border-programme-aubp> (accessed 8 August 2019).
- Bell, R.J., Collie, J.S., Jamu, D., & Banda, M. (2012). Changes in the Biomass of Chambo in the Southeast Arm of Lake Malawi: A Stock Assessment of Oreochromis. *Journal of Great Lakes Research* 38(2), 720–729.
- Ben-Yahuda, H. (2004). Territoriality and War in International Crisis: Theory and Finding 1918-2001. *International Studies Review*, 2(6), 86-84
- Blede, B &, Diouf, A. (2015). *Gulf of Guinea: who will win the oil battle?* Available at, <https://www.issafrica.org/iss-today/gulf-of-guinea-who-will-win-the-oil-battle>
- Bootsma, H. A., & Hecky, R. E. (1999). Nutrient cycling in Lake Malawi/Nyasa. Water quality report: Lake Malawi/Nyasa biodiversity conservation project. Southern African Development Community/Global Environmental Facility (SADC/GEF). *Practical approaches for sustainable use*, 3(1), 215-24
- Brownlie, I. (1979). *African boundaries: A legal and diplomatic Encyclopedia*. Berkeley & Los Angeles. CA: University of California Press
- Charney, I., & Alexander, M. (2005). *International Maritime Boundaries*. Dordrecht: Martinus Nijhoff Publishers.
- Chikoko, R. (2013, July). Banda: No Deal in Border Row. *The Citizen*, Available at <http://www.thecitizen.co.tz/News/Banda++No+deal+in+border+row/-/1840392/1916392//9v4oko/-/index.html>. (Accessed: 29th August 2019).
- Chitsulo, M. (2013). *Lake Malawi Dispute Mediation Yet to Call for Meeting*. Available at <http://www.times.mw/lake-malawi-dispute-mediators-yet-to-call-for-meeting/> (Accessed: 31 January 2020).
- CIA.(2019). *International Disputes, The World Fact book - Field Listing*. Available at <https://www.cia.gov/library/publications/the-world-factbook/fields/326.html> *Comprehensive Survey*. New York: Longman publisher

- Day, A. (1987). *Border and territorial disputes (2nd ed.)*. Burnt Mill, United Kingdom: Longman Publishers
- Dougherty, J., & Pfaltzgraff, R. (2004). *Contending Theories of International Relations: A*
- Etter- Phoya, R. (2013). *Decision on Lake Malawi Dispute by 30 September Unlikely as Malawi and Tanzania Given 3 Weeks to Respond to Each Other's Position Papers*. Available at <http://mininginmalawi.com/2013/09/14/resolution-of-lake-malawi-dispute-by-30-september-unlikely-as-malawi-and-tanzania-asked-to-respond-to-each-others-position-papers/> (Accessed: 16th December 2019).
- Ewan W. (2003). *Anderson, International Boundaries: A geographical Atlas*. New York: Routledge
- FAO. (2005). Geography, Climate and Population – Aquastat Survey. Rome, FAO. Finding 1918-2001. *International Studies Review*, 6(1), 86-90
- Frank, K. (2015). Ripeness and the 2008 Djibouti-Eritrea Border Dispute. *Northeast African States*, 15(1), 113-138.
- Ghana v. Cote d'Ivoire (2014). *Case No. 23, ITLOS. Dispute Concerning Delimitation of the Maritime Boundary between Ghana and Cote d'Ivoire in the Atlantic Ocean*. Accra: Ghana
- Hara, M., Donda, S.J., Ngochera, M., & Berge, E. (2014). *Fragmentation of natural resource management on the Southeast Arm of Lake Malawi and the Conceptual Framework, in: Fragmentation of Resource Management on the South East Arm of Lake Malawi*. University of the Western Cape South Africa: Institute for Poverty, Land and Agrarian Studies, pp. 1–14.
- Harvey, B. (2019). *Lake Malawi/Nyasa, "Experience and Lessons Learned Brief," Great Lakes Water Institute*. University of Wisconsin-Milwaukee: USA
- Ian, B. (1979). *African boundaries: A legal and diplomatic Encyclopedia*. Berkeley & Los Angeles, CA: University of California Press.
- Ikome, F. (2012). *Africa's international borders as potential sources of conflict and future threats to peace and security*. Pretoria, South Africa: ISS
- Interview with a Member of Parliament, Dodoma, Tanzania, June 3, 2013.
- James, D. (1988). *The Berlin Conference, West African boundaries, and the eventual partition*, in S. Forster, W.J. Mommsen and R. Robinson (eds.), *Bismarck, Europe and Africa: The Berlin Africa Conference 1884-1885 and the Onset of Partition*. Oxford: Oxford University Press
- John, V., & Marie, H. (2001). *Territorial Disputes and the Probability of War* London: Routledge

- Macuiane, M, et al. (2006). Reproductive biology and breeding of *Barbus paludinosus* and *B. trimaculatus* (Teleostei: Cyprinidae) in Lake Chilwa, Malawi: implications for fisheries management. *African Journal of Aquatic Science* , 34(2), 123-130
- Majinge, C. (2012). Emergence of New States in Africa and Territorial Dispute Resolution: The Role of the International Court of Justice. *Melbourne Journal of International Law*, 13(2), 8-38.
- Malcom,S. (1997). *International Law*, 4th Ed. New York: Cambridge University Press. p. 331
- Maluwa, T. (2016). Oil Under Troubled Waters?: Some Legal Aspects of the Boundary Dispute Between Malawi and Tanzania Over Lake Malawi. *Michigan Journal of International Law*, 37(3), 352-442
- Matonga, G. (2015). *Govt rebuffs mediators on Lake Proposal*. Available at <http://mwnation.com/govtrebuffs-mediators-on-lake-proposal/> (Accessed 31 January 2020).
- Mayall, J. (1973). The Malawi-Tanzania boundary dispute. *Journal of Modern African Studies*, 11 (4),611-628
- Mi Yung, Y. (2014). Colonialism and Border Disputes in Africa: The Case of the Malawi- Tanzania Dispute over Lake Malawi/Nyasa. *The Journal of Territorial and Maritime Studies*, 1(1), 75-89.
- Mkinga, M. (2013). *Chissano Jets in for Nyasa Talks*. Available at <http://www.thecitizen.co.tz/News/Chissano-jets-in-for-Nyasa-talks/-/1840392/2088656/s1n4c4z/-/index.html> (Accessed 31st January 2020).
- Namangale, F. (2014). *Mediation Team Urges Patience from Malawi, Tanzania*. Available at <http://mwnation.com/mediation-team-urges-patience-malawi-tanzania/> (Accessed 31 January 2020).
- Ngochera, M. (2014). *Southeast Arm of Lake Malawi: Limnology, pollution, siltation, and habitat change, in: Fragmentation of Resource Management on the South East Arm of Lake Malawi*. Pretoria:University of Western Cape Press, pp. 44–62.
- Oduntan, G. (2015). *International Law and Boundary Disputes in Africa*. London: Routledge
- Okonkwo,T. (2017). Maritime Boundaries Delimitation and Dispute Resolution in Africa. *Beijing Law Review*, 8(1),55-78
- Patterson, G., &Kachinjika, O. (1995). *Limnology and phytoplankton ecology*. In A. Menz (ed.), *The Fishery Potential and Productivity of the Pelagic Zone of Lake Malawi/Niassa*. Kent, U.K: Natural Resources Institute, Chatham

- Patton, M. (1990). *Qualitative evaluation and Research Methods (2nd ed.)*. Washington, DC: Sage Publications, Inc.
- Paul, H. (1998). *Standing Your Ground: Territorial Disputes and International Conflict*. Reuters.
- Ribbink, A.J., Tweddle, D. (2010). Lake Malawi: Fishes, Fisheries, Biodiversity, Health and Habitat. *Aquatic Ecosystem Health & Management*, 13(2), 241–254.
- Roelf, W. (2014). Spike Seen in African Offshore Disputes, Oil Companies Watching. UK:
- Roger, C. (1890). *Anglo-German Treaty*. Washington, D.C., United States : Georgetown University Press
- SADC. (2019). *SADC Tribunal' in Southern African Development Community*. Available at <http://www.sadc.int/about-sadc/sadc-institutions/tribun/>.
- SAIIA. (2013). *Malawi vs Tanzania vs SADC: Regional dispute resolution bites the dust*. Johannesburg, South Africa: SAIIA
- See Statement by Prime Minister Kawawa, quoted in MCEWEN, supra note 13, at 190. Formally known as the Federation of Rhodesia and Nyasaland, comprising Southern Rhodesia (Zimbabwe), Northern Rhodesia (Zambia), and Nyasaland; established on August 1, 1953 and dissolved on December 31, 1963.
- Simbeye, F. (August, 2012). Tanzania: Armed Forces Ready for Action. *Tanzania Daily News*, Available at <http://allafrica.com/stories/201208080118.html>
- Sousa, I. (2014). *Maritime Territorial Delimitation and Maritime Security in the Atlantic*. A Paper Presented at the Atlantic Future Workshop. Pretoria: University of Pretoria.
- Stoecker, M. (1986). Colonialism and Border Disputes in Africa. *The Journal of Territorial and Maritime Studies*, 1(1), 75-89
- The Brenthurst Foundation. (2010). *Maritime development in Africa: an independent specialists' framework*. Johannesburg, South Africa: Sheaf Publishing
- Times, N. (2012). *Tanzania stick to their guns in Lake Malawi border dispute*. Available at <http://www.nyasatimes.com/tanzania-stick-to-their-guns-in-lake-malawi-borderdispute-demands-50>
- UNCLOS. (1973). *The United Nations Convention on the Law of the Sea*. Montego Bay, Jamaica: UNCLOS

- USAID. (2019). *Environmental Threats and Opportunity Assessment (ETOA) of Four Major Lakes in Malawi. Fisheries Integration of Society and Habitats (FISH)*. Washington, D.C., USAID
- Van, P., Banda, M., & Kolding, J. (2011). Selecting Indicators to Assess the Fisheries of Lake Malawi and Lake Malombe: Knowledge base and Evaluative Capacity. *Journal of Great Lakes Research* 37, 26–44.
- Vogel, A. (2009). *Navies versus coast guards: defining the roles of African maritime security forces*. Washington, DC: Africa Centre for Strategic Studies
- Vollmer, M., Weiss, R.F., & Bootsma, H.A. (2002). *Ventilation of Lake Malawi/Nyasa. The East African Great Lakes*. Milwaukee, Wisconsin: University of Wisconsin Press
- Wekesa, P.W. (2010). Old issues and new challenges: the Migingo Island controversy and the Kenya-Uganda borderland. *Journal of Eastern African Studies*, 4(2), 331–340.
- Zartman, W. (2002). *Preventive Diplomacy: Setting the Stage*. New York: Sage Publication

APPENDICES

Appendix 1: Questionnaire

This survey is used in partial fulfillment of the Master’s Degree in International Studies at the University of Nairobi. It is anonymous and confidential. Please answer the questions careful and truthfully. Thank you.

Fill in the following:

SECTION A: Personal Information:

Organization/Occupation:			
County of residence:			
Number of years you have lived in the County:			
Gender:	MALE	<input type="checkbox"/>	FEMALE
Age:			

SECTION B: The causes of the Tanzania-Malawi border dispute

1. In your understanding how does the Anglo-German Agreement (Heligoland-Zanzibar Treaty) of 1890 cause a boundary dispute between Tanzania-Malawi?

.....
.....
.....

2. Do you agree that competition of natural resources causes boundary dispute between Tanzania and Malawi? Yes () No ()

b. If yes, explain

.....
.....

3. In your knowledge and understanding, explain how Inconsistent Evidence regarding boundary between the two countries led to a dispute?

.....
.....
.....

SECTION C: Challenges to maritime security as posed by the Tanzania-Malawi border dispute

4. Kindly tick the box which corresponds to your view.

b. Which of these aspects largely contributes to Tanzania-Malawi border dispute?

	Strongly agree	Agree	Neutral	Disagree	Strongly Disagree
1. Overfishing					
2. Illegal/improper Use of Gear					
3. Sedimentation					
4. Invasive Species					
5. Climate Change					

6. In your opinion do you think there are other factors causing Tanzania-Malawi border dispute? Kindly highlight some of the factors?

.....
.....
.....

SECTION D: The efforts towards solving the Tanzania-Malawi border dispute

7. In your opinion how effective has mediation been in solving the Tanzania-Malawi border dispute?

.....
.....

Do you think arbitration has succeeded in solving the dispute?

.....
.....

Diplomacy and good offices are some of the efforts initiated by states to protracted interstate conflict. How effective have they been in solving Tanzania-Malawi border dispute?

.....
.....

Do you think there is an elaborate engagement by the regional organizations (SADC/AUBP) to diffuse Tanzania-Malawi border?

.....
.....

Have the two states established an interstate boundary review commission /inquiry?

.....
.....

Are there binding treaties, conventions or protocols which these two disputing states can refer to?

.....
.....

8. In your opinion do you think there has been a political engagement (truce) between the two states in an effort to diffuse the border disputes?

.....
.....
.....

THANK YOU