

When African Solutions Become African Problems: Interrogating the Malawi-Tanzania Border Dispute

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Outline of Presentation

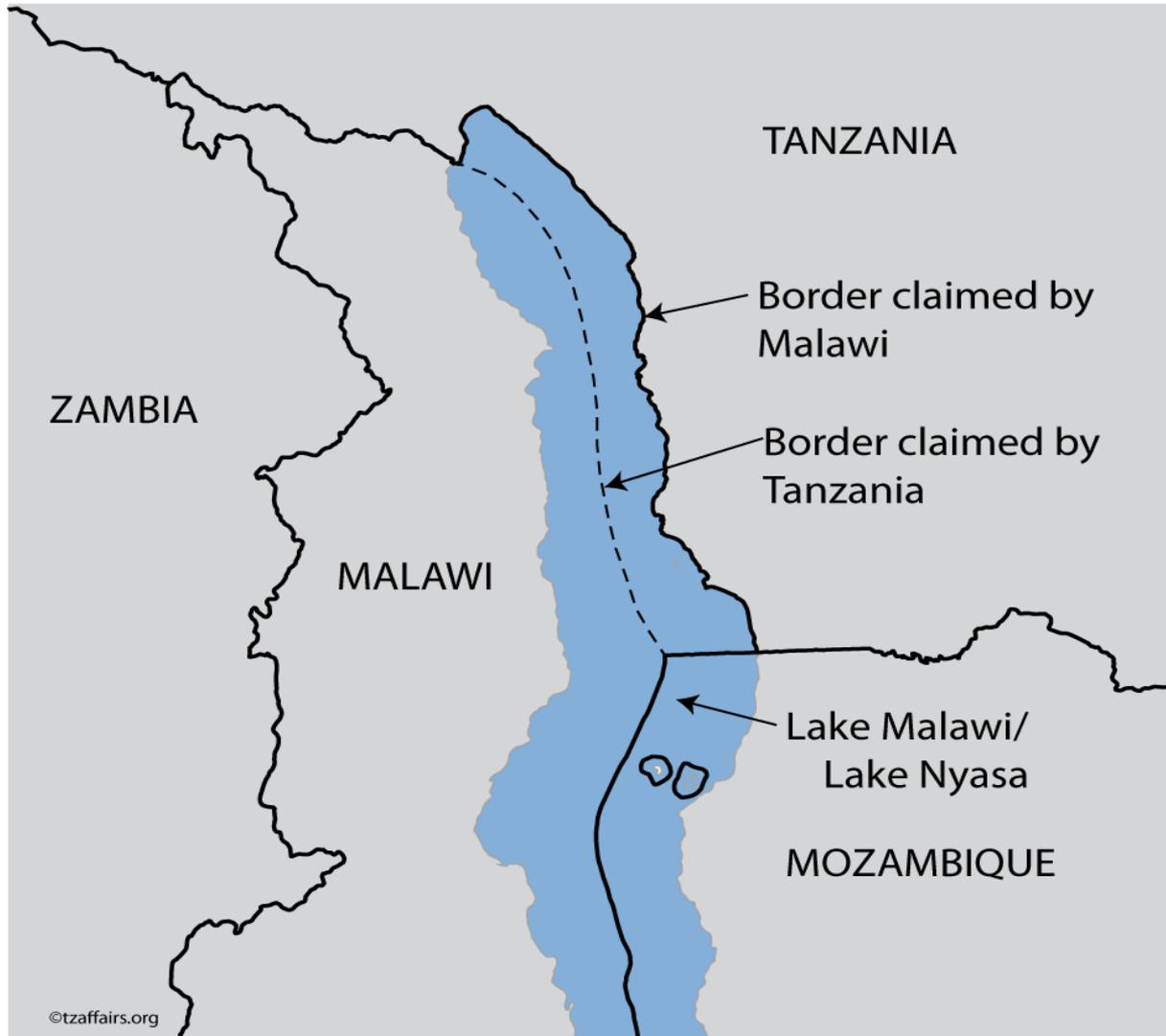
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Introduction

‘Since Malawi became independent on 6 July 1964 diplomatic relations with her eastern neighbour, Tanzania, have *been almost permanently strained*. Differences between the two states have focused on ... a dispute over the de-limitation of the boundary between the two states along Lake Malawi (Nyasa). But while some attention to the wider political context is necessary for any analysis of this dispute, the physical location of the boundary between the two states will remain at issue whatever the political climate’ (Mayall, 1973:612).

Malawi-Tanzania dispute - An eye sore (Mdimi, 2013)

Map of the Disputed Border Between Malawi and Tanzania



Background of the Dispute

- The dispute traces back to 1967 when Tanzania publicly disputed its boundary with Malawi along the lake on the basis of inconsistent maps that had been used during the British colonial government prior to independence (Mayall, 1973).
- This provoked aggressive exchanges between President Banda and President Nyerere with the military option left open.
- This dispute deepened due to three key factors
 - The geopolitics of the Cold War (Malawi aligned with the west)
 - The differences between the two countries on liberation politics.
 - Tanzania's granting of asylum to Malawi's exiled political dissidents.
- The dispute hibernated in September of 1968, though unresolved.

Motivations for the Revival of Border Dispute

- From cold war to resource competition
 - 45 years of silence ended in 2012 with prospects of oil on Lake Malawi/Nyasa sea bed.
 - In 2012 Malawi gave a license to British company, Surestream Petroleum, to explore the lake's potential for oil reserves.
 - Tanzania reacted by issuing a stop order arguing that the issue of the border had to be resolved first.
 - A diplomatic row followed with both governments throwing emotive statements in the media

Motivations for the Revival of Border Dispute

- Positions of the Two Countries

- Either side claims to have sovereignty over the lake supported by official maps indicating what are said to be official border lines.
- Malawi looks at the problem as essentially legal in nature with the ICJ as the best arbiter because the boundary was determined in a treaty (The Heligoland Treaty).
- Malawi further argues that even the OAU (now African Union), at its establishment, affirmed that the colonial boundaries would be respected by all African countries.
- Tanzania considers this dispute as a political problem that calls for a political solution.
- Argues a need to correct historical mistakes of The Heligoland Treaty through a political process and considers SADC and AU as the rightful arbiter.

Prospects of a Resolution

- Diplomatic Efforts Through Bilateral Engagement
 - Heads of State in both countries have so far played hide and seek while holding firmly to their positions uncompromisingly
 - Rounds of meeting in ether capital have also failed to find common ground on the issue amid ‘threats to use force where necessary’.



Prospects of a Resolution (Cont'd)

- Inadequacy of Sub-Regional Instruments
 - The suspension of the SADC Tribunal
 - The SADC Protocol on Shared Water Course Systems offers limited remedies
 - Is Lake Malawi/Nyasa a shared watercourse according to the Protocol?
 - Definition of watercourse in the Initial Protocol (August, 1995) - expansive
 - ‘Inter-related hydrological components of a drainage basin such as streams, rivers, lakes, canals and underground water which constitute a unitary whole by virtue of their physical relationship’.

Prospects of a Resolution (Cont'd)

- New Definition in the Revised Protocol (August, 2000) – narrow
 - ‘A system of surface and ground water consisting by virtue of their physical relationship a unitary whole *normally flowing into a common terminus such as the sea, lake or aquifer.*’
- Under the Revised protocol Malawi, Mozambique and Tanzania cannot be considered as riparian states because, by definition, the lake is not a shared watercourse. Protocol is limited to river basins.

Prospects of a Resolution (Cont'd)



Prospects of a Resolution (Cont'd)

- Regional Mediation (SADC Council of Elders)
 - SADC appointed H.E. Joachim Chissano as chief mediator.
 - The assumption of Malawi's Chairpersonship of SADC in 2013 further transposed the terrain of this dispute with Malawi manifestly demonstrating frustration with the SADC's process, and further indicating that the ICJ was the only plausible resolution as the issue remained legal and not political.
 - Status of SADC mediation currently remains uncertain given the coldness of Malawi.
 - It also further demonstrates the internal fragmentation that portrays SADC as a weak regional bloc with member states that have little confidence in its competence.

Concluding Reflections

- The resurgence of the border dispute between Malawi and Tanzania clearly reflects the deep-seated structural problems associated with the boundary lines that are along potential mineral resource sites.
- But more importantly, it is a reminder to SADC about the region's Achille's heel that needs serious and lasting resolution.
- The dispute further tests the strength and cohesiveness of the sub-regional organization in addressing its own authority relationships and enforcing standard practice among its members.
- So far, the impression is that SADC's structures for handling this dispute are quickly losing appeal in the process hence putting the whole question of African Solutions to African Problems to serious test.