Territorial Theory and The Resolution of African Territorial Conflicts: The Case of Ethiopia/Eritrea Boundary Conflict

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Abstract

In Africa, territories have always been known to create enmity between nations, because the exact boundaries of many states at independence were often not known. However, territories and resources are in some cases the overt reasons why nations fight each other. While, some international territorial dispute cases also proved that they might be other latent reasons. This study first tries to enhance territorial theory by constructing symbolic value attached to territory as an approach. Further using territorial theory, the study portends that symbolic value of territory is also a core reason why some nations would fight each other. Hence, Ethiopia-Eritrea territorial war is the resultant of symbolic value attached to territory. The study is also focused on ways by which Ethiopia-Eritrea conflict can be managed or resolved. In that case, the paper contends, though, the future seems bleak between the two countries, however, there are guarantee that the territorial conflict can be resolve amicably.

Introduction

As observed, most developing nations today operate within the boundary demarcation and delimitation drawn-up during colonial era. With particular reference to Africa, Africa's nation states boundaries are all artificial in nature. African boundaries are aftermath of the Berlin Conference of 1884-1885, where the colonialists made adjustments to those borders simply with pen and ruler on a map of the continent, thus, creating multinational states and arbitrarily splitting nations by state boundaries (Hughes, 1997: 279). Thus, some of them are now a source of instability and wars.

Current trends and developments in Africa, suggest that disputes arising from improperly demarcated and delimited boundary escalate when the issue is not addressed efficiently and in a timely manner, as the Ethiopia-Kenya, Libya-Chad, Mali-Burkina Faso, Mauritania-Senegal, Nigeria-Cameroon (before settlement), Ethiopia-Eritrea etc boundary conflicts have shown. Like the examples of the boundary conflicts (whether active now or not) mentioned above portend, African boundaries have oftentimes been known to create a *prima-facie* hostile situation, where proximate countries are enemies.

This is because the exact borders of many of these states at the onset of their independence were often an extremely contentious question, that later developed into bitter disputes, often involving enormous casualties. However, on the one hand territories and resources are in some cases the overt reasons why nations fight each other. But on the other hand, a deeper perusal of some international territorial/boundary dispute cases shows that they might be other reasons supposedly latent that may take nations to war over a territory.

However, the incessant nature of territorial disputes whether overt or latent, has engendered the quest for scholarly research as well as the need for theoretical postulations for the understanding, explanation, and predictability as to why a nation can go to war over a territory, even when some of the disputed territory in question does not have any military, economic and strategic importance. The search for theoretical explanations could give rise to an in-depth knowledge on how territorial disputes can be resolved. In that vein, scholars have made immense contribution to the theoretical literatures on the subject matter of boundary and territorial disputes within the international system and on the continent of Africa, by evoking an understanding of the phenomenon from different theoretical approaches, to include proximity, interaction, contiguity and territoriality.

Nonetheless, this study will use on the one hand the territorial theory as its framework of analysis, and on the other, will endeavor to build upon the theory by treating symbolic value of territory as part of an approach of territorial theory. Territorial theory though not yet established has help us to a considerable extent in explaining why countries fight over boundaries and territories with or without resources, or are strategically or non-strategically positioned. It is observed that the lack of specific understanding of the stakes in boundary conflicts and the good management of same has often escalated into full-scale violence.

Hence, the continued breakdown of peace and order resulting from increased demand for territories as well as resources underscore the need to resolve or at best manage boundaries more effectively. Conversely, in trying to manage and resolved boundary disputes, the paper will use Ethiopia/Eritrea border conflict as its case study.

The study using the territorial framework, will identify and look for ways by which African territorial conflicts (with special focus on Ethiopia–Eritrea territorial war) could be more effectively managed or resolved to prevent further boundary disputes escalating into an all-out war. For it is one thing to understand and identify the dispositions of parties to a boundary disputes and also the stakes in an improperly defined boundary and another thing to decide on a method of peaceful settlement. In addressing boundary dispute de-escalation, the paper poses the following questions, aside the overt symptoms, what are the latent causes of border conflicts in Africa? How has border conflicts been managed that some have degenerated into conflict and others settled? What are the prospects for settling African boundary and territorial disputes using Ethiopia – Eritrea boundary conflicts as a case study?

1. Territorial Theory as a Guide to Explaining and Understanding Territorial Conflict

In Political Science territory is a broad term with numerous meanings. Territory is always an attribute of sovereignty. In giving a succinct analysis of sovereignty as a corollary of territory, 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, without territory a legal person cannot be a state (Shaw, 1999:331). Territory is undoubtedly the basic characteristic of a state and the one most

widely accepted and understood. There are currently some 200 distinct territorial units, each one subject to a different territorial sovereignty and jurisdiction (Shaw, 1999:331).

However, territoriality in itself is briefly defined as the most salient "bone of contention" in an international crisis and as a characteristic of the setting for the adversaries involved in the case. The first part of the definition seeks to assess the impact of territoriality as an issue over which states contend during a crisis, whereas the second views territorial location as a contextual element that affects the confrontation (Ben – Yehuda, 2004:86).

According to Huth (1998:19-23), a territorial dispute involves either a disagreement between states over where their common homeland or colonial borders should be fixed. Or, more fundamentally, the dispute entails one country contesting the right of another country even to exercise sovereignty over some of or all its homeland or colonial territory. More specifically, Huth (1998) opined that a territorial dispute exists between two states in any of the following situations:

1. At least one government does not accept the definitions of where the boundary line of its border with another country is currently located, whereas the neighboring government takes the position that the existing boundary line is the legal border between the two countries based on a previously signed treaty or document
2. One country occupies the national territory of another and refuses to relinquish control over the territory despite demands by that country to withdraw.

The difference between a boundary conflict and territorial conflict is that, a boundary conflict is a conflict over a boundary line that as a minimum is defined, or is in the process of being defined, by the parties, by implicit consent or explicit agreement. This means that all stakes and issues leading to disputes and armed conflicts are related to once and somehow agreed-upon boundaries. International boundaries are thus sharply defined lines, fixed by nations like fences between their respective properties. However in nature there are no sharply marked boundaries of any sort, only zones of transition (Nordquist, 2002).

Territories contestation and conflicts have earned increasing scholarly attention within the social science over the past decades. According to Holsti (1991) territory has continued to be the main indicator of a nation's power as it has been since the days of Louis XIV. For Walter (2004:2), the most intractable conflicts in the 20th century were those fought over

territory. Luard (1986) and Holsti (1991) found that territorial issues are one of the most frequent sources of war, and that competing governments are less likely to resolve disagreement over territory than almost any other issue (Walter, 2004:2). Like Holsti, Luard etc, Hensel (1996) also observes that territory has remained a relatively constant source of militarized disputes, although the 1920-1939 (decades of low global economic integration) witnessed the highest percentage of territorial issues in such disputes. Further he expunge that territorial issues are more likely to escalate to produce a greater number of fatalities, and be more conflictual than non-territorial confrontations.

However, in relations to explanatory framework, a theory that tends to give territorial explanations is yet to be established but, territorial theory and the role it plays has not yet been fully examined. It does appear to have a causal effect on violence, but a comprehensive theory of territoriality and war has yet to be established. Stated differently, territoriality may be, in part, an extension of the power context for interstate rivalry and the outbreak of hostilities (Ben-Yehuda, 2004:85). However, three theoretical approaches have been developed and adopted in an attempt to explain the relationship between territory and violence; these approaches focus on proximity, interactions, and territorial issues. Though all of them focus on aspects of territory, the reasoning they offer for this relationship as well as the limitations they note in their explanations differs.

First the *Proximity approach*, this approach according to Ben-Yehuda (2004: 86) suggests that the relationship between contiguity and war is due to the proximity between adversaries. Distance usually places a restriction on the ability of most states to wage wars against states located far away. In this regard, distance states are likely to have little interaction and, therefore, have no stakes over which to fight. Again Dougherty and Pfaltzgraff (2004: 268) have posited that for technologically undeveloped 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 predisposition to fight each other because of their closeness and nearness.

The proximity approach is closely related to the realist approach and seems almost a replica of the power predicts behaviour theory. In effect, proximity may produce an opportunity for neighboring states to fight, but it does not explain changes in motivation to do so. Mandel (1980) opined that 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 (Dougherty and Pfaltzgraff, 2004: 268). Such conflicts are virtually inevitable among states, but what cannot be explained is why in many such cases disputes have not erupted.

Second is the *Interaction approach*; International boundaries however, bring states together, create interaction and cooperation, yet boundary contests constitute a serious threat to interstate relations. Zartman (2002:19) enunciated this point vividly, when he observed that states having a common boundary shared at the least a minimum degree of bond and cannot 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.

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. Thus, a boundary can be a possible catalyst of both domestic and interstate dispute. According to Ben-Yehuda (2004:87) this approach tries to strengthen the proximity explanation by introducing a substantive element that is subsumed in contiguity, friction between neighbors. Contiguous states fight not only because they are close and able to do so, but because their location creates an increase in interactions between them, thereby raising the probability that their national interests will be in conflict and lead to crisis or 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.

Third is the *Territoriality approach*; this approaches focuses on territory as the paramount issue dividing rival states. What creates motivation for waging war are the territorial issues creating hostilities: "what makes for war is that, territory once seen as legitimately owned will be defended by the use of violence where other issues are less likely to be" (Ben-Yehuda, 2004:87; see also Vasquez 1993:138; Huth 1996:9).

In this regard, 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 (Vasquez and Henehan, 2001:123). States and groups have continued to

contest territory, often violently; the reasons for a particular attachment have remained obscured like the Ethiopia and Eritrea attachment over the area called Badme.

However, even in the era when territory appears of declining importance, specific territorial attachments can be mobilized in politics and in ways that reinforces conflict (Kahler, 2003:3). 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.

In using these approaches to explain boundary and territorial conflict, one is inclined towards a shift in theory building in helping to explain territorial disputes. Like the Ethiopia–Eritrea border conflict portrays, one is drawn to the conclusion that, territorial explanation of war maintains that territorial issues are a fundamental underlying cause of interstate wars in the modern system since 1495. In other word, territorial issues can be regarded as an underlying as opposed to a proximate, cause of war because they do not directly bring about war in the sense of being a sufficient condition for war. Territorial issues do not make war inevitable- far from it. But while they are not sufficient enough to bring about war, their presence as a contentious issue makes war more probable (Vasquez and Henehan, 2001:123).

Territorial disputes in international law may be divided into different categories. The contention may be over the status of the country itself, which is all the territory comprised in a particular state. Or the dispute may refer to a certain area on the borders of two or more states. Examples are the areas of Bakassi Peninsular, a contested area between Nigeria and Cameroon, and Badme and its region, the basis for the dispute between Ethiopia and Eritrea.

Similarly claims to territory may be based on a number of different grounds, ranging from the traditional method of occupation or prescription to the newer concepts such as self-determination with various political and legal factors, for example geographical contiguity, historical demands and economic elements possibly being relevant (Shaw, 1999: 334). This to an extent tends to explain the Ethiopia – Eritrea dispute over the imprecisely demarcated colonial boundary. But this explanation is not sufficient enough to understand and explain the boundary conflict (between Ethiopia and Eritrea), because, aside the traditional method of occupation or prescription and historical demands, the said territory does not have strategic or economic importance. And that is why this study we have decided to adopt a fourth approach -Symbolic Approach, to the building - up of territorial theory. This fourth approach will give

us a better explanation and understanding to why even when a territory has no economic or military strategic importance, nations still go to war, like Ethiopia – Eritrea case.

Symbolic value of territory; few scholars who have written and discussed on symbolic value of territory have done so within the context of the other approach. Some others have treated it within the overall discussion of territory. Within this paper, it will be treated as a unit of analysis. Therefore, it behooves on this paper to treat it as an approach on it is own.

In an attempt to situate symbolic value of territory, Robert Sack (1986) sees territoriality as an attempt by an individual or group to effect influence or control people, phenomena and relationships, by delimitating and asserting control over a geographic area. As the definitions portends, we can ascertain that territory is not merely a "container" of natural resources, but also possesses sentimental and symbolic value (Moller, 2000:9).

Vasquez and Henehan (2001:123) and Vasquez (1993:152) maintained that, territorial issues bring about war when they are handled in a certain way, thereby setting off a trend of events that ultimately culminate in war, while Kahler (2003:6) also noted that territorial attachment in turn is the major determinant of the stakes that actor's particularly political elites discern in territory. Territorial disputes or claims may involve stakes of two types, tangible territorial stakes and the symbolic stakes. Tangible territorial stakes includes varying degrees of control over land and sea, as well as the resources and populations that are part of those spatial claims. More puzzling and difficult to explain however, are the symbolic stakes that are often invested in territorial conflicts at the level of polity. These stakes are often determined by the prior (and constructed) territorial attachments of groups. As a result, territories that are devoid of resources or substantial ethnically related populations may still become the site of violent disputes and like Walter (2004:3); Gilpin (1981); Holsti (1991); Goertz and Diehl (1992); Coakely (1993); Huth (1996); and Diehl (1999), observed, territorial disputes tends to focus on the value of a given piece of land to explain why fighting breaks out in some cases and not others.

From the above views we can say that, governments are less, likely to seek a peaceful settlement if the disputed piece of land holds important natural resources, serves vital security functions, or plays a critical role in the identity of a country. And will peacefully relinquish lands that do not. The nature of the stakes under disputes, therefore, predicts how disputes will end (Walter, 2004:3). But in some cases this might not be so.

We might ask this question what are the stakes held by Ethiopia and Eritrea over their entire border in disputes? It is observed that the border areas in dispute between the two nations do not contain any economic resources; neither does the place have any significant populations or military strategic importance. Moller (2000:10); Walter (2004:7); and Kahler (2004:10) gave the answer when they opined that territorial attachment and symbolic value given to a piece of land is a good reason to make a nation go to war. In most cases frontiers are contested not merely militarily and materially but also for their symbolic value. A secessionist group for instance may attach inordinate weight to the possession of a particular piece of lands because its very identity demands so – and the multinational mother state may feel the same way (Moller, 2000:10) as is the case of Ethiopia and Eritrea.

Goertz, Diehl and Huth have further argued that territories have always been contested for three reasons: first, that contested regions often contain natural resources, fertile agricultural zones or critical tax bases that are vital to the well being of the central government and it is these resources that make government hesitant to negotiate, e.g. the contested territory between Nigerian Cameroon before ICJ settlement.

Second, they opined that strategic value is another possible influence on the decision to negotiate. Outlying territories can provide access to strategic waterways and mountains ranging that are crucial for maintaining the security of the state. A state that is bounded by these resources within the territory will consistently fight to keep and maintain the territory.

Third, and most significant to this study, is that territory can also be valued for a third less tangible reason. Certain pieces of land hold great symbolic value, containing sites landmarks and buildings that form the basis of a group's identity. Ownership and occupation of these territories is often perceived to be critical of the group. If two groups hold the same attachment to a piece of land the stakes could easily be defined in all-or-nothing terms, making compromise unlikely (Walter, 2004:7). One could also add that, the number of years and length of stay, ownership or occupation also matters in this sense, because it creates a sense of emotional and passionate attachment to the territory.

In this stead, it is worth noting that territorial attachments are often acknowledged as contributors to conflict within and between states. Systemic analysis of some territorial conflict between two states might point to the importance of symbolic attachments to territory. The intrinsic value of territory (in terms of its economic or demographic

significance) cannot always account for a substantial share of disputes and violent conflict over territory. The fact remains that Domestic political dynamics drive territorial conflict as much as the strategic value of the territory in dispute and those political dynamics are often rooted in the symbolism of territory rather than its measurable value (Kahler, 2004:12).

Therefore, taking into consideration the Ethiopia–Eritrea territorial conflict, we can vividly postulate that the conflict is not waged for the economic and strategic importance attached to the area (Badme) in disputes, because there are none, but the conflict is predicated on the territorial and symbolic attachment given to the area by the two nations.

It is also conceivable that sheer poverty and starvation (e.g. stemming from a continuation of deforestation, desertification and population growth) may cause wars for arable lands (Moller, 2000:9). And as we know the countries of Ethiopia and Eritrea are, from the United Nations Development Report amongst the world's poorest nation, with less arable land for grazing and agricultural utilization, hence, every piece of land becomes meaningful to the two nations. And it is seen as their primary interest translated as national interest which is crucial for the survival of a nation in the system of states and in which any countries could go to war at any time for the sustenance of their territorial integrity and sovereignty.

Nonetheless, territory remains a potent source of conflict between states. Territorial disputes or militarized disputes over territory are more likely to escalate to involve a militarize response by the target state and in turn are more likely to escalate into full –scale war. Hence tangible stakes associated with territorial disputes (strategic location, economic value and share ethnic groups) clearly explain some of the active territorial claims between states, as well as historical and symbolic significance of the territory under dispute.

2. Ethiopia–Eritrea Boundary Conflict: The Cause

Various factors and reasons have been given as to the cause of the war between Ethiopia and Eritrea. Some scholars and Analysts have subjected the cause of the war to tangible and intangible reasons to include economic, political as well as social factors. Some of these factors predicate on the seceding of the Red Sea port to Eritrea, Eritrea introduction of its own currency, Ethiopia trade rules, imprecise and improperly defined boundaries of the two nations, labor migration etc. Our main focus here will be on the political and social factors as it relates to the imprecisely and improperly demarcated and delimited boundary between the two nations.

The ambiguity over the exact location of the long border was the main cause of disagreement between Ethiopia and Eritrea, (particularly around the town of Badme), which undoubtedly gave a new edge to the sporadic squabbles about remote areas where the exact position of the frontier had previously been of little significance to the local population. Relationship between the two nations got worse, the tensions subsequently led to full scale violence in 1998 (ICG Report, 2003: 2).the problem of the exact boundary line is an aftermath of colonial legacy of arbitrary borders, domestic fragmentation (ethnic pluralism) and fissiparous pressure towards secession (Bassey, 2001) that was been bequeathed to African.

Badme as it is a border village (town) in the land of Kunama in which the conflictual motives of the two nation lies in finding its exact location, i.e. on whose territory is Badme? Badme took its name from Badumma plains and is a large stretches of land, relatively arid and unproductive. The place is also sparsely populated, with meager infrastructure, basic services and governmental presence. Except for a few fixed crossing points. It has also been noted that, no precise population figures exists for any of the border areas. Badme and its environs are estimated roughly to have 5,000 residents (ICG Report, 2003: 2). It has been use also as pasture and cultivation area by the Kunama (Abbink, 2003: 2). The border is said not to exist in any physical sense, and people crossed it regularly to find grazing for their herds, to trade or to seek employment. Also they exist no strategic resources too (interview with the Ethiopian Embassy officials in Nigeria, 13/10/2004).

However, when Eritrea before 1993 was part of Ethiopia, there were no border problems. This is because; the border between Ethiopian and the Italian colony of Eritrea was never delineated, let alone demarcated. Abbink (2003:7) observed that on the basis of actual presence and administration (tax records, civil services etc.) by a government and its nationals, the border line was quite clear, though over the years Eritrean farmers and traders also came to settle in Badme. They were of the same language group (Tigrinya) as the local people.

Prior to 1991 the area around Badme was sometimes in dispute. In the 1970s, it was said to be the field operations of the Eritrean Liberation Front (ELF) (Abbink, 2003:3). Furthermore, it was noted that at some point or the other, the movement tried to establish administrative structures in the area, specifically in Badme, but were resisted by the Tigrinyan People Liberation Front (TPLF), which saw it as part of Tigray. The TPLF was supported in

this by the Eritrean People Liberation Front (EPLF), which declared at the time that Badme did not belong to Eritrea (Abbink, 2003: 3). Though, the TPLF had a field base in the village of Bumbet, some 10km north of Badme. After the TPLF and EPLF joined force in chasing out the ELF from the area in 1981, the EPLF gradually took the position that Badme did belong to Eritrea after all. However, the TPLF and EPLF shelved the issue of borders until they would form the government (Abbink, 2003: 3).

It is also observed that, in pre-World War II treaties and documents of both Ethiopia and colonial Eritrea, the name Badme does not occur, because most of the area in question – the Badumma plains – was uninhabited and only occasionally used for pasture. The treaties entered into carried annexes with unclear maps sketching, with a rough outlines of the border, "None of the proposed borders was ever marked on the ground. There was ambiguity on the names of the places and rivers on the maps, some of them occurring more than once. It is also stipulated that Italy also steadily encroached on the Ethiopian soil, and even marked up maps unilaterally without the consent of Ethiopia, which made most of the treaties and maps of demarcation invalid. And which was later contested with Eritrea.

A further argument puts it that, the invasion of Ethiopia in 1935 by Italy automatically made all treaties and unilateral maps null and void, because even after World War II, Emperor Haile Sellassie confirmed the invalidity of the previous treaties and Italy renounced them in 1947 with the Peace Treaty (Abbink, 2003: 4). But then, even if the treaties were not renounced, Head (1998) observed that no attempt was made to alter the boundary during British military mandated rule, or when Eritrea was federated with Ethiopia between 1952 and 1962. Therefore when Eritrea became an Ethiopian province in 1962, the fact that the boundary was ill defined ceased to matter much. While subsequent changes to the administrative boundaries of the province of Ethiopia may have added to the confusion and in turn, leading to the border skirmishes in recent years.

In 1993, after Eritrea got its independence, there was close political and security cooperation and efforts to integrate economics of the two nations, so the border problem did not surfaced. Again due to the historically close ties between the two leaderships, an open border facilitated the free movement of people and goals. As a result, the two sides lacked the foresight to negotiate a treaty to define their border. And they failed to address the issue of Ethiopians of Eritrean descent whose citizenship could be considered affected by Eritrea's

independence. Hence, the ownership of citizens and resources along the border was open to interpretation and reinterpretation according to convenience (ICG Report, 2003:3). As a consequence, the border remained opened. However, in the years leading up to the war, Ethiopia and Eritrea intermittently made conflicting claims regarding the location of the border, since there were inconsistencies, as has always been the case with colonial boundaries. Hence, the conflicting claims subsequently led to war starting from 12th of May 1998, and more than 200,000 lives lost. However on 19th June 2000 both parties agreed to a cease-fire and on December 12the 2000 a Peace Agreement was signed in Algiers and 4200-strong multinational UN peacekeeping force (UNMEE) was deployed for the demining and demarcation of the border (ICG, 2003:4).

3. Resolving Ethiopia–Eritrea Boundary Conflict

In this part the study will identify ways by which Ethiopia – Eritrea conflict can be managed or resolved. But in doing this, three points will be discussed. First, we will take an excursion into how the secondary mediation team i.e. Ethiopia-Eritrea Boundary Commission (EEBC) arbitrated on the issue at stake. Second, the paper will look at problem arising from the EEBC verdict. And third, we will look at methods and prospects for resolving the dispute or at best manage it.

a) *Ethiopia-Eritrea Boundary Commission (EEBC) and the Resolution of the Conflict*

For peace to be broker, Ethiopia and Eritrea took procedural steps to resolve and manage their territorial disputes according to the Algiers Agreement[1]. The Agreement had a provision in Article 4(4) and 5, which proposed for a neutral Boundary Commission (Hiwet, 2003:3), which will be responsible for the delimitation and the demarcation of the border. Based on that, the EEBC was created in early 2001, appointed and mandated by both enemies and working under the auspices of the Permanent Court of Arbitration (PCA) in The Hague[2].

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[1] For detailed information on the Algiers Agreement, please visit http://www.pca-cpa.org/upload/files/Algiers%20Agreement.pdf

[2] Hiwet Gebre, (2004): "The Eritrea-Ethiopia Boundary Decision: Ethiopian Supporter's Attempt to Deflect Mounting Pressure" Retrieved from www.shaebia.org

According to the Algiers Agreement, the parties in dispute agreed that the decision of the Commission would be "final and binding". The agreement also specified that, the parties request the UN to facilitate resolution of problems which may arise due to the transfer of territorial control, including the consequences for individuals residing in previously disputed territory. However, the Commission shall have the power to make decisions ex aequoet bono (Hiwet, 2003:4; ICG Report, 2003:6). However, the parties did not authorize the Commission to make an ad hoc ruling based on what it might consider a "fair" modern boundary (Hicky, 2004:3; ICG Report, 2003:6; Hiwet, 2003:4). Rather, its mandate was to utilize as the sources of its decision the colonial treaties of 1900, 1902 and 1908,[3] applicable international law, and the AU's Cairo Declaration of 1964 on the sanctity of inherited colonial borders (www.dehai.org, 2005). Therefore, the treaties were to be the main, but not exclusive source of evidence. Other factors that could be introduced by the parties included administrative patterns and any customary international law that might bear on the case. While each party should also provide its claims and evidence relevant to the mandate of the Commission as is embedded in Article 4(8) of the Algiers Agreement (Hiwet, 2003:4).

By establishing its own rules of procedures based on 1992 Permanent Court of Arbitration Option Rules for Arbitrating between two states, the Commission stipulated that, "all the decisions of the Commission shall be made by a majority of the Commissioners" (Hiwet, 2003:4). Following the above procedures and directives, the EEBC gave its 125- page Verdict on 13 April 2002 by segmenting the border into three convenient sections: the Western Sector, governed by Treaty of 1902, Central Sector, governed by Treaty of 1900, and Eastern Sector, governed by Treaty of 1908. As the case maybe, both parties were in agreement that the three treaties are the pertinent ones, but there were wide variations in their interpretations (Hiwet, 2003:4).

Therefore, the Commission's challenge was to narrow the gaps in interpretations. However, in summary, the court ruled that a large part of the Western border sector would be awarded to Eritrea (near the Yirga Triangle). Areas in the central zone and eastern sector and border town of Tserona were also awarded to Eritrea. The border town Zalambessa and Aliten (Central Sector) and Bure Danakil Depression) were awarded to Ethiopia (Dale, 1998). Nevertheless, after the EEBC decisions, the two countries claimed the ruling as a 'victory', but the first divergence of opinion over the verdict manifested a few days after the verdict

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[3] For copies of the "Treaties between Italy and Ethiopia (1900, 1902, and 1908)" visit http://www.dehai.org

came out and have continued until this day, because in reality, the verdict awarded Badme to Eritrea.

b) Problems Arising from EEBC Verdict

The demarcation of the border that was due for completion by the end of 2003 has yet to start. The latest schedule was for the process to end in June 2004, but until now, no demarcation has taken place. Scholars and citizens alike, especially, of Ethiopian origin have identified flaws in the decision of the EEBC.

The main reason for the disagreement of the verdict was that the decision did not identify coordinates for the villages of Badme. The Commission decisions were provisional pending verification in its observations of March 2003, which states that there would be no verification process, and implementation of the boundary decision line should proceed immediately. This directive according to the government of Ethiopia, directly contradicts the Commissions own Decision of April 2002 (Inside Report of the Embassy of Ethiopia, Abuja, 2004). The Commission classified on 28 March that the area known as the Badme plains largely was Ethiopia, but the village of Badme was inside Eritrea (ICG Report, 2003:6). Because of its controversial nature, the EEBC excluded any reference to the location of Badme in its lengthy report. It was only mentioned once in passing (on page 84). On the detailed maps in the Border Ruling, the Commission even refrained from indicating Badme. Its coordinates were not given either. Hicky (2004) posited that the verification process cannot be disregarded. Even though, the both parties formally accepted the April 2002 decision, as did the UN Security Council. However Ethiopia presented a detailed response that raises certain questions about the process.

First, it insisted that there is no such thing as "disputed territory", regardless of what the independent Ethiopia - Eritrea Boundary Commission rules. Secondly, it also stated that, while it accepted the Commission's decision, "during the demarcation phase, when the Commission will have its first opportunity to examine the situation on the ground in the border region, certain local problems, need to be addressed". And added that, such local problems if not carefully treated could give rise to further conflict and suffering (ICG Report, 2003:6-7). In other words, Ethiopia said it possessed evidence that contradicted that of the Commission's decisions, that, the border delimited by the Commission would divide a number of communities. Ethiopia therefore requested the commission to address the evidentiary issues through a further deliberative process and the community division issues

during demarcation. For instance, Ethiopia asked that the outer boundary of the town of Zelambessa be determined more accurately during demarcation.

However the EEBC rejected Ethiopia's request, explaining that, it acted under the Algiers Agreement, which provided no appeal procedures for a "final and binding" decision. That no evidence or legal research presented by a party after the decision had been rendered could be used to alter the decision, and that the delimited line could only be modified by agreement between the two parties (Crisis Watch Database, 2004; ICG Report, 2003:7). From this paper point of view, it is impossible; because Eritrea is satisfy with the Commission's decision.

A second problem is one identified by the Commission. According to them, the implementation of a mechanically drawn line would lead to "serious problems and anomalies" and "manifestly impractical situations". Practically speaking, it would lead to fractured and split communities and the displacement of people from settlements which in some areas date back several centuries (Interview with the Ethiopian, Embassy officials Abuja 13/10/2004). In his stead, Clapham (2003) contends that the EEBC by basing its findings almost entirely on the colonial treaties provision and scarcely at all on the international law provisions, it largely disregarded Ethiopian claims based on administration of the disputed areas, and upheld Eritrean ones based on the interpretations of the various treaties. In this situation, it then implied that the Commission's allocation is biased in favor of Eritrea (Hiwet, 2003).

Third, Abbink (2003:4) also noted some flaws. First he noted that the Commission did not say anything on the question of the status of the treaties today. According to him, it is important to realize that the border decision is based on the agreement by Ethiopia and Eritrea to give the authority to decide to the EEBC and to respect its decision in principle as 'final and binding'. Also under this mandate, a number of other legal considerations and norms were declared irrelevant, even though many are in theory valid. This scenario was understandable in the light of the political sensitivities, but it did not guarantee that the objective justice was done. Furthermore, on the one hand, he opined that on two accounts the committee's work was problematic.

(1)   It disregarded political considerations and rivalry that governed state policy in both countries and might prejudice the outcome of a ruling on its own merit;

(2)   It neglected legal principles such as 'self-determination, or even hearing the voice of local populations, and that of effectivities.

And on the other hand, he noted that, the EEBC did not take cognizance of Pre-World War II treaties, because the name Badme does not occur, and most of the area in question, the Badumma plains was uninhabited and only occasionally used for pasture. Again, EEBC did not consider any developments after 1935, when conditions in the area changed markedly. He however stipulated that, the Italian invasion of Ethiopia, in itself annulled any agreements between Ethiopia and Italy as regards its colony (Eritrea), later the Ethiopian-Eritrean federation of 1952-1962 and the subsequent settlement and economic activities in the border areas. Therefore, for the EEBC, omitting to assess the post-1935, and specifically the post-1941 situation, is a mistake (2003:5).

Though, Eritrea has not rejected the possibility of negotiating unspecified improvements or practical humanitarian measures with Ethiopia, but it insists that demarcation must precede any such negotiation, dialogue or other process aimed at normalization of relations or even amelioration of the worst human effects of the demarcation, which will cut some communities in half. Whereas Ethiopia insists that the Boundary Commission's decisions must be revisited before demarcation occurs. Neither side has moved from its position since then (ICG Report, 2003:7).

However, in reality, it is only Eritrea that accepted the decision of EEBC and because of this, real peace has not been guaranteed. As it is today, the relationship between Ethiopia and Eritrea can be described as one of "cold peace" which could again provoke military actions. Until today they have been series of word trading between the two nations.

It is predicted that, if Badme /Yirga village is given to Eritrea, whatever the legal argument made in the highly contestable PCA ruling, there will continue to be perennial tension between the two countries, with danger for additional violence though not large- scale war (Abbink, 2003: 6). It is also observed that, the UN mission in Ethiopia and Eritrea (UNMEE), which is to implement the demarcation, has stated its frustration over the failing Ethiopian - Eritrea cooperation since the verdict. Since after the ruling nine years ago continuous tension however, still exists between the two nations. The old peace process had been dogged by "expressions of bitterness" from both sides, though; neither side had breached

the cease-fire signed in June 2000. But then, no progress has been made in ending the stalemate over the physical demarcation of the border.

However, worth noting here is that, nowhere in the EEBC verdict was economic factors mentioned as reasons for the war and neither did all the Peace Framework prepared by the African Union (AU) included that as a requisite towards conflict resolution between the two nations. Invariably this goes to conclude that the two nations economic quagmire were not a primary reasons for the border war even though it could be said to be opaque. Therefore this study sees symbolic value of territory as a reason for Ethiopia – Eritrea war.

c) *Resolving the Ethiopia – Eritrea Territorial Conflict: Methods and Prospects for Peace*

Here our focus will be on how to resolve Ethiopia – Eritrea territorial claims. Resolving international territorial/boundary conflicts and the prevention of same have been noted to be difficult. Territorial conflicts almost necessarily constitute a complicated mix of interests, actor's dispositions, stakes and actions. This is why it is extremely difficult to determine the location of a boundary in detail. Therefore, for the resolution and management of territorial conflict to be effective, we need, as Blainey (1973: viii) will put it, a sound knowledge of what exactly constitute the problem. Conflict resolution is a big job, but it is an important one too. What is at stake is whether peace and lasting peace could be achieve in such a way as to give birth to stability not just for the two countries but for the Horn of Africa as a whole. One of the hardest phenomena to explain for a social scientist is an unfolding event with obscure beginning and an uncertain ending. However, realistic prospects often exist to resolve or prevent violence. The situation that present itself today in the countries of Ethiopia and Eritrea has been particularly volatile and in search of a lasting peace.

4. The Prospects of Resolving the Conflict

It is observed that, while neither Ethiopia nor Eritrea wants to return to combat, incidents of isolated violence have been occurring with increasing frequency along the border, as have the reports of incursions by troops into the neutral zone. There is no real dialogue between them (ICG Report, 2003: ii). There is mutual suspicion between the two governments. The attitudes being portrayed now, is similar to those that prevailed prior to the war of May 6, 1998. Most specifically, the integrity of the peace agreement is on the brink of being violated.

The bleak future of accepting the EEBC ruling tends to be the most prominent reasons for Ethiopia refusal to abide by the decision. This situation posed a challenge for peace and a lasting peace for the two countries. And at the same time it injects into the minds of scholars, statesmen and citizens alike, the questions, are there chances for peace? What should be the precise modalities for achieving lasting peace?

The Ethiopia-Eritrea border conflict, astound as it may be, is in dire need of a solution. Such dilemmas over borders are common in Africa. And to resolve this, it is our collective responsibility to devise durable and acceptable policies for the management of African borders, such policies must take into consideration the unique dialectics of African borderlands, especially the institutional structures that sustain them – political, legal, economic and social and cultural (Ogunkelu, 2001:4).

Without doubt, there are no problems devoid of solutions no matter how much time, energy and resources it engulfs. For instance, the former UN secretary General, Koffi Annan, welcomed as "historic" an agreement between Belize and Guatemala that seeks to end one of the world's longest running and more obscure, border conflict, which lasted for 143 years. This historic event took place after two and a half years of negotiations and a "ground-breaking accord" was achieved (Niam, 2002:19).

Other boundary disputes resolved peacefully and which Ethiopia and Eritrea should learn from is the Sino-Pakistan Sinkiang–Kashmire border, where both sides made concession. In this dispute, the compromise line of settlement transferred to Pakistan about 1,360 sq. miles of territory while China obtained, 2,050 sq. miles (Chukwurah, 1967:146) and the Nigeria-Cameroon boundary settlement. Given the above examples, we then envisaged that there is hope for peaceful resolution of the Ethiopia-Eritrea border conflict, notwithstanding the nature of the disputes. However, certain factors and conditions have to be taken into cognizance in this study towards a lasting peace.

First and foremost, however, as a consequence, Ethiopia and Eritrea equally have to abide by and respect the agreement (Algiers Agreement) entered into. For it is the only way lasting peace can be reach. In respect of that, the two nations should allow for a ground demarcation of the boundaries in question as this will help shelved-down the tension hanging in the air at the Horn of Africa.

Second and on a general perspective, borders/boundaries should be seen as bridges rather than barriers between adjacent states. If peace is to be attained by Ethiopia and Eritrea, then the two countries should resolve the present recurrent and detractive boundary conflict. The two nations should see as in the time pass prior to their conflict, that their borders were a prelude and a precondition to their political, social and economic cooperation that had existed and will continue to exist between them. And like Asiwaju (2001:21), observed, boundaries await urgent conversion from prevailing posture as barriers into new roles and functions as bridges and junctions between states. This will safeguard against further skirmishes among the two nations and any other country in Africa involved in border dispute.

Third and most importantly, for a peaceful resolution to be reach between Ethiopia-Eritrea it will be advisable for the both nations to down play the boundary problem so that public emotion are not aroused. Because, it is observed that, when a boundary problems arise, the propaganda being fed to the public could aggravate a hostile situation and in turn lead to escalation of the conflict. Abbink (2003:6) observed that the question as to where Badme lies is so controversial, and so hidden in a smoke screen of propaganda and nationalist talk by the two protagonists, to the extent it blighted Ethiopian-Eritrean relations and at the long run, it blew up into a devastating war with huge human, economic, and environmental consequences. Therefore, it is advisable, more so, now that there is relative stability between the two nations that, men who act upon international boundary continuously as in this particular case, need to shun publicity, which in turn might be a requisite for peaceful resolution of the border conflict.

Fourth, like the examples given above on other boundary disputes between nations, Ethiopia and Eritrea could afford to make concessions in the spirit of give and take. This is to nullify the win-lose situation. Essentially, diplomacy should assume a pride of place at this critical time of the conflict. In this vein, diplomacy attempts to make best of bad situation by attempting to reconcile one's own national interest with those of the other side. This in turn creates a win-win approach, which holds greater promise for a more enduring solution (Bassey, 2001:16). In doing this, Ethiopia-Eritrea should seek precise and creative ways to facilitate accomplishment of the Boundary Commission's decision by; (a) negotiating equidistant initiatives. This should be done with the help of third party aimed at reducing the humanitarian impacts on the peoples of the border region and, (b) by preventing conflict that might result from the demarcation process.

Fifth, today Latin American holds greater promises in trans-border relations as well as boundary politics, because they hold in sacrosanct the principles of 'Uti possidetis and Uti possidetis juris'. The former assumes that borders between adjacent states can be determined by merely using the old colonial boundary lines. Whereas the latter refers to a boundary at that point where defacto colonial boundary lines existed in terms of effective control and thus has become a part and parcel of the state in control of the territory (Jacobini, 1978:93). The above principles have been incorporated into AU's Charter since 1964. It is then advisable for Ethiopia and Eritrea to adhere to these principles. Bassey (2001:18) asserts:

> In the context of border relations in Africa, what is required is both short and long term approaches. The short term approach involves concretization of the legal doctrine of uti possidetis…in spite of the transfer of sovereignty and perspective of the international legal merits of their original demarcation.

Sixth, the international community should send a fact-finding Mission (Mission of Enquiry) to the border area in dispute. Since the AU, UN EU and USA have taken it upon themselves to mediate over the conflict, a joint Fact-finding Mission will be of necessity, since this will be helpful to see reason or not in the decision of EEBC. Since part of Ethiopia's arguments is that, there was no on-the-spot-assessment of the disputed area as well as on-the-ground survey. Basically, the delimitation was done on paper like as it was in colonial days. On this point, ICG Report (2003:13) stipulated that, if this is done, it would allow some of the responsibility for the decision to be focused internationally, rather than on the Ethiopian government, the larger rationale of implementation to be explained, and the discussion to be extended beyond the local political framework and its inherent limitations.

Conclusion

In a world made up of states, which commonly include numerous nationalities, the fatal attraction for the territorialization of nations have the possibility of becoming one of the worst peace disturbing factors in this century. Therefore, it is a good thing to solve territorial claims once they explode into open confrontation. Of course, the best option is to prevent them from arising at all, but if they occur, it is better to prevent them from escalating into open forms of mass violence (Ayisisi, 2001). However, this will have to involve good management.

Hence, from the above discussion, we could adjudge that the territorial conflict between Ethiopia and Eritrea is not really base on tangible reasons but intangible reasons. This is because as our analysis portends, the territory in dispute has no economic and strategic importance, of course there are no resources embedded in the territory. In that sense, one is obliged to ask the question as to why a nation will fight over a territory of no tangible importance. The answer therefore lies within the symbolic value approach of territorial theory. This sees dispute over territory as a consequence of emotions and passions for the territory in question.

Be that as it may, though, the future seems bleak between the two countries, however, the above considerations for peace are not an end in itself, but if there are considered, there can guarantee prospects for the resolution of the territorial conflict.

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