

Boundary Commission Work in the Eritrea-Ethiopia Border Dispute

[ANNA BLAZKOVA]

Between the years 1998 and 2000, the Horn of Africa, already a relatively politically tumultuous region, experienced an escalation of violence as a border war erupted between Ethiopia and Eritrea. The conflict, with its symbolic center at the Badme village, was primarily caused by the lack of effective demarcation of the border between the two countries on the ground. Following the war and the 2000 Algiers peace agreement, the ICJ established a Boundary Commission, whose mission was to definitively delimit and subsequently demarcate the border between Ethiopia and Eritrea.¹ In this paper, I will cover the process of creating a border in general terms, followed by an exploration of how the Eritrea-Ethiopia Border Commission specifically conducted its work of delimitation demarcation. I will also include the factors guiding its decisions, as well as the reactions of the two involved countries to the Commission's final decision. I argue that the Border Commission's work was significantly constrained by the lack of accurate maps for the guiding colonial treaties, the difficulties with inconsistent nomenclature across time and languages, the lack of field reconnaissance, as well as the limited timeframe in which the decision was produced. The reactions of Ethiopia and Eritrea to the decision were, then, impacted by the Commission's omission of Badme from the final report, the countries' hyper-nationalist regimes' unwillingness to compromise, as well as the international community's lack of attention after the Algiers Agreement.

Firstly, to better understand the process of the Border Commission, let us start with an overview of key concepts relevant to this topic. A border dispute is a situation in which two states clash over where the border should be drawn, and wherein, unlike in a territorial dispute, the impacted zone isn't legally consti-

1 Terrence Lyons, *The Ethiopian-Eritrean Border Crisis: Avoiding Conflict in the Horn of Africa* (Council on Foreign Relations, 2006), 6-10. <http://www.jstor.com/stable/resrep05734.8>.

tuted territory of its own.² Border disputes can be of two types – the first is a definitional border dispute, which arises at the stage of defining a border, for example in cases where a border river changes its course over time.³ The second type, under which the Eritrea-Ethiopia border dispute falls, is a locational dispute. This dispute arises when there is a discrepancy between the border's definition in text and its delimitation in maps or demarcation on the ground.⁴ Here, the process itself of creating a border is relevant. It consists of four main steps – First, the border's definition is created, describing in text, often in treaties, the terrain through which the border runs, ideally in as much detail as possible to prevent future friction. Secondly, the border is delimited, wherein cartographers plot the border as exactly as possible on large-scale maps or satellite images. Thirdly, the border is marked on the ground with a variety of methods, from stones and poles to walls or fences in areas prone to conflict – this stage is called demarcation. Finally, the border and its markers are maintained, often by assigned government agencies of each state, or by joint commissions – this last stage is called administration.⁵

The Eritrea-Ethiopia Border Commission was concerned primarily with delimitation of the border between the two countries, but was subsequently also tasked with the border's demarcation. The importance of detailed and accurate definition and delimitation can also be demonstrated in this border dispute case, as it was primarily caused by the vagueness of the colonial treaties concerning the border from the beginning of the 20th century, as well as the inaccuracy or complete lack of attached maps.

The latest stage of the conflict at the border of Ethiopia and Eritrea broke out in 1998, but this wasn't the beginning of the two countries' complex intertwined history. Relevant to this discussion is also the colonization of Eritrea by Italy, which lasted for approximately 60 years in the 19th and at the beginning of the 20th century.⁶ Italy set up treaties with the Ethiopian emperor in 1900, 1902 and 1908 concerning the boundary between the two territories, however, these were to serve only as a provisional line.⁷ Ethiopia and Eritrea were then federated in 1952, and ten years later in 1962, Ethiopia fully annexed Eritrea,⁸ making the border delineated in the Italian colonial treaties only an internal administrative line, and functionally a relic boundary.⁹ This boundary was reactivated as an international border after Ethiopia's independence in 1993, according to the

2 Martin Ira Glassner and Chuck Fahrer, *Political Geography* (John Wiley and Sons, 2003), 84.

3 Glassner and Fahrer, *Political Geography*, 75.

4 Glassner and Fahrer, *Political Geography*, 75.

5 Glassner and Fahrer, *Political Geography*, 76.

6 Farah Arbab, "Grappling for Peace: Border Conflict Between Ethiopia and Eritrea," *Strategic* 24, no. 2 (2004): 162–93, <https://www.jstor.org/stable/45242529>.

7 Arbab, "Grappling for Peace," 165.

8 Arbab, "Grappling for Peace," 165.

9 Jon Abbink, "Briefing: The Eritrean-Ethiopian Border Dispute," *African Affairs* 97, no. 389 (1998): 551–65, <https://doi.org/10.1093/oxfordjournals.afraf.a007970>, 555.

customary African principle of respecting colonial boundaries.¹⁰ Following Eritrea's independence, both countries performed provocative military maneuvers on their respective sides of the border, until Eritrean troops entered and occupied the village of Badme in May 1998,¹¹ resulting in the border war in the following two years. A peace agreement was reached in Algiers in December 2000, where the two countries also bound themselves to resolve the border dispute through the arbitration of a neutral boundary commission.¹² The Eritrea-Ethiopian Boundary Commission (EEBC) was then established and delivered its final verdict in April 2002.¹³

The Commission's work was, as Pratt notes in his work, as much that of an arbitration tribunal as it was that of a traditional boundary commission.¹⁴ The Commission itself consisted of five members from parties not involved in the conflict, two each selected by Eritrea and two by Ethiopia, who then selected the fifth member – the president of the Commission. The EEBC's mission was, according to Article Four of the Algiers Agreement, "to delimit and demarcate the colonial treaty border"¹⁵ on the basis of the pertinent colonial treaties between Ethiopia and Italy from 1900, 1902 and 1908, as well as the relevant international law and the 1964 declaration of the Organization for African Unity, which ruled that borders existing at independence will be respected, thus rendering any shifts in borders through military action after 1993 irrelevant.¹⁶ The mandate of the Boundary Commission was thus fairly narrow, limited to only clarifying the alignment of the existing colonial boundary.¹⁷ The Commission had no jurisdiction to adjust the border between Eritrea and Ethiopia according to considerations of any current human geography, and was particularly discouraged from making its decisions on the principle of equity of considerations.¹⁸ It is also important to note, in regards to the Algiers Agreement, that both Ethiopia and Eritrea agreed by their signing to consider the decision of the Border Commission as binding and final.¹⁹

There were more constraints to the Commission's work than just the structural considerations of the Algiers Agreement, perhaps the biggest of which

10 Abbink, "Briefing," 555.

11 Lyons, *The Ethiopian-Eritrean Border Crisis*, 8.

12 Arbab, "Grappling for Peace," 179.

13 Arbab, "Grappling for Peace," 180.

14 Martin Pratt, "A Terminal Crisis? Examining the Breakdown of the Eritrea-Ethiopia Boundary Dispute Resolution Process," *Conflict Management and Peace Science* 23, no. 4 (September 2006): 329–41, <https://doi.org/10.1080/07388940600972669>, 330.

15 Lyons, *The Ethiopian-Eritrean Border Crisis*, 7.

16 Philip White, "The Eritrea-Ethiopia Border Arbitration," *Review of African Political Economy* 29, no. 92 (June 1, 2002): 345–56, <https://doi.org/10.1080/03056240208704619>.

17 Pratt, "A Terminal Crisis," 334.

18 Terrence Lyons, "The Ethiopia-Eritrea Conflict and the Search for Peace in the Horn of Africa," *Review of African Political Economy* 36, no. 120 (June 1, 2009): 167–80, <https://doi.org/10.1080/03056240903068053>.

19 Arbab, "Grappling for Peace," 180.

were the main source materials for the border itself – the Italian colonial treaties and their maps. These posed several separate issues, the first of which being the fundamental differences in the ideas around the definition and function of a border at the time of the treaties' signing and today.²⁰ At the time of the treaties' signing, the areas of the border were uninhabited, therefore not necessitating a very precise delineation and demarcation to administer any populations surrounding the border. The demarcation on the ground thus never happened,²¹ and furthermore, the line was considered provisional, and Italy encroached upon this boundary in later years with unilateral maps.²² Some parts of the border lacked not just demarcation, but the Eastern sector of the border defined in the 1908 treaty was never even properly delineated.²³ The maps that accompanied the treaties, when there were any, were small-scale and largely inaccurate, serving more as rough and unclear sketches of the provisional line between Ethiopia and Italian colonial Eritrea.²⁴

Furthermore, the treaties posed the problem of inconsistent nomenclature. The names of geographical landmarks, such as rivers or settlements, didn't just change over time from the early 1900s to the present day, but also varied across the languages of the treaties, with the Amharic version often showing different place names than the English version.²⁵ One of the largest differences in name interpretations between the two sides lies in the Western sector of the border. Here, up to 80 kilometers lie between the two rivers that Eritrea and Ethiopia respectively identified as the Maieteb from the colonial treaty.²⁶ Furthermore, what the English version of the treaty calls the "Maieteb" river, its Amharic counterpart identifies as the "Mai Ten", adding to the confusion.²⁷ On some Italian maps from the time, Maieteb, as a name for a geographical feature in the region, appears even two or three times for separate streams and rivers.²⁸

The divergence of place names didn't affect just waterways around the border, but also arguably the most significant and symbolic place for this whole dispute – the Badme village. In most maps, the name Badme doesn't appear in connection with a village at all, only referring to the larger plains area around the settlement. Most maps list a village in a similar location to Badme as a settlement with the name Yirga, although Ethiopian state records list no settlement

20 Jon Abbink, "Badme and the Ethio-Eritrean Border: The Challenge of Demarcation in the Post-War Period," *Africa: Rivista Trimestrale Di Studi e Documentazione Dell'Istituto Italiano per l'Africa e l'Oriente* 58, no. 2 (2003): 219–31, <https://www.jstor.org/stable/40761693>.

21 Abbink, "Badme and the Ethio-Eritrean Border," 226.

22 Abbink, "Badme and the Ethio-Eritrean Border," 224.

23 White, "The Eritrea-Ethiopia Border," 347.

24 Abbink, "Badme and the Ethio-Eritrean Border," 224.

25 White, "The Eritrea-Ethiopia Border," 347.

26 Leenco Lata, "The Ethiopia-Eritrea War," *Review of African Political Economy* 30, no. 97 (2003): 158–84, <https://doi.org/10.1080/03056240903068053>.

27 White, "The Eritrea-Ethiopia Border," 352.

28 Abbink, "Badme and the Ethio-Eritrean Border," 226.

of such name, only Badme.²⁹ Abbink posits that perhaps for this reason of name confusion, and because they couldn't with absolute certainty precisely locate the Badme village, the final decision of the EEBC didn't include any mention of Badme by name, despite its symbolic value for the conflict.³⁰

Additionally, the Commission's work was significantly bound by time constraints. In the initial Algiers Agreement, the two parties allowed themselves only 45 days to gather evidence and submit their claims to the EEBC, after which the Commission was expected to submit its final decision no later than 6 months after its first meeting.³¹ At the time of arbitration, due to the limited time allowed for delimitation, the Commission had yet to acquire large-scale accurate mapping of the border regions, which also contributed to the difficulty of the Commission's work.³² Aerial photos acquired after the Commission's decision was published revealed that small sections of the border in the central sector would be "manifestly impracticable"³³ and would thus have to be adjusted during the demarcation process. Furthermore, the time constraints didn't allow for the EEBC members' field reconnaissance, which although initially planned, didn't happen due to logistical difficulties.³⁴

Finally, while the Commission consisted of lawyers with extensive experience as arbitrators and advocates, and received assistance from the UN cartographer, no geographers served on the Commission.³⁵ While the Commission was thus well equipped to deal with treaties and international law, it didn't have extensive expertise in map interpretation or in methodologies for the construction of the border itself.³⁶ Pratt also argues that the absence of a geographer deprived the EEBC of a variety in perspectives.³⁷

The constraints and obstacles notwithstanding, the Border Commission presented its final decision on April 13, 2002. It was immediately accepted by both sides and seen as a victory by both Ethiopia and Eritrea.³⁸ Although both countries lost and gained territory in different sectors in regards to their initial claims, the celebration of victory by both governments happened due to the confusion over which side of the border the Badme village itself fell upon.³⁹ Immediately after the decision's publishing, both countries interpreted the decision as ruling with Badme on their side. Only after Ethiopia catalogued Badme as its own, officials from the Tigray region, under whose administration Badme would fall,

29 Abbink, "Badme and the Ethio-Eritrean Border," 222.

30 Abbink, "Badme and the Ethio-Eritrean Border," 226.

31 Pratt, "A Terminal Crisis," 335.

32 Pratt, "A Terminal Crisis," 336.

33 Pratt, "A Terminal Crisis," 336.

34 Pratt, "A Terminal Crisis," 337.

35 Pratt, "A Terminal Crisis," 336.

36 Pratt, "A Terminal Crisis," 337.

37 Pratt, "A Terminal Crisis," 337.

38 Arbab, "Grappling for Peace," 180.

39 Arbab, "Grappling for Peace," 336.

asked the Commission for clarification,⁴⁰ and received on March 28, 2003, the statement that while most of the plains area known as Badme fell under Ethiopian rule, the village itself was narrowly on the Eritrean side of the border.⁴¹

In the meantime, the two sides, led by highly nationalistic and increasingly authoritarian regimes, waged a propaganda battle, attempting to assert themselves as the one who claims the highly symbolic prize of Badme and thus becomes the ultimate winner of the conflict.⁴²

Ethiopia then made an appeal to the EEBC asking for considerations for community living during demarcation, but this request was rejected on the grounds that the Commission's decision was final, and the countries were bound by the Algiers Agreement to the decision's full implementation.⁴³ Ethiopia's prime minister then also sent a letter to the UN Secretary-General, calling for an alternative mechanism of resolution, and issued a five-point peace initiative, as a part of which Ethiopia would accept the EEBC's decision, while also calling for simultaneous peace-building dialogue.⁴⁴ This was largely regarded as a means of stalling the demarcation process, as Ethiopia still had *de facto* military control over Badme village at the time and thus was not opposed to creating a stalemate situation.⁴⁵

As Ethiopia was trying to appeal to the EEBC and the UN, Eritrea unequivocally accepted the Boundary Commission's report and pushed for swift border demarcation, while criticizing Ethiopia for its steps.⁴⁶ Although Eritrea lost some ground it previously claimed along the central and eastern sections of the border, the regime considered itself victorious, as the Badme village fell on its side of the boundary line.⁴⁷ Although Ethiopia eventually allowed pillar placement in the Eastern sector of the border, Eritrea insisted that no demarcation will take place at all, unless it is guaranteed that all three sectors are simultaneously demarcated in accordance with the EEBC's 2002 decision.

Ethiopia's rejection of the EEBC's decision made it the first country to openly refuse a third-party boundary resolution, as no state had previously challenged a border decided through independent adjudication.⁴⁸ This refusal then led to a lengthy stalemate, fueled also by the countries' radically nationalist leaderships, which viewed politics as a zero-sum game and refused any compromise.⁴⁹ To this stalemate was also added the inconsistent international attention, under which the countries initially might've felt pressured to sign the Algiers Agree-

40 Lata, "The Ethiopia-Eritrea War," 384.

41 Arbab, "Grappling for Peace," 181.

42 Abbink, "Badme and the Ethio-Eritrean Border," 220.

43 Arbab, "Grappling for Peace," 181.

44 Lyons, "The Ethiopia-Eritrea Conflict," 169.

45 Lyons, "The Ethiopia-Eritrea Conflict," 181.

46 Arbab, "Grappling for Peace," 181.

47 Lyons, "The Ethiopia-Eritrea Conflict," 220.

48 Pratt, "A Terminal Crisis," 333.

49 Lyons, "The Ethiopia-Eritrea Conflict," 169.

ment, but which then quickly disappeared and was merely replaced by the US's allyship with Ethiopia in the region as a part of its War on Terror international policy.⁵⁰ The tension between the countries then also manifested through proxy wars in the region, such as in Somalia,⁵¹ and was only resolved a few years ago, in 2018, when an agreement on border demarcation and normalization of diplomatic relations was signed.⁵²

All in all, this border dispute shows the potential difficulties which can arise in the border-making process, especially if one of the steps in the process is initially managed poorly and with lackluster accuracy. The working process of the Boundary Commission illustrates the array of issues from unclear nomenclature to insufficient maps, and the reactions of Eritrea and Ethiopia to the Commission's decision showcase how the process of establishing a border can easily end in a stalemate even after a boundary line is clearly defined. It also touches upon the complex legacy of colonial-era policies on postcolonial states, and the international politics and geography of entire regions.

50 Lyons, "The Ethiopia-Eritrea Conflict," 175.

51 Lyons, "The Ethiopia-Eritrea Conflict," 173-74.

52 Michael Asiedu, "Diplomacy, the Eritrea-Ethiopia Peace Deal and Its Implications," *Global Political Trends Center* (2019), 1-10, <https://doi.org/http://www.jstor.com/stable/resrep19344>.