



# The Guinea-Bissau–Senegal maritime boundary dispute



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## ABSTRACT

This article discusses the role of negotiation, arbitration, and that of the International Court of Justice (ICJ) in resolving maritime boundary disputes in the Gulf of Guinea region. Primarily using the cases of Guinea-Bissau and Senegal, the paper highlights that joint maritime development agreements could be a better option for resolving existing maritime boundary disputes in the region rather than outright delimitation requests.

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## 1. Introduction

Proffering a definition to a 'nation state', Max Weber notes that a nation state is defined by its ability to defend its subjects (citizens), and its borders (1946: 76). For his part, Brown submits that a nation is truly secured if it is able to preserve its physical integrity and territory, maintain its economy on reasonable terms: protect its nature and institutions from outside disruptions, and most importantly, safeguard its borders (Brown [10]). This implies that for a nation state to be categorised as secure, it should not only be able to protect its people, but it should also ensure the safety of its territories, including, in this case maritime boundaries.

For many countries in Africa, particularly those in the Gulf of Guinea, the subject of national security is particularly pertinent, as they continue to work towards curbing security challenges on land and sea. However, as Ali and Tsamenyi [4] submit, deepening boundary uncertainties are inhibiting maritime security cooperation with potential for regional instability.

This article aims to highlight the significance of joint maritime development agreements as an option for resolving existing maritime boundary disputes in the Gulf of Guinea, by analysing the resolution of the maritime boundary dispute between Guinea-Bissau and Senegal with the help of the ICJ. The objectives of the article are first, to show that seeking outright delimitation is not only time consuming, but also impedes a country's ability to explore its natural resources. Second, to accentuate the point that

international law would almost always seek to respect the '*uti possidetis juris*' (upholding colonial frontiers), in resolving any boundary dispute.

Further, this article is not intended to analyse the causes, the development or the settlement of boundary disputes in the Gulf of Guinea. It merely attempts to explain why boundary disputes between countries in the region should not be allowed to obstruct sustainable development. It begins with a literature review on the Gulf of Guinea, some of its security challenges and the role of colonialism in exacerbating the boundary dispute in the African continent. It then draws attention to the historical background of the Guinea-Bissau and Senegal boundary disputes and attempts made by the two countries to settle their dispute. Arguments are drawn from historical studies and case archive of the ICJ.

The discussion demonstrates that the colonial powers did not understand the culture of the people they colonized as a result, not enough effort was made to ensure that they left clearly defined boundaries. The article contends that in order to avoid conflict between states, the African Union adopted the principle of upholding colonial frontiers. As a result, in many cases, boundary disputes have almost always been in the favour of the existing colonial agreements. Taking this principle into account, it is futile for countries in the Gulf of Guinea whose boundaries are currently disputed, to seek outright delimitation, by espousing the process Guinea-Bissau and Senegal went through to resolve their dispute.

Finally, the article concludes with the recommendation that calls for the adoption of a joint maritime development agreement, as an option for maritime boundary dispute resolution across the

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Gulf of Guinea region, since seeking outright delimitation is both time consuming, expensive and can impede sustainable development.

In preparing the article, the author scoured most publicly available written sources on maritime security challenges in the Gulf of Guinea, with particular emphasis on maritime boundary delineation disputes between Guinea-Bissau and Senegal. Most of the materials for this article have been sourced from the archives of the ICJ. In addition, a review of selected literature on post-colonial boundary disputes in the African continent, and also boundary delimitation agreements was carried out. This article is predominantly based on online archival documents from the ICJ, and also previous work and analysis conducted by scholars.

## 2. The Gulf of Guinea maritime domain

There are various definitions of what constitutes the Gulf of Guinea ([4], Mañe [27]; Ukeje and Ela, [39]; Wardin and Duda [42]), but in this article the Gulf of Guinea is used in the broad sense, and is defined as the coastal states stretching from Senegal

to Angola [30] (Fig. 1).

The region's maritime domain presents an enormous opportunity for advancing sustainable development in the region. However, due to the prevalence of maritime security challenges such as piracy/armed robbery at sea, illegal oil bunkering, illegal, unreported and unregulated fishing and maritime boundary disputes between neighbouring states, (which are impeding the legal exploitation of fisheries resources, the peaceful use of sea lines of communication, as well as the stability of littoral states in the region), such developments, are increasingly becoming elusive [4].

Further, the partitioning of Africa by the Europeans during the colonial era has become the source of border disputes in the continent, especially because these boundaries were drawn with limited knowledge of pre-colonial history, ethnic, culture and geography of the continent (Yoon, [45]: 77). Worse, the colonial boundaries of Africa were almost all just land boundaries, which are either partially defined or undefined in most cases [4,5]. With Guinea-Bissau–Senegal maritime agreement of 1960 being the only one that delimited the maritime areas of territorial sea and continental shelf on the west coast of Africa by the colonial powers [9: 92–94], a lot of maritime boundary disputes ensued following



Fig. 1. Map of the Gulf of Guinea [14].

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