

Namibia

V

Botswana

Statement of Facts

Since July 1st 1890, when the colonial powers of Great Britain and Germany divided their colonies through the Heligoland-Zanzibar treaty, The countries of South Africa(the portion that is now Namibia) and Botswana have had an item of dispute that involves the northeastern boundary of the two countries, due to the existence of an island of approximately 3 square kilometers a short distance from the Zambezi river join. The Chobe river flows around this island on both sides and the original treaty leaves the exact definition of the border as unclear. The island is valuable due to its large game-viewing industry

Until 1984 there had been no recognized problem or need for the border to become defined, South Africa had occupied the island and there had been a general peace between the two countries. However when, in 1984 there were shots fired by Botswanan military on South African patrols, the decision was made by both Botswana and Namibia on May 24th 1992, to allow a Joint Team of Technical Experts "to determine the boundary between Namibia and Botswana around Kasikili/Sedudu Island"(ICJ Press release) . After their research proved inconclusive they suggested that the two countries bring the case to the ICJ. In 1996 both countries signed an agreement to bring the dispute to the ICJ and abide by their decision.

Statement of Law

In Statement of applicable laws and treaties to this dispute, there are two main points. First the Heligoland-Zanzibar treaty of 1890 caused this dispute, as it was unclear and dismissed the issue. The 2nd and more important view point is that of a common law standpoint.

Argument

Because the parts of S.A. that became Namibia have been continually occupying the island since the British and the German colonization, they argue that, the fact that there was no dispute over their occupation at the time of the original treaty or in the following years means their ownership was assumed or implied. Even if this is not accepted they have been using the island for decades and their case states the common law statutes in many UN member states that give legal rights to a non-owner after a certain amount of time during which they have acted as the owner in rights and responsibilities. Their other points include a number of colonial maps and a nautical study of the water determining the border to be on Botswana's side, leaving the island in Namibia's hands

Prayer for relief

In summary the countries of Namibia and Botswana have a dispute as to the legal location of the boundary between the two respective countries, specifically the Kasikili/Sedudu island. After experts returned inconclusive as to the legitimacy of both countries claims, the countries turned to the ICJ. Namibia's main argument is from a common law standpoint. We hope the ICJ sees our case and decides in favor of our countries side. Our preferred scenario would be that we be given legal jurisdiction and ownership of the land.