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Rivalry, Resources, Reparations and Ruling: Diving into the Congo-Uganda Saga in the Halls of Hague

- Harshita Tandon (II B.A.LL.B.)

In 1999, the Democratic Republic of Congo (DRC) filed an application in the International Court of Justice (ICJ) against the Republic of Uganda, seeking relief and reparations for acts of armed aggression in the Congolese territory since 1998. The petition claimed that Uganda's actions violated the fundamental principles of the UN Charter and the Charter of the Organization of African Unity. This case is now considered a model for applying international law to resolve interstate conflicts.

In the complaint, the DRC maintained that the Uganda Peoples' Defence Force (UPDF) had administered occupation of large areas of Congolese territory. Further, the province of Ituri territory had come under the direct control of Ugandan authorities, which acted in collaboration with Congolese rebel groups and systematically looted and exploited the assets and natural resources of the DRC. Uganda refuted these allegations by pointing out that the number of its troops was too small to occupy the extensive territory claimed by DRC.

The DRC argued before the court that Uganda violated its sovereignty by occupying parts of its territory (like the Ituri region) and supporting armed rebel groups, causing significant harm and disruption in the country. However, Uganda maintained that its military actions were in self-defence and necessary to protect its security interests against threats from the DRC territory. The ICJ rejected Uganda's claim on the rationale that the preconditions for self-defence did not exist, the court also noted that the magnitude and duration of the military intervention were unjustified and therefore unlawful.

Hence, the primary issue in the case before the ICJ was which Congolese territories were under belligerent occupation by Ugandan forces. Belligerent occupation refers to the capture of territory from an enemy State in the course of an international armed conflict. To determine its existence the ICJ examined the facts of the case in light of various existing international laws.

The court inspected the existence of "actual authority", a precondition for belligerent occupation. One interpretation of the exercise of

News at a Glance

On July 1, 2024, Elisa de Anda Madrazo of Mexico took over as head of the Financial Action Task Force (FATF). The appointment, which is good until June 2026, is a big change in the way this important global financial watchdog is run. During her presidency, she plans to make it easier for people around the world to fight financial crimes and terrorist funding. For more information see here.

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this authority is that occupation begins whenever the aggressor starts exercising some level of control over the enemy's territory. This is the broader approach subscribed to by organisations such as the International Committee of the Red Cross (ICRC). A narrower approach, however, maintains that occupation begins only when the aggressor is in a position to exercise legal control over the territory required to discharge all obligations imposed by the law of occupation.

After considering the facts of the case, the court recognised the application of Article 42 of the Hague Regulations of 1907 to determine occupation. Through this, the Court acknowledged the occupation of Ituri but held that there was insufficient evidence to prove that the UFDF were in occupation of any other Congolese territory. This was because they could not establish the "actual authority" of UFDF outside the province of Ituri hence, there could be no belligerent occupation in other regions.

A significant feature of the judgment was the invocation of the "global sum" doctrine by the ICJ for awarding compensation to the DRC. The global sum is an approximate sum of damages a court may award by softening the rules of causation to protect a claimant's rights where the ideal of fairness warrants it. It is a fair and just remedy for claimants to receive compensation for wrongs committed against them. However, Uganda said in the hearings that DRC's multi-billion claim would ruin its economy, hence, in the final verdict the judges noted that the reparations were within Uganda's capacity to pay.

The ICJ delivered its ruling on the matter on 9 February 2022, wherein it held Uganda internationally responsible under Article 2(4) of the UN Charter. The Court then emphasized that this case is characterized by Uganda's violation of some of the most fundamental principles and rules of international law, namely the principles of non-use of force and non-intervention. The court also ordered Uganda to pay a sum of $325 million for plundering the Ituri region and its resources from 1998 to 2003.

The judgment in the DRC v. Uganda (2022) is a landmark in holding states accountable for the

News at a Glance

Bangladesh became the fifth member state of the Colombo Security Conclave on July 10, during the 8th Deputy National Security Adviser (DNSA) level meeting, which was held virtually by Mauritius. The Colombo Security Conclave (CSC) is a group of regional security experts who work together to solve naval security problems in the Indian Ocean. The CSC was created in 2020 by India, Sri Lanka, and the Maldives as starting members. Its goal is to encourage member states to work together on security issues. Since then, Mauritius and, most recently, Bangladesh have joined the group. For more information see here.

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exploitation of resources during military operations by awarding reparations for such damages. However, it also highlighted the shortcomings of international law, as some of DRC's claims, including deforestation, were dismissed. Critics argued that while the court's decision was consistent with the present jurisprudence, its ultimate rejection of certain claims raises the question of whether the Court applies its causal nexus standard more stringently to them than to other kinds of damages claims. Additionally, the ICJ's lack of enforcement powers in cases of non-compliance remains also a concern for such decisions.

This ruling brings a sense of closure to a 23-year legal battle between the African states and sets a precedent for accountability in interstate armed conflicts involving extensive violations of International Humanitarian Law. This case set several judicial principles in the international arena such as those of State Responsibility, by holding Uganda internationally liable for interfering with Congolese sovereignty; Calculation of Reparations, to somewhat establish the situation that existed before the harm had occurred; and Victim-Centered Approach, through holding the Ugandan state liable for subjecting Congolese territory and population to exploitation. These principles draw upon earlier ICJ rulings on state responsibility and reparations, such as the Nicaragua v. United States (1986) case, where the court also dealt with issues of state responsibility and reparations for unlawful use of force.

As the world faces the nuances of the increasing interstate disputes, the case of DRC v Uganda stands as a somewhat successful example where international principles were applied and upheld to compensate and mitigate the sufferings caused by the Ugandan occupation of the Democratic Republic of Congo.

'Moeilike reis': An analysis of the Energy Arbitration System in Africa

- Anuradha Lawankar (III B.A.LL.B.)

The 7th Annual Conference on Energy Arbitration and Dispute Resolution in the Middle East & Africa turned quite a few eyeballs towards improving and investing in the African energy sector. Many countries in the African continent have developing economies and house major oil and gas reserves. At present, the continent is home

News at a Glance

The European Court of Human Rights (ECHR) has unanimously ruled against Russia, finding systematic human rights violations in Crimea since its occupation in 2014. The court's ruling detailed a pattern of abuses perpetrated by Russian authorities in Crimea. These violations encompassed a wide range of fundamental rights guaranteed under the Convention and its protocols. For more information see here.

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to 7.8% of global oil production and 8.9% of global oil exports, also accounting for 6.9% of the world's proven gas reserves. Additionally, the continent is estimated to have 60% of the world's best sources of solar energy (10 TW), hydropower energy (35 GW), wind energy (110 GW), and geothermal energy (15 GW). The continent is also predicted to grow further in terms of foreign direct investment and increased production potential. However, this optimism comes at a cost, and there are two significant issues: Firstly, there is a need to balance "energy transition" and "energy poverty", and secondly, there are existing inequities in the "energy arbitration system", or the Investor-State Dispute Settlement (ISDS).

"Energy transition" is a very complex issue in the continent, despite contributing the least to fossil fuel emissions. Many countries are in a state of flux, wherein they need to weigh the benefits of transitioning to 'green energy sources' against more pressing concerns about 'energy poverty'. Situations are so grim that only 55.7% of Africa's 1.3 billion population have reliable access to electricity. This simply means that, even after abundant potential to harness renewable energy, the continent will still be dependent on fossil fuels, as it is cheaper and structurally more accessible for the poor.

The condition of the poor in the continent is further exacerbated by a global call by the Intergovernmental Panel on Climate Change (IPCC) to reduce global greenhouse gas emissions. Having said that, there is growing recognition of phasing out plans and measures to restrict the supply of fossil fuels. However, transitioning towards renewable energy is not going to be an easy task for the governments, since a shift away from fossil fuels could lead to stranded assets, thus creating financial risks for investors and liability under the ISDS mechanism for the state.

Globally, the value of stranded assets in the power sector alone could amount to climate change, the projected value of stranded assets in the power sector alone could amount to as much as US $1.8 trillion. To bring a claim, a business must demonstrate its status as a foreign investor with the investment protected under a particular treaty. This broadens the pool of potential claimants to

News at a Glance

South Korean activists sent posters and USB drives with South Korean media into North Korea in May 2024. This started the latest "balloon war" round between the two countries. The group called "Fighters for Free North Korea" did this, and North Korea responded by sending trash- and maybe even manure-filled balloons back into South Korea. For more information see here.

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include a wide range of financial investors holding direct or indirect equity stakes in fossil fuel companies. Notably, many of the known ISDS cases initiated under the Energy Charter Treaty (ECT) were filed by private equity funds or other financial investors.

Coming to the second issue, one has to analyse different reasons that have led to an increase in energy-related disputes in Africa. Firstly, the Russia-Ukraine war has compelled many countries to find alternatives to Russian oil and gas resources. This has increased the presence of foreign investors in the African continent. There is also growth in exploration activities by countries like Nigeria and Algeria, who wish to open different domains of their economy for investment. Additionally, countries tend to have collaborative ownership of "energy assets" with foreign investors, which is often met with hostile outcomes. As there is a palpable difference in objectives, the state tries to maximize welfare for its people, and the investors seek to maximize their profit. Disputes can arise under both contractual instruments (i.e. concession agreements) and investment treaties as well.

After outlining the reasons behind energy arbitration, there is a need to evaluate the considerations and limitations that hamper its efficiency. To start with, the arbitration process in the energy sector is very time-consuming and financially draining, owing to the innate complexities in the industry. These complexities range from, the dependence on natural resources for business, and multi-stakeholder ownership to the impact of conflict/sanction and consequent price volatility. Additionally, most of the energy projects tend to be active for long periods and require the maintenance of cordial relations between partners (i.e. the state and the private investor), making it difficult to maintain administrative efficiency.

Under most treaties, disputes are typically settled by ad hoc (especially established) arbitral tribunals. The features of arbitration mean that ISDS has legal ramifications against non-complying states. There has been a significant increase over the past few years owing to investors' access to international redress, without needing to first exhaust local remedies, broad interpretations of the protections provided to foreign investors,

News at a Glance

The 24th Meeting of the Council of Heads of State of the Shanghai Cooperation Organisation (SCO) was held on 4 July 2024 in Astana, the capital of Kazakhstan. Kazakhstan President Kassym-Jomart Tokayev hosted the summit meeting. The Eurasian country of Belarus was admitted as the 10th full member of the SCO. The Indian Prime Minister skipped the meeting, and India was represented by the External Affairs Minister Dr. S Jaishankar. For more information see **here**.

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made by ad hoc tribunals, and large compensation awards that sustain an international industry of adjudicators, lawyers, and financiers.

Damages serve as the primary remedy under international investment law, implying that ISDS may not directly impede governments' regulatory abilities as long as compensation is provided to investors. However, this perspective overlooks that investment treaties often mandate States to compensate foreign investors based on more generous standards than those stipulated in their domestic policies. The adherence to investment treaty obligations prioritizes market value and entails substantial compensation amounts resulting in significant strain on public finances particularly in low and middle-income countries. Additionally, the inconsistent jurisprudence of ISDS creates uncertainty, potentially deterring States from taking regulatory actions, fearing expensive proceedings. This phenomenon is also known as "regulatory chill," where States reduce or even abandon climate measures in the face of ISDS proceedings.

The growing investment in the continent is not met with a proportionate growth in the institutional mechanism to solve disputes. For example, very few African countries have signed or ratified the United Nations Commission on International Trade Law's (UNCITRAL) Convention on International Settlement Agreements Resulting from Mediation (i.e. the Singapore Convention on Mediation). This makes it difficult to have a uniform standard for resolving transboundary disputes.

The situation on the continent does not have a simple or straightforward answer, whereby states have to make conscious efforts to mitigate the impact of climate change, and energy transition, and bear the brunt of the stranded assets on their economy. National and international policy approaches should also integrate awareness-raising and debate on ISDS issues in climate policy forums and consider explicit provisions addressing ISDS in proposed multilateral treaties.

Meanwhile, implementing national policy approaches that sustain energy transition while mitigating

News at a Glance

Israel's airforce conducted a strike on the United Nations Relief and Works Agency for Palestine Refugees's (UNRWA) Abu Oraiban School building in Nuseirat refugee camp. The strike killed at least 17 people, according to sources from Gaza's civil defense agency. Israel stated that the strike was directed against "terrorists who were operating in the area of the building". Israel claims that "numerous steps were taken to mitigate the risk of harming civilians, including the use of precise munitions and additional intelligence", and justified the strike by accusing Hamas of violating international law by "exploiting civilian structures and population as human shields" for attacks. For more information, read **here**.

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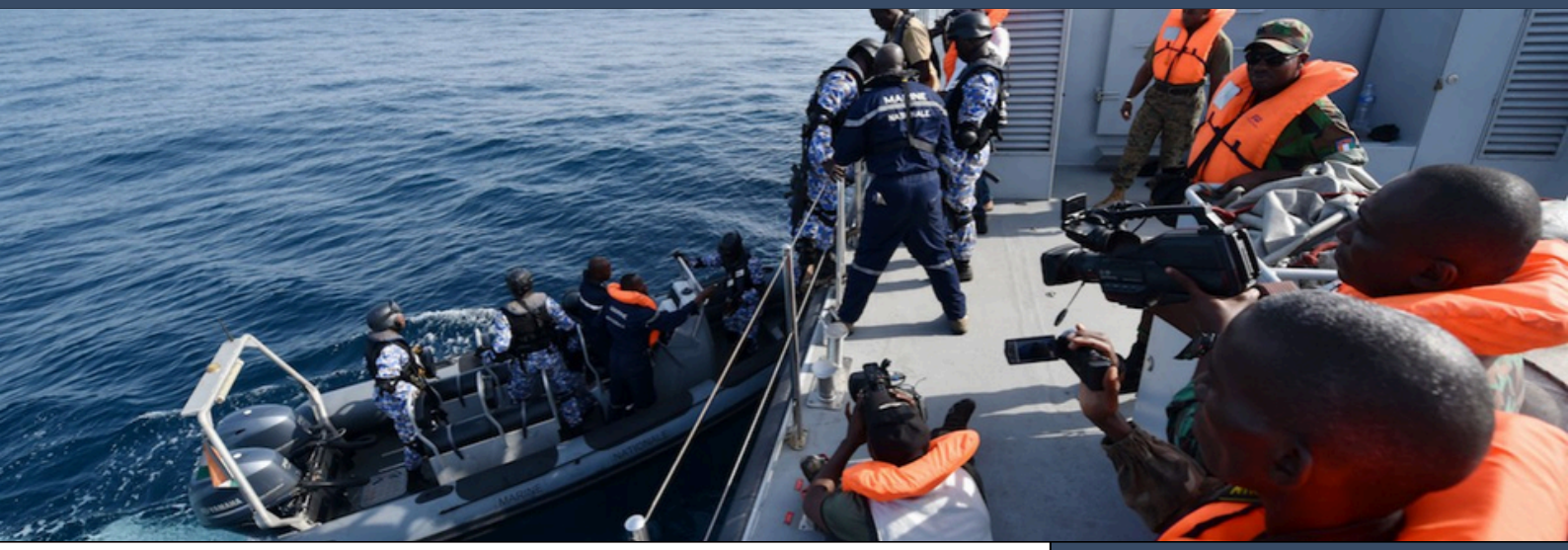

ISDS risks, such as reverse auctions for coal power plant closure or suspending fossil fuel exploration programs, can be effective. Their efforts in promoting transparency, collaboration, and mainstreaming of climate goals in investment treaty policy are vital for driving public action and ensuring accountability in achieving a sustainable energy transition.

Maritime Security in Africa: The African Union's Path to Regional Coordination and Self-Sustainability

- Soumik Ghosh (IV B.A.LL.B.)

The African Union (AU) comprises 55 countries located in the African continent. The AU is effectively an intergovernmental organization aimed to promote regional integration by way of treaties, resolutions, and decisions that directly and indirectly apply to member states of the AU.

The African continent is centrally located and is responsible for around 7% of global maritime exports and 5% of imports by volume in addition to controlling several key shipping routes serving as a gateway between Asia, Europe and the American continents. In light of these facts, it can be inferred that the security of these shipping routes is paramount.

Most African countries are classified as Least Developed Countries (LDCs), ergo are unable to bolster maritime security in proportion to the rising threats of Armed robbery and piracy arising in their waters, leading to an overall rise in shipping costs. To solve this problem, the AU has initiated a variety of international coalitions through its Peace and Security Council to coordinate efforts in addressing maritime security challenges. These efforts include partnerships with international organizations, such as the United Nations and the European Union, to enhance capacity building, joint patrols, and information sharing among member states. Additionally, the AU has encouraged regional cooperation through bodies like the Economic Community of West African States (ECOWAS) and the East African Community (EAC), fostering collaborative frameworks to combat piracy and armed robbery at sea.

Dedicated international task forces established through various

News at a Glance

The US Federal Bureau of Investigation (FBI) said it is investigating the Pennsylvania shooting incident, in which former President Donald Trump was injured and an attendee tragically killed, as an assassination attempt and potential domestic terrorism. The FBI also stated that there were no current public safety concerns at the time when the statement was released. The shooting incident happened during former president Donald Trump's campaign rally in Butler Pennsylvania on Saturday evening. The perpetrator fired multiple shots toward the stage. The shots killed a spectator and injured Trump's left ear. The shooter is now deceased and the Trump Campaign indicated that Trump "is fine and is being checked out at a local medical facility." For more information, see here.

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collaborations as well as through United Nations Security Council (UNSC) resolutions play a pivotal role in enhancing maritime security in the African continent. A prime example of this is the Djibouti Code of Conduct/Jeddah Amendment signed in 2017, to which the European Union (EU) recently became an observer. This initiative has led to a huge reduction in security lapses in the Gulf of Aden and the Western Indian Ocean as the country has 8 foreign bases and a myriad of foreign players to whom security has been outsourced. Another such collaborative endeavour is the AFRICOM venture, the United States Africa Command, aimed at enhancing maritime security in Africa. Established in 2008, AFRICOM coordinates with African nations and international partners to address security challenges across the continent, including maritime threats like piracy. It provides training, and support for regional military operations, and facilitates information sharing to improve security capabilities among African states. AFRICOM's initiatives include joint exercises, capacity-building programs, and support for regional organizations such as the African Union and ECOWAS. These efforts bolster the capabilities of African nations to secure their maritime territories effectively. Moreover, AFRICOM collaborates closely with international task forces and organizations like the Combined Maritime Forces (CMF) and the European Union Naval Force (EUNAVFOR).

Thus it can be inferred that most if not all the major naval forces in the world are committed to the maritime security of the African region. However, most of these actors operating in these particular waters are acting to safeguard their own interests which, in the absence of a central hierarchical co-ordinating body may lead to inefficiency and duplication of effort leading to redundancies. For instance, a study found that 64% of China's annual fishing volume came from West Africa, leading to a revenue loss for local African fishermen and demonstrating China's use of African waters for purposes other than just security. While the Lome Charter envisions enhanced cooperation amongst member states of the AU and the augmentation of their legal systems with global charters such as UNCLOS, SOLAS and the Protocol of the November 2005

News at a Glance

The Iraq Ministry of Justice strongly refuted a news article accusing the Ministry of carrying out secret executions in Al-Hout prison. The Ministry is braced to pursue legal action against the site. According to the Ministry of Justice, the accusations "aim to mislead domestic and international public opinion and distort facts for political purposes". The official spokesperson for the MInistry affirmed Iraq's commitment to human rights, as well as Prime Minister Mohammed Shia' Al Sudani's ongoing efforts and close involvement in the reform of correctional departments and improvement of inmate conditions. For more information, see **here** and **here**.

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Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation, it is merely a soft law instrument. The AU has desperately needed international support to safeguard maritime security however it now needs to shift the paradigm to self-sustainability by increasing regional coordination and establishing a central hierarchical structure to regulate international coalitions and eventually phasing them out as undoubtedly the presence of international forces is helpful, these forces can be leveraged to influence domestic policies and hamper growth in the long run. As very simply, if these foreign actors are allowed to operate unchecked and unhampered they may start to influence Africa's economy in a detrimental manner. The entire African coalition should endeavour to use the proceeds generated from foreign collaborations and earmark it for the development of their own infrastructure for regulating and enforcing maritime security as a unit because as mentioned above the presence of these international forces is what is keeping the infrastructure stable and an abrupt withdrawal will lead to far-reaching if not devastating effects on the global economy thus a phased withdrawal in conjunction with Africa's ability to regulate the security of these lanes should benefit them in the long run.

Role of Arbitration in Resolution of Territorial Boundary Disputes in Africa: The Case Study of Kenya-Somalia Maritime Dispute

- Ritu Karwa (III B.A.LL.B.)

On 12 October 2021, the International Court of Justices ("ICJ or court") issued its decision in the case of Maritime Delimitation in the Indian Ocean (Somalia v. Kenya). The dispute concerned the establishment of a single maritime boundary between Somalia and Kenya (the parties) in the Indian Ocean. The decision heralds the consistency in jurisprudence and methodology important to the delimitation of the maritime boundaries.

In 1924, Italy and the United Kingdom entered into a treaty regulating the agreed-upon boundaries of their respective territories in East Africa, which included the Italian colony of Jubaland, which is now present-day Somalia, and the British colony

News at a Glance

Vice President of the Tigray Interim Administration, General Tadesse Woreda, stated that the Interim Administration will take tough measures to ensure that the increasing security threats and crimes in Tigray are addressed and controlled. In line with this announcement, the Tigray Interim Administration released a statement revealing a new initiative to combat crime in the region. For more information, see here.

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of Kenya. After independence, the states became a part of the United Nations Convention on the Laws of Sea (UNCLOS). Today, Somalia and Kenya share a land boundary in East Africa which meets the Indian Ocean to the South-East. This maritime area is the point of clash as it holds large reserves of hydrocarbons which both the states have been very eager to exploit.

Several attempts were made by both the states to reach a consensus about the maritime boundary like the Memorandum of Understanding (MOU) reached in 2009 but the non-compliance to the same on both sides became a pertinent problem. The situation worsened when in 2012, Kenya awarded exploration licences for eight offshore blocks in the Indian Ocean to foreign oil companies. This move was met with an outcry from Somalia, where it was claimed that Kenya had contravened Somalia's Law No. 37 (defined Somalia's continental shelf and EEZ). After this Somalia filed a petition in 2014 against Kenya in the ICJ following the delimitation of the maritime space in the Indian Ocean. Somalia sought to determine the border in the Indian Ocean based on the parameters of International law and also claimed the invocation of Article 36(2) of the statute concerning the jurisdiction of ICJ. Kenya objected to this first in 2015 but later in 2017, the ICJ rejected Kenya's claims and asserted that it had jurisdiction to entertain the application. The judgement was rendered in 2021 regardless of the absence of Kenya in several of the hearings.

The party's contention differed significantly where the adopted methodology differed with respect to the delimitation of the maritime areas. No maritime boundary existed between the two states as claimed by Somalia, and thereafter asked the ICJ to plot a boundary line using the equidistance/special circumstances method and the equidistance/relevant circumstances method for the maritime areas. Somalia opined that an unadjusted equidistance like all other maritime areas would achieve an equitable outcome. It argued that Kenya had violated its international obligations by its conduct in the disputed area and demanded reparations.

Kenya refused to recognize the ICJ jurisdiction at first, however, at the same time kept making assertions. The Court scrutinised Kenya's

News at a Glance

The Tunis Court of Appeal Specializing in Financial Corruption Cases has issued arrest warrants against Tunisian businessman and former MP Lotfi Ali, as well as the former CEO of the Gafsa Phosphate Company (CPG), Romdhane Souid. Over the years, President Kais Saied has vowed to crack down on corruption in the industry, given the sector's significant contribution to Tunisia's GDP (phosphate mining accounts for 4% of GDP and 15% of exports). This crackdown extends to other sectors as well; more recently, the Tunisian Federation of Insurance Companies (TFIC) announced the establishment of the Agency to Combat Fraud and Scams (ALFA) in the insurance sector, in a bid to tackle growing instances of fraud, scams and corruption within the industry. For more information, see here.

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assertion that a tacit agreement existed between the two states regarding their maritime boundaries and this was based on two arguments: the first being Somalia's alleged acceptance which was indicated through its long absence of protest of the maritime boundary at the parallel of the latitude, and secondly the adherence to the consistent practice in which both the countries conducted naval patrols, marine scientific research and oil concessions limited to their respective areas. It was then stressed by the court that a permanent maritime boundary is of significant importance and requires concrete evidence. The court found that Kenya's claim did not meet this threshold by noting that Somalia had not clearly and consistently consented to the maritime boundary claim of Kenya. The prevalence of bilateral negotiations for delimitation pointed towards the same fact. Subsequently, the ICJ looked into the signed MOU between the states and concluded that the treaty hadn't been enforced. Additionally, the MOU also did not provide on how to delaminate as per the Commission on the limits of the Continental Shelf (CLCS). The ICJ revisited the cases on jurisdiction reservation which it rarely does; based on state agreements such as the MOU. However, in the given case, it did so based on the pre-existing agreement enacting the Vienna Convention clause on Objective and Subjective in Article 31 and Article 32 respectively. Needless to say, the court determined the judgement in combination with UNCLOS which required the court to focus on the MOU rather than interpreting Kenya's reservation exclusively and the court upheld its jurisdiction. The principles laid down in the North Sea Continental Shelf cases were put to use to demarcate a boundary between the two states, thereby legally settling the dispute as both Kenya and Somalia were signatories to the UNCLOS.

A 3-stage methodology was applied by the court which included establishing a provisional equidistance line which required ICJ to identify appropriate base points on the coasts of the disputing parties. In terms of Somalia and Kenya, the court first established an equitable solution by placing the base points on the mainland. Secondly, whether there is a need to adjust the provisional equidistance line which

News at a Glance

The Polish parliament rejected a draft bill to decriminalize consensual abortion assistance, according to reproductive rights activists. The initiative was part of a group-bill proposal, which underwent an extensive debate early April in the Sejm (the Polish Parliament) and was protested against by thousands of people. The Poland Constitutional Court took a controversial decision in 2020, when it decided to declare abortion in cases of fetal abnormalities as unconstitutional. Ever since, the decision has been heavily criticized by human rights organizations, among which Amnesty International considers it "as a coordinated systematic wave of attacks on women's human rights by Polish lawmakers." For more information, see **here**.

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questioned the need for adjustment for equity as the stances for both the nations differed. Lastly, the Disproportionality Test was applied to ensure the adjusted maritime boundary was equitable. The court found no significant disproportionality and confirmed it as an equitable solution for the EEZ and continental shelves within 200 nautical miles as per UNCLOS articles 74 and 83.

Somalia might have won the case against Kenya but the willingness of the parties to bring effect to this judgement rendered by the ICJ. This is because either party can choose to practice Article 36(2) of the statute which essentially renders the decision of the ICJ not binding on the states; the state has a legal right to stop collaborating with the court anytime. Despite the decision of the ICJ being bitter for Kenya, the ICJ took the case as its mandate upon being filed by Somalia.

The decision did not favour Kenya as it had two major issues - the first being under Article 36(2) regarding jurisdiction. This is because of the existing MOU which made Kenya feel that involving ICJ was a breach of its sovereignty individually and regionally. Besides this Kenya had been exploiting the contested area with no limit whatsoever to their own benefit like the oil exploration activities, etc and such a resourceful area slipping away would be a huge loss. On the other side, Somalia's decision to include ICJ was a strategic move to hold Kenya accountable internationally. The standing MOU had a Negotiation Clause in it and Somalia knew Kenya would be reluctant in putting to effect the outcome of the negotiation even if it would have been similar to a court decision. Hence, it would result in having a better chance of negotiating and winning it.

The ruling gave Somalia rights over the Continental shelf and part of the Exclusive Economic Zone which was a huge blow to Kenya who rejected the decision of the court. Despite having diplomatic ties for so long, the displeasure of this decision definitely showed despite the refusal of the Kenyan Government to shut down the Dadaab refugee camp which hosts over 200,000 Somalis to the maritime issue. While being in consonance with earlier laws, this delimitation reinforces an already existing practice towards delimiting maritime boundaries. The court set the course for future

News at a Glance

Chinese and Russian naval forces began a joint exercise at a southern Chinese military port. The annual “Maritime Joint-2024” exercise, agreed upon by both nations, is taking place near Zhanjiang until mid-July. Its stated objectives include demonstrating the partners’ ability to address maritime security threats, maintain regional stability, and deepen their strategic partnership. This naval cooperation unfolds against a backdrop of mounting tensions between China and NATO allies. For more information, see here.

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jurisprudence by considering the practical factors, the doctrinal position of the delimitation of maritime boundaries under international law and also how it significantly contributes to the regional dynamics between Somalia and Kenya, which had far-reaching implications in terms of ownership and exploitation of maritime resources.

Uti Possidetis Juris: Analysing the Frontier Dispute between Burkina Faso and the Republic of Mali

- Shreya Basu (IV B.A.LL.B.)

The principle of *uti possidetis juris* is no more emphasised than it is in the African continent, particularly in the case of the Frontier Dispute between Burkina Faso and the Republic of Mali ("Mali") which set its standing as a general principle of international law. Rooted in colonialism, this principle legally bound African States to convert existing boundaries to internationally recognised borders since being adopted by the Organisation of African Unity (OAU) in their first summit conference in 1963.

The source of the dispute between the former French colonies of Burkina Faso and Mali essentially boils down to the acceptance of uti possidetis juris. Wherein Burkina Faso accepted the border drawn by the French Colonial Administration placing the disputed territory within its borders, Mali challenged the same by stating that the territory is historically and geographically a part of Mali. Mali additionally counters Burkina Faso's reliance on old colonial maps to support their claim, stating that only legal documents must be referred to solve the dispute. This resulted in armed skirmishes in the area as negotiations between the nations turned violent in 1974. A Mediation Committee was thereafter put in place however the failure in its mandate of resolution led to the issue being submitted to the International Court of Justice (ICJ) for adjudication.

The ICJ decided the same with respect to the law in force first considered the applicability of *uti possidetis juris* against self-determination. The Court took into consideration that OAU has already implemented *uti possidetis juris*, and the Organisation's intention of doing so cannot be ignored. Additionally, referring to the Western Sahara advisory opinion,

Upcoming Activities

Call for Papers: Jean Monnet Saar:

Jean Monnet Saar has issued a call for papers in English or German for their online-symposium "Regulation of Artificial Intelligence in Europe". The aim of the symposium is to analyse the current challenges in dealing with AI in European Union law and European international law. The focus may be on issues of constitutional law, fundamental rights or data protection law where current problems are identified and possible solutions developed. The deadline for submissions is 1 September 2024. For more information, see here.

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the Court upheld Burkina Faso's claim over self-determination saying that while taking precedence during decolonisation, the same doesn't apply to already sovereign States which are no longer colonial entities. While self-determination is enshrined in the African Charter on Human and Peoples' Rights, as well as several international instruments to which most African States are signatories, the present colonial boundaries are to be respected by leaders as there still exists a void in international law for the redrawing of boundaries sans peaceful agreement or treaty.

The issue of acquiescence of the border was quickly dismissed by the ICJ due to insufficient evidence. The ICJ maintained that Mali had, in fact, not acquiesced to the colonially drawn border. Lastly, the Court limited its jurisdiction regarding the so-called 'tri-point' (Liptako Gourma region) that arose with the neighbouring State Niger. The Court said that it is not entitled to settle the 'tri-point' as (a) Niger was not a party to the suit and, (b) its rights were protected under Article 59 of the Statute of the ICJ. On examination of the evidence presented by both parties along with agreed-upon start and end points, the ICJ drew the actual delimitation line relying on the principle of equity infra legum, which by consent of the parties was to be put into force within a year of the judgement.

The case presents an interesting debate between an established principle of law, i.e., self-determination and its deviation: uti possidetis juris. The debate on the latter taking precedence over self-determination raises many implications for international law. Its supporters staunchly maintain that democracy in liberal States can function within any set of borders and alternatives are not feasible. However, it must be taken into account that arbitrary post-independence borders have resulted in the commission of human rights abuse against minority communities, as seen in the post-independence territories of former Yugoslavia.

A proposed solution to this can be switching the normative starting point for the drawing of permanent borders to agreements between State parties instead of independence. Borders drawn during independence would be temporary lines of control until new ones could be deliberated and

Upcoming Activities

Call for Submissions: Jurídica Ibero:

The Law Department at Ibero-American University has announced a call for papers for its academic journal, Jurídica Ibero. They invite scholars and practitioners to contribute to the upcoming special issues on International Arbitration and Transitional Justice. Special Issue: Transparency in International Arbitration: Advances and New Challenges has a submission deadline of 7 October 2024. Special Issue: Transitional Justice and Human Rights in Latin America has a submission deadline of 16 August 2024. For ore information, see here and here.

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decided upon. Of course, though, in case of a lack of acceptance or peaceful settlement, States would have to revert to post-independence borders. This also might open the door to armed conflicts, unless an express prohibition on the use of force is implemented. Plebiscites, while maybe useful, might yield potentially more frustration for law and policy-makers involved. Even though the doctrine has presently evolved to include protections against all of these, there remain no express international frameworks for the same.

In conclusion, while self-determination is an international legal right, State peace and stability that is coupled with the unarguably essential territorial element cannot be overlooked in favour of the same. The ICJ recognised this status quo when evaluating the OAU's decision to apply *uti possidetis juris* to the African States. It is to be noted that the vice-versa must also be sustained for true law and justice in the international arena to be upheld.

Upcoming Activities

Call for Papers: Max Planck Yearbook of United Nations Law – Special forum on Challenges and Opportunities for the Law of the Sea at a Time of Crisis:

The Max Planck Yearbook of United Nations Law (UNYB) is inviting interested authors to submit abstract proposals in pursuance of an open call for papers for their forthcoming volume which will feature a special thematic forum on the Law of the Sea. The deadline for receipt of abstract proposals is 1 August 2024. For more information, see here.

Editor:
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Assistant Editors:
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