

San Juan River -- Border dispute between Costa Rica and Nicaragua

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Abstract

This study discusses the implications that arise as a result of miscommunication between two countries. The San Juan River has been a subject of major dispute between Costa Rica and Nicaragua for more than a century. This argument has led to embittered diplomatic relations for these two countries. Among the problems, it includes the problematic Central America, heavy emigrational flow, and ambiguity of navigational rights with political controversies in the capital of both countries.

Introduction

The purpose of this analysis is to explain what events led Costa Rica and Nicaragua to the ongoing conflict concerning the San Juan River that serves as a natural border between both countries. In order to evaluate this further the following needs to be investigated: First, Central America is a region of conflict since its independence from Spain. Second, massive illegal migration via the San Juan River occurred from Nicaragua to Costa Rica and that has complicated diplomatic relations. Third, Costa Rica wants access to free navigation on the river but due to the political hostility in the capitals of both countries; it has been harder to reach a final resolution. The argument being made is that the combination of these three sets of factors has contributed to increased tension between the two countries leaving the San Juan River dispute unresolved.

Territorial dispute in Central America

Central America as a region suffered “isolation and neglect, a pattern inherited from the period of the Spanish colonial empire” because it lacked mineral wealth and population (Herzog, 1992, p13). Spain discouraged the provinces from trading among themselves, which in turn forced all territories to trade directly with the mother country (Herzog, p13). After Central America (consisting of Guatemala, El Salvador, Honduras, Costa Rica and Nicaragua) became independent, other more powerful countries discouraged greater integration in the region so that they could take advantage of Central America’s resources. For example, “Central America was confronted by the dilemma of depending upon the British market for much of the prosperity it enjoyed, but

at the same time striving to free itself from contingencies overseas that were beyond its control” (Naylor, 1960, p.371). While other countries developed improvements in transportation, Central America did not and those nations remained isolated from one another. In addition, physical geographic barriers such as mountainous topography put emphasis on a pattern of political segregation.

Despite their commonalities, the Central American countries have had unstable border disputes since their postcolonial era resulting in arising territorial issues. One characteristic of colonial reform in Central America was the set of land divisions fixed by the “Ordenanzas de Intendencias” in 1785, which were the final colonial rules of administrative division from former Spain. The partitions of the states were not completely defined leaving unclear separations between one nation-state and the other (Orozco, 2003, p134). Furthermore, each country defined its territorial sovereignty based on the principle of *uti possidetis juris*, a legal principle that marked territorial states emerging from colonization. This principle set the colonial administrative borders of the former provinces to the boundaries they maintained at the time of independence. According to an article by Woolsey titled “Boundary dispute in Latin America,” “It is natural enough that countries whose early boundaries were marked by general degree, without accurate topographic knowledge, should inherit many boundary disputes.” Shortly after their independence from Spain in 1821, the number of disputes grew out of proportion. Eventually, all the Central American countries were discontent with one another (Woolsey, 1931, p.324).

The Guatemala / Honduras Territorial Dispute

Guatemala and Honduras had territorial conflicts in an area that included the Motagua River and the watershed of the Merendon Mountains covering 2,000 square miles (see map 1). The Americas' hegemon, The United States, intervened to seek out settlement into the matter (A. Kacowickz, 1998, p.35). Furthermore, the United States, being a major power felt that it had the right to dominate and influence the right of politics of weaker states. This being the case, a proposal was submitted to the Central American court with "full power to fix the boundary and to fix the amount of any compensation thought proper". As a result, the suggestion to seek arbitration was accepted by Guatemala but declined by Honduras (Woolsey, p. 326-327).

The El Salvador / Honduras Territorial Dispute

The El Salvador and Honduras conflict included demarcation along the northeast and southeast sections of each country. According to Orozco "demarcation between both countries were never completed and tension grew over time" (Orozco, p. 136). The conflict escalated on July 14, 1969, when the two countries went to war after 2,500 Salvadoran soldiers invaded Honduras (Orozco, p. 136); In order to seek a resolution the Organization of American States (established in 1948 to promote democracy) intervened and served as mediator between both countries.

The Honduras / Nicaragua Territorial Dispute

Honduras and Nicaragua had a territorial dispute that included the boundary from the Pass of Teotecacinte River to the Atlantic Ocean. The two countries wanted the area that gave it the greater territory. Nicaragua claimed the Patuca River, and Honduras claimed a line along the Poteca River as well as most of the line along the Segovia and

Coco Rivers. In the end, arbitration was sought out from King Alfonso XIII from Spain who settled the dispute in 1906 (Woolsey, p. 327). He concluded that the boundary should be the Poteca-Segovia line, and that favored Honduras. Ultimately, Honduras agreed with the decision, but Nicaragua wanted certain points clarified.

The Costa Rica / Nicaragua Territorial Dispute

The San Juan River dispute between Costa Rica and Nicaragua dates back to their independence from Spain in 1821, and it continued into the early 20th century. In 1823 the republic of the United States of Central America was formed (Hudson, M. 1932, p. 759). During the early stages of the Central American Union, Costa Rica annexed the area of Nicoya and Guanacaste that previously belonged to the former province of Nicaragua (Zamora, A. 1995, p. 235). However, the newly formed republic found it difficult to achieve unanimous agreement on important issues because distances were immense, communication difficult, and no pressing need made the union of the republic critical (Hudson, M. 1932, p. 760). As a result, a break up took place between the Central American States. Nicaragua ended up losing part of their land to Costa Rica as well. The Nicoya and Guanacaste regions became a permanent part of Costa Rica, so this annexation caused Nicaragua to lose 13,000 square kilometers of territory (Orozco, p. 142).

In 1858, Costa Rica and Nicaragua signed the Cañas-Jerez treaty that set the San Juan River as a permanent demarcation between both countries. In the treaty, the San Juan del Norte (Northern San Juan) became a common property of both republics and Costa Rica obtained the perpetual right to free navigation of the San Juan River. Furthermore, the treaty stated Nicaragua could not enter any type of negotiations

regarding an inter-oceanic canal project without seeking Costa Rica's opinion. This treaty opened a continuum of border tension between both countries for years to come. In 1913, Nicaragua signed a treaty with the United States over the start up of an inter-oceanic canal however, "Costa Rica vehemently protested because such a canal would use the San Juan River without awarding rights to Costa Rica" (Evans, 1997, p. 75).

Costa Rica / Nicaragua - illegal migration

The second issue that has soured the relations between Costa Rica and Nicaragua is the intense flow of Nicaraguan citizens to Costa Rica via the San Juan River. Costa Rica's border remained thinly populated especially in the northern frontier whose remote location and difficult terrain contributed to its easy access for Nicaraguan immigrants. In 2000, 40% of the Nicaraguan immigrants were between 15-29 years of age (Mok, Bixby, Camacho, Solis., 2000, p. 1). Illegal entry was simple because Costa Rica lacked the resources to effectively control that frontier (Wiley, J. 1995, p. 426).

Since the late 1970's, there has been a constant flow of Nicaraguan immigrants into Costa Rica due largely to Nicaragua's political instability. In 1978, refugees became a "prominent part of Costa Rican life with the arrival of Nicaraguans fleeing the war." This occurred when the Sandinista opposition sought to overthrow the dictator Somoza (Hayden, 2003, p. 22). According to Hayden, the refugees numbered fifty thousand with most remaining in the border region (p. 22). By 1981, when the Sandinista opposition came into power, the number of Nicaraguans living in Costa Rica rose rapidly. This massive migration was the source of much discontent and hostility towards the Nicaraguan immigrants. Few Nicaraguans were given refugee status instead of asylum

status, because according to Hayden, “asylums have always been relatively elite,” and Nicaraguans were categorized as “common and ordinary people” (p. 27).

Furthermore, Nicaraguans were stereotyped as being people who brought violence with them. For example, in the 1980’s and 90’s Costa Rica attributed crimes to be associated with Nicaraguan immigrants. Also newspapers wrote columns on crime stating that it was Nicaraguan immigrants who were responsible for such crimes (Hayden, p. 35). An article by James Wiley titled “Undocumented Aliens and Recognized Refugees: The Right to Work in Costa Rica” stated that 56 percent of the public opinion opposed the presence of Nicaraguans in Costa Rica. Their main reasons included “problems they caused, diseases they brought, the displacement of labor, and burdens they represented to the state” (p. 426). However, according to Wiley, the migration of Nicaraguans to Costa Rica was not a new phenomenon but in fact a “continuation of a historical pattern” (p. 426). Since the 1840’s, Costa Rica’s small population had required a great deal of labor for its agriculture. The earlier Nicaraguan immigrants remained in the northern province of Guanacaste, which was part of Nicaragua during the colonial era. As a result most of the population of that area roots back to Nicaraguan descent (Wiley, p. 427).

Costa Rica/Nicaragua - questionable navigation

The third issue that has complicated matters is the disagreement over interpretation of the navigational rights of Costa Rica on the San Juan River. Both countries in 1858 drafted the Cañas-Jerez treaty that would define their final demarcation, sovereignty, and rights over the disputed area of the San Juan River (see map 2). According to Article Six of the Cañas-Jerez treaty:

“The republic of Nicaragua shall have exclusive dominion and the highest sovereignty over the water of the San Juan River from their issue out of the lake to their discharge into the Atlantic; but the republic of Costa Rica shall have in thus water perpetual rights of free navigation from the said mouth of the river up to a point three English miles below Castillo Viejo (Old Castle), for purpose of commerce, whether with Nicaragua or with the interior of Costa Rica, over the San Carlos or Sarapiquí Rivers or any other course stating from the part which has been established as belonging to that republic on the banks of San Juan. The vessels of either country may touch at any part of the banks of the river where the navigation is common without paying any dues except as may be established by agreement between the two governments” (Costa Rica v. Nicaragua, 1917,p. 193).

This agreement is ambiguous because although Nicaragua is set as the owner of the river, Costa Rica has perpetual rights over the same waters. To make matters worse, Clause Eight stated the following:

“If the contracts for canalization or transit entered into before the Nicaraguan government had knowledge of this convention should for any cause cease to be in force, Nicaragua agrees not to conclude any other relating to the objects above stated without first hearing the opinion of the Costa Rican Government respecting the disadvantages that may result to the two countries provided that opinion be given within thirty days after the request therefore shall have been received in case that the Nicaraguan government should indicate that a decision is urgent. And in the event that the enterprise should cause no injury to the natural rights of

Costa Rica that opinion shall be advisory” (Costa Rica v. Nicaragua, 1917, p. 194).

However this clause set off more tension between both countries. On one hand, Nicaragua interpreted the treaty as the sole sovereign over the territory, but Costa Rica, on the other hand, felt they too had ownership over the same river.

The Cañas-Jerez treaty imposed a problem for Nicaragua, because in the 1800’s foreign nations were exploring the country for a possible inter-oceanic canal through the San Juan River. Nicaragua offered cheaper transportation, healthier climate, and vast resources (Clayton, 1987, p. 330). Countries such as the United States and Great Britain dreamed of cutting a waterway through “Middle America”, consequently Nicaragua received many offers from ambitious entrepreneurs who were anxious to develop what was then considered the most logical canal route (Rodriguez, M. 1964, p. 260). The Rio San Juan and Lake Nicaragua provide a water passage from the Caribbean Sea to within 20 km of the Pacific Ocean (Randell, D. 1970, p. 170). Costa Rica disagreed with Nicaragua’s plan to turn the San Juan River into a canal because it would have an impact of Costa Rica’s side of the river.

In 1871, Nicaragua and Costa Rica “reopened the dispute “and hopes for Nicaragua diminished (Crowell, 1969, p. 33). The view of the canal project ruptured the diplomatic relations between Costa Rica and Nicaragua over the interpretation in the Cañas-Jerez boundary treaty (Hill, 1948, p. 207). Not content with Nicaragua’s plan to build a canal, both countries decided to seek arbitration that would clarify Clause Six and Eight of the Cañas-Jerez treaty. The Nicaraguan government went along with the arbitration because it needed to clarify its sovereignty over the San Juan River. If

successful, Nicaragua would have been able to fulfill its dream of constructing the inter-oceanic canal that would bring progress to the country. In 1888, arbitration by the President of the United States, Grover Cleveland, was announced. The United States President concluded, in the Cleveland award, with the reaffirmation and validity of the Cañas-Jerez treaty. That treaty stated that Costa Rica has perpetual right to navigate the San Juan River given that their cargo carried *only merchandise and not arms* (Cleveland, 1888, p. 2). As it turned out, Nicaragua's plan of a waterway canal fell through, and the navigational dispute over the San Juan River still remained. The San Juan River conflict throughout the 20th century remained in negative peace never escalating to an extreme tension. However, in 1998, the former President of Nicaragua, Arnaldo Aleman, prohibited Costa Rican civil guards from patrolling the river with arms (Orozco, p.145). This act revived the conflict all over again.

Costa Rica / Nicaragua - Politics and Resolution

Political hostility that resides in the capitals of both countries has made it harder for a final resolution on the border to occur. After a series of treaties and arbitration the borders between both countries continued being a concern to both countries (Sandner, G. Ratter, B. 1988, p. 294). However, the sovereignty over the river and special perpetual rights by Costa Rica kept both countries discontented. According to Sandner and Ratter, "political geography in the context had to do less with methods of boundary delimitation but more with space politics, national interest and political relations between both parties" (G. Sandner, B. Ratter, 1988, p. 290). It was not just the San Juan River that kept both countries in conflict, but political pride as well. Costa Rica's inability to concede to the canal project made Nicaragua heated with hostility. In 1998, the former

President, Arnaldo Aleman, made the San Juan River a presidential issue that needed to be dealt with. According to an article by Manuel Orozco, "Boundary Disputes in Central America: Part Trends and Present Developments," "In 1997, the Nicaraguan military seized a dozen of Costa Rican vessels and put an estimated twenty-two fishermen under arrest. When Costa Rica heard the news, it immediately responded with an official diplomatic note of protest, demanding the return of the boats and the release of the fishermen (Orozco, p. 145). Both governments have tried to reach an agreement but would retract from their agreement the next day. When both countries tried negotiating an agreement on the situation, the governments applied different measures to emphasize their strength. For example, Nicaragua emphasized its capacity to mobilize troops to the border, asserting the capacity to defend itself if it were to be invaded. The Nicaraguan military declared that it would arrest any foreign vessels on the San Juan River. Costa Rica responded to each instance with formal diplomatic protests by demanding that Nicaragua pay the debt of \$475 million Nicaragua had borrowed for electric power (Orozco, p. 146).

The battle has gone back and forth but with a newly elected president in 2000, the situation on the San Juan River has calmed. Different measures to resolve the problem have come to the surface. For example, Track II citizen diplomacy might help the two governments to a resolution. Track II has helped conflicting countries through training, mentoring and developing a sustained network of practitioners. Through a series of workshops, this tactic is keened to the teaching and usage of problem solving skills (E. Kaufman, 2001 p. 8). Perhaps measures of Track II, such as citizen diplomacy, might bring a new perspective and hopefully a final resolution to the conflict.

Costa Rica/Nicaragua - Summary

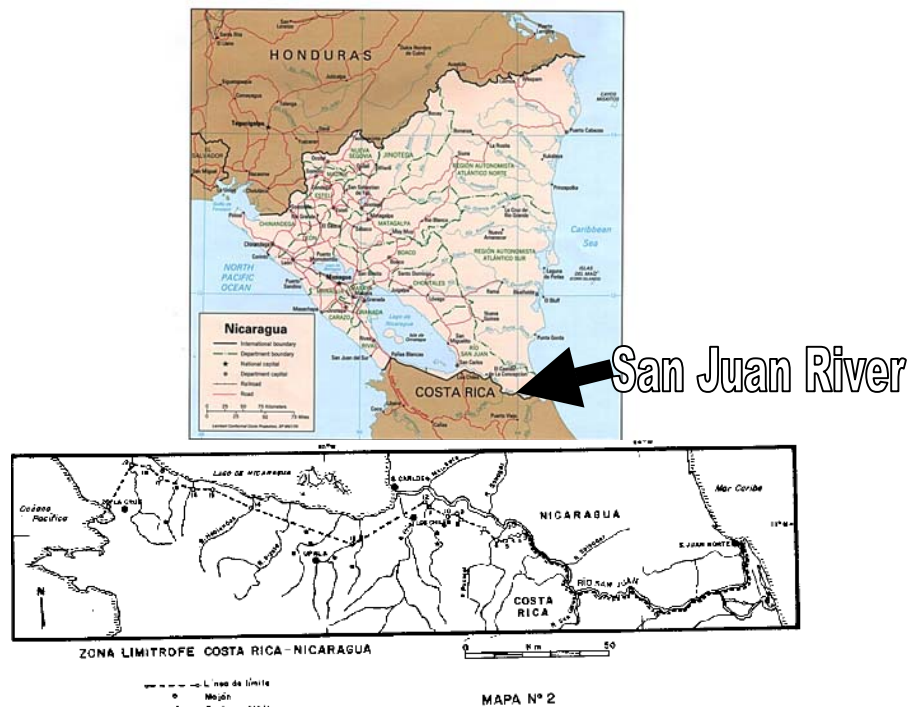
The extent of this conflict is historical, and isolation in Central America has made the region a conflicting one. Territorial conflicts became a common theme in the early years of independence. Costa Rica and Nicaragua struggle to keep their borders, over the San Juan River, has maintained the countries in constant conflicts. Neither country can make individual decisions without consulting the other. An example of this is the construction of the inter-oceanic canal. The constant flow of Nicaraguan citizens has also impacted the relations of the two countries. Also the questionable navigational right of Costa Rica has made this dispute a political issue that is handled with diplomacy in the capital of each country and not in the affected shared region.

Map 1.



Guatemala-Honduras: area between the Motagua River and the watershed of the Merendon Mountains covering 2,000 squares miles.

Map 2.



San Juan region in conflict bordering Nicaragua and Costa Rica

Bibliography

Arson, C. (1999). Comparative Peace Processes in Latin America. Washington, D.C.: Woodrow Wilson Center Press.

Chen Mok, M. L. Bixby, G. Camacho, M. Solis. (2000). Migrantes Nicaraguenses en Costa Rica 2000: Volumen, características y salud productiva. Inst. De investigaciones Universidad de Costa Rica 1-71.

Clayton, L. 1987. The Nicaragua Canal in the Nineteenth Century: Prelude to American Empire in the Caribbean. *Journal of Latin American Studies*, Vol. 19, No. 2. 323-352

Costa Rica v. Nicaragua. *The journal of international law*. Vol. 11, No. 1, 1917. 181-229.

Crowell, J. The United States and a Central American Canal, 1869 –1877. *The Hispanic American Historical Review*, Vol. 49, No. 1 (Feb 1969), 27-52.

Evans, S. At Union's Brink: Ideals and Problems in Restoring the United Provinces of Central America, 1920-1922. *Latin American Research Review*, Vol. 32, No.1 (1997), 69-87.

Hayden, B. (2003). Salvadorans in Costa Rica. University of Arizona Press.

Herzog, L. (1992). Changing Boundaries in the Americas. San Diego. University of California Press.

Hill, R. The Nicaraguan Canal Idea to 1913. *The Hispanic American Historical Review*, Vol. 28, No. 2, May 1948, 197 – 211.

Hudson, M.O. The Central American Court of Justice. *The American Journal of International Law*, Vol. 26, No. 4 (Oct 1932), 759-786.

Kacowicz. (1998) *Zones of Peace in the third World. South America and West Africa in Comparative Perspective*. New York: University of New York Press.

Kaufman, E. (2001) Diplomacia Ciudadana: Talleres Innovadores Para la Resolucion de Conflictos (TIRC). College Park: University of Maryland Press.

Naylor, R. 1960. The British Role in Central America Prior to the Clayton-Bulwer Treaty of 1850. The Hispanic America Historical Review, Vol. 40, No. 3. 361-382

Orozco, M. (2001) Boundary Dispute in Central America Past Trends and Present Development. Inter-American Dialogue, Feb 26. p 1-40.

Rodriguez, M. The “Prometheus” and the Clayton-Bulwer Treaty. Journal of Modern History, Vol. 36, No. 3 1964 p 260 – 278

Radell, D. Exploring and Commerce on Lake Nicaragua and the Rio San Juan 1524-1800. Journal of interamerican studies and World Affairs, Vol. 12, No. 1 1970 p107-125

Sander, G. Ratter, B. (1991). Topographical Problems Areas in the Delimitation of Maritime Boundaries and their Political Relevance Case Studies from the Western Caribbean. Ocean Shore Management p.289-308.

Wiley, J. Undocumented Aliens and Recognized Refugees: The Right to Work in Costa Rica. International Migration Review, Vol. 29, No. 2, 1995, 423-440

Woolsey, L.H. Boundary dispute in Latin America. The American journal of international law, vol. 25, No. 2 (April 1931), 324-333.