Territorial and Maritime Dispute Between Nicaragua and Honduras in the Caribbean Sea (Nicaragua v. Honduras)

I. Facts
   b. Nicaragua and Honduras are disputing over the delimitation of maritime areas and several islands near the mouth of the River Coco that serves as a natural border between the states.
   c. After the states received independence from Spain, they submitted a dispute over the land to the King of Spain as sole arbitrator. On 23 December 1906, King Alfonso XIII of Spain handed down an Arbitral Award which drew a boundary from the mouth of the River Coco at Cape Grascias a Dios to Portillo de Teotecacinte.
   d. Nicaragua challenged the binding character and validity of the Arbitral Award, and over several attempts to settle this dispute and other boundary incidents in 1957, the Organization of American States (OAS) took up the issue that same year.
   e. Through an ad hoc Committee established by the Council of the OAS, Nicaragua and Honduras agreed to submit their dispute to the ICJ.
   f. On 18 November 1960, the ICJ found that the Award made by the King of Spain was valid and binding and that Nicaragua was under an obligation to give effect to it.
   g. The two states could not agree how to implement the 1906 Arbitral Award, so Nicaragua requested the intervention of the Inter-American Peace Committee which completed the demarcation of the boundary line with boundary markers in 1962.
   h. After 1979, relations between the countries deteriorated. Numerous incidents involving the capture and/or attack by fishing vessels belonging to the other State were recorded.
   i. Several mixed commissions were established with a view to finding a resolution to the situation but were unsuccessful in their attempts.

II. Questions
   a. Does the International Court of Justice have the jurisdiction to hear the case between Nicaragua and Honduras?
   b. Where is the maritime boundary delimiting the respective territorial seas, exclusive economic zones and continental shelves in the disputed area?
   c. Which nation has sovereignty over disputed islands, cays, rocks, banks and reefs that are in maritime areas off the coast of Nicaragua and Honduras in the Caribbean Sea?

III. Decisions
   a. The International Court of Justice has the jurisdiction to hear the case between Nicaragua and Honduras.
   b. The maritime boundary is the result of the delimitation of the various areas of jurisdiction spanning the maritime zone from the Nicaragua-Honduras
mainland out to at least the 82° meridian. A Honduran coastal front running to Punta Patauca and a Nicaraguan coastal front running to Wouhnta are, in the Court’s view, the relevant coasts for purposes of drawing the bisector that will delimitate the boundary. The resulting bisector line has an azimuth of 70°14′41.25″. The starting point of the bisector is 15°00′52″N and 83°05′58″W. The line of delimitation is to begin at the starting point 3 nautical miles off shore on the bisector.

c. Honduras has sovereignty over the disputed islands. Namely, they are South Cay, Port Royal Cay, Savanna Cay, and Bobel Cay.

IV. Principles

a. The applicable law for determining the sovereignty over the contested islands is the law governing acquisition of land territory. Nicaragua invoked “adjacency” without further qualification, but opinion is that mere geographical adjacency by itself does not constitute territorial title under international law.

b. There was a rejection of the “traditional maritime boundary” claimed by Honduras because the Court found “that there was no tacit agreement in effect between the Parties…to establish a legally binding maritime boundary.”

V. Conclusion

With regard to the maritime boundary, the Court finds that the application of the bisector method is justified by the geographical configuration of the coast, and the geomorphological features of the area where the endpoint of the land boundary is located. A bisector is a line formed by bisecting the angle created by the linear approximation of the coastlines. The Court finds that a bisector is the best line to use because of the constantly changing coastline on the Honduran-Nicaraguan border due to deposits of sediment at the mouth of the River Coco. This is the primary reason that the line of delimitation is to begin at the starting point 3 nautical miles offshore on the bisector.

With regard to sovereignty over the disputed islands, the court asserted that Honduras has sovereignty over the islands of South Cay, Port Royal Cay, Savanna Cay, and Bobel Cay for several reasons. First, Honduras has a history of applying and enforcing criminal and civil law on the islands. There were several thefts and physical assaults on the islands of Savanna and Bobel Cays, as well as a 1993 drug enforcement operation in the area that was conducted by Honduran authorities as well as the United States Drug Enforcement Administration. Furthermore, Honduran authorities conducted substantial activity with regard to immigration and work-permit related regulation of persons on the islands in 1999 and 2000. The Court found that legal significance is to be attached to the evidence provided by Honduras on the regulation of immigration as proof of sovereignty. Although the time span for these acts of sovereignty is rather short, it is only Honduras which has undertaken these measures in the area. There is no contention by Nicaragua of regulation by itself of immigration or law enforcement on the islands either before or after the 1990s.

This case is important to International Law because most wars are fought over territory, and it shows progression that States are willing to bring their case before a Court instead of falling into war.

VI. Bibliography

Nicaragua v. Honduras, Application, I.C.J. Reports 1999

Submitted
Emily Negersmith, September 17, 2009