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A BORDER TOO FAR:
THE ILEMI TRIANGLE YESTERDAY AND TODAY

Philip Winter, O.B.E.

Durham Middle East Paper No. 100

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SIR WILLIAM LUCE PUBLICATION SERIES

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A Border Too Far: The Ilemi Triangle Yesterday and Today



Above: Mt. Naita, on the South Sudan-Ethiopia border, at the northern apex of the Ilemi Triangle.

Right: Ethiopia-Southern Sudan boundary, from Douglas Johnson, *When Boundaries Become Borders*, (Rift Valley Institute, 2010), map courtesy of Rift Valley Institute.

“The question of the maintenance, or amendment, of an administrative frontier is, we suggest, one for negotiation by the Kenya Government with the Sudanese Government of the day and so far as we can see nothing in any Instrument (of independence) could in fact bind a future Sudanese government to the indefinite continuance of an administrative boundary.”

Sir William Luce, when Constitutional Advisor to the Governor General of the Sudan, to the Chief Secretary Kenya, 03/01/54.¹

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INTRODUCTION

The purpose of this paper is not to settle the border between Kenya and South Sudan. As Luce pointed out 65 years ago, that is for the governments and the citizens of those countries to do. Rather, it is to explain the historical dynamics which led to a situation whereby an international boundary in a remote part of Africa appears to follow three, four or even more different lines, depending on which map you consult. My hope of course, in setting out how this situation arose, is that this paper might be of assistance when the Kenya-South Sudan Boundary Commission goes about its work, in line with the request of the

“...THE FIRST DUTY OF THE STATE IS THE SAFETY AND SECURITY OF ITS CITIZENS...”

Organization of African States (OAU) that its member states, having for the most part not changed the borders they inherited from the departing colonial powers, should delineate and demarcate these borders by 2022.

We live in a world still of nation states in which it is widely accepted that the first duty of the state is the safety and security of its citizens. In normal circumstances, a state will be anxious to assert and define its boundaries, the limits of its jurisdiction and the ownership of its resources. For island states or groups of islands this is not so difficult. In Africa however, the boundaries were largely drawn by foreigners, who are often assumed to have been unaware of local views. They did not however always ignore them.

For example, the then colonial government in Kenya, having first subdued the Turkana by force and then disarmed them, paid attention to their subsequent complaints that they were now defenceless against their better-armed neighbours, whilst still having similar requirements for water and grazing for their livestock.

So the colonial officials of the time negotiated with their counterparts in Sudan a northward extension of Turkana grazing to encompass what the Turkana said they needed, without allowing them to go much beyond it. Thus a degree of flexibility marked the whole border issue when local interests were recognized, but this very flexibility stored up trouble for the future.

“ALL BORDERS ARE ARTIFICIAL CONSTRUCTS OF COURSE...”

All borders are artificial constructs of course, a result of human attempts to impose some form of authority over a territory, some degree of order in the land. Ultimately, either a border is imposed by force and conquest, or by political negotiation. Despite the African Union’s operating principle that changing colonial borders is likely to cause more problems than it solves, already two new borders have appeared in Africa, that between Eritrea and Ethiopia, in 1991, and that between South Sudan and the Republic of Sudan in 2011.

In Sudan and its successor state, South Sudan, governments, imperial, colonial or current, have never fully addressed or resolved the question of their border with Kenya. The Ilemi area has been judged to be too remote and of too little value, a judgement which underestimates the importance of grass and water for the people in and around the Triangle and for their livestock. And South Sudan has been preoccupied by internal conflict for most of the period since 1962, even by some accounts since 1955. In Kenya by contrast, the colonial administration organized de facto flexibility in their boundary with Sudan, in a series of local arrangements, but their successors have so far not obtained a de jure boundary settlement.

The independent Government of Kenya changed their approach in 1988, perhaps because at the time the Kenyans suspected there might be reserves of oil in the Ilemi Triangle and perhaps because they felt obliged not only to defend their citizens against raiders from Sudan but also to afford their growing population more land for their herds. So both colonial and independent governments in Kenya have invested time and effort to build a presence in the Triangle. The governments of Sudan and then South Sudan by contrast, have never taken very seriously the local interests of the residents of Ilemi, to the extent that the Condominium government in Khartoum actually paid the colonial government in Kenya to police a portion of the area and even gave its officers powers as magistrates across their border, a significant abdication from normal ways of ruling.

It is not just in Africa that borders and border settlements become politically and economically important. All other continents have their share of border disputes and anomalies. So there is a considerable body of scholarly literature that examines border history, border law, border practice and border dispute resolution. Borders can be dynamic, reflecting shifts in power, as well as being static representations of past power. They can be open and welcoming, or closed and discouraging. The story of the Ilemi Triangle is in some ways a microcosm of the changes in the structures of relative power in the African continent over the last 120 years. The Abyssinian empire, as it fractured, had for a while access to and exercised some powers across the Triangle. The arrival of a European power, in this case the British, caused the retreat of the Abyssinians. The British soon set about delimiting – or settling - the borders and drawing lines on their maps. Thus they delimited and then delineated the territories they had taken over, even if they did not always demarcate, or mark on the ground, those borders clearly.

The British also then had to learn about and understand the people they were starting to administer. In Sudan, as soldiers gave way to civilians in the administration, administrators began to ask people from the new discipline of anthropology to help them. But in this area the Condominium Government of the Anglo Egyptian

Sudan, as it was known, bit off more than it could chew, so to speak, leaving a vacuum in the Triangle, both on the ground and of understanding.

The colonial powers have departed, but the Ilemi area continues to be the scene of a certain investment by the government of Kenya, which has in the last few years devolved political power to its forty- seven counties. Today, as a result, the Governor of Turkana County, which contains oilfields now being exploited, is more likely to be listened to in Nairobi than any Turkana politician was before devolution. The Government of South Sudan meanwhile is preoccupied with its internal conflicts and has not proved able to make similar investments.

Nearby, by contrast, the Government of Uganda claims to have largely disarmed the Karamojong, a group with the same pastoralist lifestyle as their neighbours in Kenya, South Sudan and Ethiopia, restored public security to their border area and invested in education and agriculture. This relative success points up the failures of Kenya and South Sudan in their border area, where cattle raiding continues, citizens remain armed and development is limited.

The peoples of the area, who share a common language and culture, have rarely had much chance to play a role with regard to their future, their governance and their needs. It is true that they have been summoned to

many peace meetings and requested the same things time and time again – public security, water-points, grazing rights, roads, schools and clinics. For most of the time no one has paid much attention and no authority has had the necessary resources to change the status quo or provide such benefits. Today that is changing, but the history of the Ilemi Triangle will continue to form the foundation upon which any changes yet to come will have to be structured.

I. A DISPUTED AREA?

Where is the Ilemi Triangle?

In 1987, one could buy in Nairobi bookshops a “World Travel Map” dated that year. On it, two lines of tippex are clear, with some tippex erasures too. One line obliterated the horizontal line that marked the formal international boundary as originally defined in 1914. The other covered a line that followed an uneven course north of that boundary – a line that had at one time been called the Provisional Administrative Boundary, or PAB. And a new line had been drawn in, also by hand. This extended the border, on paper at least, as far as the area north of the Tepes Hills, which lie just south of the Ethiopian border with South Sudan. (See p.37.)

This author, in buying that map, had been preparing for a trip to the Turkana district of Kenya to try to climb a mountain called Lorientom. In the event, we reached a place called Lokomorinyang, at the foot of the mountain, where Kenyan security forces detained us and escorted us back to Lodwar. Here, the District Security Officer was polite but firm. We had to return to Nairobi. And, in future, “would another mountain not do?” We did in fact climb Lorientom some years later, with other members of the Mountain Club of Kenya, without any further hindrance, but greatly to the surprise of some local Turkana, who saw our campfire light in the evening and visited our camp early the next morning, armed but under a white flag, to investigate who we were and what we were doing.

Research in the history books revealed that the international border may have been delineated, i.e. drawn in on a map, and may even have been recognized by the peoples living in the border area, but had never been demarcated, i.e. indicated physically on the ground. British officials had left it to their successor governments in Sudan and Kenya to sort it out – which they never did. The result is not so much an actual dispute as an area of uncertainty, both physical and conceptual, a no man’s land in a distant corner of two countries, a

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cartographic curiosity in a far place not much visited by senior officials from either capital, if at all.²

Why might this matter ? A 2017 NGO report suggests:

.....over the last ten years, the borders and their integrity have been gaining in importance for national and regional players. Borders are not demarcated and nations disagree on where the boundary lines are exactly in certain parts. With exploitable resources emerging as economic and political drivers in the borderland, state authorities have become more willing to stake their claim to territory and to enforce national border regimes. At the same time, clear border demarcation is difficult since the only records to work with date from colonial times and even then borders were not necessarily fixed. At present, a border commission has been set up to discover as much as possible about the exact locality of the borders between Uganda and South Sudan and between Kenya and South Sudan, using colonial records in Great Britain and elsewhere. Especially contentious is the area called the Ilemi triangle, which is claimed de jure by both South Sudan and Ethiopia and occupied de facto, at least in part, by Kenya.³

In 1931, at an Inter-Departmental Conference between the Foreign Office and the Colonial Office, the Governor General of Sudan, then Sir John Maffey, included in his statement the assertion that “Turkana only started to move north to use the grazing grounds inside Ilemi Triangle in 1915”.⁴ Later, the then Governor of Kenya, in a letter to the Secretary of State for the Colonies, described the Ilemi Triangle as “the area North of the Kenya-Sudan boundary which is referred to as the Ilemi or “Ilembi” Triangle, formed by lines drawn from Mt. Tomadur in a South-Easterly direction along the Sudan-Abysinia boundary to Sanderson’s Gulf on Lake Rudolph, thence in a westerly direction along the Kenya-Sudan boundary to Mount Mogila North then North Easterly to Mount Tomadur”.⁵

The first published reference to the Ilemi Triangle that the author has found came two years later:

In the Southern Sudan, between the Ethiopian, Kenya Colony and Sudan administered areas there is a vast tract of country entirely uninhabited except during the rains, when members of the Taposan, Turkana and Ethiopian tribes drive their herds of stock into this area, as they have done since time immemorial, for grazing purposes. In official circles this immense uninhabited area is known as the Ilembi or the Ilemi Triangle.

The author, R.C.R. Whalley, once the British Consul in the Ethiopian town of Maji, went on to describe the extraordinary numbers of wild animals that could be found there at that time. This was, incidentally, the first published reference to the migration of the white-eared kob (an antelope found only in South Sudan and Ethiopia, which he mistook for a related species, the Nile Lechwe). Later, in 1936, the same author wrote “Aleml (or Ilemi) is the northern apex of the triangular stretch of country, which is more or less uninhabited, situated between the Sudan, Kenya Colony and Ethiopian administered areas.”⁶ A settlement in this area called Ilemi also appears on a British map from 1914.

Some seventy five years after his first note in Sudan Notes and Records, Whalley’s posthumously published letters⁷ describe his discussions with an Anuak chief called Aleml, son of a Boma Murle mother and an Anuak father, who died not long after Whalley’s visit, at the hands of the Kichepo.⁸ Unfortunately Whalley offered no explanation of why this chief’s name, in its various spellings (e.g. Ilembe, Eleml) became attached to the area where Ethiopia, Kenya and South Sudan meet.⁹

Whatever the origins of its name and whatever the definition of its Northern apex point, Mount Tomadur or Mount Naita, the Ilemi Triangle has been a

source of constant concern to its administrators, firstly British and later Kenyan and Sudanese, and then to others working there more recently, precisely because its borders were never demarcated, even if at times they were marked by different lines drawn on different maps for different purposes. Since then, uncertainty about the exact location of the borders has been compounded by a confusion between the greater area, as described above by Whalley, and the smaller, more or less triangular area within the PAB, which has also been called the Ilemi Triangle.¹⁰

For the purposes of this paper, the author will use the term Ilemi Triangle to refer to the larger area, as described by Whalley originally and as shown in more recent maps of Kenya. This area is enclosed by a line running northeast from the northern slopes of Mt. Mogila, the mountain above Lokichoggio in Kenya, to join the Sudan-Ethiopia border somewhere on the foothills of Mt. Naita, or slightly further to the northeast, at Mount Tomadur. The eastern side of the Triangle, the border with Ethiopia, runs west-east for some distance, from there or from Mt. Naita¹¹, and then turns south until it reaches the shores of Lake Turkana. The base of the triangle would be the horizontal line from Mt. Mogilla's northern slopes east to a point on or near Lake Turkana, the original, presumed border line which I shall refer to as "the 1914 Line." (See Map 1 and Google satellite photo.)

This horizontal line forming the base of the Triangle is the nearest one can find to a *de iure* international boundary between Kenya and South Sudan. There has been no real dispute, as such, since the Ethiopians challenged the British drawing of their boundary with Sudan in 1906 – when Ethiopia was Abyssinia and Sudan the Anglo-Egyptian Condominium. The British line prevailed and was shown in all subsequent maps until the 1980s. To compound the picture, what is today Turkana County in Kenya, was once part of the Uganda Protectorate and was, as Lake Rudolf Province, only transferred to what was then Kenya Colony in 1926. (See below ch. III.)

Who Goes There?

At this time, the Turkana people in Kenya, the Toposa in South Sudan and Dassenetch in Ethiopia all live adjacent to the borders of their three respective countries while the Nyangatom live astride the Sudan-Ethiopia border on the eastern side of the Triangle. (It is also sometimes said that the Didinga people of South Sudan use the grazing in the Triangle, but I have not heard this corroborated.) All these groups may be found in the Triangle but borders are not marked on the ground and so people cross them without hindrance, whether in pursuit of water, grazing or their neighbours' cattle. There is little settlement in the Triangle itself, except where Kenya is extending its presence. As climate, weaponry and governments all change, so too does

the local and international balance of power and thus the areas which, at any one time, groups of pastoralists may claim as their own. The possible presence of minerals and the ready availability of guns also affect how much the border peoples feel the effects of central government and how much they are left to their own devices.

In the case of the peoples in and around Ilemi, the Toposa, Jie, Nyangatom, Karamojong and Turkana speak mutually intelligible dialects of a common language, trace their origins to common ancestors and refer to themselves as Ateker. Also Ateker speakers are the Teso and Dodoth in Uganda. (In the past, outsiders often referred to these peoples as the "Karamojong Cluster".) The Dassenech, also known as Merille and, long ago, as Gelaba, speak an unrelated language, as do the Murle and the Kichepo, but they too herd livestock in search of pasture, whilst farming, hunting and fishing when they can.

The Toposa and the Turkana are probably the most numerous groups in and around the Triangle. Lack of a recent census makes it hard to know.¹² The Condominium government of the then Anglo-Egyptian Sudan brought the Toposa under administration only in 1928, setting up the station of Kapoeta for this purpose and installing Geoffrey King, an officer in the King's African Rifles, as the District Commissioner in 1931. That appointment would last until 1953 (see below pp 26-29). In Kenya, the Turkana were only brought under civil administration in 1929, after eight years of military rule.¹³ To the east of the Toposa are found their "uncles", the Nyangatom (known also as the Bume in Ethiopia and in Kenya as the Donyiro). To the southwest, along the eastern borders of northern Uganda, are the Karamojong. Along and east of the Boma Plateau, into Ethiopia, are the Kichepo, also known as the Suri. To the west of the Toposa in South Sudan lie the lands of the Didinga. Lastly, the Dassenech, also known as the Merille, come into the Triangle from Kenya and from the Omo Delta area of Ethiopia.

All these peoples are to a greater or lesser extent cattle-keepers. They all cultivate too, if and when they can, but remain mobile in the constant search for dry season pasture for the animals on which they depend. Small stock, such as sheep and goats, are important too and camels are increasingly being bought, as pastureland becomes drier than in the past, since camels are browsers, rather than grazers, and are better adapted to arid conditions. However close they may be linguistically, ethnically or culturally, these groups fight each other for pasture and cattle if necessary. They also inter-marry, practising what has been called in other contexts "intimate enmity." The Toposa do not however fight with the Nyangatom, with whom they sometimes live, whereas they have both raided the Turkana as long as written records

have been kept, just as the Turkana have raided them and continue to do so today. This reciprocal raiding has also been interspersed with periods of peace.

This sketch of the people who live in, enter or cross the Triangle is of course cursory and lacks the necessary dimension of time. As noted above, for example, the then Governor General of Sudan, Sir John Maffey, included in his statement the assertion that “Turkana only started to move north to use the grazing grounds inside Ilemi Triangle in 1915.”¹⁴ After World War I, the Merille (Dassanetch) pushed the Ngwatela Turkana southwards beyond the mountains of Lorientom and Lokwanamur (also known as Kaitherin),¹⁵ while the territory of the Toposa extended to the south of the Mogila Range. Again, before Sudan’s second civil war, it is said, the Toposa did not go east of the Lopotokol River. Now they are to be found living with the Nyangatom in settlements at the foot of Mt. Naita as well as in Ethiopia. In more recent times, the Ethiopian government asked the authorities in South Sudan to take back those Toposa and Nyangatom who have taken land in Ethiopia from the Mursi. This is because they are well armed and expansionist, having suffered at the hands of the SPLA early in the second Sudan civil war and then reached an agreement with them later, which left them free to pursue new grazing and land to the north-east, given that they could not easily expand southwards amongst the Turkana.

On the northern borders of Kenya, the Toposa and Nyangatom are feared. To listen to the Turkana there, one would believe they are innocent victims of Toposa raiding. Some no doubt are, but if you ask the Nyangatom or Toposa you meet inside South Sudan, they will say they live in constant fear of Turkana raids. Intimate enmity is reciprocal. These neighbours know each other and share a common language and culture. They have been the subject of innumerable peace initiatives and meetings over the years and will cooperate when it suits them. Currently South Sudan’s weakness is an opportunity for the Turkana and they have pushed into the Triangle, where the Kenya government has established administrative offices in Kibish¹⁶ and maintains the colonial police posts which run roughly along the PAB (Koiasa, Kaimothia, Lokomorinyang, Liwan, Kokuro and Namoruputh.) The Government of Kenya is also beginning to build roads and the missionaries of St Paul, since 2001, to dig dams and drill boreholes for the people.¹⁷

In colonial times on the other hand, the British administrators were clear in their view that the Turkana were Kenya’s responsibility and the Toposa that of Sudan, while the Nyangatom were held at bay and told to pay their taxes in Ethiopia.¹⁸ The Turkana themselves have for long claimed dry-season grazing and water in the valley between Lokwanamur and Lorientom, the area they

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fled to in 1924, which was allocated to them in 1938 by the delineation of the PAB. (See Ch. 3 below). When on the other hand a Turkana chief stated, in the 1990s, that his people had always grazed the land to the north of the provisional boundary, a Nyangatom elder responded that this was not so: he had been born in this area, his father had been a chief in it and is buried there.¹⁹ When the Italians occupied Abyssinia, they told their British counterparts that the Merille had always grazed between Kibish and Lorientom and could not do without this resource.²⁰

So the question of who is using which pasture - or who has home areas where - is always subject to a time qualification. And borders are fluid where no government rules, rains are variable and all herders are armed. In this context, one might find useful the - possibly apocryphal - saying of a Somali herdsman when asked the limits of the grazing land available to him. His answer: “The limits of my grazing lands are where the furthest of my animals is found.”

Ecology and Pastoralism

Such is the climate and such the soils of this semi-arid part of East Africa, that it could be said that its main products are grass and thorn trees, food for both the grazing and the browsing animals upon which human life in the area depends. The dry season lasts,

approximately, from November to April and the rains fall any time between April and October. Ilemi has thus been characterized as both waterless and as a swamp, the judgement depending largely on the time of year. This climate and habitat, as elsewhere in Africa, has given rise to a livelihood system and a cultural outlook which value livestock above all else, not principally as a source of meat, but rather as a source of milk, a store of wealth, a means of exchange and a means of binding families and clans together in marriage, through the exchange of bridewealth. Of course, some food is grown too, but the search for water and feed for livestock is a defining feature of human existence in and around the Triangle – and a source of conflict also.

There is today a threat to the regional ecology, including that of the Ilemi area, from Ethiopia's construction of the Gibe III and Gibe IV dams in the Omo Valley. The Omo River is responsible for up to 90% of the inflow of water and nutrients to Lake Turkana, at the south eastern corner of the Triangle. When the Omo flooded naturally, some of its waters would flow overland, collecting in depressions and also the former Sanderson's Gulf, thereby contributing to a recharge of underground aquifers. Although the dam sites are up to 600 kilometres upstream from the lake, as Gibe III filled in 2015 to 2016, it lowered the level of the waters of Lake Turkana

by two metres, albeit temporarily. Gibe IV will reduce the lake level a lesser amount but will emulate the flow regulation of Gibe III.²¹ If this were all, its effects could perhaps be accommodated, but the dams will not only provide electricity for Ethiopia's development, but will also create a regulated flow downstream to provide reliable year-round water to enable the development of irrigated commercial farming on a large scale in the Omo Valley. A new artificial regime of water release will be the result. It is also likely that the interests of power generation and irrigated commercial agriculture will be given precedence over the re-creation of some kind of natural cycle of inflows into the lake. The probable loss of half of the lake's inflow from the Omo is predicted eventually to reduce Lake Turkana to two small lakes. Yet there is still no comprehensive environmental impact assessment of this development that takes into full consideration the impacts both in Ethiopia and over the border in Kenya.

Despite international laws governing water use by riparian states, Kenya appears to have made little progress in assessing or mitigating, with Ethiopia, the effects of this dam and the consequent irrigated plantations not just on the level of Lake Turkana but also on the ecology of Turkana County. Here many people depend on fish stocks in the lake, the breeding cycles of which will be disrupted by the new water regime being created

in the Omo Valley. The ecology of the surrounding flood plains will also change and the livelihoods of Turkana and Dassenetch communities will be affected. One possible consequence could be "environmental refugees" - pastoralists moving further into the Ilemi Triangle, seeking grazing and water there, with unknown ramifications on the dynamics of conflict in the area.

There were within recent memory other users of the Triangle too: the huge numbers of wild animals described by Whalley, which moved in and out of the area according to the seasons.²² There was also said to be an antelope migration northwards out of the Lotagippi swamps.²³ Today, little wildlife is seen wherever there is a road – which means broadly on the edges of the Triangle - as firearms have taken their toll. The once ubiquitous dik diks seen on the road from Narus to Nanyangacor have disappeared, for example, and elephants, which were once so numerous they gave rise to stories of an elephant graveyard at the foot of Moru Akippi, near Loelli (just north of the Triangle), are now rarely seen, although they do still move through the area from time to time.²⁴

In the centre of the Triangle, a 2008 aerial survey showed that the habitat was still used by elephants on the move, and also contains populations of Bright's Gazelle, Beisa Oryx and Lesser Kudu.²⁵ There are probably Eland still there too. To the south, there is talk in Kenya of making Lotagippi, the wetland next to the boundary, into a game reserve and Kenya Wildlife Service officers reportedly visit the area to this end.

To the north and west of the Triangle however, the extensive floodplains of the White Nile still allow the great migration of white-eared kob to continue, from their dry season refuge in the Guom swamps in South Sudan and Gambela in Ethiopia, to their wet season haunts in the north and the east of Badingilu National Park and beyond, on the Kidepo floodplain. In certain seasons, some kob may move into the Triangle too, but there they suffer at the hands of any armed people they encounter. During the SPLA war, the author received reports of Toposa and Lafit warriors using the kob for target practice. Today, much the same thing is reported to be happening to the smaller, sister migration, that of the Tiang, *Damaliscus Korrigum*, along the Duk Ridge, east of the Nile.

Minerals

An oil concession map that the National Oil Corporation of Kenya (NOCK) has produced shows the Kenyan border as a line from Mt. Naita to Mt. Mogilla (see below, p.23). In fact Block 11 is partially in South Sudan and partially in Kenya, if one accepts the 1914 line. Clearly, if oil were found within the Ilemi Triangle

and exploited by a company operating out of Kenya, using this concession map, and if there were disagreement over borders between Kenya and South Sudan, the risks of conflict would rise.

In 2007, Block 11 was given to a company called CAMEC, which belonged at the time to the retired English cricketer Phil Edmonds (whose White Nile Petroleum company had tried previously to oust Total from a part of its concession in Jonglei State, S. Sudan, without success). CAMEC and White Nile carried out seismic surveys in the area in 2008. Since then the Block was split into two parts and a Spanish-run company called CEPSA worked out of Lokichoggio in the western part, Block 11A. Their Operations Director reported to the author in December 2014 that they did not go north of the 1914 Line, which is shown, without explanation, on the NOCK concession map. It was later reported, in 2017, that CEPSA and US oil company EHRC had withdrawn from Block 11A, explaining that their well Tarach-1 had proved to be dry.²⁶ In

**“IT IS OF COURSE POSSIBLE
— THAT THERE IS OIL STILL —
TO BE FOUND...”**

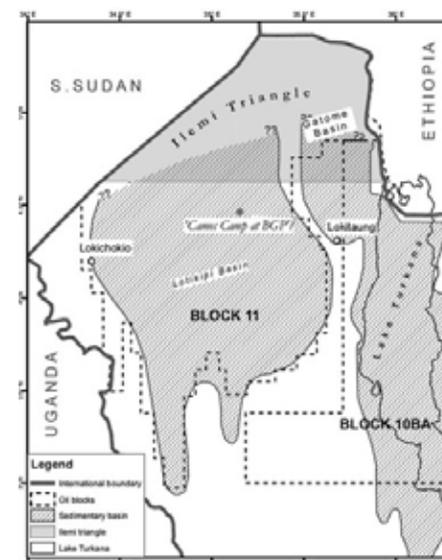
2017, the website of Kenya’s Ministry of Energy and Petroleum still showed CEPSA to have Block 11A, while Block 11B does not appear to have been rewarded.²⁷

This eastern part of the concession, 11B, covers 14,000 km. sq. and was, in 2012, granted to a relatively new Scottish oil and gas company called Bowleven, which otherwise works mainly in Cameroun. This company carried out surveys south west of Kibish, according to its annual report, working with a local company called Adamantine, and was expected to report the results of its ongoing seismic survey before its concession was reviewed by NOCK in May 2015. Bowleven’s 2016 Annual Report records:

The Group also allowed its exploration licence in Kenya (block 11B) to lapse at expiry on 26 May 2016. With the financial obligations under the initial licence phase for this block met it was concluded that further investment in the licence was not merited. The majority of Bowleven’s share of spend in Kenya was funded under a strategic partnership with First Oil.

It is of course possible that there is oil still to be found under the pastures and swamps of Ilemi, but no major surveying or drilling has been conducted there of which there is public record and thus no clear conclusion can yet be drawn, however promising the geology may appear.

As regards other minerals, the blue, apparently semi-precious stone one can pick up in the Triangle turns out to be syenite, worth perhaps \$10 per tonne, according to the mineralogist to whom this author took a sample some few years ago. But gold, in both alluvial and reef deposits, is artisanally mined in several parts of South Sudan, including the lands of the Toposa, so it would not be a surprise if there is gold in the Ilemi Triangle too.



Oil exploration in the Ilemi Triangle.

From time to time there are also reports of diamonds coming out of the area. There are also often rumours of a mythical substance called “red mercury” in South Sudan, which locals used to try to sell foreigners.²⁸

Given the potential mineral wealth of the area, what is the legal status of the Triangle, insofar as it has been determined? And in what sense is it “disputed”?

II. LEGAL CONSIDERATIONS AND LOCAL KNOWLEDGE

Four of the key considerations in the determination of international borders are treaties, maps, diplomacy and effective administration.²⁹ These are explored below. The African Union has, for Africa at least, added some further dimensions, which are also detailed and discussed briefly below.

Treaties

An international delineation of the European occupation of Africa began, in effect, with the Berlin Conference, which was attended by thirteen European

nations and the USA. It led to the “Scramble for Africa”, as later historians dubbed it. The conference opened in November 1884 and continued until February 1885, ending with a multilateral, international treaty, known as the “General Act” and signed by representatives of fourteen countries, to which the inhabitants of the continent were not party. Its effect was to divide Africa into spheres of influence³⁰, to be exploited and administered by the Portuguese, British, French, Germans, Italians and Belgians. Only modern-day Liberia, Morocco and Ethiopia were left out of this scheme. Whilst the conference did indicate spheres of influence, it did not draw colonial boundaries, as is sometimes supposed. These took much longer to establish, whether by treaty, negotiation or conquest, and they resulted in a patchwork of states that is often lamented today as completely illogical, since it was designed in the main to satisfy the interests of the European trading and military powers of the time. Apart from the secession of Eritrea from Ethiopia in 1993 and of South Sudan from the Republic of Sudan in 2011, this patchwork remains in place, for want of a feasible alternative.

The General Act included an acceptance of the rights of the Belgian sovereign to the Congo Free State, an agreement to end slavery, the encouragement of free trade, and a requirement for effective administration in support of any territorial claims, a requirement discussed further below in the context of Ilemi.

The actual development of colonial administration across the continent in the nineteenth and twentieth centuries brought with it European notions of sovereignty, landholding and territorial occupation which have neither entirely superseded nor yet been replaced by or fully integrated with indigenous systems. It was an essential feature of the development of industrial societies that land could be bought and sold and thus required “title”, but maps, sovereignty of states within fixed borders, and title deeds for landowners were foreign innovations in Africa. Here the European approach was to draw maps based on the work of survey teams who walked the ground and drew borders as lines on a page. Where there were few people or few natural features, such as in the Sahara Desert, these lines tended to be straight. Thus was imperial and colonial sovereignty shown on paper. On the ground, there might be beacons, trig points and cairns too, but not for most borders. Despite the partial adoption of such systems and their adaptation to local contexts, conflict over access to, use of, rights over, or title in land remains commonplace across the continent today.

In some cases the European officials made treaties with local leaders they had identified and in some cases they did not. In time, the colonial powers felt

able to change these treaties too as, for example, when they moved many Maasai from present day Laikipia to Southern Kenya.³¹ In some cases British administrators tried to keep the members of one ethnic group in the same territory, e.g. the Toposa in Sudan or the Turkana in Kenya, and in some cases they did not, e.g. the Acholi and the Zande, whose lands are divided by the colonial borders with Uganda and the Democratic Republic of the Congo and the Central African Republic respectively. Later, the effects of the two world wars of the twentieth century led to loss of colonies, boundary modifications and mandated territories, where one colonial power took over territory from the defeated power, as for example when the UK took over Tanganyika from Germany in 1918.

Thus the impact of the Berlin Conference, the arrival of European powers, their ideas about landholdings, the wars of the twentieth century and the departure of the Europeans have led to a subsequent profusion of claims, cartographic confusions and areas of discontent. In 1964 therefore, the then Organization of African Unity adopted the principle that colonial boundaries should be left intact, since any revision was likely to raise more problems than it was designed to solve.³² This approach is often summed up in Latin “uti possidetis, ita possideatis” (what you hold so you may continue to hold).

At risk of simplification therefore, the collectively agreed African approach after independence was based upon treaties written by colonial powers, sometimes with other powers, sometimes with local leaders, using the maps the colonial powers made as supporting documents. Hence, when examining the status and origins of a modern African border, the colonial treaties are usually the first documents to which any claimant has to make reference.

Maps

Next come maps. A map can be drawn by anyone, can be altered and can be wrongly drawn, or over-simplified, or based on incorrect information. It is important therefore that interested parties understand the provenance of any map, its date, its authorship and its purpose. A map by itself is not a sufficient witness to a border – hence the increasingly common portrayal on Kenyan and other maps too of a 45 degree line from Mt. Mogila north east to Mt. Naita is not proof that that is a recognized international border.

A map that illustrates the agreements in a treaty, on the other hand, is a useful witness. And maps are useful also in that a given area can be visualized and appreciated in its different sections and features, something which is much harder to do through the dry, legal prose of the average treaty. Maps imply knowledge and understanding and they also suggest control. In the colonial era, the Survey Department of any colony

or territory was an important cog in the wheels of government.

In Kenya for example, “the Department of Surveys, commonly known as Survey of Kenya (SOK), is the official agency of the government of Kenya on all matters affecting land surveys and mapping. It has been in existence since 1903 and is one of the oldest Departments in the country. The department is responsible for national surveying and mapping.”³³

It was possible for members of the public in Kenya in the 1990s to request permission from the Survey Department and the Ministry of Defence to buy whatever maps they wanted from this successor department to the colonial survey office. Today security concerns have made the process less straightforward and the website of the Ministry of Lands and Physical Planning, which oversees the Survey of Kenya, does not offer any maps for sale.³⁴ In post-secession South Sudan, there is no longer a survey department, and few maps have survived the years of war and loss. When the two countries separated, the Survey Department in Khartoum carried on, with its collection of maps of what had been one nation, which were based largely on the extensive series of maps produced by British Surveyors. In 2011 the Office of the Vice President in Juba even produced a map that showed the same alignment of the south-eastern border as found on recent Kenyan maps. When officials

realized what they had done, they had hastily to issue a corrected version, which now showed the alignment of 1914.

On the ground, the arrival of GPS and satellite technology has made redundant the old foot safari with theodolite and compass. Computing power too has enabled the development of digital mapping systems, such as Geographic Information Systems (GIS). The result is that maps can be made to measure and customized for whatever layers of data the creator might wish to include. So in South Sudan today, it is possible to visit a small UN unit in Juba in which a collection of maps is kept on paper and digitally. A catalogue can be consulted and the map chosen can be called up on screen, or found on paper, and then reproduced on a large-scale printer, or transferred to a flash drive. (That said, however sophisticated the digital display on a screen, however beautiful the printed copy, there remains a need for “ground truthing.” Thus the University of Berne Topographic Base Map series for Southern Sudan, impressive and detailed as they are, are a palimpsest of the maps that precede them, and show roads where none exist and villages whose name no one today recognizes.)³⁵

There is one further implication of the availability of hand-held GPS devices. If international colonial borders can be traced on colonial maps by their latitude and longitude, along with

such geographical features as remain identifiable today, as most sections of the international borders of South Sudan can be, then they and their key inflexion points could in turn be identified relatively easily and then marked on the ground too.³⁶

AU Border Diplomacy

Since 1964 the OAU and its successor, the African Union, have invested a certain amount in preventing or resolving border issues and assisting member states deal with the consequences of the borders drawn by others long ago. The AU calculated that Africa’s borders extend for 170,000 km. but that only around 35% of these borders are demarcated while there have been some forty border disputes since independence. Meanwhile the growth of population in the continent suggests that the total number of inhabitants will rise from 1.185 billion in 2015 to 2.478 billion by 2050. Pressures on land will only increase.

In 2007, to support its member states in this area, the AU established an AU Borders Programme (AUBP), overseen by a Technical Working Group charged with its implementation. The subsequent Draft African Union Border Governance Strategy of December 2016 is intended to cover the period 2016 to 2026 and states:

“The principle of the respect of borders existing upon achievement of national independence is enshrined in the Charter of the OAU, Resolution

AHG/Res. 16 (I) on border disputes between African States, adopted by the ordinary Session of the Assembly of Heads of State and Government of the OAU, held in Cairo, Egypt, in July 1964, and article 4 (b) of the Constitutive Act of the AU (2002)”.³⁷

It goes on to outline the following:

Vision

A continent of peaceful, prosperous and integrated borders that enables effective peace, security, stability and economic and social development.

Mission

The mission of the strategy is to develop a shared and inclusive governance of borders that contributes to the African Union’s Agenda 2063.

Objective

To put in place a new form of pragmatic border governance aimed at promoting peace, security, stability, but also at facilitating the integration process and sustainable development in Africa.

Subsequently, the Strategy adds five “pillars” in support of the above:

1. *Development of Capabilities for Border Governance*
2. *Conflict Prevention, Border Security & Transnational Threats*
3. *Mobility, Migration & Trade Facilitation*
4. *Cooperative Border Management*
5. *Borderland Development & Community Engagement*

The intention is to prevent or to manage border conflicts and to assist member states to turn borders into an asset rather than a liability, to make of them bridges, not barriers, a resource for greater continental integration. To that end, the AU has also produced a brief booklet which suggests five means of dispute resolution: the United Nations Security Council (UNSC); negotiation; diplomacy using a third party; judicial; and arbitration.³⁸ The emphasis here is thus on border management rather than border demarcation.

Local Knowledge

A further dimension of the AU Border Strategy is explained on page 9: “The African Charter on the Values and Principles of Decentralization, Local Governance, and Local Development (2014) stipulates the principles of subsidiarity and the inclusion and participation of communities. As such, the role of States and national authorities remains subsidiary to interventions by local authorities and communities, which are the first responders to threats and are the first concerned with the development of borderlands. In border governance, the engagement of stakeholders at all levels of intervention is a prerequisite for success and sustainable impact. The State needs to promote subsidiarity and partnership and to build local capacities, not only at the level of the state, but also at the level of local communities. Thus, participation and community engagement should be seen as an

extension of the application of the principle of subsidiarity through decentralization and local authorities and representatives of local communities must be able to fully participate in border governance.”

Where Europeans and Americans usually have recourse to written records, Africans will often still consult their elders and their memories. Where did your family graze its herds? Where are your grandparents buried? Where do you buy your supplies? Do you vote? Do you pay taxes? If so where and to whom? etc. Whether the answers of respondents match official records or not, perception is all. It is thus perfectly possible for both claimants of a border area to believe they are its rightful owners, whatever long-forgotten archives may reveal. So if border settlement agreements are to have credibility, local and international, and therefore to be more likely to last, all opinions must be consulted. As Martin Pratt put it: “The human archive can be quite telling”.³⁹ In 2016, when the joint South Sudan-Uganda Border commission visited the border areas they were tasked with demarcating, they made sure they spoke with local elders.⁴⁰ It is the intention of the South Sudan-Kenya Border Commission to do the same thing.

Effectivité

Another legal concept that needs to be explored further is that of effective administration. This concept

appeared after the Berlin Conference of 1884, since the would-be colonizing powers had to act to establish administrations in the spheres of influence they had allotted themselves, failing which other powers might regard them as *terra nullius* – land belonging to no one – and move in. So it has been said that “Title flows from effective possession over time”.⁴¹ Claimants in a border dispute therefore may be asked to produce evidence of effective administration: provision of services, such as security, water, health or education; registration of births and deaths; payment of taxes; mineral concessions; or local administration. There is a *caveat* to this idea: in international law, the use of force to conquer or annex territory is unlawful, unless sanctioned by the UNSC.

III. IMPERIAL HISTORY

The Anglo-Egyptian Condominium, 1898-1955

After the Battle of Omdurman, or Kerreri as the Sudanese know it, in 1898, the victorious General Kitchener and his army had also seen off the French officer Marchand at “the Fashoda Incident” on the Upper Nile, with the result that France withdrew from this particular arena of imperial competition. Afterwards Anglo-Belgian negotiations over the Belgian presence in Lado and the Bahr el-Ghazal took place at which it was agreed that, after the death of King Leopold, the Belgians would evacuate the area known as the Lado Enclave. (This is west of the Nile from Jebel Lado, just north of today’s Juba, southwards into what is today Uganda.) The Belgians thereafter stayed within the limits of the borders they had drawn in the Congo. So the British achieved their objective of control of the Nile Valley and the headwaters of the Nile.

The victory over the Mahdist forces of the Khalifa at the Battle of Omdurman led to the establishment of a hybrid form of rule over the Sudan for the next 56 years and the establishment of the borders of the country as they were until 2011. This odd creation needs to be understood because its boundaries could not be set or changed by one imperial power alone, in this case Great Britain, but, in principle at least, had to receive the consent of the other “Co-dominus”, in this case Egypt.

This unusual arrangement of “Co-Domini” arose because after 1882 the British oversaw the economy and governance of Egypt, without making it formally a part of the British Empire, Egypt itself being nominally a part of the Ottoman Empire until 1914.⁴² The overthrow of the Mahdist rule in Sudan

“THE ROLE OF EGYPT CAME BACK TO HAUNT THE BRITISH...”

was presented by the British as the reestablishment of Ottoman Egypt's authority, not British conquest, and the Condominium was created to give legal form to that claim. The British involvement in Egypt's government lasted only until 1922, when Egypt became independent – still as the co-dominus of Sudan - whereas British military occupation of Egypt lasted for decades after that.

In 1924, Egyptian nationalists assassinated Sir Lee Stack, the British Governor General of the Sudan and Sirdar (Commander in Chief) of the Egyptian Army. This led to the removal of Egyptian soldiers from the Condominium, the creation of the Sudan Defence Force, which employed Sudanese soldiers, under British officers, and the ending of the role of some Egyptians employed as administrators and doctors in the Condominium. The role of Egypt came back to haunt the British administration and Sudanese activists as independence negotiations got underway in the Sudan in the 1950s and Egyptian politicians advocated the “Unity of the Nile Valley”.

The British Empire employed a variety of terms to refer to the different legal regimes used to administer the territories it controlled – colonies, protectorates, mandated territories and, twice, “condominium”, according to the

circumstances that surrounded their acquisition.⁴⁵ The oddities of imperial nomenclature reflect the varied ways in which this empire was built. These did not follow some grand strategy as sometimes supposed, but were rather determined by victories, defeats and compromises both with other imperial powers and with indigenous leaders, over a long period. Thus for example Kenya was a colony, Uganda a protectorate, Tanganyika a mandated territory, Canada a dominion and Sudan a condominium.

The result in this case was that Sudan was not governed like a colony or a protectorate. Its administrators were not members of the colonial service and did not report to the Colonial Office. Known as the Sudan Political Service, they reported directly to the Foreign Office through the Governor General, sending reports also to the British Consul General in Cairo (after 1922, restyled the Ambassador), who had to manage the often tense relationship with the Egyptian Government. The British administrators of Sudan were not allowed to buy or own land there, nor were British settlers allowed to acquire and farm land there. Thus the economic history of Sudan followed a different course from that of, for example, neighbouring Kenya, a settler colony. Both however employed District Commissioners (DCs) as the key local representatives of British rule and it was these DCs who had to deal on the ground with the consequences of the officials

of a British colony – Kenya - having protracted discussions with those of the neighbouring Anglo-Egyptian Condominium – Sudan - about groups of people whose principal economic interests were grazing for and the security of their cattle, who knew little of arcane imperial distinctions. Neighbouring administrators may have served different masters in London, but they came essentially from the same culture and usually understood each other well enough, even if they did not always agree.

The Condominium lasted from 1898 to 1955. The independent state of the Republic of Sudan was born on the 1st January 1956. Kenya attained independence in 1963. As noted above, both countries inherited survey departments that offered detailed and useful maps which have a value even today. These maps show the international boundary as a horizontal line agreed by British officials in 1913-14. On later maps the Provisional Administrative Boundary – agreed some years later - is clearly shown, but it remained provisional. How were those lines on the map drawn in the first place?

The Boundary Commission Gives Up

In the 19th century, for the policy makers of the British Empire, the security of the headwaters of the Nile was essential for the wellbeing of Egypt and thus the economic fortunes of the country the British had come

to control, if not to rule. But worries about the security of the headwaters of the Nile and concerns about the slave trade meant that other areas of East Africa would have to come under British control too. Even before Kitchener's expedition up the Nile to "re-conquer" the Sudan and discourage the French and the Belgians from encroaching on their sphere of interest, the British had concluded that they needed control also of the sources of the river, which were thought to be in Uganda, principally in Lake Victoria. (Today Rwanda claims the most distant source, a stream in the Nyungwe Forest Park.) So in 1894 they declared a protectorate in Uganda and began the work of establishing its borders, mapping it and administering it. In the area north of Mt. Elgon and towards what was then called Lake Rudolph, where the Karamojong and the Turkana live today, they found they had to deal not only with Arab and Swahili traders and slavers who had come up from the east coast of Africa but also with citizens who had come down southwards from another empire, that of Abyssinia, who were also trading and buying ivory and slaves and who owed allegiance to an African emperor, Menelik the Second.⁴⁴

British officials in Uganda had succeeded in making a boundary agreement with Abyssinia in 1907, which was signed by Menelik, but was contested in 1910 when the Abyssinians asked the British to remove the boundary markers placed by the British Boundary Commissioner at the time, Major C.W. Gwynn. This the British did not do, on the strength of the signed agreement they had from the Ethiopians. It was in this context, in 1912, that a certain Captain Kelly makes an appearance, as Chief Commissioner of the Sudan-Uganda Boundary Commission.⁴⁵ Kelly was a soldier from the British Royal Engineers who had been seconded to the Egyptian Army in Sudan since 1903. Here he had gained experience in surveying, construction and public works. He had also worked on the Sudan-Abyssinia and Sudan-Congo frontiers. For the purposes of the Commission, he was teamed with one Captain Tufnell, the District Commissioner of Lake Rudolph Province, as it was then termed, in Uganda.

The Boundary Commissioners were charged by Reginald Wingate, the Governor General of Sudan, with the establishment of a border which "did not divide any single tribe between Sudan and Uganda", between the third and the fifth degree latitude north of the Equator, in the area from Nimule, on the White Nile, to Lake Rudolph (today Lake Turkana).⁴⁶ The British wanted the riverine post of Nimule to be in the Sudan, because the area of the White Nile to its south is navigable as far as Lake Albert (unlike the stretch to the north between Nimule and today's capital, Juba, which has several rapids such as the Fula Falls and Bedden that preclude their use by any craft of greater draft than a rubber raft). They also wished the border to terminate at Lake Rudolph, where

they envisaged a possible steamer link with what was then British East Africa. (It became Kenya Colony in 1920.) Thus, for the purposes of future trade, they wanted to allow for connections between the Sudan and both Uganda and Kenya. Kelly even talks in his diary of a possible railway line between Gondokoro, just north of Juba today, and Nimule.

Kelly had to produce a basic map and measure distances, all the while being responsible for a convoy of more than one hundred men, fifty camels, three hundred and twenty donkeys and twenty mules. He and Tufnell only traversed the first 120 of the approximately 400 mile boundary they were trying to establish between the Protectorate and the Condominium. This took them thirty-two days, at the end of which they made draft recommendations and Tufnell apparently went on leave, after a tour of duty of two years without a break. It is clear from Kelly's diary that he thought Tufnell's appointment unfortunate, not only because he was very tired but also because he was unwilling to comply with Kelly's request that no force be used against any of the people they encountered en route.

In his diary, Kelly writes that he was surprised at the approach of Uganda officials to the local people, calling it fortiter in modo – tough in style. The use of force ran counter to Kelly's instructions, on the grounds that it would reduce the chances

of British officials in future being able to establish friendly relations with the people they encountered as they brought new areas under administration.⁴⁷ As the official responsible for security in the area, Tufnell burnt huts and disarmed groups of both Acholi and Didinga who, he learnt, had been raiding and stealing cattle from their neighbours. Some Acholi had apparently acquired large numbers of old French rifles from Abyssinia but Kelly knew well that Tufnell's violent approach made the cooperation he needed from local people en route very much less likely.

Kelly carried on for about three hundred miles without Tufnell, as far as Jebel (Mount) Mogila, the twin-summitted hill north of Lokichoggio in what is Kenya today - travelling perhaps a hundred miles as the crow flies. The difference is explained by his need to explore and make notes on the country and peoples en route. Kelly climbed Mogila, on 28 February 1913, but decided to turn back thereafter, having only enough fodder for his pack animals for three days and being unable to ascertain with any accuracy where water could be found between there and Lake Rudolph. (It was still the dry season, although within three days of turning back the party experienced a sudden heavy rainstorm.)

What in the end did this Boundary Commission achieve? Despite the early departure of Tufnell, Kelly felt that he and Tufnell had gathered

enough information and understanding of the terrain and the people that they could with some confidence suggest a boundary between Sudan and Uganda, from the Nile to Lake Rudolph. This was written up in 1913 in two sets of recommendations which can be read today.⁴⁸ The parts that recommend the border in the area of what is today the Ilemi Triangle are as follows:

From here [north of Mt Mogila (appr. Lat. 4 deg 15 N and Long. 34.30 East)] a theoretical line to the north of Mt. Lubur on Lake Rudolf is assumed, but if the northern portion of the lake proves to be navigable, a strip of territory should be reserved to the Soudan, affording a port on the lake. East of Mt Harogo⁴⁹ it has proved impossible for the joint Commission to investigate owing to the unfavourable season and the lack of water supply. Between this mountain, therefore, and the lake the exact limits remain for further consideration when the limits of the Turkana and Dabosa {Toposa} grazing grounds are more accurately known.

The Commissioners recognize that owing to the intermixture of the various tribes, it is impossible to determine a hard and fast tribal boundary and suggest that when the territory on either side of the frontier comes to be closely administered, any small alterations which will facilitate administration can be effected.

Kelly and Tufnell then added some “rectification notes” which discuss the distribution of the Acholi, Toposa and others at the time, as they saw it. They noted for example:

Until recently the Dabosa or Tabosa tribes went as far south as Zulia⁵⁰ and eastwards as far as Lolimi, and they still claim as far as Mogila for their grazing and hunting grounds; they have however been ousted by the Turkana, who, it appears, in their time (sic) have been driven from their grazing grounds to the north west of the Rudolf plain by Abyssinian raids.

On account of water difficulties, the country east of Loruwama had to be visited by the Sudan party alone, which was provided with camel transport; no Turkana were met with, but as far as is known, the line from the north of Mogila to the north of Jebel Labur and thence to Sanderson Gulf on Lake Rudolf will clear all grazing grounds formerly occupied by this tribe.

In the event, this proved not to be the case, the Turkana claimed grazing north of the line and this was the reason for the eventual introduction of the Provisional Administrative Boundary in 1938, twenty-five years later.

So Captain Kelly’s findings were eventually codified in an “Order in Council” in 1914. An order in council is a mechanism used in the UK and its former territories still, whereby a decree is made with the assent of the Privy Council, a body of senior advisors to the head of state, typically at the request of a cabinet minister. In this case it was the Secretary of State for the Colonies, one Lewis Harcourt. Thus was the borderline fixed, and later delineated with a caveat as to its eventual course “a straight line or such a line as would leave to Uganda the customary grazing grounds of the Turkana tribe.”

From Uganda to Kenya:

The Kitgum Conference and the Battle of Kangala

The situation was complicated by the cession of a large block of Ugandan territory to Kenya in 1926. This arose at the request of British officials in Kenya, who convened a conference at Kitgum in northern Uganda in 1924 to discuss with their counterparts from Uganda and Sudan “the safety of the North Turkana”, presumably meaning their protection from raids by their neighbours. In his report on the conference Major Brock, the Deputy Governor of Mongalla Province (as it was at the time) suggested that the solution to the issue was to control the area north of the 1914 line. The question was – who would control it and who would pay for that control? The Kenyan representative suggested an area be ceded to Kenya

while Sudan should administer the Toposa to the west of that area and contribute to the extra expense that would be incurred by Kenya.

The Sudan officials at the time were reluctant to accept new expenses and had been struggling to avoid taking on the Toposa.⁵¹ They also pointed out that relations with the Egyptian Co-dominus were particularly bad in the aftermath of the Stack assassination and the withdrawal of Egyptian troops, and they could hardly unilaterally cede what had been designated by the Order in Council as Sudan territory to a British Colony – Kenya. On these grounds, the Kitgum conclusions were not put into force. Later that year and in the following year, the Toposa raided the Turkana and the Merille did too. On 1 February 1926, the Rudolf Province was transferred to Kenya Colony, by an Order in Council. The Governor General of Sudan, Sir Geoffrey Archer, wrote subsequently to the Governor of Kenya, Robert Coryndon, to tell him that the Turkana should stay on their side of the border, not a very helpful admonition in the circumstances, adding he could not afford to administer the Triangle or supply it.

Their masters in London then reviewed the issue again, taking into account the sporadic struggles the British had also waged in the area for the last ten years against Abyssinian ivory poachers and Swahili slavers.⁵² Consequently Sir Geoffrey Archer

had to change his mind and accept the expense of taking over Toposa territory with a company of Equatorial troops and setting up a base at Lolimi. This was later moved to Kapoeta, which is further to the west and closer to Torit, the base of the Equatorial Corps.

In 1927 there was a “small incident between the police and the Nicor section of the Toposa”, according to Geoffrey King, who became DC Toposa in 1931.⁵³ Otherwise he reported “[t] here was practically no resistance by the Toposa to the Sudan Government occupation of their country”.

In conversation many years later with a Toposa elder, I was told “We decided not to fight the British, since they had lots of guns, but rather to watch them and wait and see what they did.” By 1928, the Toposa found they were being administered by two British civilian officials. By 1931, they had a District Commissioner, the aforementioned Captain King, based at an administrative centre, Kapoeta. King was to stay with them, with a year away as a soldier to assist with the campaign against the Italians, until he retired in 1952.⁵⁴

To the east of Sudan, the Ethiopians had defeated an Italian army at the Battle of Adowa in 1896. They regarded the area around Lake Turkana as within their sphere of influence, whether for slaving, ivory, taxation or trade. While senior British officials in Sudan were dithering

over their frontier responsibilities, their counterparts in Kenya sent a battalion of the King’s African Rifles, in a joint operation with troops from the Sudan, to fight and drive away Turkana and Ethiopian forces at a place called Kangala, just south of the area that became the Ilemi Triangle. They succeeded in driving the Ethiopians off and back towards their base at Maji, but the Turkana suffered heavy losses in cattle from British retribution, which then caused a famine.⁵⁵ This in turn led to the opening of a famine relief camp at Kalokol in 1924.⁵⁶ The British officials in Uganda and those involved later, after the transfer of Rudolph Province in 1926 in Kenya, did not have the resources to follow up their military success and administer the Turkana to the north. They contented themselves with a base in Lodwar and were only able to bring in a civilian administration in 1928.

Sudan Draws a Red Line and Pays for Patrols

With a District Commissioner established at Kapoeta in the Eastern District of what was then Mongalla Province of the Sudan, who reported to the Governor General in Khartoum, and a Provincial Commissioner for Turkana at Lodwar, who reported to the Governor in Nairobi, the two British administrations were able to discuss the border, raids on the Turkana and the northern limits of Turkana grazing. Inevitably the two administrations had different interests. The years after the

“...THEY FELT
THAT THE SUDAN
GOVERNMENT
SHOULD PAY...”

great depression had seen cuts in the personnel of the Sudan Political Service. The Sudan Government was not only short of administrators, it could not afford to police the area east of Kapoeta in order to curb raids on the Turkana by Nyangatom and Merille. The Kenya Government on the other hand was willing to find the resources to establish police posts and to patrol the area from the King’s African Rifles base at Lokitaung because officials did not want turbulent northern tribes disturbing the land given to settlers further south, around Kitale and Eldoret. For this they felt that the Sudan Government should pay. After a certain amount of haggling, this was agreed and the Sudan Government took the extraordinary step of paying to the Kenya Government £10,000 in 1931 and the same again in 1932 towards the cost of the additional troops it felt necessary to keep in Turkana, with another £5,500 to pay for new roads in the area. This is the origin of the administrative presence of the Kenyan Government in the south of the Triangle today, of which more below.

The two administrations also agreed informally on the area of “the customary grazing grounds of the Turkana tribe” in the Triangle and drew a line north of the 1914 line which took in the hills of Lorienatom and Lokwanamur, with the valley in between them, along

with some land to the east and to the west, calling it the “Red Line”. This came to be described on later maps as the Provisional Administrative Boundary (PAB). The heights that lay within this new boundary are set well above the flat, seasonally-flooded plains of Lotakippi and Alabilab, hold some springs of water and give good views to the north. In the same year, Captain King travelled from Kapoeta to Lokitaung in Kenya to see where administrative posts might be established. He found sufficient water to the north only at the foot of Moru Akippi (the hill of water in Ateker languages), near where the Sudan Government later put a Sudan Defence Force base, at Loelli, and at Kaimothia (variously also Kamathia, Kaimosia etc) where there is to this day a Kenyan police post, inside the PAB. He did not think these were sufficient for administration of the area, being too far west of the border with Abyssinia and too far from Kapoeta, respectively.

Empires in Abyssinia: The Italians Come and Go.

The Italian invasion and occupation of Abyssinia in 1935-6 gave the British administrators some new counterparts on the borders of Kenya and Sudan. It also introduced a new complication. There is a salient of Nuer and Anuak speakers protruding into Sudan territory from Gambela in Ethiopia. Or looked at from the Sudan side, the Nuer and to some extent the Anuak people found themselves on both sides of a protrusion in an imperial border. The country is low-lying and swampy. The British and Italians considered swapping this salient for a large area of the Ilemi Triangle. Such a move would have brought all the Nuer and Anuak under British administration in the Sudan and put the Ilemi area under Italian rule, as part of Abyssinia. It would thus have more or less straightened the border, giving the Sudan an area of seasonal swamps in exchange for the highlands of Boma and the more arid land in the Triangle, and bringing the two peoples under one administration, that of the Condominium. It would also have ceded part of the Triangle to Kenya, to help the Turkana with what was by this time a recognized need for grazing. In 1939 the British Government submitted a memorandum to the Italian Government proposing the change. It needed, in principle, the assent of the Egyptian Government, still nominally a partner in the Condominium, but it was not to be. The rise of fascism in Europe, the gathering storm which was about to engulf the world, meant that the negotiations were never pursued and the border was never so straightened.⁵⁷

Instead, the Red Line became the Provisional Administrative Boundary and was accepted by the Governments of Kenya and of Sudan at the time as an informal administrative measure to allow Kenya access to Sudan in order to protect its subjects from raids by the neighbours, if need be. Today this might be called the right of hot pursuit. It remained, nonetheless, an uncertain tactic. The US

historian Robert Collins interviewed Captain King in his retirement in the UK in 1962. He records King as saying that “the Sudan Government was none the worse for not being the wiser” by officially remaining ignorant of the Red Line. Collins also reports the Governor of Kenya at the time, Sir Joseph Byrne, as saying that the administrative boundary was “a purely temporary expedient”.⁵⁸

In Kenya Colony the British and their allies prepared for war. Using some 77,000 troops from the UK, Africa and India, they invaded Abyssinia, Somalia and Somaliland in 1941 and drove the Italians out of their short-lived East African empire. They then created the “Occupied Enemy Territory Administration,” OETA, but were at pains to explain to the Emperor, Haile Selassie, that they wanted to hand Abyssinia back to him, which in due course they did, in 1942, rather than incorporating it into the British Empire, which the Abyssinians assumed was a real possibility. One baleful effect of this campaign was the large number of weapons left in the hands of the Merille, amongst others, in Abyssinia, adding to the arms they already held which they had acquired previously both from the Italians and before that by a flourishing arms trade in old European rifles. This presented a real danger to the Turkana, to the south and thus a real concern to the Kenya Government, which held that the Merille tended to come through the Triangle on their raids and it

was the responsibility of the Sudan Government to do something to check this.

Colonial Administration: The Worlds of Whitehouse and King

From 1928 to 1963, British officials in Kenya wrestled with the neglect of the Ilemi Triangle by their counterparts in Sudan. Ilemi remained an area inhabited around the edges but largely empty in its centre, traversed by raiding parties from all sides, beyond the rule of law, undeveloped, with a surfeit of firearms and no obvious economic value to any central government. Just before the start of World War II, the Sudan Defence Force (SDF) had erected a fort, the ruins of which still stand today at Loelli. From here, the Force did patrol eastwards into the Triangle, just as the Kenyan police came northwards into the Triangle on patrol. The Sudan Government also put outposts further to the west, near the Lokorowa River. All this had been done with the object of discouraging any Italian invasion, rather than administering the area.

During World War II, Dick Lyth, who had come to South Sudan as a missionary, was enrolled as an officer in the Sudan Defence Force. From Torit, he raised an auxiliary force of 120 men, trained them and took them into the Triangle, leading them on raids up and down the border with Ethiopia, from Boma to Lake Rudolph, as it then was, in order to convince the Italians that the British

actually had a much larger force available than they did. Lyth was a successful guerrilla leader and after the war joined the Sudan Political Service, becoming the Frontier Agent at Boma Plateau, just to the north of the Triangle, and subsequently DC Akobo, until independence.⁵⁹

Denis Zaphiro, who had been an officer in the SDF, stationed at Loelli, told the writer in later years that he had one regret from his soldiering in Sudan, when he had come under fire from a group of Nyangatom herders and had returned fire with a Bren gun, driving the herders back across the border with Ethiopia. He sympathized with their need for pasture and water but said he had orders to keep the Nyangatom on the other side of the border, where they were Ethiopian taxpayers. In practice, border officials had allowed herders to cross borders with their cattle in times of need, but only if they did not carry weapons.⁶⁰ But the Bren gun was no substitute for government and the lack of government in Ilemi is its central problem to this day.⁶¹

The Sudan Political Service officials left the Sudan in 1954 and 1955. Their Sudanese successors were able to do less than they had in relation to the border with Kenya. British administrators in Kenya fared no better. One leading administrator was Leslie Whitehouse (nicknamed Wouse by the British and Etawos by Ateker speakers), a DC in Turkana from November 1946 until his

retirement in 1958. During this time, Whitehouse served as “Jomo’s Jailor” when Jomo Kenyatta was imprisoned by the colonial administration in Lokitaung and later in Lodwar. He developed a good relationship with Kenyatta, who appointed him a magistrate after independence in 1963. He also worked to settle Kenya’s border with Uganda and Ethiopia, for which he received the OBE (Order of the British Empire) in 1959, and knew well the practical problems of administering the Ilemi Triangle. After retirement, he also became a Kenya citizen, when he agreed to serve the government of independent Kenya as a member of the Kenya-Sudan Border Commission. Of this he wrote: “In the event, I never set eyes on the Sudanese Boundary Commission and the boundary remains undemarcated to this day”.⁶² Whitehouse continued to serve as a Senior Magistrate in Kenya until his death in 1989.

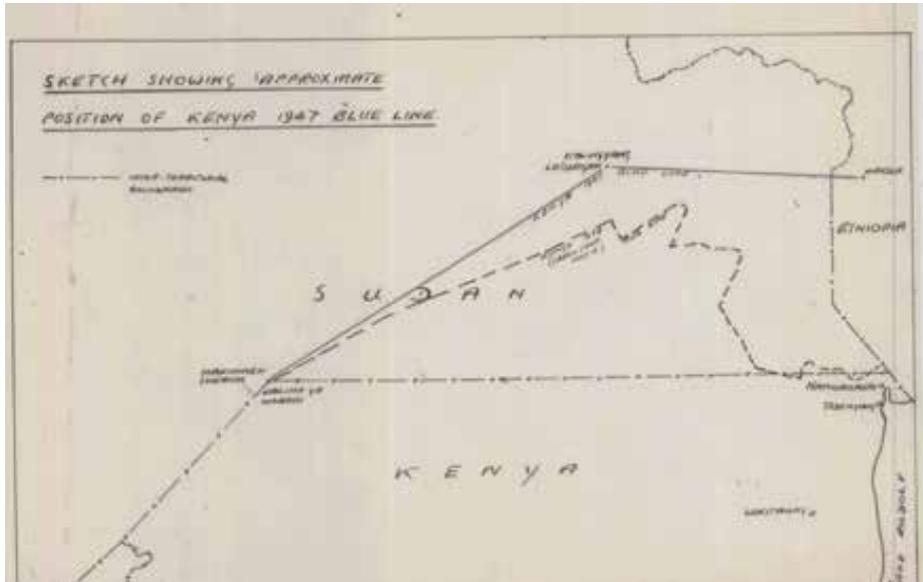
A glance at the regular reports from Turkana District during the 1940s and 1950s reveals never-ending raids, movements northwards by the Turkana to seek pasture and similar movements westwards and southwards respectively by Merille, Toposa and Nyangatom, for the same reason.⁶³ At a local level, the Kenyan DCs cooperated with Geoffrey King, their long-serving counterpart in Kapoeta, and with Pat de Robeck, who joined King as an Assistant DC in Kapoeta and was later recruited to serve across the border in Turkana,

after the independence of Sudan. That all were military men is not a surprise in that most such administrators in that era had served either in the First or the Second World War. Their experience in the forces would have been judged important when dealing with a rugged frontier and peoples who to this day possess many guns and do not lightly accept the hand of government.

Another feature of what was becoming a flexible border is one more line added to the maps to indicate the limits up to which the Kenyan authorities could patrol. The “Red Line”, or PAB, was drawn in 1938, but constant raiding meant that in 1947 the Kenyan government agreed with the Government of Sudan to adopt a new line, which they dubbed the Blue Line, sometimes known also as the Sudan Patrol Line, extending the area which Kenya could control further to the north and to the west (see sketch below).⁶⁴ This was one more example of a local response to an unresolved international boundary, but it did not change the fundamental problem that the only way of setting an international boundary is by bilateral agreement, with a treaty between the two governments concerned, not by drawing new lines on an old map.

The point is made because the exact position and significance of the Red Line and the Sudan Patrol Line has generated detailed analyses by, for example, Dr. Muaz Tungo, the Sudanese scholar cited above on p.10, and by the Kenyan analyst Nene Mburu.⁶⁵ It is perfectly possible that, in any future border settlement, Kenya and South Sudan may well agree that the Red Line or the Blue Line would afford a feasible border, but these lines remain just a manifestation of local administrative arrangements necessitated by the lack of will and resources on the part of the Government of Sudan to demarcate a border and govern whatever part of Sudan lay within the demarcation. The most important of the lines remains the Red Line, or PAB, because within that line lie Kenyan police posts and the visible and tangible evidence of Kenyan investment and Kenyan governance. Between this line and the 1914 border, the surveyors calculated was an area of 1,347 square miles.⁶⁶

Interestingly, because of its importance, the line of the PAB was very accurately recorded and marked, with beacons, when it was surveyed in 1938, providing thus a rare section of Sudan’s border both delimited, delineated and demarcated too. The work was done for Sudan by King, as DC Kapoeta, by Wakefield, the Director of the Sudan Survey Department and by Whalley, the former consul at Maji, who was the first person to publish a description of the Triangle (see p.7 above). For Kenya, they were accompanied by Thompson, the Provincial Commissioner, Turkana, by MacKay, the DC Lodwar, by Kean, of the 4th Kings African Rifles at Lokitaung, and one Morris, “Military Representative.” They spent 18 days on the task, walking, using motor vehicles and riding donkeys.



The Blue Line, proposed in 1947 as a new limit for patrols from Kenya.

They also climbed the mountain Lorienatom. Each of the 21 points they fixed was recorded by latitude and longitude, height above sea level, distance from the next point and lastly bearing to the next point.⁶⁷ This, at least, was not a poorly drawn border, but one fixed and recorded by men who knew the area and had most of the responsibility for administering it at that time.

There is one more legacy of the colonial administration - the existence of a Kenyan police post and, today, administrative centre with its own District Officer, at Kibish. Kibish is about 120 km. north of Lokitaung and offered a source of water for the Kenyan patrols into the Triangle

which started in Lokitaung. But it lies on the very eastern edge of the Triangle, astride the Ethiopia - Sudan border, well to the north of any line, Blue Red or other.

A former DC, Chenevix Trench, describes in his memoir how he took a patrol there from Lokitaung, entered Sudan, reached the Tepes Hills and had to turn back with his men to his last water source in Kibish. He knew full well that he was patrolling in Sudan, but he also knew that local arrangements entitled him to be there. (He also noted that he had shot an eland near the hills, for food, without a Sudan Game Licence, since he had no means of obtaining one.)

As the independence of Sudan approached, a query came from the colonial government in Kenya as to whether its concerns about the status of the border at the Ilemi Triangle could somehow be set out in a “formal undertaking for the close administration of the area.” In the correspondence quoted in the Introduction above, Sir William Luce continued thus: “We cannot but feel that, whatever undertaking might be given to this effect, it would inevitably be of little value, since the future administration of this area is likely to prove even less close than that exercised hitherto.”⁶⁸ He was right.

IV. INDEPENDENCE

Serial Neglect?

In 1963, according to a document marked Top Secret at the time, the Council of Ministers in independent Sudan heard from Mohamed Ahmed Irwa, the Minister of the Interior, referring to the Sudan-Kenya border, that

It has become imperative to restore the administration of this area (i.e. Ilemi) but, owing to the lack of information and the establishment of Administrative officials, security forces and other installations, it is advisable that the question be deferred for the time being until we collect the data concerning this area. The officials who will be detailed to reconnoitre this area will take the utmost care of secrecy so that none could be in position to reveal our plans to the other side.⁶⁹

For the next ten years however, Sudan was preoccupied with a civil war, fought against the Anyanya guerillas of the South. When it ended, in 1972, the South had attained a degree of regional autonomy, and was the scene of modest outside aid and commercial investment, until the civil war re-started in 1983. In the late 1970s, during that brief interlude of regional autonomy and relative peace, I recall hearing about the Ilemi Triangle, the still little-known area near the Kenya border, and asking the then Governor of Equatoria, Peter Cirillo, what the regional government proposed to do there. As I recall, his answer was that they would bring administration and development. The civil war fought by the Sudan People’s Liberation Army (SPLA) against the Government of Sudan from 1983 to 2005 soon put an end to that idea.

Ethiopia too had its own wars to contend with, in the Ogaden from 1977-78, against the Eritrean Liberation Front from 1961-93 and against the newly-independent Eritrea from 1999-2000. Ethiopia of course has a border with

South Sudan, part of which is the eastern side of the Ilemi Triangle but, after the fall of Mengistu, Ethiopia was not much involved in Sudan affairs until it sent peacekeeping troops to the UN Mission to Abyei (UNISFA) in 2007. Ethiopia also took over the chair of IGAD from Kenya and then led, with mixed results, the peace process underway in South Sudan until, effectively, it was pushed aside by Presidents Bashir and Museveni in 2018.

Against this complicated regional and international shifting of alliances and interests, John Garang's SPLA suffered a heavy blow in 1991 with the defection of Riek Machar, who took many Nuer troops with him. Having enjoyed much success from 1983 to 1991, the SPLA was now pushed back southwards towards Nimule and was short of troops. Its troops in the Toposa and Nyangatom areas to the east of Kapoeta were not from the area and often did not get on with the local peoples, who are well armed and famously tough. So John Garang cut a deal with local leaders: they would supply Toposa recruits for training and the SPLA would withdraw its other forces from Toposa, so that some of these recruits could replace them. The arrival of fresh recruits from Nyangatom, Toposa and Boya peoples undoubtedly helped Garang restore his position on the battlefield. In addition, thanks to the wily stratagem of the late Father George Kinga, who had actually been a minister in the government in Khartoum, his Toposa supporters received new G3 rifles from the government in Juba, ostensibly to fight the SPLA. Most of them then defected to the SPLA/M, walking home from Juba with their weapons. Having armed his people, Father George then defected too.⁷⁰ To this day the Toposa remain heavily armed.

In 2013, after the secession of South Sudan, the author recalls meeting again with a senior official of the new Government of South Sudan and enquiring whether he was aware of the issue of the Ilemi Triangle. His reply recalled what I had heard nearly twenty five years before from Peter Cirillo. The government was indeed aware of the issue, which could only be solved by administering the area, but had more pressing issues to manage before it could take on the question of the border with Kenya.

Two years later, on a visit to the area, I carried a twelve-volt battery to the hamlet of Lotimor, near the Ethiopian border within the Ilemi Triangle, so that the handful of policemen there could at least communicate with Kapoeta, 200kms away to the west on very bad roads, by radio. Government of the area was still no more established there than it had been a hundred years before, although many political leaders in South Sudan are well aware of the Ilemi anomaly.

Different Histories

As regards Kenya, the authorities showed little more interest in the Ilemi Triangle, until 1986 (see below). There was nonetheless an attempt, not long after independence, to get the UK, as the departed colonial power, to help Kenya assert a claim on that part of the Ilemi Triangle within the PAB, which met with no success. A letter from Kenya to the UK government, according to Tungo, stated "We cannot wait indefinitely for a new official Kenya-Sudan Agreement; I suggest that the British official maps should follow our lead on the Red Line".

The Directorate of Overseas Surveys responded as follows:

.....although the then Sudanese and Kenyan Governments were authorized in 1939 by His Majesty's Government to accept and refer to the Red Line as the Provisional Administrative Boundary, the line never received full recognition from all those concerned. Accordingly we feel we cannot show on our maps the Red Line as the accepted international boundary, on the information at present available to us . . .⁷¹

Tungo records also a note from the Kenya Government to the Government of Sudan in October 1988 notifying the Sudanese that the arrangement should be terminated, claiming that the Ilemi Triangle is an integral part of Kenya.⁷² Sudan

– according to Tungo - rejected this claim on legal grounds.

If nature abhors a vacuum, then a state which cannot patrol its borders or govern those within them risks losing its ability to govern altogether, not to speak of its credibility. The different trajectories of Sudan and Kenya since independence explain the neglect of an important border by Sudan, and later by South Sudan, and the slow but steady progress northwards of Kenyan government influence. Sudan has been beset by civil war and economic collapse while Kenya has managed to avoid civil war, develop the institutions of state and grow its per capita income more successfully. Sudan also has other troublesome border areas to consider, such as the Halaib Triangle on its northern border, which was taken over by Egypt and over which it therefore lost de facto control. The dispute once more involves a 1902 border adjustment carried out by the British to allow the Egyptian Ababda to graze in Sudan and the Sudanese Beja to graze their camels in Egypt. The Egyptians have invested in the area and have apparently refused to submit to international arbitration.⁷³

V. The Ethiopian Border of the Triangle 1902-1972

The Government of Ethiopia has so far been a mostly silent player in this story, but they watched British activities in their neighbouring countries carefully. In 1902, the British Government, having access

to military surveyors in the Egyptian Army, sent a certain Captain Maud to suggest the best line for the borders of Ethiopia with Sudan and Kenya. (While he was doing that, another surveyor, Major H.H. Austin attempted to survey the area from the Sobat to Lake Rudolf, but ran short of supplies and lost a large number of his men to local resistance and to shortages of food.)⁷⁴ The Ethiopians were ambivalent, nervous of possible British designs on their territory, just as they were also after the liberation of Ethiopia forty years later. Subsequently, in 1907, the British sent Charles Gwynn to demarcate Maud's line on the ground. Gwynn had already prospected the area from the Blue Nile to the Sobat River in 1899, after the Battle of Omdurman, and he built cairns to mark the border line he was demarcating.

After his trek, Gwynn proposed a number of changes to the lines Maud had suggested, largely to keep highland Ethiopians in Ethiopia and Nilotic peoples in Sudan, so that much of the border followed the base of the Ethiopian escarpment. The changes were accepted by the British, if not by the Ethiopians, and Gwynn's line for the most part forms the border today. In retirement Gwynn wrote a piece for the *Journal of the Royal Geographical Society* describing the rigours and challenges of foot safaris in remote areas at the limits of control for both Sudan and Ethiopian governments at the time.⁷⁵ Unable to get a qualified counterpart from the Ethiopian bureaucracy, Gwynn had to undertake his Sudan-Ethiopia survey alone. It seems however that he won the trust of the Emperor Menelik, through the good offices of Harrington, the British representative in Addis Ababa. Menelik was willing to accept Gwynn's suggested line, at least in private. It was never publicly acknowledged by the Ethiopians on the grounds that it was drawn without the participation of an Ethiopian government surveyor, but it was in practice accepted through an exchange of notes in 1972.⁷⁶ As regards the portion setting the eastern border of the Triangle, it ended where the meridian line of 6 degrees North met the line of 35 degrees East, but this tri-junction point, where Ethiopia, Kenya and Sudan were to meet, has remained un-demarcated and not properly surveyed to this day.

The problem of Merille raiders crossing from Ethiopia to raid the Turkana in Kenya, going through the Ilemi Triangle, remained. The British convened a peace meeting at Lake Rudolph in 1934 and got representatives of Dassenech, Nyangatom and Turkana to agree to end raids and live in peace with their neighbours, the first of many such meetings which produced an agreement not destined to last.⁷⁷

Eventually the Government in Sudan and that in Addis Ababa did set up a Joint Boundary Commission, the Abebe-Clifford Commission, which started work in

1951 and finished in 1955. Again the Ethiopians accepted its findings, in practice, but declined to ratify them. It was only in 1964 that Kenya and Ethiopia reaffirmed their boundary, confirming Kenyan sovereignty over the police post of Namuruputh, which is just south of the south-eastern point of the Triangle as delineated by Gwynn. Later, in 1972 they agreed a minor boundary alteration but did not involve Kenya. They did however confirm that Ethiopia had no claim to the Ilemi Triangle.⁷⁸ In this regard at least, the Ethiopians have played no further part in boundary discussions.

VI. Kenya and the Triangle 1987-2017

Kenya's apparent lack of interest in the Triangle during the 1960s and 1970s did not last into the 1990s. During the SPLA war, Kenya had worked to maintain good relations with Khartoum whilst at the same time allowing the SPLM/A to operate out of Nairobi and use Kenya, effectively, as a rear base, with even a frontier post called Keybase, just outside Lokichoggio, where SPLA soldiers could leave their weapons when they entered Kenya.

Kenya also played a central role in the negotiations which culminated in the Comprehensive Peace Agreement of 2005 and were led by the Kenyan General Sumbeiywo. The CPA brought an end to the civil war and enabled the referendum which, in 2011, produced the new state of South Sudan.

Further to the east, Kenya's approach was much less accommodating. It appears that in July 1988 a huge Nyangatom cattle raid took place against the Merille. When Kenyan police from Kibish intervened, they were outnumbered and outgunned. Fifteen Kenyan policemen were killed. For the next six weeks, Kenyan security forces are thought to have killed 200 raiders in retaliation, with a further 500 estimated civilian deaths, using jet aircraft to strafe villages.⁷⁹ The government in Sudan is reported to have protested, but they did not control the area – once again nobody was in control. Kenya's response was to build up Kibish as the HQ of a new division of Turkana District, establishing a district officer in Kibish, bringing in the General Service Unit (GSU), administrative police and missionaries and tendering for the building of Health Centre in Kibish.⁸⁰ "Miskini" (poor) Turkana were encouraged to settle around Kibish and the European Community funded the Turkana Rehabilitation Project. Today all Kenyan maps show Kibish as a part of Kenya.

As explained at the beginning of chapter I, maps of Kenya started to show a new border line, a line which went from the north of Mogila to somewhere around the mountains on the Ethiopia border, Tomadur and Naita. It is commonly supposed that John Garang, the leader of the SPLM/A, had privately reached an agreement with President Moi not to object to Kenya's presence in the

Triangle in return for the logistical and practical facilities to which the SPLA had access in Kenya during its war against the government in Khartoum. John Garang was killed in a helicopter crash in 2005 and President Moi has remained silent on the matter.

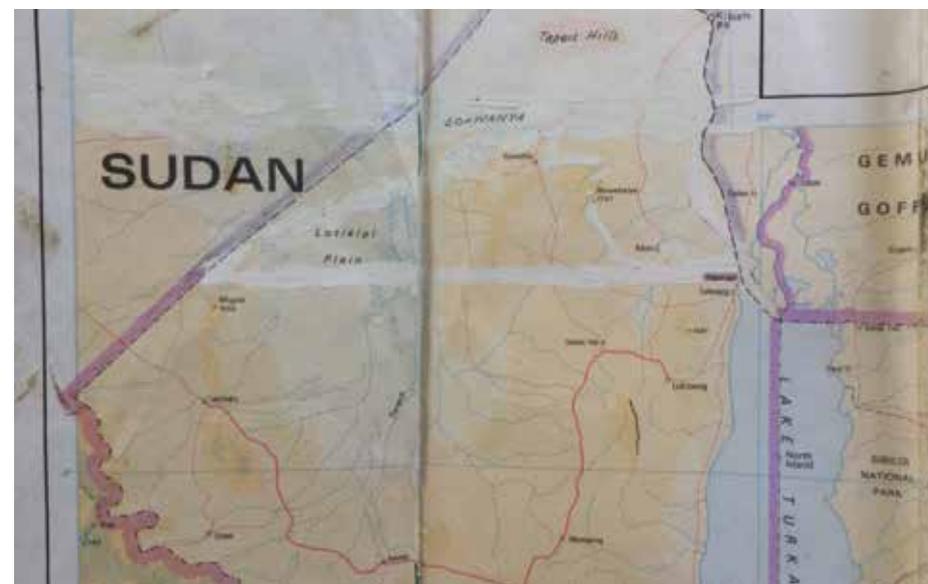
There could have been several reasons why the two leaders reached some kind of tacit agreement. As noted above, oil companies were showing interest in the area and Tullow Oil eventually found commercial quantities of oil, albeit in South Turkana, in 2012. And like its colonial predecessor, the Government of Kenya felt it had a duty to protect the Turkana from their cattle-raiding neighbours. In addition, an unpoliced border with South Sudan made easier the busy trade in AK 47 rifles and other weapons and ammunition. So, over a number of years Kenya did what it thought necessary to police the border and push back those of the neighbours adjudged to be a threat.

“THE CHANGE DID NOT PASS UNNOTICED BY THE KENYAN PUBLIC...”

Whether or not any agreement between John Garang and Daniel Arap Moi existed, written or otherwise, more and more Kenyan maps began to show the 45 degree line from Mt. Mogila to Mt. Naita or thereabouts, while all maps originating in Sudan showed the horizontal 1914 line. And so the 45 degree line spread, from Al Jazeera to the British High Commission in Kenya and to the British Embassy in Juba, as more and more maps that had not originated in Kenya also showed this line.⁸¹ There was even such a map produced in the Office of the Vice-President of South Sudan, until he was asked by people from the area not to show their homes as part of Kenya.

The change did not pass unnoticed by the Kenyan public and one or two officials. MP Paul Muite for example raised it in parliament in the 1990s. In 1992 the Indian Ocean Newsletter reported that Kenya had plans to annex the area and described the construction that had taken place at Kibish since 1987.⁸²

From 1989 to 2005, Lokichoggio itself was the forward operating base for Operation Lifeline Sudan (OLS), at the time the world’s largest humanitarian



Hand-drawn borders, from the map purchased by the author in Nairobi in 1987

operation, which took aid and aid workers into the SPLA-controlled areas of South Sudan under a unique agreement whereby the government in Khartoum agreed with the SPLM/A to allow relief supplies to reach both government and rebel-held areas.

For Kenya this was a diplomatic balancing act, as President Moi managed to maintain relations with the regime in Khartoum, whilst allowing a certain license to the SPLM/A to have access to Kenya and its facilities. Thousands of refugees from South Sudan were hosted by Kenya and Nairobi was the regular venue for diplomatic discussions, peace meetings and residence for many South Sudanese who could

afford it. The border crossing just north of Lokichoggio, on the road to Narus and Kapoeta, was very busy and the purchasing power of the relief operation injected substantial funds into the Kenya economy. The operation also meant that relief workers occasionally went into the western part of Ilemi Triangle and the World Food Programme encouraged the peoples of the area with food aid to rebuild the old British military access roads to Loelli, Nanyangacor and Lotimor, which sits beneath Tomadur, on the Ethiopian border. The SPLA had a garrison at Lotimor and for some time a missionary clinic operated there. The ending of OLS meant that the area was neglected once more and the church people

moved westwards to Nanyangacor, regarding Lotimor as too remote.

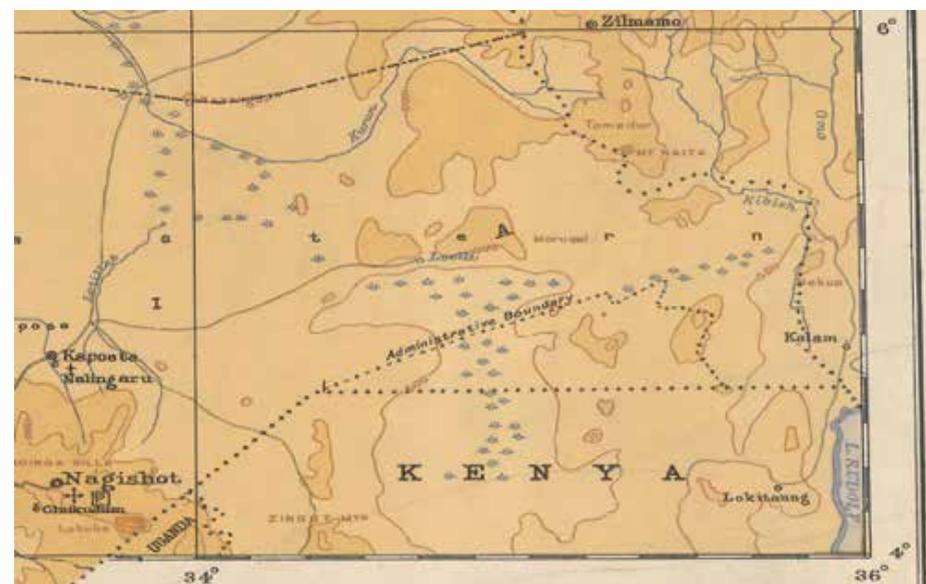
Although Kenya had been involved in the peace process which ended the 1962-1955 civil war in South Sudan⁸³, there had been little awareness in Kenya of events in their troubled northern neighbor's southern areas. This changed when many Kenyans became aid workers in South Sudan under OLS, between 1989 and 2005. They began to understand some of the dynamics of their troubled neighbor and this, along with Kenya's role in the peace negotiations, meant that, almost for the first time, Kenyan officials too gained an understanding of what was going on in South Sudan. The IGAD peace process for Sudan was chaired by the Kenyan General Sumbeiywo, a large part of the negotiations was conducted there and when the CPA was signed in Nairobi in 2005, the Kenyan and Ugandan presidents witnessed it.

Just before the signing of the CPA, in 2003, the Governments of Sudan and of Kenya agreed to form a joint border committee "to deal with the twin issue of cattle rustling and the proliferation of illicit weapons." They recognized that a solution to the civil war in southern Sudan was a necessary first step. However, independent Sudan's officials had never visited the Ilemi Triangle, so far as is known, let alone controlled it, and when the Comprehensive Peace was signed two years later, in 2005, Kenya had to deal more and more

with the transitional government in Juba, which was concentrating on the referendum which led to the secession of the South, and not with officials in Khartoum.

It is worth noting here that the CPA defined South Sudan as the area within the boundaries of southern Sudan at the time of independence. Since then, much time has been devoted to an illusory search for the "British map of 1956". No such map exists, because the British administration was winding down in 1954 and 1955 and Sudan's first day of Independence was January 1st 1956. What does exist however, is a 1940 map corrected in January 1955, at a 1:2 million scale, along with all the district maps at a scale of 1:250,000.⁸⁴ These Sudan Survey maps remain the basis for most maps produced since.

Early in 2005, Kenya's Land Minister Amos Kimunya announced "the Elemi Triangle is part of Kenya." He also said there were beacons confirming that it was in Kenya, referring presumably to the cairns put along the line of the PAB by Captain King and his party in 1938. This was disputed by a Kenyan writer, Peter Mwaura, in the Daily Nation, in a piece dated July 16th 2005, in which he wrote that "Kenya's claim to sovereignty over the territory at the corner of Kenya-Sudan-Ethiopia boundary is precarious." All through these years, there had been a slow but steady stream of articles in the Kenyan press about fighting and cattle raids at the border. Unsurprisingly, no

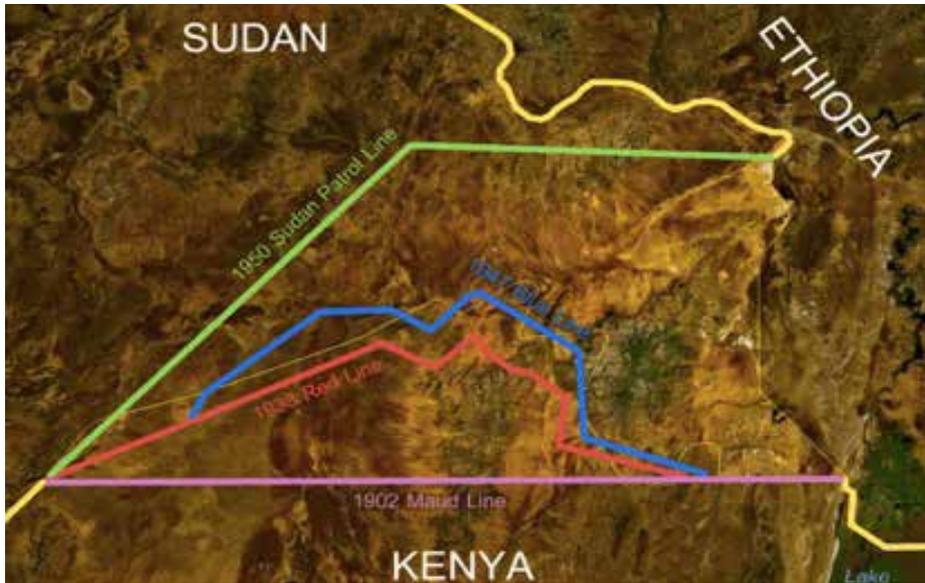


The Ilemi portion of the last "British" map of Southern Sudan, at a scale of 1:2,000,000, corrected in January 1955.

one writing seemed to know where the border was and it was not always quite clear who the cattle raiders had been, whether Ethiopian, Sudanese or even Kenyan.⁸⁵

All the while the Kenyan authorities continued their control of these colonial police posts along the line of the PAB and also of their road access from Lokitaung to their post at Kibish, on the Ethiopian border. The Kenya Defence Force also had and still has a base in Lokichoggio, at the foot of Mt. Mogila but not within the Triangle, to secure the main border crossing with South Sudan.⁸⁶ Just up the road is the hamlet of Nadapal. This became the scene of another violent incident in

2009, when Toposa youths attacked Kenyans who had come to build Kenyan border facilities at Nadapal, saying that the work was being done inside South Sudan and was part of a move to secure grazing for the Turkana at the expense of the Toposa. The violence was in the context of continued cross-border raiding and banditry on the Lokichoggio-Kapoeta Road over many years, to the extent that the then GoSS Minister for Internal Affairs, Gier Chuang Aluong, "admitted that Toposa are heavily armed and outside control of Southern Sudan's government. We are really not governing the Toposa," said the minister, adding that the SPLM was not arming the Toposa. He



The view from Google – a surplus of borderlines.

also said the Toposa “have been made to believe their land is being taken away by Kenya Government.”⁸⁷

During OLS, in 1999, the International Bureau for Animal Research began veterinary work with the Toposa and Turkana, which helped foster a period of peace. When OLS ended, in 2005, veterinary services in South Sudan lost their main source of support. The Government of South Sudan took over and proved unable to sustain the work. A series of peace conferences and meetings began, which continue to this day, in Lokichogio, Lodwar, Kapoeta and elsewhere, with representation from governments, local government, elders, chiefs, youths, and, occasionally, women.

Typically, all the Ateker speakers would send representatives, the parties would agree on what they wanted to restore calm and end raids and banditry, declarations would be signed and an uncertain peace would hold until some group of frustrated warriors appeared and restarted cattle raiding or armed robbery.

The main conclusions of the Kapoeta meeting in October 2014, which the writer attended, were typical:

- i. International border issues must be left to heads of state to resolve (author’s note. This put the issue of the borders at the Ilemi Triangle to one side for the purposes of the meeting).

- ii. The Ateker peoples should organize regional disarmament within the next three years, in order to promote regional peace and security, as Uganda has done with the Karamojong
 - iii. The Ateker should strengthen and revive cross-border peace committees
 - iv. They must invest in roads, telephone networks, schools, health centres, security and veterinary services
 - v. Pastoralists must enjoy unimpeded movement and share grazing and water
 - vi. Cattle raiding must be ended, as it has been in Karamoja
 - vii. They must promote Ateker culture across the borders, develop a website and news service, along with mobile and boarding schools to educate Ateker children, regardless of national origin or place of residence
 - viii. They must find ways to protect their remaining wildlife, given that the “largest unknown migration in Africa” uses a good portion of Ateker territory, and they must conserve their environment.
 - ix. They must promote their culture, hold cultural festivals and regular meetings and celebrations
 - x. They must devise a mechanism to implement these resolutions, recommending some measures to national government, but entrusting the rest to the Ateker Foundation as a fund-raiser and custodian, which will need a secretariat for this purpose
 - xi. They need more meetings to spread the word. Such gatherings must also honestly evaluate progress since the last meeting.
- The unanimity of analysis was striking: “We were poor, conflict-ridden and marginalized. Now we have awoken from our sleep.” “We must help ourselves and then others will help us too.” The author was asked to spread the word also and explain the plans to “donors and partners.”
- At government level, the humiliation of two Kenyan government ministers en route to Nadapal in July 2009, when they were turned back by SPLA soldiers, led to a series of inter-governmental meetings which resulted in more declarations of intent and assurances of friendship and cooperation. A joint border meeting in Nairobi in 2009 for example agreed, amongst other things, “to establish a joint technical team to demarcate the actual boundary between the two countries at an appropriate time.”
- The issue was now taking on the character of a dispute and had come into the public domain once more. For example the Sudan Radio Service in Nairobi reported as follows on 22 August 2012:
- A South Sudanese diplomat has denied media reports that South Sudan had written a letter to the AU and UN saying that the

contentious Ilemi Triangle belongs to it. The two countries claim ownership of the mineral-rich area.

On Tuesday, Kenya's NTV quoted assistant Foreign Affairs minister, Richard Onyonka, as saying that Kenya was planning to hold talks with South Sudan, and that the triangle would remain Kenyan territory, as it is depicted on Kenyan maps.

In response to the claim, South Sudan's Ambassador to Kenya, Majok Guandong denied having written any letter to the United Nations and the African Union. "The media is trying to magnify issues, trying to bring about some difficulties between the two counties. There is no such claim. We have not claimed this. Both sides know the position of the Ilemi Triangle.

"When we demarcated our borders with other states, we did not demarcate our borders with Kenya and Ethiopia. And we knew it because they are our brothers. I don't think there will be any problem at all on this issue," said Mr. Guandong.

When asked where the Ilemi Triangle is exactly located, Guandong response was, "You know the answer yourself, why do you ask for something that you already know."

The Joint Border Commission

In due course a Joint Border Commission was established and in 2016 it appointed a Joint Technical Team (JTT) to demarcate the border. Hon. David Mayo, an MP from South Sudan, prepared two papers summarizing the history of Ilemi, examining the legalities and suggesting ways forward.⁸⁸ The parties prepared a Memorandum of Understanding (MoU) and members of the South Sudan team received training in Addis Ababa at the African Union Border Programme. Since then South Sudan's own internal difficulties appear to have slowed progress as regards demarcation of a border with Kenya. While the MoU for the Kenya-South Sudan Commission still awaits signature at the time of writing, its sister Commission, dealing with the Uganda-South Sudan border, has already met and visited the area in question.

The delay in settling the South Sudan's south eastern border, which has lasted now for 107 years, has of course not passed unnoticed. On 10th June 2019, Epone Emmanuel Lolimo, MP for Kapoeta State, wrote to the Speaker of the Transitional Government of National Unity (TGoNU) in Juba concerning the "recent encroachment by the Government of Kenya (GoK) into Kapoeta State, South Sudan", referring to developments in the Nadapal area and claiming

that the GoK planned to put troops into the Ilemi Triangle and "to engulf the Ilemi Triangle for the purposes of drilling oil", requesting a response from ministers of the TGoNU.

Not long after, the Kenyan press reported that the Kenyan and South Sudanese Foreign Ministers, Monica Juma and Nhial Deng Nhial, had signed another Memorandum of Understanding "to fast track the territorial border reaffirmation at Ilemi Triangle as a step towards the realization of peace between the two countries", an interesting formulation which suggests the two countries might not be at peace. The Ministers also promised to take measures to enhance trade and bilateral relations between the two countries and said that the framework agreement they would prepare would be put to Presidents Kiir and Kenyatta at a meeting to be scheduled later in the year.⁸⁹ Perhaps the Ilemi border issue will at last be settled by the two governments principally concerned. Time will tell.

A Note on Sources

A surprising amount has been written about the Ilemi Triangle in the last century. The colonial records are extensive but, for the period since, I have had to rely of on my own personal experiences, interactions with officials and others from the area and the press reports, maps and publications I have collected over the last forty years.

For this paper, in the time available, I was not able to consult the Kenyan National Archives in Nairobi or the National Archives in Khartoum. I was however able to visit the National Archives in Kew and look at some of the correspondence between Sudan officials, the Foreign Office and the Colonial Office and of course to look at the papers of retired officials in the Sudan Archive in Durham. Given the vicissitudes of history and conflicts, it is possible that I have missed some key document in Khartoum or Nairobi, but between them Durham and Kew can be expected to have covered the essential documents from the colonial period, since such documents would have been copied between the Colonial Office, the Foreign Office, Cairo, Khartoum and Nairobi.

In 2016, I was also able briefly to consult the archives which the Rift Valley Institute is digitizing in Juba and look at an undated Ilemi file, which contains what appear to be parts of a 276 page draft manuscript on "The Diplomatic Evolution and the Legal Status of the International Boundaries Between The Sudan and Kenya, by Dr. Bukhari Abdalla el Gaali, who is today Professor of International Law, Al-Nilein University, Khartoum, and was at the time of his manuscript Secretary of the Sudanese International Boundaries Commission.⁹⁰

Of great use also are A.C. McEwen, *International Boundaries of East*

Africa, (Oxford 1971) and Gerald Blake, *Imperial Boundary making - the Diary of Captain Kelly and the Sudan-Uganda Boundary Commission of 1913* (Oxford, 1997). (Kelly's diary can be examined in the Sudan Archive in Durham, although the handwriting is sometimes hard to decipher.)

Amongst writings by Sudanese, South Sudanese or Kenyan scholars, I have consulted

Faisal Abdel Rahman Ali Taha, 'The Sudan Kenyan Boundary', Sudan Notes and Records, Vol. 56, 1975. This gives a brief, clear and useful account of the history of the Triangle and the legal arguments around it.

Dr. Muaz AM Tungo, *The Ilemi Triangle, Sudan-Kenya Disputed Boundary* (Khartoum University Press, 2008). Like Taha, the author did his research for a PhD dissertation at Cambridge University, submitted on 1997. The author did a prodigious amount of research and I found several of his citations useful.

Dr. David Mayo is a Member of Parliament in the Transitional Government of National Unity in Juba and also a member currently of the South-Sudan Kenya Boundary Commission, Joint Technical Team, for which he has written two useful background papers on the issue of the Ilemi Triangle, which have not been published. I am most grateful to him for sharing them with me.

From Kenya, Dr. Nene Mburu has written *Ilemi Triangle - Unfixed bandit frontier claimed by Sudan, Kenya and Ethiopia* (Vita House Ltd, 2007). This author has also examined a large number of documents and papers but accepts in his Foreword that "the evidence presented is constrained by limited oral contribution of communities of southern Sudan and south-western Ethiopia save for interviews with transhumant Toposa and Dassanetch pastoralists in northern Turkana District whose information is used for its qualitative value."

Another Kenyan scholar, Professor Maurice N. Amutabi has conducted research on the Ilemi Triangle and joined the public debate thus: "The Ilemi Triangle belongs to Kenya, according to colonial agreements found in the Public Records Office, London" (Daily Nation, Kenya, 6 December 2006). He has written "Small Arms, Cattle Raiding and Borderlands: The Ilemi Triangle" in Willem van Schendel and Itty Abraham Itty (eds.) *Illicit Flows and Criminal Things: States, Borders, and the Other Side of Globalization* (Bloomington: Indiana University Press, 2005 (with Kenneth Inyani Simala), which I have not been able to consult. He has also produced "Land and Conflict in the Ilemi Triangle of East Africa", *Kenya Studies Review* Volume 1 Number 2, December 2010.

A third Kenyan scholar, Daniel Karanja, working from the USA, has

produced and published himself "The Origins and Evolution of Kenya's International Boundaries", USA, 2016. This contains a useful summary of the history of Ilemi, pp160-177.

As regards international scholars, the late Professor Robert Collins from the University of California at Santa Barbara produced a considerable body of work on the history of the Sudan. Chapter 3 of his *Shadows in the Grass* (Yale University Press, 1983) is entirely devoted to the Ilemi Triangle and paints a vivid picture of frontier conflicts drawn from the papers of British officials and, after independence, from his interviews with many of them in retirement. He left a lifetime's worth of Sudan papers to the Sudan Archive in Durham, which remain an important secondary source.

Dr Douglas Johnson has also written extensively and clearly on matters Sudanese and latterly South Sudanese. The shortest and most lucid description of the history of the Ilemi Triangle is to be found in his *When Boundaries Become Borders* (Rift Valley Institute, 2010), pp 96-101. His two volumes in the *British Documents on the End of Empire* series contain, amongst many others, two informative letters from Sir William Luce written when he was Constitutional Advisor to the Governor General of Sudan, in Vol I, Item 243, p.290 and in Vol II, Item 328, p.301, the former from 1947 and the latter from 1954.

The German scholar Immo Eulenberger has written at length about the Ilemi area and in particular the politics of the border and the peoples who live there, from a mostly Kenya-centric perspective. See for example Immo Eulenberger, "Pastoralists, economies and politics: Aspects of South Sudan's 'Kenyan Frontier,'" Max Planck Institute for Social Anthropology, Advokatenweg 36, 06114 Halle (Saale), Germany (eulenberger@eth.mpg.de) and his 2010 report "Toposa-Turkana Emergency Dialogue Meeting, Lodwar, 1/11/2009."

Others works of interest include the reports of the Dutch NGO PAX, which has been active on the ground in the border areas, working through the churches and was kind enough to send me an unpublished, draft copy of their "Study of Borderland Security", from which I have quoted in Chapter 1.

Last but not least is the library of the International Borders Research Unit at Durham University (IBRU), which contains two PhD theses of relevance to the Ethiopian border of the Ilemi Triangle: T.H. Al Nur, "The Sudan-Ethio Boundary - A Study in Political Geography", Durham, 1971 and David Hamilton Napier, "Ethiopia's Frontiers: The Boundary Agreements and Their Demarcation, 1896-1956", Oxford 1974.

END NOTES

- 1 From Douglas Johnson, *British Documents on the End of Empire*, Series B, Vol.5, part II (HMSO 1994) number 328.
- 2 See R.O. Collins *Shadows in the Grass* (Yale University Press, 1983) p. 411. “In time the British were but a footstep on the soil, but their stride was long. They drew a frontier – rather badly – and left it more peaceful but pretty much as they has found it for those who, in the end, must determine and rule it.”
- 3 PAX, “Sustaining Relative Peace”, 2017.
- 4 United Kingdom National Archives (UKNA) CO 533/406/8, cited from Muaz Tungo, *The Ilemi Triangle*, Khartoum University Press, 2008), p. 29.
- 5 UKNA CO 533/395/2, cited from Tungo, p. 39. Mt. Tomadur is also shown on some maps as “Matarba.”)
- 6 R.C.R. Whalley, CBE, British Consul, Maji, Ethiopia, Southern Sudan Game and Its Habitat“, Sudan Notes and Records (SNR), Vol XV, p 261, 1932 and Notes on the Adonga Anuak”, SNR, 1936, Vol. XIX, p.351.
- 7 See Cynthia Salvadori, *Slaves and Ivory Continued*, (Shama Books 2010) pp. 287-292.
- 8 Salvadori, *Slaves and Ivory Continued*; Robert Collins, *Shadows in the Grass* p. 90 n. 7 and p. 388. The Anuak live to the north of the Boma Plateau in South Sudan and across the border in Ethiopia. The Murle live in and around Pibor and also on the Plateau. The Kichepo used to straddle the border between Ethiopia and Sudan but more recently are said to have been pushed away by their Nyangatom neighbours.
- 9 Dr Douglas Johnson has suggested to the author that the proper spelling of this name is Uliimi, a common name among the Anuak, noting also that, if Whalley’s report that Alemi’s mother was Murle, and he was later killed by the Kichepo, is correct, this is probably not the noble Uliimi-war-Agaanya, whose maternal clan was the Jowatkaanyo, and who was killed raiding the Gaajak (see Evans-Pritchard, *The Political System of the Anuak* (1940).
- 10 See for example Gerald Blake, *Imperial Boundary Making* (Oxford University press for British Academy, 1997), p. xxiii and the map in the PAX report “Sustaining Relative Peace”, 2017, pp. 12-13

- 11 Writing in 1975, in Sudan Notes and Records, no. 56, the Sudanese scholar Faisal Abdel Rahman Ali Taha quotes a dispatch from the Governor of Kenya to the Foreign Office dated October 16th 1930, (FO 371/14594) in which he suggests that Mt. Tomadur, a mountain on the Sudan-Ethiopia border some 40km north east of Mt. Naita is the northernmost point of the Triangle. The author climbed this mountain in 1998 and found no sign of any presence of any government whatsoever, Sudanese, Kenyan or Ethiopian, no trig point and no beacon. When the author climbed Mt. Naita some two years later, there was also no trace of any previous visits by anyone at all, let alone of any beacon or a marker.
- 12 The Kenya Data Portal, <http://kenya.opendataforafrica.org/#>, reports 855,000 inhabitants of Turkana in 2009 but leaves the area of the Ilemi Triangle grey, without data.
- 13 See John Lamphear, *The Scattering Time*, (Oxford University Press, 1992) and Nigel Pavitt, Turkana (Harvill, 1997).
- 14 UKNA CO 533/406/8, cited in Tungo, *The Ilemi Triangle*, (Khartoum University Press, 2008) p. 29.
- 15 Collins, *Shadows on the Grass*, p. 103
- 16 See below, p.36
- 17 See <http://mcspa.org/our-missions/>, Kenya, Lobur: “Overlooking the horizon from that spot, in full view of the Ethiopian border, they agreed that this would be an ideal place for the establishment of a new mission station within the Elemi Triangle, in order to reach out to the nomads all the way to Kibish, 85 km further north.”
- 18 Denis Zaphiro (formerly a Sudan Defence Force officer at Loelli, in South Sudan, from where he patrolled into the Triangle), pers. comm, Ulu, Kenya, 1985.
- 19 George Echom, MP for Lotimor, S. Sudan, pers. comm.
- 20 See KDD Henderson’s translation of the Italian Aide Memoire to this effect, in SAD 534/5/1-30.
- 21 Sean Avery, <https://theconversation.com/fears-over-ethiopian-dams-costly-impact-on-environment-people-80757>; see also Sean Avery, *What Future for Lake Turkana?* (Oxford African Studies Centre, 2013); also Sean Avery, *Lake Turkana & The Lower Omo: Hydrological Impacts of Major Dam and Irrigation Developments*, Vol.I, (African Studies Centre, 2012).
- 22 See also Zaphiro, ‘Notes on Loelli game’, *Sudan Wildlife and Sport*, Vol.1 No 2 (1949).
- 23 Whalley, op.cit.; Peter McClinton, pers. comm, Juba 1980.
- 24 Phillip Snyder, *Boma Behind the Grass Curtain* (Nairobi, 2017), pp. 84-5
- 25 Wildlife Conservation Society, ‘Southern Sudan Technical Report no 2, Dry Season 2008’.
- 26 See <http://www.oilnewskenya.com/cepsa-withdraws-kenyas-block-11a/>
- 27 <http://energy.go.ke/upstream/> was accessible in 2017 but appears to have

been closed down since.

28 Red mercury seems to be a hoax. See https://en.wikipedia.org/wiki/Red_mercury

29 The author is indebted for much of what follows to the teachers on the course on “Archive Research for Boundary Dispute Resolution” which he attended in London in October 2015. The course was organised by IBRU, the International Boundaries Research Unit from Durham University.

30 “Spheres of Influence” have no status in international law. See W.E. Beckett, 29.08.34, India Office, London.

31 See Lotte Hughes, *Moving the Maasai* (Palgrave Macmillan 2006), for example.

32 See the Cairo Resolution of the OAU, 1964, AHG/Res. 16(I), https://au.int/sites/default/files/decisions/9514-1964_ahg_res_1-24_i_e.pdf and the Constitutive Act of the Africa Union 2002, <https://au.int/en/constitutive-act>

33 From the website of the UN Office for Outer Space Affairs (sic). See <http://www.un-spider.org/links-and-resources/institutions/survey-kenya-sok>

34 See <https://lands.go.ke/department-of-survey/> and <http://www.devolutionplanning.go.ke/images/The%20Map%20of%20Kenya.pdf>. This map shows the extended border described above and at the beginning of this book.

35 See www.cde.unibe.ch

36 The question is more difficult for internal administrative borders of Sudan. See for example Dr N. Kindersley’s blog: <https://internallydisplaced.wordpress.com/2013/01/08/maps-of-the-sudan-border-the-endless-conversation/>

37 Draft African Union Border Governance Strategy, December 2016, from a copy in the author’s possession.

38 See AU, Border Dispute Settlement – A User’s Guide, 2016 and <http://aubis.peaceau.org/guide-books-and-documents-african-borders> for other AU border publications.

39 Martin Pratt, Director, Bordermap Consulting, London, 26.10.15

40 Pers. Comm, from a member of the Commission.

41 Charles Claypoole, Partner Latham and Watkins, LLP, London, 26.10.15

42 Ibid.

43 The New Hebrides, now Vanuatu, was jointly governed as a condominium by Britain and France from 1906 until 1980.

44 See James Barber, *Imperial Frontier*, (East African Publishing House, Nairobi, 1968) for a more detailed account of how Uganda’s borders were set. See also Peter P. Garretson, “Vicious cycles: ivory, slaves, and arms on the new Maji frontier”, in Donald Donham & Wendy James (eds), *The Southern Marches of Imperial Ethiopia: Essays in History and Social*

Anthropology (Cambridge University Press 1986 and James Currey, 2002), for which reference I am indebted to Dr. Douglas Johnson.

45 See Blake, “Imperial Boundary Making” (British Academy, OUP, 1997) and the Diary of Captain Kelly for 1912-13, in SAD 133/1/1-52 .

46 Blake, op. cit. Introduction, pp xx-xxi

47 Blake, op.cit, pp 37-38 and p 42.

48 Blake, op.cit, pp 95-100

49 Another name for Mt. Lotuke, at the southern end of the Didinga Hills. This is the mountain into which John Garang’s helicopter crashed in 2005, killing him and thirteen others.

50 The mountain in the NE corner of today’s Uganda, south east of Mt. Lotuke.

51 See Collins, *Shadows in the Grass* (Yale University Press 1983) pp 85-112. The DC Didinga in South Sudan, Jack Driberg, famously invented fights with the Toposa so that he could secure troops from Torit to fight the Toposa and protect “his” beloved Didinga. When he was found out, he was obliged to resign. See J.H. Driberg, *The People of the Small Arrow*, London 1930.

52 See for example H. Darley *Slaves and Ivory* (London, 1926); J Yardley, *Parergon or Eddies in Equatoria* (London, 1931); A. Hodson, *Where Lion Reign* (London, 1928); and Garretson, op.cit.

53 See King’s three brief, pencil-written foolscap pages in the SAD on administering the Toposa, 715/12/1-2.

54 He was well remembered more than forty years after his departure, when I was asked if he was still alive by an ageing chief at his house on the Loyoro River, in 1994. He added hopefully that King always used to give him a bottle of whisky.

55 See Lamphear, *The Scattering Time* (Oxford University Press, 1992.)

56 James Good, *Mission to Turkana* (Diocese of Lodwar, 1988). Famine relief has been a feature of life in Turkana ever since, sadly.

57 A similar swap was proposed again in 1947, but was rejected by the British officials in the Sudan in part because by that time officials there were very nervous again of upsetting their Co-dominus, Egypt, but also because they did not want a new boundary to cut through the ethnic groups around Boma or to upset the arrangements for Kenya to patrol into the territory when necessary. See Tungo, p 97.

58 Collins, *Shadows in the Grass*, pp. 110 and 111.

59 See Jon Arnsen, “The Red Pelican”, (published by the author, 2013.)

60 Denis Zaphiro, Pers. Comm. 1985.

61 See for example Immo Eulenberger: https://www.academia.edu/30482525/Pastoralists_economies_and_politics_Aspects_of_South_Sudans_Kenyan_frontier

62 See “Wouse- Jomo’s Jailor” by Elizabeth Watkins, Mulberry Books, 1993, p235

63 I am indebted to Charlotte Cross for her summary of these notes.

64 See Douglas H Johnson (ed.) *British Documents on the End of Empire*, Series B, Vol.5: Sudan, part I 1942-1950, (HMSO, DATE), doc.143.

65 Tungo, *The Ilemi Triangle*. Nene Mburu, *Ilemi Triangle – Unfixed Bandit Frontier Claimed by Sudan, Kenya and Ethiopia* (Vita House Ltd, 2007).

66 Cross, Charlotte, summary of border DC’s notes, unpublished papers in the author’s possession.

67 See Report of the Jan 1938 Border Reconnaissance by King, Wakefield and Whalley in UK NA, CO/822/89/9.

68 From Johnson, *British Documents on the End of Empire*, part II, number 328.

69 Copy in author’s possession of that paragraph only, from a report labeled MITSF/III/D.1. and dated 12-2-1963.

70 Father George Kinga, in discussion with the writer, Lokichoggio 1999.

71 R.T. Porter, to Director of Surveys, Survey of Kenya, 28-08-66, in UKNA FO 371/119635, cited from Tungo, *The Ilemi Triangle*, p168.

72 Unfortunately, the citations in this part of Tungo’s book appear to be related to other parts of the book and, as at the time of writing, the author has no other citation for this letter.

73 Khalid Hassan <https://www.almonitor.com/pulse/originals/2017/04/sudan-expel-egyptians-halayeb-shalateen-triangle.html>

74 See. H.H. Austin, *Among Swamps and Giants in Equatorial Africa* (Pearson, London, 1902)

75 Charles Gwynn, “The Frontiers of Abyssinia – A Retrospect”, *Journal of the Royal Geographical Society*, Vol.36, no. 143, April 1937

76 See Ian Brownlie, *African Boundaries: A Legal and Diplomatic Encyclopaedia*, 1979, cited in Johnson, *When Boundaries Become Borders*, p91 and 117.

77 See UKNA FO 371/24638, 411-2 for the text of the agreement.

78 See Johnson, *When Boundaries Become Borders*

79 See Kenya - Taking Liberties, (*Africa Watch*, 1991), pp. 334-340.

80 See Daily Nation (Kenya), 20 October 1989, p. 2.

81 See https://www.gov.uk/foreign-travel-advice/south-sudan?utm_source=95c427f8-e5e5-4282-9199-185fd2f1caa8&utm_medium=email&utm_campaign=govuk-notifications&utm_content=immediate, Summary Travel Advice for 10/5/19

82 Indian Ocean Newsletter, no 518, 14 March 1992.

83 Some writers claim the war started in 1955, whilst others date it from 1962, when the fighting became more widespread.

84 These maps are available on compact discs from the Royal Geographical Society in London, at very high resolution, and online from the University of Durham Sudan Archive at <https://www.dur.ac.uk/library/asc/sudan/>

[maps/250000/](https://www.dur.ac.uk/library/asc/sudan/maps/250000/)

85 See for example, Three killed in Border Attack - Civic Leaders Blame Ethiopian raiders”, Daily Nation, 22 June 2005; “38 killed as raiders attack border village”, Daily Nation, 19 January 2006; “The day a cattle rustler’s bullet grazed my head”, Standard, 2 June 2006,

86 When the present writer was robbed at gunpoint by Toposa bandits on the road to Nadapal in 1995, the KDF soldiers from this base pursued the bandits, pushed them into South Sudan and retrieved all the stolen items, returning them later to a grateful owner.

87 *The Standard*, Kenya, 28 October 2009. For a fuller account of reactions to the continued border conflicts, see Immo Eulenberger, REPORTToposa-TurkanaEMERGENCYDIALOGUEMEETINGLodwar1.11.20092%20(1).pdf

88 See “The Question of the Ilemi Triangle” and “The Ilemi Triangle Question”, both by David Nailo Mayo, a member of the JTC, in preparing for a JTC meeting in Nairobi in 2016 (papers in the author’s possession.)

89 See for example <http://esoftke.com/news/2019/06/20/s-sudan-kenya-sign-new-mou-on-illemi-and-cross-border-relations/>

90 See <https://www.sudaneseprogramme.org/events-archive-2013-2017#!>

