

The Academic Working Group of the
National Commemoration Commission



The Venezuelan Challenge to Guyana's Sovereignty.

By Winston Felix, Lecturer

University of Guyana

**Golden Jubilee Symposium Series to be held at The
Arthur Chung International Conference Center,
Georgetown, Guyana on May 23 - May 24, 2016.**

Introduction

The recent discovery of oil in Guyana has prompted a series of actions by Venezuela, Guyana's western neighbor on the South American coast. ExxonMobil Corporation, an American oil company issued a press release on May 20, 2015 stating that it had found "Significant Oil Discovery Offshore"¹ in Guyana. This development prompted Venezuela to amass thousands of troops close to Guyana's border. This paper posits that although the Venezuelan actions constitute a challenge to Guyana's sovereignty, it has not been effective in disturbing the Arbitral Award of 1899.

The concept of sovereignty can be traced to the development of international law. It is as old as the international law itself. According to one legal scholar, state sovereignty was one of the main concerns, which led to the development of the international law.² A new perspective was given to state sovereignty when the Treaty of Westphalia was signed, bringing an end to the Thirty Years War in 1648.

The Treaty gave the Swiss independence of Austria and the Netherlands, independence of Spain. The German principalities secured their autonomy. Sweden gained territory and a payment in cash, Brandenburg and Bavaria made gains too, and France acquired most of Alsace-Lorraine. The prospect of a Roman Catholic reconquest of Europe vanished forever. Protestantism was in the world to stay.³

The same principles that were applied to the Treaty of Westphalia were applied to the Arbitral Award of 1899 signed by Venezuela and all relevant parties. And contrary to contemporary thinking on the subject, Venezuelans were unanimous in their overwhelming support for the Arbitral Award. The same principles of state sovereignty and preservation of peace was the rationale that led the countries to endorse and support the Arbitral Award.

The Venezuelan Claim

An American historian, Clifton Child, investigated the 1963 claim made by Venezuela for Guyana's territory - 63 years after the Arbitral Award. He consulted all the volumes in the British Foreign Office, the verbatim records of the Tribunal, as well as the dispatches passing between London, St. Petersburg in Russia and New York during the relevant period. The conclusion that he drew from this study was that there was "not a single document which, by the widest stretch of the imagination, could be considered to indicate a deal between Great Britain and Russia of the sort suspected by Mr. Mallet-Prevost. On the contrary, the general atmosphere was one of satisfaction to the parties. Venezuela got land that would have gone to the British and Guyana got land consistent with that of the Schomburgk line. Shortly after the Award, Mr. Mallet-Prevost and General Harrison spoke of the award as a "victory" for Venezuela.⁴

The consensus was that within the Schomburgk line, lay the Amakuru River and Point Barima, the latter forming the southern entrance to the great mouth of the Orinoco. No portion of the entire territory possessed more strategic value than this, both from a commercial and a military standpoint, and its possession by Great Britain was most jealously guarded. Both the Amakuru River and Point Barima had been awarded to Venezuela, and along with it a strip of coast about 50 miles in length, both giving to Venezuela entire control of the Orinoco River.

The Arbitrators did not stop there. In the interior, another long tract to the east of the Schomburgk line, some 3,000 square miles in extent land had also been awarded to Venezuela, The arbitrators even went further with Great Britain's knowledge and consent. Great Britain, had in fact, put forward a claim to more than 30,000 square miles of territory west of the Schomburgk line, and it was this territory that in 1890 she was disposed to submit to arbitration. Every foot of this territory had been awarded to Venezuela.⁵

Notwithstanding the fact that the 1899 Arbitral Panel of Judges reached a definitive settlement of the border issue, then Venezuelan President Rómulo Betancourt sought to re-open the issue for reasons unrelated to its legality. According to declassified US State Department documents, Betancourt professed “to be greatly concerned about an independent British Guiana with Cheddi Jagan as Prime Minister” who he suspected “is already too committed to communism.”⁶ Betancourt was reported in the documents covering the period 1962 to 1965, as being convinced that the area contiguous to the present boundary abounds in natural resources. During this period the Betancourt Government demonstrated the degree to which Venezuela is prepared to accomplish its foreign policy objectives in Guyana.

In 1964, the Betancourt Government wanted Forbes Burnham and Peter D’Aguiar (who was the leader of the smaller political party called The United Force), to overthrow the Cheddi Jagan Administration in British Guiana. The goals to be accomplished with the assistance of men trained in Venezuela, and then form a Revolutionary Government. At the same time, Cheddi Jagan and Janet Jagan were to be kidnapped and taken to the neighboring state of Venezuela, according to reports.⁷ The challenge to Guyana’s sovereignty is clearly reflected in the foreign policy of the Betancourt Government. The disregard for the rule of law and adherence to rudimentary notions of sovereignty have been and continue to be a problem for past and present Governments in Venezuela.

The Fear of Fidel Castro

Betancourt even went further and proposed to both the British and the Americans that they establish to a zone “**under Venezuelan sovereignty.**”⁸ Betancourt said it would stop “the danger of infiltration of Venezuela from British Guiana if a Castro-type government ever was established.”⁹ This, according to the report, was the real basis for the Venezuelan claim even though Betancourt Government’s position in the international community was that the decision of the Arbitration was fraudulent. The declassified documents reveal that neither the

British nor the Americans gave him any encouragement or support. Nonetheless, he pursued it. And over the years, nationalist hostility toward Guyana has been generated and enflamed in Venezuela on the assertion that the 1899 Award was a fraud, despite the fact that it was accepted at the time and not challenged for 63 years.¹⁰ Since then, the Venezuelan Government has promoted that claim with varying degrees of intensity.

Venezuelan Economic Policy toward Guyana

The major challenges to Guyana's sovereignty does not only stem from the geopolitical actions of Venezuela, but in Venezuela's economic and trade relations with Guyana over the last decade. These policies are manifested in the Venezuelan policy of providing oil to Guyana on favorable terms. As a direct result of Venezuelan policies, sections of Guyana's population have become more dependent on Venezuela. However, Guyana as a whole has been able to resist these overtures and recognize the challenge to its sovereignty and take appropriate steps to protect its national sovereignty.

A major foreign policy initiative of the Venezuelan Government has been PetroCaribe. It is an alliance between Venezuela and the Caribbean countries. The Alliance seeks to address issues pertaining to the high cost of fuel in the Caribbean. From its inception, PetroCaribe has been shrouded in secrecy. The lack of transparency and accountability continues to be a problem. Moreover, the continued reliance on Venezuelan oil has led to a dependence of oil from a sole supplier- Venezuela. The failure to seek alternative sources of energy has made many Caribbean countries dependent on Venezuela not only for oil, but for preferential financing for development projects. In the case of Guyana, not only has it led to a reliance of oil from Venezuela, it has led to Guyana's rice farmers becoming dependent on Venezuela for rice markets.

PetroCaribe and its impact on Guyana.

It is difficult to overestimate the importance of cost effective and reliable source of energy for the economy. Fortunately for Guyana, the cost of petroleum and its related products have been declining. Since July of 2015, fuel costs have declined from US\$105 per barrel and is well below the US\$50 per barrel mark. The decline in fuel cost has had a favorable impact on the world economy, and Guyana's economy in particular. Not only did oil price decline, the quantity of oil shipped from Venezuela also declined. The last official shipment of oil from Venezuela was July 4, 2015.¹¹

The objectives of the PetroCaribe programme in Guyana and the Caribbean in general have been ambitious. It sought to resolve the core issue of development in the Caribbean, by providing Caribbean states with the option of purchasing oil from Venezuela on conditions based on preferential payment arrangements. The alliance was launched on June 29, 2005 in Puerto La Cruz. In 2013, the alliance held its 7th Summit, and adopted new measures including creating a link with the Bolivarian Alliance for the Peoples of Our America (ALBA) in a new "economic zone."¹²

When the price of oil exceeds US\$40 per barrel, approximately 30% of each invoice is financed and the loan is repaid over 25 years at 1% interest rate per annum. Below US\$40, 5% of each invoice would be financed over 17 years at a 2% interest rate per annum. In addition, Venezuela was able to purchase products at preferential rates that may include certain items such as sugar, bananas or other goods or services that were adversely affected by the trade policies of developed countries. The Agreement enabled Guyana to sell over 450,000 tonnes of rice to Venezuela at US\$640 per tonne; a price higher than anything offered by other buyers in Europe or the Caribbean.¹³

Under the Agreement with Venezuela, Guyana was required to establish the PetroCaribe Fund, pay part of the money for oil

upfront and the rest over a number of years at a minimal interest rate. In October 2009, Guyana signed a special trade agreement with Venezuela to supply rice valued US\$18M. To pay the rice farmers and millers participating in the programme, the Government of Guyana was authorized to deduct monies from the Fund and disburse the payments to farmers.

The rice farmers in Guyana lobbied the Government of Guyana to continue the arrangement because of the favorable prices. However, notwithstanding the price support mechanisms that were instituted by PetroCaribe, the farmers registered their dissatisfaction with the implementation of the programme. They held several protests, claiming they received no payment for their rice. Although the farmers initially supported the programme, they did not receive the benefits that they anticipated from the PetroCaribe. Apparently, the rice farmers themselves became dependent on the preferential treatment from the Venezuelans.

Post Chavez Changes in Venezuela Policy

There have been several changes of Venezuelan foreign policy toward Guyana. These changes have not been systemic and have resulted in several shifts in foreign policy. After the death of the former Venezuela's President Hugo Chavez, there was a shift of foreign policy toward Guyana. There was a marked increase in military intervention in Guyana. There were several intrusions into Guyana's territorial boundaries, including its air and maritime space. On one occasion, Venezuelan military actually entered Guyana's territory and destroyed Guyanese mining property and equipment. More recently, a seismic survey ship contracted by Guyana was seized by the Venezuelan navy in Guyana's waters in the Atlantic Ocean and held under arrest in Venezuela.

The incident occurred on October 10, 2013, when Venezuelan naval forces seized the Teknik Perdana. MV Teknik Perdana is a seismic exploration ship contracted to US oil company Anadarko Petroleum Corporation Inc. The task of the ship was to explore the company's Roraima Block offshore Guyana with a view of

determining whether commercial quantities of hydrocarbon existed there. Caracas subsequently charged the Captain of the vessel with allegedly violating Venezuela's exclusive economic zone. The vessel and the rest of the crew were later released. The exploration plans of Anadarko have been put on hold.

The shift in policy toward Guyana coincides with growing domestic issues of the current Venezuelan President. Previously, Chavez had softened his stance when he visited Guyana in 2004, stating that Caracas would no longer object to development projects in Essequibo. Since his passing, his successor Maduro has pursued a more aggressive foreign policy toward Guyana notwithstanding his public pronouncements. For instance, on August 31, 2013, Maduro reiterated his Government's policy towards Guyana during a State Visit. He said: "Never again in the history of our countries [should we] allow ourselves to be dragged into the path of hatred, of chauvinism, of racism or enable intrigue to harm the moral body of our two nations."¹⁴

These conciliatory gestures by the Venezuelan President were not followed by concrete actions. On the contrary, Maduro intensified the claim after he made these statements. The above statement was for public consumption in Guyana. However, it warrants a certain degree of investigation. Implicit in Maduro's remarks is that there are cultural differences between the people of Guyana and Venezuela. There are cultural differences also between the people of Guyana and Suriname. Nevertheless, the Maritime issue between Guyana and Suriname has been settled at the level of International Law.

Today, both Guyana and Suriname are members of the Caribbean Community (CARICOM) and have numerous cultural exchanges. These cultural exchanges have deepened the integration between the two countries. Historical and cultural differences between both Venezuela and Guyana may help explain the century old problems between the two countries.

In spite of the intervention of the Great Powers such as United States, Great Britain, Russia, the Venezuelans continue their claim to the Essequibo region of Guyana¹⁵

Venezuelan Domestic Politics

The most plausible explanation as to why Venezuela now seeks to advance its claim on Guyana at this particular time can be understood in the context of the internal dynamics of Venezuelan society. Since the fall of oil prices, and the concomitant fall in revenues to the Venezuela Government, social, economic, and political problems have intensified. The crime rate has risen, although the Maduro Government would like to create the perception that all is well.

"In Venezuela, the right to life is inviolable, it's sacred,"¹⁶ declared Attorney General Luisa Ortega Diaz - who presented the government's Official Report before the UN Human Rights Committee. However, the World Health Organization (WHO) reported that in 2014, Venezuela reached a homicide rate of 57.6 per 100,000 inhabitants, equivalent to 17,259 murders in one year. Venezuela ranks second, after Honduras, on the list of countries with the highest murder rate in the world.¹⁷

Venezuelan criticism of Maduro

Henrique Capriles, an opposition figure, who is also Governor of Venezuela's Miranda State in Venezuela, criticized Maduro for using the Essequibo issue to draw attention from other political and economic problems facing the oil-rich country. Following an address Maduro made to the Venezuela's National Assembly claiming that he would reclaim Essequibo, Capriles said: "yesterday ... we saw in the ...National Assembly that they now want to retrieve the Essequibo, who will believe them?"¹⁸ He went on to say: "Maduro was Foreign Minister for six years and now you realise there is a territory to claim? What Maduro wants is to divert the attention of the Venezuelan people from the issues that affect them."¹⁹

In addition, Francisco Toro, one of Venezuela's leading political commentator and analyst calls the action of Venezuela a form of economic war. He considers the issue with neighboring Guyana as "nothing but an attempt to give off-shore oil investors in Guyana cold feet. This isn't the prelude to a war, or an invasion, the problem is that we Venezuelans are poorly positioned to grasp this, because we approach the Essequibo issue through two generations of hardcore, know-nothing chauvinist propaganda."²⁰ It is ironic that both Toro and Maduro share the same view that Chauvinism is one of the basic problems facing the development of constructive relations between Guyana and Venezuela.

Granting of Venezuela Citizenship

In a continuing shift away from the policies of the previous Administration, the Maduro Government announced that it will launch a diplomatic strategy to recover the territory of Essequibo. A new office called the Office for the Rescue of the Essequibo was established. The purpose of the office was to "organize a process to recover that geographic space that belongs to Venezuela,"²¹ according to Retired Colonel Pompeyo Torrealba Rivero, who advises President Nicolás Maduro on Citizenship issues.

Torrealba disclosed that President Maduro ordered schools to teach Essequibo as a topic in universities, as well as elementary and high schools. The information is also to be disseminated in the media located in bordering areas. He also proposed to issue identity cards for the 200,000 estimated inhabitants of the Essequibo, plus an awareness campaign to make the population of Guyana understand that the territory belongs to Venezuela.²²

Venezuela's Interventionist Policy

The new policy of Venezuela to recover land in Guyana can be compared with its approach to the area during the late nineteenth century. The unsettled border between British Guiana and Venezuela became of importance to the British at the time of the gold rush of the 1840s. At that time Venezuela failed to respond

to British overtures. Essequibo was just considered to be a jungle area. Venezuela already had its fair share of jungle. However, when gold and diamonds became important in the late nineteenth century, Venezuelans started to pay attention to the area, according to Cedric L. Joseph.²³

Nations States experiencing domestic disruption and dislocation or approaching strongly contested general elections are inclined to resort to dramatic action. Joseph postulated they resort to foreign policy to divert domestic attention and cultivate jingoism at home. Such action can be directed against a neighboring state that is enmeshed in domestic turmoil, affecting national cohesion and national response. Since the elections of December 1997, Guyana appears to offer such temptation. Further, the pursuit of such activist foreign policy is usually premised upon an analysis that the foreign policy of the neighboring victim state is vulnerable and susceptible to probing.²⁴

This view of Venezuela's current interventionist approach to dealing with Guyana is not a novel view. However, different reasons have been advanced for Venezuela's shifting foreign policy toward Guyana. The underlying premise is that Venezuelan foreign policy toward Guyana is not grounded on the tenets of international law, nor is it based on some of the lofty principles of mutual respect and non-interference in the internal affairs of sovereign states. It is a function of the domestic affairs of Venezuela.

Patrick Duddy, Director of the Center for Latin American and Caribbean Studies at Duke University, analyzed the prevailing political situation in Venezuela in explaining the major reason for Venezuelan actions. He argues that Venezuela is in a state of protracted crisis. He argues that inflation rose by 68 percent last year and may soon reach 100 percent.²⁵ According to the International Monetary Fund, Venezuela's inflation rate is now estimated at 720%.²⁶

Duddy adds that the economy has contracted sharply and is expected to shrink further this year. The failure of President

Hugo Chavez's successor, Nicolas Maduro, to respond effectively to these challenges has caused his approval ratings to plummet to 23 percent. The Venezuelan Government has become more authoritarian since Maduro's election in 2013. Anti-government demonstrations in response to inflation and food shortages were repressed with force, resulting in several dozens of people killed, hundreds injured, and thousands arrested.²⁷ This situation has not been abated in Venezuela. The Opposition Leader remains incarcerated and the political climate in Venezuela remains unstable.

Current Venezuelan Objectives

One of the major foreign policy objectives of Venezuela has been to shift the focus away from adjudication. The current focus is on renewing the Good Officer process. Since 1990, that process has not resulted in any improvement in the relations between the two countries. The view of Guyana is that the process has been abused as evidenced by the systemic violations of the Geneva Agreement.

The Geneva Agreement of 1966 afforded Venezuela an opportunity to present its evidence to support the contention of the nullity of the Arbitral Award. The forum through which Venezuela could have presented its evidence was the Mixed Commission. However the very Mixed Commission in which Venezuela was adequately represented, failed to disturb the Arbitral Award. Moreover, the life of that Commission has expired.

The course of action now taken by Venezuela is to undermine any judicial review of the controversy. The strategy that has emerged from Caracas is to shift the focus from domestic issues to foreign policy issues and convey the perception to the Venezuelan public that the Government will reclaim the oil rich Essequibo from Guyana. Cognizant of the fact that over a century ago, the Venezuela Government itself accepted the Arbitral Award of 1899 as a victory for Venezuela, President Maduro will continue to resist any attempt to pursue the matter at the level of the International Law.

Conclusion

Notwithstanding the Venezuelan challenge, the Arbitral Award of 1899 remains as definitive settlement in International Law. Venezuela has utilized geo-political strategies in its efforts to challenge Guyana's sovereignty. It has even used military force in contravention of the tenets of International Law. It sought to use trade and its foreign economic policy to exert control over Guyana's economy. These efforts were calculated to undermine Guyana's sovereignty. The efforts have largely been ineffective, even though the economy of Guyana is small and open. Notwithstanding Venezuela's foreign policy objectives, Guyana's economy is now less dependent on Venezuelan oil and rice farmers in Guyana are less reliant on Venezuelan markets. Venezuela is expected to continue with its interventionist approach in Guyana in contravention with international norms and practices. These practices, though ineffective, contravene the very notion of state sovereignty and contravene the integrity of the international system that has existed since the Treaty of Westphalia.

End Notes

¹ Stephen M. Greenlee, “ExxonMobil Announces Significant Oil Discovery Offshore Guyana,” *ExxonMobile Press Release*, May 20, 2015.

² Steinberger, H. “Sovereignty,” Bernhardt, R. (ed.), *Encyclopaedia of Public International Law*. Elsevier, 2000.

³ Richard Cavendish, *History Today* Volume 48 Issue 10 November 1998.

⁴ Clifton Child, “The Mallet-Prevost Memorandum,” *American Journal of International Law*. Volume 44, Number 4 (1950).

⁵ Ibid.

⁶ Winston Felix, *Shifting Foreign Policy of Venezuela Toward Guyan*. Guy-Associates, 2010

⁷ Ibid.

⁸ Ibid.

⁹ Ibid.

¹⁰ Odeen Ishmael, *The Trail Of Diplomacy: A Documentary History of the Guyana-Venezuela Border*, Xlibris, 2013.

¹¹ Mahender Sharma, *Annual Report*, Guyana Energy Agency, 2015.

¹² Ryan Mallett-Outtrim, “Petrocaribe Meets in Venezuela, Links With ALBA,” *Venezuelanalysis*. May 6, 2013. <http://venezuelanalysis.com/news/9087>, (accessed April, 22, 2016).

¹³ Ibid.

¹⁴ Winston Felix, *Issues in Guyana's Development*. Guy-Associates, 2015: 45-46.

¹⁵ Otto Schoenrich, "The Venezuela-British Guiana Boundary Dispute", July 1949, *American Journal of International Law*. Vol. 43, No. 3. p. 523. Washington, DC. (USA).

¹⁶ Sancho Araujo, "Runaway Crime," *El Universal*, July 11, 2015.

¹⁷ Winston Felix, *Shifting Foreign Policy of Venezuela Toward Guyana*. Guy-Associates, 2010.

¹⁸ Winston Felix, *The Shifting Foreign Policy of Venezuela Toward Guyana*. Guy-Associates, 2010. 34

¹⁹ *ibid*

²⁰ Francisco Toro, "Economic War)" *Caracas Chronicles*, June 12, 2015 <http://caracaschronicles.com/2015/06/12/economic-war/> (accessed April 22, 2016)

²¹ Pompeyo Torrealba Rivero, "Venezuela launches strategy to recover the Essequibo," *El Universal*, July 10, 2015 <http://www.eluniversal.com/nacional-y-politica/150710/venezuela-launches-strategy-to-recover-the-essequibo>, (accessed April 22, 2016)

²² *ibid*

²³ Cedric L. Joseph, *Anglo-American Diplomacy and the Reopening of the Guyana-Venezuela Boundary Controversy, 1961-1966*, Trafford Publishing, 2008

²⁴ Cedric L. Joseph, “A persistent threat to Guyana's territorial integrity,” *Stabroek News*, October 4, 2008

²⁵ Patrick Duddy, *Political Crisis in Venezuela*, Council on Foreign Relations Press, March 2015.
<http://www.cfr.org/venezuela/political-crisis-venezuela/p36356>,
 (accessed April 22, 2016).

²⁶ David Biller, “IMF Sees Venezuela Inflation Rocketing to 720 Percent in 2016,” *Blomberg Brief*, 2016.
<http://www.bloomberg.com/news/articles/2016-04-26/apple-forecasts-another-sales-decline-as-iphone-demand-cools>,
 (accesses April 22, 2016).

²⁷ Patrick Duddy.

Bibliography

Araujo, Sancho. “Runaway Crime,” *El Universal*, July 11, 2015.

Cavendish, Richard, *History Today* Volume 48 Issue 10
 November 1998.

Child, Clifton. “The Mallet-Prevost Memorandum,” October 1950, of the *American Journal of International Law*. Volume 44, Number 4.

Duddy, Patrick. “Political Crisis in Venezuela,” *Council on Foreign Relations Press*, March, 2015.

Felix, Winston. *Issues in Guyana's Development*. Guy-Associates, 2015.

Felix, Winston. *The Shifting Foreign Policy of Venezuela Toward Guyana*. Guy-Associates, 2010

Greenlee, Stephen M. "ExxonMobil Announces Significant Oil Discovery Offshore Guyana," *ExonMobile Press Release*, May 20,

Ishmael, Odeen, *The Trail Of Diplomacy: A Documentary History of the Guyana-Venezuela Border Issue*, Part five, Xlibris, 2013.

Joseph, Cedric L. *Anglo-American Diplomacy and the Reopening of the Guyana-Venezuela Boundary Controversy, 1961-1966*. Trafford Publishing, 2008.

Krasner, S. D. *Sovereignty*. New Jersey: Princeton University Press., 1999

Mallett-Outtrim, Ryan.. "Petrocaribe Meets in Venezuela, Links With ALBA," *Venezuelanalysis*. May 6, 2013.

Steinberger, H. "Sovereignty," Bernhardt, R. (ed.), *Encyclopaedia of Public International Law*. Elsevier, 2000.

Schoenrich, Otto. "The Venezuela-British Guiana Boundary Dispute", July 1949, *American Journal of International Law*. Vol. 43, No. 3. Washington, DC. USA. July, 1949.

Sharma, Mahender. *Annual Report*, Guyana Energy Agency, 2015.

Toro, Fransisco. "Economic War" *Caracas Chronicles*, June 12, 2015

Rivero, Pompeyo Torrealba "Venezuela launches strategy to recover the Essequibo," *El Universal*, July 10, 2015