

Botswana Political Scenario: The Sedudu Confrontation

Focus Question: How should the Sedudu island land dispute be resolved?

The Context – Botswana, Namibia and the Caprivi Strip

Geography



Botswana is a landlocked country located in southern Africa, neighboring South Africa to the south, Namibia to the west, Zimbabwe to the east, and Zambia (partially) to the north.

Relationship Between Botswana and Namibia

Botswana and its' western neighbor Namibia share common experiences and histories and have had good relations since their independence from the British and Germans, in 1966 and 1988 respectively except, however, for a conflict between these two countries over some islands, in a strip they both share known as the **Caprivi Strip**.

The Caprivi strip, creates an unusual shape, highlighted in purple on the map below left. **Sedudu island**, located in the Choebe river within this Caprivi strip, is 5 squared km with no permanent residents (see the image below right).



Historical Background

There was a historical “scramble for Africa” between 1880 and 1900 by European nations who carved up the African continent for access to resources. Many of the borders that were created during that period by European countries colonizing African nations, such as Britain, France, Portugal, Spain and Germany, still exist today.

Germany colonized Namibia and at the time hoped to own the Caprivi strip in order to have water access via the Zambezi river for easy trade across west to east Africa, hoping it would lead to the Indian Ocean. What they didn’t realize at the time was that Victoria Falls, considered the largest waterfall in the world, is on that same route, making it impossible to access the Indian Ocean.

The Context – The Origins of the Sedudu Conflict

There are five islands in the Caprivi Strip whose ownership or territorial sovereignty is contested by Botswana and Namibia, three in the Chobe River, including Sedudu island, and two in the Zambezi River. However two disputes, Situngu and Sedudu, have been more vocal for years.

See the history of Sedudu conflict below:

Botswana Claims

- Botswana claimed that Sedudu Island is its own territory unless it could be proven that the main channel passes through the south region of the Island, and therefore falls within the sovereignty of Namibia. Botswana held the view that the north and west channels of the Chobe River constitute the main channel, and in accordance with the Anglo German Treaty of 1890, which established the boundary between the two nations. Hence, accordingly making the Sedudu Islands fall exclusively within the sovereignty of Botswana. (See the map above)

Namibia Claims

- Namibia claimed that the main channel of the Chobe River indeed passes through the south of the Island and that Namibia and its predecessors had occupied, used, and exercised sovereign over the Sedudu Islands since 1890. As such Sedudu Islands is a territory governed by the sovereignty of Namibia.

As a result of these claims there has been a push and pull as demonstrated in the cases below:

- In November 1993 two British tourists were kidnapped while at Sedudu Island within the Caprivi Strip by alleged Namibians. This led to an exchange of fire between the Botswana and Namibia troops and also following claims by the Namibian government that the Botswana troops had flown the Botswana National flag on the island and that Botswana troops tried to take the Island through the “Barrel of the gun”.
- As a result of these issues, in the 1990s, Botswana accelerated its’ arms procurement program. In June 1996, it was reported in the mainstream media that Botswana was in the

process of negotiating the purchase of a Canadian built F-35 fighter bombers for the Botswana Defense Forces and also main battle tanks from the Netherlands. These actions raised eyebrows especially from the Namibia government, which publicly stated in 1996 that Botswana was acquiring weapons to attack Namibia over the border disputes.

Definitions

Colonization: When a group of people from one country claim land and build settlement in another territory (colony) for the original country. The original country has some control over the new colony.

Territorial sovereignty: Having independent control over a land/region

Stakeholder: A person, group, or organization who is involved in and/or affected by a course of action

International Law: A body of rules established by custom or treaty and recognized by nations as binding in their relations with one another.

Conflict Management: Conflict management is the process of limiting the negative aspects of conflict while increasing the positive aspects of conflict. The aim of conflict management is to enhance learning and group outcomes, including effectiveness or performance in an organizational setting

Use of Force: The use of force, in the context of law enforcement, may be defined as the "amount of effort required by police to compel compliance by an unwilling subject".

The Stakeholders

For the purposes of this case study, the stakeholders we will be investigating are:

- The Government of Botswana
- The Government of Namibia
- The Batswana – the people of Botswana
- The Namibians – the people of Namibia
- The South African Development Community (SADC) - a Regional Economic Community comprising 15 Member States: Angola, Botswana, Democratic Republic of Congo, Lesotho, Madagascar, Malawi, Mauritius, Mozambique, Namibia, Seychelles, South Africa, Swaziland, Tanzania, Zambia and Zimbabwe. Established in 1992, SADC is committed to Regional Integration and poverty eradication within Southern Africa through economic development and ensuring peace and security.

Learning Outcomes

- Conflict Management
- Use of Force
- Southern Africa Geo-Politics

Teacher Guidelines

Prior to the Discussion, Sign Up to WorldVuze (20 min class time)

Week 1 (January 23rd to January 27th) – Case Study Intro and Online Discussion (1-2 hours class time)

1. Introduce your class to the Know Your World Initiative Botswana **student case study brief** on <http://blog.worldvuze.com/botswana-political-scenario-the-sedudu-conflict/>
2. Divide your class into the different “stakeholder groups” listed in the case study and debate as a class, as these stakeholders, on what you think would be the most sustainable solution to the case study problem. Use only the information presented in the case study.

Framing Question: **How should the Sedudu land dispute be resolved?**

3. Students log onto WorldVuze and share your perspectives on the Know Your World Initiative Dialogue questions (**tagged KYWI**), as part of a global dialogue. Answer the questions as the stakeholder you were assigned to in the class debate. **Students can log onto WorldVuze in class or at home.**

Possible Questions to Explore with Your Class During the Debate:

- What would the potential impact be of this decision on the different stakeholders?
- What were the primary factors you used to make your decision as your stakeholder?
- Would your decision change if:
 - The Sedudu islands were populated
 - The Sedudu islands had a major resource (i.e. oil, etc.)
 - The Sedudu islands had significance of another kind (i.e. cultural or religious)
- In what ways do you think the “Scramble for Africa” in 1880 to 1900 have on African nations, like Botswana and Namibia today?

- What are the pros and cons of involving international bodies in land disputes?

Week 2 (January 30th to February 3rd) –Reflection (1-hour class time)

1. Students log back onto WorldVuze to investigate how other students assigned to your same stakeholder group interacted with this case study (i.e. how they were affected by the problem, what they thought the preferred solution should be, and what they thought the impact of the class solution would be)
2. Discuss as a class any similarities and differences between how the same “stakeholder groups” interacted with the case study
3. Students, share your final reflections on WorldVuze on whether these new international perspectives you found on WorldVuze, shared by students in other classrooms, would change the way you would address the case study problem.

Possible Reflection Questions to Explore:

- How were the perspectives of other students who were assigned to the same stakeholder as you, shared on WorldVuze, similar or different to your own? Are there any new perspectives that your class did not think of?
- Did students from other countries introduce new ways of addressing the Botswana Sedudu Confrontation that would change the way you would approach the problem? Why or why not?
- Describe how 1-2 concepts in this case study relate to a situation that is happening or that has happened in your country/community. If you can not make a connection to your own community/country, why not?
- What are the 2-3 major ways this case study is similar or different from the situation in your own country or community?
- What important lessons or concepts from your discussion do you think can be applied to the scenario in your country/community?

The Real Outcome of the Botswana Sedudu Confrontation – Do not Share this with Your Students Until After the Exercise

The dispute over the two islands can be traced back to 1991 when Botswana laid claim to Kasikili-Sedudu and responded by stationing troops on the island. When a boundary delimitation committee set up by the two countries failed to determine the ownership of the island, and after some substantial military build-up along the common border between the two neighboring countries, the dispute was finally referred to the International Court of Justice (ICJ) in 1996.

The Governments of Botswana and Namibia had agreed to accept the mediation of His Excellency Robert G. Mugabe of Zimbabwe as the chair of the former frontline states and the three Heads of State met at Kasane on the 24th of May 1992. It was agreed by both states that a Joint Team of Technical Experts was to be established to determine where the boundary lies; in terms of the Anglo-German Agreement of 1890. The Joint committee findings were to be final and binding on Botswana and Namibia. On the 15th of February 1995, the Joint Committee reported that the team was unable to agree on the issues of substance. However, they made a recommendation that the dispute be referred to international arbitration.

NB: Even though SADC was the eligible venue for which this dispute could be handled efficiently, it is imperative to understand that SADC was officially formed in August of 1992, much later after the dispute had already been referred for mediation by the head of the neighboring state. It's also important to note that Namibia had not become a member of SADC, until the August of 1992. SADC also had no institutional mechanisms by this time to solve the particular dispute. These mechanisms became established much later, for example the tribunal for settling disputes among states was established in 2005, following its inauguration in Windhoek, Namibia. (His Excellency Robert G. Mugabe of Zimbabwe could have been chosen to mediate by virtue of having been the former chair of the frontline states that was a coalition of African Countries in the 1960s to 1990s committed to ending apartheid. It was only disbanded when Nelson Mandela became president of South Africa in 1994. Some of the Frontline states included Angola, Botswana, Lesotho, Mozambique, Tanzania, Zambia and Zimbabwe.

The International Court of Justice

The court gave an account of the history of the dispute between the Parties which is set against the background of the nineteenth century race among the European colonial powers for the partition of Africa. In the spring of 1890, Germany and Great Britain entered into negotiations with a view to reaching agreement concerning their trade and their spheres of influence in Africa. The resulting Treaty of 1 July 1890 delimited inter alia the spheres of influence of Germany and Great Britain in South-West Africa; that delimitation lies at the heart of the present case.

In the ensuing century, the territories involved experienced various mutations in status. The Independent Republic of Botswana came into being on 30 September 1966, on the territory of the former British Bechuanaland Protectorate, while Namibia (of which the Caprivi Strip forms part) became independent on 21 March 1990.

Shortly after Namibian independence, differences arose between the two States concerning the location of the boundary around Kasikili/Sedudu Island. In May 1992, it was agreed to submit the determination of the boundary around the Island to a Joint Team of Technical Experts. In February 1995, the Joint Team Report, in which the Team announced that it had failed to reach an agreed conclusion on the question put to it.

In the Court's opinion, the real dispute between the Parties concerns the location of the main channel where the boundary lies. The court then proceeds to determine the main channel. In so doing, it sought to determine the ordinary meaning of the words "main channel" by reference to the most commonly used criteria in international law and practice, to which the Parties have referred.

The Court noted that the Parties to the dispute agree on many of the criteria for identifying the "main channel", but disagree on the relevance and applicability of several of those criteria. For Botswana, the relevant criteria are as follows: greatest depth and width; bed profile configuration; navigability; greater flow of water. Botswana also lays stress on the importance, from the standpoint of identification of the main channel, of "channel capacity", "flow velocity" and "volume of flow. Namibia greatest emphasis was on weight to the amount of flow: according to it, the main channel is the one "that carries the largest proportion of the annual flow of the river". Namibia also emphasized that another key task was to identify the channel that is most used for river traffic.

Regarding the depth of the river the Court concludes that the northern channel is deeper than the southern one, as regards mean depth, and even as regards minimum depth. Regarding the width, the Court finds, on the basis of a report dating from as early as 1912, aerial photographs taken between 1925 and 1985, and satellite pictures taken in June 1975 that the northern channel is wider than the southern channel. Regarding to flow of water, the Court is not in a position to reconcile the figures submitted by the Parties, who take a totally different approach to the definition of the channels concerned.

The Court's interpretation of Article III (2) of the 1890 Treaty led it to conclude that the boundary between Botswana and Namibia around Kasikili/Sedudu Island follows the line of deepest soundings in the northern channel of the Chobe. Since the Court has not accepted Namibia's argument on prescription, it follows that Kasikili/Sedudu Island forms part of the territory of Botswana.

The Court however observed the Kasane Communique of 24th May 1992 which recorded that the Presidents of Namibia and Botswana agreed and resolved that:

- (c) existing social interaction between the people of Namibia and Botswana should continue;
- (d) the economic activities such as fishing shall continue on the understanding that fishing nets should not be laid across the river;
- (e) navigation should remain unimpeded including free movement of tourists".

The court based subparagraph (e) and the interpretation of that subparagraph Botswana gave before the Court in this case, that the Parties have undertaken to one another that there shall be unimpeded navigation for craft of their nationals and flags in the channels of Kasikili/Sedudu Island. As a result, in the southern channel of Kasikili/Sedudu Island, the nationals of Namibia, and vessels flying its flag, are entitled to, and shall enjoy, a treatment equal to that accorded by Botswana to its own nationals and to vessels flying its own flag. Nationals of the two States, and vessels, whether flying the flag of Botswana or of Namibia, shall be subject to the same conditions as regards navigation and environmental protection. In the northern channel, each Party shall likewise accord the nationals of, and vessels flying the flag of, the other, equal national treatment.

For the aforementioned reasons, the court, in long interpretation of the law and the treaties that established the particular territory in contention by 11 votes to four found that the boundary between the Republic of Botswana and the Republic of Namibia follows the line of deepest

soundings in the northern channel of the Chobe River around Kasikili/Sedudu Island; and that Kasikili/Sedudu Island forms part of the territory of the Republic of Botswana.