

# International Law, Boundary Dispute and Territorial Redistribution between Nigeria and Cameroon on Bakassi Peninsula: Limits and Possibilities for Nigeria

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## Abstract

The Bakassi Peninsula was a disputed piece of territory between Nigeria and Cameroon for decades and the source of several conflicts in 1981 and the early 1990s. The availability of potential oil reserves in the Peninsula intensified tensions between the two countries. The International Court of Justice decides on October 10, 2002 that the Peninsula and territory in the Lake Chad region should be under sovereignty of Cameroon. Nigeria pull out of the areas and was ceded to Cameroon August 14<sup>th</sup> 2008. It has given up 32 villages along the 1,700 km border from Lake Chad to the Gulf of Guinea. This border dispute gives rise to various issues such as citizenship of the thousands of Nigerians in Peninsula. (Price Felicia 2005)

## INTRODUCTION

The border between Nigeria and Cameroon over the Bakassi Peninsula and Lake Chad areas has been disputed for decades. The potentially oil-rich peninsula is highly valuable to each country. The Peninsula is a substantial fish deposit, as is located in an area of 1,000 square kilometers of the mangrove swamp and half submerged islands protruding into the Bight of Bonny (previously known as the Bight of Biafra). Most of its inhabitants are Ibibio, Ijaw and Efik-speaking people (Idise and Idisi, 1996: 158).

Cameroon and Nigeria have come to the brink of war several times over the ownership of the peninsula in 1981 and 1996. On May 15, 1981, a Cameroon national radio news report states that a Nigerian military patrol army violated Cameroon's territory by infiltrating the Peninsula (as far as the Rio del Ray) and opened fire on the Cameroon army. Cameroon returned fire, killing five Nigerian soldiers. In 1992-1993, the Cameroon government openly killed some Nigerian civilians in Cameroon, stemming from multiparty democratic government and growing militarism for Anglophone autonomy. Other Nigerians were forced out of Cameroon during harassing tax-drives. The Bakassi dispute intensified with two or more serious incidents that provoked more shooting, casualties and deaths of soldiers in both countries. In 1994 and from January-May 1996, there were border clashes between Cameroon and Nigeria between military personnel. As of May 6, 1996, diplomats reported that over fifty Nigerian soldiers had been killed and a number taken as prisoners. There was no information available for Cameroonian casualties (*New York Times*. 1996).

The conflict escalated again on February 3, 1996. From the Ambazonian (South Cameroon) side, the Anglophone movement in Cameroon has no trust in the Cameroon government due to the failed implementation of the Plebiscite Treaty, which was to unite all Cameroonians under a federal form of government. Ambazonians demand total independence as it views Bakassi as its own (Mbuh, Justice Muluh. 2004). From 1919-1958, Southern Cameroons jointly administered with Nigeria. Nigerian maps recognized the Peninsula as part of the Ambazonian territory ( Mbuh, Justice Muluh 2004).

After eight years of negotiations, On October 10, 2002, the International Court of Justice (ICJ) decided that Cameroon had sovereignty of Bakassi, the decision was based on old colonial documents. The boundaries in the Lake Chad region were determined by the Thomson-Marchand Declaration of 1929-1930 and the boundary in Bakassi determined by the Anglo-German Agreement of March 11, 1913. The Court requested Nigeria to quickly and unconditionally withdraw administration, police and military from the area of Lake Chad under Cameroonian sovereignty and from the Bakassi Peninsula. The ICJ requested Cameroon to remove its citizens from anywhere on the new border between the two countries. The Court fixed the land boundaries from Lake Chad in the north to Bakassi in the south. The Court agreed with Nigeria that the equidistant line between Nigerian and Cameroon provided an equitable result. However, the Court did not specify a definite location off the coast of Equatorial Guinea of where the maritime boundary between the two countries would terminate, or the tripoint (Bekker, Pieter 2003).

Nigeria agreed and gave Cameroon full control of Bakassi on 2004, and a mixed Commission was set up by President Paul Biya of Cameroon and former President Olusegun Obasanjo of Nigeria through the former Secretary-General Kofi Annan who determined modalities for the implementation of the ICJ ruling (United Nations)

The territorial change of English-speaking Nigerians to French-speaking Cameroonians has been difficult for both sides. It is estimated that over 60,000 people lived in the 32 villages around Lake Chad which

was ceded to Cameroon. Thousands of Nigerians now living on the Peninsula were given opportunity to determine their citizenship and many remain Nigerian as they associated with Nigerian from time immemorial. (Borzello, Anna 2004). It was therefore not surprising that Nigerians followed the whole process with keen interest to its judicial conclusion, and also let out their emotions and views on the pronouncement of the ICJ ruling despite the Nigerian government reluctant nature over the dispute in the initial phase. (Tomwarri 2009)

### **TRENDS AND PERSPECTIVES OF THE NIGERIA AND CAMEROON DISPUTE**

Nigeria and Cameroon have disputed the possession of Bakassi for many years, leading to considerable tension between the two countries. In 1981, the two countries went to the brink of war over Bakassi and other areas around Lake Chad, at the other end of the two countries' common border. More armed clashes broke out in the early 1990s. In response, Cameroon took the matter to the international Court of Justice on 29 March, 1994 (Irin news.org).

The case was extremely complex, requiring the court to review diplomatic exchanges dating back over 100 years. Nigeria relied largely on Anglo-German correspondence dating from 1885 as well as treaties between the colonial powers and the indigenous rulers in the area, particularly the 1884 Treaty of Protection. Cameroon pointed to the Anglo-German treaty of 1913, which defined spheres of control in the region, as well as two agreements signed in the 1970s between Cameroon and Nigeria. These were the Yaounde II Declaration of 4 April, 1971 and the Maroua Declaration of 1 June, 1975, which were devised to outline maritime boundaries between the two countries following their independence. The line was drawn through the Cross River estuary to the west of the peninsula, thereby implying Cameroonian ownership over Bakassi. However, Nigeria never ratified the agreement, while Cameroon regarded it as being in force.

Bakassi is the peninsular extension of the African territory of Calabar into the Atlantic Ocean. It is currently ruled by Cameroon following the transfer of sovereignty from neighbouring Nigeria as a result of a judgement by the International Court of Justice on 22 November, 2007.

The peninsula lies roughly between latitude 4<sup>0</sup>25' and 5<sup>0</sup>10'N and longitudes 8<sup>0</sup>20' and 9<sup>0</sup>08'E. It consists of a number of low-lying, largely mangrove covered islands covering an area of around 665 km<sup>2</sup>. The population of Bakassi is the subject of some dispute, but is generally put between 150,000 and 300,000 people. (ICJ Report 2002)

Bakassi is situated at the extreme eastern end of the Gulf of Guinea, where the warm east-flowing Guinea Current (called Aya Efiat in Efik) meets the cold north-flowing Benguela Current (called Aya Ubenekang in Efik). These two great ocean currents interact creating huge foamy breakers which constantly advance towards the shore, and building submarine shoals rich in fish, shrimps, and an amazing variety of other marine life forms. This makes the Bakassi area a very fertile fishing ground, comparable only to Newfoundland in North America and Scandinavia in Western Europe. Most of the population makes their living through fishing. (Mbuh 2004)

The peninsula is commonly described as "oil-rich", though in fact no commercially viable deposits of oil have yet been discovered. However, the area has aroused considerable interest from oil companies in the light of the discovery of rich reserves of high grade crude oil elsewhere in Nigeria. At least eight multinational oil companies have participated in the exploration of the peninsula and its offshore waters.

A kingdom was founded in Bakassi around 1450 by the Efik of coastal southeastern Nigeria, and was incorporated within the political framework of Calabar Kingdom along with Southern Cameroons. During the European scramble for Africa, Queen Victoria signed a Treaty of Protection with the King and Chiefs of Calabar on 10 September, 1884. This enabled the United Kingdom to exercise control over the entire territory of Calabar, including Bakassi. The territory subsequently became *de facto* part of the republic of Nigeria, although the border was never permanently delineated. Interestingly, even after Southern Cameroon voted in 1961 to leave Nigeria and became a part of Cameroon, Bakassi remained under Calabar administration in Nigeria until ICJ judgement of 2002 (Omoigui, 2002).

Bakassi people are mainly the Calabar people, the people of Cross River State and Akwa Ibom State of Nigeria, including the Efut, Efik, Ibibio, Annang, etc. Bakassi though is currently administered by Cameroon after the end of Nigerian occupation yet the current Monarch of Bakassi is Etinyin Etim Okon Edet is a Nigerian (Irin, 2007).

#### **International Court of Justice (ICJ) verdict**

The ICJ delivered its judgement on 10 October, 2002, finding (based principally on the Anglo-German agreements) that sovereignty over Bakassi did indeed rest with Cameroon. It instructed Nigeria to transfer possession of the peninsula, but did not require the inhabitants to move or to change their nationality. Cameroon was thus given a substantial Nigerian population and was required to protect their rights, infrastructure and welfare (Anekwe, 2002).

The verdict caused consternation in Nigeria. It aroused vitriolic comments from Nigerian officials and the Nigerian media alike. Chief Richard Akinjide, a former Nigerian Attorney-General and Minister of Justice

who had been a leading member of Nigeria's legal team, described the decision as "50% international law and 50% international politics", "blatantly biased and unfair", "a total disaster", and a "complete fraud". The Nigerian newspaper *The Guardian* went further, declaring that the judgement was "a rape and unforeseen potential international conspiracy against Nigerian territorial integrity and sovereignty" and "part of a Western ploy to foment and perpetuate trouble in Africa". The outcome of the controversy was a *de facto* Nigerian refusal to withdraw militarily from Bakassi and transfer sovereignty. (Eddy, and Juliana, 2002).

#### Countdown

- *By 14 votes to 3, the Court rejected Nigeria's first objection that the Court has no jurisdiction to entertain Cameroon's Application....*
- *By 16 votes to 1, the Court rejected Nigeria's second objection that for many years prior to the filing of the Application, Cameroon and Nigeria had in their regular dealings accepted a duty to settle all boundary questions exclusively through the existing bilateral machinery....*
- *By 15 votes to 2, the Court rejected Nigeria's third objection that the settlement of boundary disputes within the Lake Chad region is subject to the exclusive competence of the Lake Chad Basin Commission....*
- *By 13 votes to 4, the Court rejected Nigeria's fourth objection that the Court should not in these proceedings determine the boundary in Lake Chad to the extent that that boundary constitutes or is constituted by the tripoint in Lake Chad where the frontiers of Cameroon, Chad and Nigeria meet, because it directly affects the Republic of Chad, a third party....*
- *By 13 votes to 4, the Court rejected Nigeria's fifth objection that there is no dispute concerning boundary delimitation as such throughout the whole length of the boundary from the tripoint in lake Chad to the sea, subject, within Lake Chad, to the question of the title over Darak and adjacent islands, and without prejudice to the title over the Bakassi Peninsula....*
- *By 15 votes to 2, the court rejected Nigeria's sixth objection that there is no basis for a judicial determination that Nigeria bears international responsibility for alleged frontier incursions, because the material submitted by Cameroon is insufficient in order to enable it to defend itself and to enable the Court to make a fair judicial determination of the legal issues before it....*
- *By 12 votes to 5, the Court rejected Nigeria's seventh objection that there is no legal dispute concerning delimitation of the maritime boundary between Cameroon and Nigeria which is at the present time appropriate for resolution by the Court, because no maritime boundary determination is possible prior to the determination of title over the Bakassi Peninsula and, in any event, bilateral negotiations to effect a delimitation by agreement have not taken place. ( <http://www.icj-cij.org> in Peter H.F. Bekker, 1998)*

#### X-RAYING THE FRAGILITY OF INTERNATIONAL SYSTEM AND THE LAW

The international system is conflict-oriented and war prone. The Nigeria and Cameroon claim over Bakassi peninsula is one of such international conflicts intervened by the international Court of Justice (ICJ) through the court adjudication and interpretation of the international law that is often referred as weak and can be flouted by nations at will.

While in the pre-classical years of the formation of international law, international law was known as the law of nations. But through the world of Jeremy Bentham who first used the word "international law" in 1780, the term "Law of Nations" or "*droit de Jense*" was replaced by the term "International Law." Since then international law has undergone series of transformation, which are not without any effect on its definitions. Thus, international law has broken from its scope to a more encompassing one, so much so that international law refers to those rules and norms which regulate the conduct of states within the international system (Bazuaye and Enabulele, 2006: 1).

Similarly, international law is that body of laws comprising the principles, rules and regulations to which states adhere or are forced to adhere to, and as such are commonly observed by the states of the international community in their relationship with one another. It is said to have widened with the Treaty of Westphalia in 1648 which marked the end of the Thirty Years War that granted freedom and basic rights to the hitherto oppressed nations of Europe (Orobator, 2004: 2). International law is a body of rules, principles and standards by which all free nations abide by consensus and if and when violated could attract some measure of international reaction and sanctions. Yet it does not necessarily guarantee international peace, but it could help to ameliorate a would be dangerous situation. Thus, as noted by Orobator (2004: 5).

*The raison d'être of international law is to form a framework within which international relations can be conducted and to provide a system of rules facilitating international intercourse. It is, of course, true that the ideal of international law must be a perfectly legal system in which war will be entirely delimited, just as the ideal of municipal law is a*

*constitution and legal system so perfect, that revolution, revolt, strikes, etc. can never take place and every man's right are speedily, cheaply and infallibly enforced.*

A lot of controversies have arisen as par the true nature of international law. Some theorists like the English writer, John Austin (1790-1859), have argued that "International law is no true law, but "a code of rules of conduct of moral force only". Austin maintained that law is essentially a collection of edicts issued by a recognized sovereign authority, without which such edicts could not be legally binding and hence could be easily flouted. Thus, international law, according to Austin, was not true law since it was made up of rules almost exclusively customary "international morality" similar to the rules governing clubs or societies, which he likened to "opinions or sentiments current among nations generally." (Bazuaye and Enabulele, 2006).

Other scholars like Harts Herbert contends that even if international law is not "law" in the strict sense in which Bentham used the term, it is closely analogous to it. It is similar to law in function (being different from morality) and content (its principles, concepts and methods), but not in its form, since it does not have a significantly developed system of secondary rules.

*Bentham, the inventor of the expression "international law" defended it simply by saying that it was sufficiently analogous to municipal law. To this, two comments are perhaps worth adding. First, that the analogy is one of content not of form. Secondly, in this analogy of content, no other social rules are so close to the municipal law as those of international law (Hart Herbert, 1961: 231).*

Other theorist also argued that in modern historical jurisprudence, the absence of formal legislative authority does not prevent a system of law from being enforced and obeyed.

In modern times, a lot of international legislations resulting from law making, treaties and conventions has come into existence and that the procedure for enacting these rules of international legislation notably through international conferences or existing international organs is as settled if not as effective as any state legislative procedure.

Problems of international law are treated as legal problems by those who conduct international business and not simply as a matter of moral code. According to Sir Frederick Pollock;

*If international law were only a kind of morality, the framers of state papers concerning foreign policy would throw all their strength on moral argument. But as a matter of fact, this is not what they do. They appeal not to the general feeling of moral rightness, but to precedents, treaties, and to opinions of specialists. They assume the existence among statesmen and publicists of series of legal as distinguished from moral obligations in the affairs of nations (cited in Akpotor, 2004:5).*

The relevance of international law in the modern international system is best demonstrated in the constitution of the United States of America Article VI paragraph ii which recognizes treaties as the "supreme law of the land". To this end, Orobator (2004:9) contends that:

*International law is part of our law and must be ascertained and administered by the courts of justice of appropriate jurisdiction as often as questions of right depending upon it are duly presented for their determination.*

International law is said to have weakness of its law enforcement mechanisms. The inability of international community, to sanction the United State of America over the invasion of Afghanistan and Iraq is a clear example (Bazuaye and Enabulele, 2006:5).

Assessing the fragility of international system and international law reminds one of proverbial glass filled to mind-level with water. To the pessimist the glass is half empty, and to the optimist it is half full. The reality of international law allows us to see considerable failure and success. International law is inadequate when states are in serious conflict, and leaders regard force as a viable option (Henderson, 1998: 376). This was where many Nigerians including some members of the National Assembly came down heavily on the Nigerian government for failing to act over the Bakassi issue.

Realist paragon, Hans Morgenthau, recognizes that many states, in their normal business, regularly follow international law, but he views this law as weak, primitive, and decentralized concerning enforcement. Morgenthau finds that international law cannot effectively regulate the pursuit of power by states, a failure shown in the histories at the League of Nations and the United Nations (Morgenthau, 1986: 281).

States can shift from non-coercive, to coercive means. If they choose to in the self-help centuries old tradition of customary law, thus tradition emerged because international law is primitive law, meaning a central government for enforcement is absent. Self-help enforcement can amount to simple acts of retorsion, acts that are legal, though unfriendly such as breaking-off diplomatic relations, or self-help can involve a naval blockade

or military intervention to protect property and citizens on another state's territory (Morgenthau, 1986: 371).

According to Walter Jones, International law is a law that governs relations between independent states. The rule of law binding upon states therefore emanate from their own free will as expressed in conventions (treaties) or by usage generally accepted as expressing principle of law established in order to regulate the regulations between these co-existing independent communities or with a view to the advancement of common aims. Restrictions upon the independent states cannot therefore be presumed (Jones, 1996: 339-340).

However, the knowledge gap to fill is the international law which is too remote, suspended and strange to individuals, and once it impinges on individual, it generates a high level of domestic reactions over the source of sovereignty under which the law operate, legitimate and enforceable. Individuals are prone to their municipal laws that governed them; they adhered to it, with every sense of humility and cooperation. This is because they grow with it, it is people-oriented, and has regulated their conduct and daily national lives over the years.

It is from this point of view that the impact of international law on individual is viewed as an intrusion into the life of individuals. The international law is barely a law to regulate the conduct, and behaviour of states in the international system. Hence it faces condemnation and criticisms as it affect individuals from an independent country.

In the case of the ICJ ruling on Nigeria and Cameroon dispute over the ownership of the Bakassi Peninsula, the effect of the ruling penetrated the Nigerian government as a sovereign state to its citizens as a result of the Nigerian state's failure to defend, protect and aggressively pursue its core national interest in the international system which motivated the severe Nigerian domestic reactions against the ICJ ruling and the Nigerian government that also accepted the ruling.

It is in this sense of direction that, the domestic reaction on the ICJ ruling seemed to have been considered as a duty performed by citizenry on the oversight functions of the Nigerian state to protect them, the territorial integrity and sovereignty of the state from external penetration and influence. This ought to have been part of the avowed core functions of the state within the international system which has been ignored resulting to the vehement protest of the individuals of the Nigerian state.

## **THEORETICAL ASSESSMENT OF NATIONAL INTEREST AND THE DYNAMICS OF INTERNATIONAL POLITICS**

The diplomatic and political interaction between the governments of different countries depends largely on the national interest of that particular country. **However, to provide understanding and the nexus of the national interest and international law and the determinants of Nigerian receptivity of international court of justice verdict on Bakassi peninsula dispute needs a theoretical frame work that is situated within realpolitik or realist theory.** The desire of realism as a choice of theoretical analysis is necessitated by its significance of filling a knowledge gap on the subject matter.

Realism or political realism is a school of thought that explains international relations in terms of power. The exercise of power by states towards each other is sometimes called *real politik* or just power politics. Realism developed in reaction to a liberal tradition that the realist called idealism which emphasizes international law, morality and international organizations rather than power alone.

The painful experiences of the First World War which lured the US President Woodrow Wilson and other idealists placed hope for peace in the League of Nations as formal structure for the community of nations. This hope was dashed when that structure proved helpless to stop German and Japanese aggression in 1930. After the 1930s, the realist blamed the idealist for depending too much on how it ought to be instead of how it really is.

Sobered by the experiences of World War II, realists set out to understand the principles of power politics by providing a theoretical foundation for Cold World War policies of containment and the determination of US policy not to appeal to the then Soviet Union and China. The Chinese realist and strategist, Sun Tzu argued that the moral reasoning was not very useful rulers who were faced with armed opposition and war. The realists assert that the capabilities of nations are crucial for the outcome of international conflict and a nation's ability to influence another's behaviour. Realist also try to assess national capability not only in terms of the military forces, but levels of technology, population, national resources, geographical factors, form of government, political leadership and ideology.

Realism emphasizes on power, that struggle between states to secure their frequently conflicting national interests are the main actions on the world state. Power determines which country prevails, among others, that politics is aimed at increasing power, keeping power or demonstrating power. Kautilya, Minister to the first Maurya Emperor of India wrote:

*"The possession of power in a greater degree makes a king superior to another, a lesser degree inferior and equal. Hence a king shall always endeavour to augment his own power"*  
(Rourke and Boyer, 2003:15).

Realists (most of them) subscribe to the concept of the balance of power as important regulatory

device to deter international hegemony. Moral principles, the realists assert, cannot be applied to political actions. According to the realists, politics is not a function of ethics. Therefore, morality exercised by Nigerians is insignificant within the sphere of international politics. The role of the court and the green tree accord was an indirect appeal to temper the Nigeria's core national interest which they have succeeded. Hans Morgenthau, the realist scholar wrote that: "*An ubiquity of evil in human actions inevitably turns churches into political organizations, revolutions into dictatorship and love of country into imperialism*" (Rourke and Boyer, 1993:22).

Nigerians inhabited the Bakassi peninsula from time immemorial and also possess the required power to sustain it. Claim it, and defend it as part of Nigerian territory, but lacked the vision, and selfish politics has made Nigerian to compromised this core national interest to subjective uncertainty by appearing in the World Court with Cameroon. It is this singular action of the Nigerian government that provided foundation for questions such as who actually owns Bakassi? Why has Nigerian inhabited before now, why Cameroon went to court? And how court adjudicated? Why the handing over process was faced complexities on August 14, 2008, and whose citizens have reacted to the ICJ ruling?

Nigerians may have possibly owned Bakassi today if they had adhered to the realist concept of international policies. Realism asserts that, power is the primary end of an action, whether in the domestic or international arena. In the domestic arena, politicians do, or should strive to maximize power, whilst on the international stage, nations or states are seen as the primary agent that maximize or ought to maximize their power (Brooks, 1997: 51).

Nigeria has the power to sustain her occupation in Bakassi Peninsula and could possibly balance the Cameroonian in terms of power politics. There was no excessive power pressure on them to evacuate from the region. According to Realist scholars, while observing the relative power among Greek states wrote thus; "*The strong do what they have power to do and the weak accept what they have to accept.*" In fact the inability of Nigeria to appreciate their core national interest that they accepted to appear in the international court with Cameroon for a subjective uncertainty.

States exist because they are strong. To ensure their survival, states must make preservation or improvement of their power, a principal objective of their foreign policy, and since power ultimately is the ability to wage war, states have always emphasized the building of military establishments as the world became more densely populated, nations encroached upon each other country's geographic location. Morgenthau asserts that:

*"Moral principles should only have a place in the heart of individuals in sharpening his own conduct whether as a citizen or as a government official. Rules governing personal morality are not necessarily adequate criteria for foreign policy decision."* (Morgenthau 1998)

The Nigeria and Cameroon conflict bothers on core national interest that is sacrosanct, it requires protection with power maximization rather than moral ethics.

*"It is unconscionable for a state to follow policy based on morality because while the individual has a moral right to sacrifice himself in defense of a moral principle, the state has no right to let its moral disapprobation..... get in the ways of successful political action, itself inspired by the moral principle of national survival"* (Morgenthau, 1986: 39).

Murray (1998: 58) argued that, the highest moral duty of the state is to do good for its citizens. Morality does not hold sway in global politics, but power and *primus inter pares*, if not an outright survival of the fittest.

## **NIGERIA'S NATIONAL INTEREST AND INTERNATIONAL LAW**

The generally acceptable view is that national interest is a manifestation of the core values, objectives and philosophy underlying the actions of the leaders. Whereas the *grundnorm* provides a veritable basis for the collective actions of leaders the preferences, predilections and sentiments of leaders. There are two schools of thought on the subject matter of national interest: namely the subjectivist and the objectivists. The objectivists' school argues that "the best interest of a state is a matter of objective reality (Zartman, 1986 in Idumange 2010) which Nigerians deserved for an holistic protection of the state

According to Aluko (1981) Nigeria's national interest consist of six important elements in order of priority. These include:

1. Self-preservation of the country;
2. Defense and maintenance of the Country's independence
3. Economic and social well being of the people
4. Defense, preservation and promotion of the ways of his especially democratic values
5. Enhancement of the country's standing and status in the world capitals in Africa, and
6. Promotion of world peace.

The first three are core national interest and they are not compromised irrespective of the

administration (*Aluko 1981*). The Nigeria and Cameroon dispute is situated within the Nigeria's core national interest and requires a high spirited and bold realist approach in the dispute to secure the territory for Nigeria.

The Bakassi being one of the local government areas in Cross-Rivers state of Nigeria is one of such core national interest to Nigeria. Therefore the ceding of the Bakassi Peninsula to the Republic of Cameroon is a serious deviation from the core objective national interest of Nigeria, which Nigeria have compromised to a political afflicted and weak international law that has no binding and enforcement mechanism. On international law, *Walter Jones argued that:*

*International law is a law that governs relations between independent states. The rule of law binding upon states therefore emanate from their own free will as expressed in conventions (treaties) or by usage generally accepted as expressing principle of law established in order to regulate the regulations between these co-existing independent communities or with a view to the advancement of common aims. Restrictions upon the independent states cannot therefore be presumed (Walter 1996: 339-340).*

Considering that international law is weak and there is no world legislature to make international law and no global authority to enforce it, it comes as no surprise that many states regularly flout international law when it runs counter to their national interests. In 1984, for instance, the government of Nicaragua (then ruled by the Soviet-backed Sandinista regime) won a unanimous decision from the International Court of Justice supporting its contention that the U.S. government's support of anti-Sandinista contra rebels and mining of Nicaraguan Harbors violated international law. But the United States simply ignored the ruling. When Nicaragua took its claim to the UN Security Council, the United States vetoed its consideration (Drinan Robert F. 1987) such flat grant disregard for international law reinforces the widespread notion that it rarely works. (Spiegel and Wehling 1999:380). Therefore, several possibilities were or are on ground for Nigeria reclamation bid on the Peninsula, borrowing a leaf from the United Nation's action. This is necessary as the peninsula is crucial to Nigeria.

#### **THE PENINSULA AND ITS SIGNIFICANCE TO NIGERIA**

Bakassi was one of the local Government Area in Cross River, although the people of the area have not felt the presence of the Nigerian government in terms of social infrastructure and amenities, yet, they strongly held their allegiance to Nigeria, as their motherland.

The Nigerians in Bakassi are predominantly fishermen and the areas provide a vast territory for fishing activity and other resources of the sea yet tapped. The area can be a major source of meeting domestic (Nigeria) fish supply and also export to other parts of the world.

The area is of critical strategic concern to Nigeria. It is situated along the sea route to Calabar port, which is very crucial for merchant and naval shipping. The Bakassi peninsula has the sea Lane of communication (SLOC) for the Eastern Naval command. It also provides access to the entire South Atlantic Ocean.

Bakassi peninsula has vast oil resources, which have not been tapped yet; Nigeria's economy heavily relies on oil as the major source of revenue and foreign exchange. Exploiting the oil of the peninsula will mean additional resources for the country.

Nigeria is surrounded by francophone countries. France is Nigeria's competitor in west Africa and has done all it could to destabilize Nigeria's influence in the sub-region. The ceding of Bakassi Peninsula is not only a slight on Nigeria by a small neighboring country, but also allowing the advancement of French imperialistic adventure in the sub-region. (Briggs D.A & Musa e Umar 2005:183-184)

#### **THE CEDING AND THE NIGERIANS DOMESTIC UPROARS**

The Nigerian Senate rejected the transfer at first instance, since the Green Tree Agreement ceding the area to Cameroon was contrary to Section 12 (1) of the 1999 Constitution (Terry D. et al., 2003). Regardless, the territory was formally transferred to Cameroon on August 14, 2008 which is a reflection to the fact that bad, selfish, weak and fearful leadership style recruited Nigeria as a toy in the international politics were power play is the essence of state existence, because the international arena is considered to be an arena of the survival of the fittest

According to Akinjide, we must accept that, that ICJ judgement is 50 percent international law and 50 percent politics. He buttressed that as far as the case between Nigeria and Cameroun was concerned, the dispute was really between Nigeria and France. Cameroun was just the proxy for France. There is no doubt that in law and in fact that Bakassi belongs to Nigeria because that is supported by a lot of documentary evidence, which were tendered before the court. But which the court ignored... 'You don't ask somebody to transfer to you what belongs to you' he concluded that the judgement of the ICJ is a complete fraud and unacceptable... If indeed Bakassi belongs to Cameroun, how can Cameroonians be asking Nigerian to transfer it to them. (Akinjide, Newswatch, November 4, 2002). According to him, "the judgment of the ICJ on Bakassi was a travesty of

justice, it was a great injustice which started in 1913 and which is being perpetrated now under the guise of ICJ.” After the ICJ ruling and the rejection of the judgement by the Nigerian government, several people across the country and beyond have been expressed their views on a live debate in the *Nigeriaworld.com website*,

According to Kayode Oladele, Besides the inherent foreign affairs power of the president, he also has authority under the United Nations Charter which gives the president the power to decide whether Nigeria will comply with an ICJ decision. Though the UN Charter also requires signatory nations like Nigeria to comply with World Court decisions when the nation is a party in a case decided by that tribunal.

The Bakassian leaders also threatened to seek independence if Nigeria renounced sovereignty. This secession was announced on 9 July, 2006, as the “Democratic Republic of Bakassi”. This decision was reportedly made by groups of militants including Southern Cameroons under the aegis of Southern Cameroons Peoples Organization (SCAPO), Bakassi Movement for Self-Determination (BAMOSD), and the defunct Movement of the Emancipation of the Niger Delta (MEND) (Azore, and Francis, 2008).

Several reactions were directed at former military head of state, General Yakubu Gowon and its Maroua Accord, but he consistently denied Maroua Accord and said “How can somebody who fought hard to keep Nigeria one and united, give a part of it to another country” General Yakubu Gowon.”

According to Lord Denning (January 23, 1899 – March 5, 1999), Justice must be rooted in confidence, and confidence is destroyed when right-minded people go away thinking. The judge is biased and there will not be any requirement for Nigerian nationals to move from where they are living at present and went further that, the judgement will have no effect on Nigeria’s oil and natural gas reserves and warned that “On no account will Nigeria abandon her people and their interests.

General Victor Malu, former Army Chief of Staff was angry at the enormous monetary cost incurred by the Richard Akinjide-led legal team that prosecuted the Bakassi issue at the ICJ. He explained that since Akinjide has been presenting Nigeria at the ICJ, he was in the best position to advice government on what to do, since he has represented Nigeria on the Bakassi issue for several years but failed unravel hopeless nature of the case and advise the government to withdraw the case at the right time? (Victor Malu, Daily Trust, 2007).

Director General of the National Boundary Commission, NBC, Alhaji Sadiq Diggi, said that Nigeria has also benefited from the ICJ verdict and that no amount of opposition would stop the transfer of Bakassi to Cameroun which is a fait accompli. He argue that the ICJ verdict was a good omen to the country. According to him, “in Adamawa State alone, Nigeria gained minimum 60 square kilometres of additional land which was not available to Nigeria and in fact in Taraba State, Nigeria also gained 75 square kilometres, and in addition other small number of square kilometres, Nigeria gained minimum of about 90 square kilometres extra land from the esttlement (Daily Trust, 2007).

A lot of people were troubled on why the indigenes of Bakassi were not invited as defense witnesses **(Mike Chinedu Anekwe, 2002)**.

According to Aham Njoku a lawyer and Director of constitutional watch, the ICJ ruling is another form of neo-colonialism by the imperialist forces. It is as reprehensible as it is anachronistic. “the constitution of that court (ICJ) and the voting pattern of its members clearly show that its decisions are reached not based on the merit of each case but by lobbying which is tainted with political undertones.” But, by making appearance at the court, we have impliedly subjected ourselves to whatever ruling it may deliver. Hence, the “rule of law” has to take its course. “The law must take its course even if the heavens fall” the law, they say, is an ass.

Olisa Agbakoba (SAN) also maintained that the judgement is enforceable. “Nigeria should brace up to the fact that she has been confronted with a judgement that not only is it enforceable but in fact, is one whose enforcement is probably imminent.” The lawyer disclosed, Article 36 of the Charter enjoins the ICJ to exercise what he described as “compulsory jurisdiction,” thereby empowering the court to deliberate on any dispute referred to it by parties for resolution.

Chief Arthur Mbanefo (Odu of Onitsha) and the Nigerian Representative to the United Nations said: “Nigeria is bound by the UN Charter; Nigeria cannot reject the judgement as a member of the UN.

Obi a Nigerian in USA opined that the decision is totally unfair especially being based on some colonial document from time immemorial. He cannot but smell politics involved in this decision, which has come at a time when the western world is increasingly looking at West African oil as an alternative source of energy. Considering the Nigerian soldiers that died defending the peninsula, it is particularly insulting and Nigerians should demand some form of major compensation from our Cameroonians brothers.

Femi Oyesanya from Nigeria argue that since the decision of the court was based mainly on colonial treaties, it does not hold. Land titles existed prior to this time. Obasanjo should not have ceded an inch of Nigerian land to legal victories based on colonial documents. His actions are tantamount to a national traitor!

Olu Holloway a Nigerian in USA noted that the ceding is a painful decision but peace preferred to war anytime. He is hopeful that this will make Nigeria a stronger nation through choosing arbitration over war.

For Philip, Nigeria, the ICJ’s decision will lead to further instability between Nigeria and Cameroon. He is totally against it. He was being hurts as a Nigerian and it ridicules us as Africans.



According to Dapo Akande a Nigeria, reminds that it is essential that Nigerians who feel it was wrong of the court to base its decisions on colonial treaties to know that African states have long accepted the principle that the boundaries of African states are those which were inherited from the former colonial powers. This principle of stability of boundaries, which was first accepted by the OAU in 1964, was felt to be necessary to prevent post colonial Africa descending into interminable conflicts on where the boundaries lie. Both Cameroon and Nigeria must be congratulated for settling this long running dispute in a peaceful way and in a manner which accords with international law.

Odu, Ifeanyichukwu Titus, Nigeria asked that “Is it proper that a French judge should head the panel of judges that handled this case? He argues that Gilbert Guillaume of France was biased in favour of Cameroon. The judgement cannot be seen as having been delivered beyond every bit of reasonable doubt?”

The ICJ has given the Bakassi Peninsula to Cameroon. The ICJ decision ensures a continuous supply of oil to the west by spreading oil ownership. In any destabilising event to Nigeria, there will still be some oil from Cameroon, meaning the oil market would not be as hard hit as it would if everything was in hands of Nigeria. The true winners of this ruling are the neo colonialists as represented by U.S. and its numerous oil companies.

According to Akanbi Gabriel a Nigerian in Germany insist that, Nigeria should not respect the ruling of the court. The only peaceful option is for both countries to conduct a referendum in Bakassi and allow the people living there to determine where they want to belong to. The ICJ cannot just decide for the people anyhow.

Steve Chyke, Nigerian in USA, reacted that Nigerians will learn bitterly lesson from this Kangaroon decision so that when next they elect a president, they choose a man of resourceful intellect who will understand the colonial thoughts and agenda of France, Britain and their cohorts when it comes to African affairs.

Jonathan Elendu is of the view that this case should not have gone to the courts in the first place. The Government of the Federal Republic of Nigeria should have used every means at its disposal to settle this matter outside the judicial system. He wondered if the managers of our foreign policies in the past two-and-a-half decades had any vision as to what our role in the world and Africa should be? We cannot claim to be the giant of Africa, and yet constantly leave ourselves at the mercy of every other government around the globe For Dr. Fred Aja Agwu, a research fellow at the Nigerian Institute of International Affairs (NIIA) pointed out that the ceding of the Bakassi Peninsula to Cameroon is a process that cannot be reversed.

*“Bakassi has been lost; it was lost because of our own bad politics. There is no amount of legislative intransigence to change what has been done, the Nigerian government mis-managed Bakassi, so all this talk as to whether Bakassi should be ceded or not is like flogging a dead horse.”*

According to Agbo, the cede was a heart rendering one for the Bakassi people that lived at Archibong West, their ancestral home for centuries.

Professor Auwalu Yadudu, a constitutional lawyer, faulted the manner in which the ceding of Bakassi was carried out by Obasanjo. Yadudu who was a legal adviser to General Sani Abacha reacted that Nigeria started on a wrong footing, following a declaration by Obasanjo that Nigeria would abide by the decision of the court. Abacha did protect Bakassi, why Obasanjo cannot do the same thing,

As the reactions intensified, Secretary-General Kofi Annan stepped in as a mediator and chaired a tripartite summit with the two countries’ presidents on 15 November, 2002, which established a commission to facilitate the peaceful implementation of the ICJ’s judgement. A further summit was held on 31 January, 2004. This has made significant progress, but the process was made complicated by the opposition of Bakassi’s inhabitants that rejected being transferred to Cameroon (Gilbert, C., 2006). Regardless, the territory was formally transferred to Cameroon on August 14, 2008 (BBC News 2008)

## CONCLUSION

International law, boundary dispute and redistribution of territory between Nigeria and Cameroon on Bakassi Peninsula: limits and possibilities for Nigeria” provides an understanding of the workings and contradictions of the international system, with the United Nations Organization and its organ charged with the responsibility of adjudicating over international dispute among states and nations. The verdict of the court in the Nigeria-Cameroon boarder dispute indicates the weakness and the utility of international law in maintaining global peace and security especially when it impinges on individual. For the public to condemn the ruling and also pointing out the gray areas on both the international law and the ICJ is an indication that the judgement is unacceptable to the Nigerian domestic population. However, this counted for the reasons of the several domestic reactions against the ICJ ruling and the Nigerian government that failed to appreciate its core national interest and subsequently compromised it through the ICJ verdict. It is ridiculous for Nigeria to cede over 63 villages and its inhabitants to Cameroon in line with the ICJ ruling of 10th October, 2002

In a complex and dynamic world system like ours, the role of state to protect its territorial integrity and other

national issues of interest is crucially inevitable. With the international system that is characterized by violence, diversity, religious and ideological differences, nation state requires careful foreign policy objectives and its implementation, since world politics involves a high level of antics and power demonstrations.

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