



*Letters to the Editor*  
(E-mail [jan@wrc.org.za](mailto:jan@wrc.org.za))

**TO: THE EDITOR**  
**VIEWPOINT – WATER WHEEL**

**Dear Sir**

*A Southern African Example – The Kasikili Island in the Chobe River, Water Wheel, January/February 2003 - Vol 2 No 1*

- This article portrays the situation after the International Court of Justice (ICJ) allocation to Botswana of Sedudu Island [wrongly named Kasikili Island in the title] as follows:

“There are still five islands in the Caprivi sector whose territorial sovereignty or ‘ownership’ is contested: three of these islands are in the Chobe River and two are in the Zambezi River.”

It is not known what specific islands in the Chobe River are referred to. As a matter of fact, however, the whole boundary line, over a length of 300 km, was not defined by the 1890 colonial treaty, but it is now no longer an issue of contest at all, also not for any islands.

There is also no knowledge of islands in the Zambezi River in dispute in the Caprivi sector:

- Between Namibia and Botswana, as the Zambezi River never and nowhere was the agreed boundary line.
- Between Namibia and Zambia, where the boundary line and the position of the islands in the Zambezi River were decided upon more than 40 years ago.
- Between Botswana and Zambia, as the area of the boundary line, as far as still to be finalised, includes no islands.

- The ending of this article may also be outdated, where it states, in reference to Botswana and Namibia:
  - “Unless these two countries develop a formal protocol to address this type of situation...”
  - “Without wishing to pre-empt any options that may be considered by the countries concerned...”

Quite some time ago, Botswana and Namibia already agreed on the establishment of a Joint Commission of Technical Experts, whose consensus on the boundary along the Chobe River would be binding for the two countries. The Commission finalised its investigations and reached the requested consensus in June 2002.

- The article refers to the resolution of water conflicts by relying on an independent third party, giving the

impression that this is a preferable approach. No mention is made of the prolonged tension, both on the ground and on the judicial level, and risk of failure, and also of the time and money, involved in this type of solution.

In the above example of the Chobe boundary between Botswana and Namibia, however, a healthier approach was successfully taken, namely:

- The two countries mandated the resolution of existing and possible future differences to a joint technical commission of experts, acting with competence and in a spirit of “give-and-take” co-operation.
- This proved to be a much more effective, amicable and time-/money-saving solution.

- The approach followed didn’t involve the involvement of international, including South African, experts for an expensive and drawn-out procedure as in the case of Sedudu/Kasikili Island, and it may therefore have received less publicity. It is nevertheless trusted that you will be able to publish the above for the better information of your South African as well as international readers.

**Guido van Langenhove**  
**PO Box 30715**  
**Windhoek**  
**Namibia**

**Dear Guido,**

Perhaps I can take this opportunity to respond to the points you raised in the hope that I can provide some additional clarity.

- I fully agree with you that the island name in the title of the boxed text (“Kasikili Island”) is incorrect if it does not acknowledge its other name, namely: “Sedudu Island”. The title of the original article did indeed contain both names.
- You are also quite correct in saying that the 1890 colonial treaty did not “define” the boundary line over a distance of some 300 km (In fact, the treaty wording was particularly vague and uninformative). The Anglo-German agreement stated that the boundary was the “middle of the main channel” - information that I obtained from Dr L. Hangula’s book “*The International Boundary of Namibia*” (published by Gamsberg Macmillan Press, Windhoek), where the details of issues, treaties, etc. for every one of Namibia’s boundaries are discussed in detail.

- In broad terms, (at Government level), there is no “dispute” per se over ownership (“sovereignty”) of other islands in the Chobe/Linyanti or Zambezi rivers. On the ground, (i.e. at local level), however, this is another matter altogether. Discussions with Botswana citizens in Kasane and Kazangula (as well as Ngoma Bridge Border Post) indicated that individuals and small communities were concerned over access to, and ownership of, resources on islands in the Chobe/Linyanti system. In particular, three islands (other than Sedudu/Kasikili Island) were cited as ‘points of tension’ where Botswana citizens had been “chased away” by Namibian citizens (Caprivi residents) when attempting to gather reeds and fish. A similar situation was cited to me by residents of Mongu, Livingstone, Kazangula and Sesheke in Zambia, where they had been “chased away” by Caprivi residents when attempting to gather reeds and fish on two islands in the Zambezi River. Thus, whilst there may be no “official” (i.e. inter-Governmental) disagreement (or dispute) about contested islands, there most certainly are disputes at local level.

In a slightly different vein, some Botswana residents in Kasane and some Zambian residents in Kazangula felt that the ownership (“sovereignty”) of Impalila Island is in question, and that it should belong to Botswana, rather than Namibia. Clearly, this is not the official view held by Government officials in Namibia or Botswana, but a view held by some residents at local level. If the position of the Chobe main channel changes due to severe floods, there is a possibility that the main channel would shift from south of Impalila Island to west of Impalila Island. In terms of the wording of the boundary treaty, ownership of Impalila Island would then be difficult to establish.

- Namibia and Botswana have no shared boundary on the Zambezi River; though their territories (territorial boundaries) meet at the junction of the Chobe and Zambezi River, to the east of Impalila Island, in the centre of the main channel of the Zambezi River, overlying the thalweg.
- There are no significant (i.e. “large-sized, permanently exposed”) islands along the stretch of Zambezi River between Botswana and Zambia, though several small rocky islets are visible at low flows. These are away from the route operated by the Kazangula-Kasane Ferry between Zambia and Botswana and do not appear to pose any grounds for discussion between the countries, despite being used at odd intervals for fishing purposes by residents of both Zambia and Botswana.
- The ending of the article (taken from a longer, more detailed version) was designed to create awareness that situations could arise where neighbouring countries could disagree over the ownership (“sover-

eighty”) of, for example, islands in a river where the main channel is mobile, or is likely to shift its position. As a proactive measure it would be useful for such countries to have an agreed protocol (or methodology) in place that would define a process of reaching agreement. This type of situation also applies to islands in the Orange (Gariep) River; if the “new” boundary is accepted. The type of situation described here is frequently encountered at the junction of the Cuito and Kavango rivers, for example. The Cuito has shifted its position by as much as 500 m after a single large flood event.

- The Joint Commission of Technical Experts from Botswana and Namibia have indeed reached their anticipated consensus in June 2002. But, no provision has been made for actions or decisions to be taken in those cases where natural changes to the position or size of river channels (e.g. through flood action) could result in a change to the position of an international boundary.
- I apologise if the edited version of this article gave the impression that I was suggesting or promoting the use or actions of an independent third party as being the most preferable option for a country. Clearly, it is always in the best interests of countries to solve their own issues without outside interventions. You are quite correct to state that there are many risks associated with the involvement of external parties, including the costs of time, money and manpower. The formal ruling by the International Court of Justice in The Hague illustrated the costs and time-consuming nature of this solution. The subsequent amicable agreement between Namibia and Botswana to rely on their own teams of experts is a welcome addition, but does not overturn or negate the International Court of Justice (ICJ) ruling.
- The use of international experts by the ICJ in the Sedudu/Kasikili Island judgement (e.g. Professor WRJ Alexander was part of the ICJ Expert Panel), may have contributed to a “sound” decision, but did take time and cost money. The amicable agreement between Botswana and Namibia to rely on their own panel of experts is indeed a most welcome improvement.

Overall, Guido, I do support much of the detailed explanation that you provide in your letter. However, there are linked items of information or associated levels of detail that you have left out of your arguments (just as some of the linked details in my longer original article were also left out in the *Water Wheel* version). I have attempted to provide some additional information in the points I list above; hopefully, we can arrive at a more balanced viewpoint.

**Peter Ashton**