

Nigeria, Cameroon and the Bakassi Territorial Dispute Settlement: The Triumph of Bilateralism

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Abstract

This paper dwells on the subject of the application of bilateral negotiations in the resolution of disputes/conflicts, taking the Nigeria-Cameroon dispute over Bakassi as a case in point. It blends perspectives on the bilateralism/negotiation approach with the reality of this case and argues that alternative dispute resolution forms, in this instance, its facilitated negotiation, led to ultimate resolution. Given that dispute/conflict resolution seeks to find solutions acceptable to parties to achieve peaceful coexistence, the question arises as to whether the ICJ's ruling in itself was able to amicably resolve this case? The answer is that the Judgment of October 2002 did not lead immediately to settlement, rather it engendered defiance and ambivalence from Nigeria, leading subsequently to the intervention of stakeholders in the international system, especially Western countries, and particularly the UN and its then Secretary-General, Kofi Annan, who galvanized the UN machinery to institute direct bilateral talks between Nigeria and Cameroon to thrash out their differences. The emergent Mixed Commission and the Greentree Agreement of 2006 ensured the achievement of reconciliation, lasting peace and final resolution along the lines of the ICJ's ruling of 2002.

Introduction

Brierly (1963) says that the problem of effecting the peaceful settlement of a dispute between two states admits of two alternative methods of approach. He informs that we may either induce the disputing parties to accept terms of settlement which are dictated to them by some third party, or we may persuade them to come together and agree on terms of settlement for themselves. This intellectual argument intersects with the manner of settlement of the territorial conflict between Nigeria and Cameroon over the Bakassi Peninsula between 1994 and 2008. Within this period, the dispute passed through the above recognized lines of dispute resolution from adjudication through to finally a negotiated process of settlement. This last phase of negotiated settlement is of particular interest in the light of the understanding that it came after terms of resolution of the dispute had been handed down to both parties earlier by an impartial arbiter, in this case, the International Court of Justice (ICJ), through its Judgment on the matter of October 2002. This paper therefore concentrates on the application of diplomatic means, understood here as bilaterally negotiated procedures that eventually and finally resolved the Nigeria and Cameroon dispute over the Peninsula. The central question here is that, did the ICJ ruling in itself elicit instant resolution of the dispute? The answer is no, rather, it took six years of diplomatic efforts before final settlement could be achieved in 2008.

The Bilateralism Discourse

The discourse on the place and role of diplomacy as an alternative and at the same time complementary mechanism to adjudication in the settlement of disputes is robust. Generally, the central theme is the interaction and link between diplomatic and judicial means of settling international disputes. The understanding is that, there is a synergy between the two forms when applied, suggestive of the fact that the application of one is not totally exclusive of the other. The use and efficacy of the diplomatic means in the resolution of disputes has received excellent formulation in the views of several exponents. For instance, according to Collier (1996), more than ninety-nine percent of international disputes must be settled in the end by negotiation. Similarly, Berridge (2005: 121-122) in underscoring the importance of bilateralism says that 'bilateral diplomacy is...relevant in the contemporary world in that usually when negotiations take place, it is much easier on a face to face basis whereby leaders do come together and discuss issues of importance...'. In the same vein Allee and Huth (2006) in explaining the merits of bilateralism in dispute resolution offers that the two sides to a dispute have the flexibility to fashion out their desired terms of settlement, and at the same time exercise considerable control over the settlement outcome, by negotiating directly. They add further that in direct negotiations, both sides can also control, at least in part, the information concerning the bargaining process, and the timing of final settlement.

Vinuales and Bentolila (2012) apprise us of the interaction between judicial and non-judicial means of enforcing investment awards in explaining the diplomatic alternative for dispute resolution. They furnish us with

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the use of diplomatic exchanges and manoeuvres in the amicable settlement of disputes citing the examples of *Aucoven v. Venezuela*, where Mexico, the home state of the former, took a number of diplomatic steps to facilitate a peaceful resolution of the dispute by meeting with Venezuelan government officials to work out viable and mutually acceptable modalities for settlement. Other instances referred to where such an approach was applied are given as the *Petrobart v The Kyrgyz Republic* and the *Azurix v. CMS* cases. Also, Brownlie (2009) in identifying and explaining the varieties of instruments apart from adjudication in the peaceful settlement of international disputes offers that, the first and classical mode of settlement is negotiation, which involves a direct and bilateral process. Emphasizing its synergy with adjudication, he adds that negotiation can produce a settlement in accordance with legal criteria or with a combination with both legal and political criteria. Like Brownlie, Dinkle (2011) also characterizes diplomacy as the most ancient form of alternative dispute resolution mechanism. He avers that it involves bringing together parties to a dispute in order to arrive at a meaningful conclusion for both without violence using negotiation instead of weapons.

For Rupesinghe (1995) the failings of the rationalist traditional and linear approach to dispute mitigation calls for alternative mechanism. Consequently, he advocates for multi-track diplomacy, which he articulates as a better model to address the underlying causes of modern conflicts, conflicts which he says are more diverse and intra-state in character following the demise of bipolarity in the late 1980s. The notion here is that, given that modern conflicts are diffused and multi-layered, mitigation should be designed along several diplomatic tracks. What is clear in Rupesinghe's articulation, despite his cynicism towards linear diplomacy, is that diplomacy, whether linear or multi-track is essential for the construction of a cohesive framework for preventive action and conflict/dispute resolution. The importance and use of multi-track diplomacy in dispute resolution is also supported by Akin and Brahm (2005). They posit that Third parties in Track 1 and Track 11 diplomacy can provide several different roles in the de-escalation of conflicts, by playing the role of mediator, initiate negotiation, generate support for an agreement, and reach and sustain agreements so as to prevent conflicts from occurring.

On her part, Carrie Menkel-Meadow (2012) brings to our understanding the fact that all of the basic and foundational processes of conflict resolution, including negotiation, mediation, arbitration, adjudication, fact-finding, conciliation, enquiries, complex multi-party consensus-building, and public policy formation and negotiation have been and are being utilized in ...dispute resolution. She opines that these processes are applied in private, public and hybrid environments of dispute and conflict resolution.

Clearly, from the preceding, we can extrapolate an understanding of the importance and usefulness of the diplomatic mechanism as a veritable part of the dispute resolution process, which taking aside the legal forms of arbitration and adjudication, involves, negotiation, mediation, and the use of Good Offices, forms which were employed prominently in the resolution of the subject under review.

The Nigeria-Cameroon Dispute in Context

Nigeria and Cameroon have had strained relations over the years as a result of differences concerning their shared border, especially the 2,300 kilometers land boundary extending from Lake Chad to the Bakassi Peninsula, as well as the maritime aspect located in the Gulf of Guinea. The issues at stake had always been about arriving at a clear and acceptable delineation of the boundary from North to South as well as rights over the oil-rich Bakassi Peninsula and sea reserves, and the fate of local populations along the stretch of the border.

With regard to the Bakassi Peninsula, Osita Eze (2007:2) says that 'the issue of its ownership has been a protracted dispute that had involved several attempts by leaders and representatives of both countries to resolve it.' In the same vein, Ate (1992) offers that 'in one form or the other, the dispute has engaged the attention of almost all Nigerian governments since 1960.' Indeed, it is instructive to note that over the years the claims by both countries to the Peninsula have engendered tensions to the extent that in 1981 the two countries were almost at the brink of war. This scenario was to play out again in the 1990s as Nigerian and Cameroonian troops clashed severally (Baye 2010) eventually leading to Cameroon's formal application to the ICJ to intervene in 1994. This section examines the different dimensions of the events associated with the contentious boundary between the two states, identifying the evolutionary trajectory of the dispute, and outlines the claims of ownership of the Peninsula by both sides prior to when the dispute came before the ICJ for adjudication.

Historical Antecedents to the dispute

The historical root of this dispute rests on European imperialistic designs of the 19th and 20th centuries, especially, the colonial enterprises of the Germans, the French and the British, and according to Anyu (2007: 41) 'the Bakassi Peninsula conflict is one of Africa's throwbacks to the colonial demarcation of the continent'. The Cameroons had been divided between Britain and France following its capture from Germany in 1916, and then subsequently held as a mandate of the League of Nations (Ntamarik 2002). Following World War II the Cameroons were administered as Trust Territories of the UN, with a Trusteeship agreement settled in December 1946. Until 1960, both the Northern and Southern Cameroons, were in fact administered as part of Nigeria; the Southern Cameroons as part of the Eastern Region of Nigeria until becoming a semi-autonomous region in 1954

and gaining full regional status in 1958, while the Northern Cameroons was governed as part of the Northern Region of Nigeria (Martin 2001: xxxvi).

Spheres of Influence

By 1884, British interest in the West African Coast had increased tremendously. Earlier in the 1830s in the spirit of the scramble for and partition of Africa, and with the need to establish footholds on her territories, Britain entered into a series of treaties with the Kings and Chiefs of various parts of the Guinea Coast (Eze 2007). This culminated in June 1884 of the signing of a treaty between the Kings and Chiefs of Old Calabar, placing their territories under the protection of Great Britain. According to Odje (2002) by September of 1884, other Kings and Chiefs of the region including Bakassi, signed similar treaties, acknowledging that their territories were subject to the authority of Old Calabar, hence, were therefore under British Protection. With these treaties, Britain brought together all these territories including Bakassi under her protectorate and exercised control over the entire territory around Calabar.

Within this same period the Germans also in their own imperial quest, proclaimed in June 1884 a protectorate over the Cameroon region after entering into several treaties with kings and Chiefs of the areas. At the Berlin Conference, under the principle of effective occupation of territories, the Germans notified other European powers of the extent of their Cameroon possessions. This conference also, recognized the validity of the British claim to the Bakassi area as the Oil Rivers Protectorate. So that, by 1893, Bakassi was part of the Niger Coast Protectorate, and by 1900 it became part of the Protectorate of Southern Nigeria (Odje 2002). Bearing this in mind, we see that events unfolded to reveal certain imperial formal arrangements, consonance with the practice at the time of colonial acquisition, between Britain and Germany, to settle whatever differences they had over the frontiers of their various spheres of influence. These arrangements were to later have profound effect on the status of Bakassi.

Anglo – German Arrangements

In keeping with the resolutions of the 1884/85 Berlin Conference on effective occupation of territories, both Britain and Germany moved on to reach several agreements in relation to their respective colonial possessions of Nigeria and Cameroon. Eze (2007) says that the first of such agreements designed to settle the line of separation between the activities of both powers in the area was the exchange of notes on April 29 and May 7, 1885. These exchanges, culminated in negotiations for the separation and defining of the spheres of action of Great Britain and Germany in those areas where the colonial interests of the two countries might conflict. Further agreements along the line defining boundaries of both powers in Africa, as presented by Nigeria in her Counter-Memorial at the ICJ include; the exchange of notes of July 27 and August 2, 1886, the one of November 15, 1893, supplemented by another agreement on March 19, 1906 (www.icj-cij.org/docket/index.php?p1=3&p2=3&k=74&case=94&code=cn&p3=11). It has been observed that in all these cases, as it affects the Nigeria – Cameroon boundary, the Bakassi area was placed within British sphere of influence (Eze 2007).

Perhaps the most significant of the various agreements between the two powers are the ones of 1913, (The Anglo-German Treaty of 1913). According to Omoigui (2012) the first of these agreements signed in London on March 11, 1913 covered the settlement of the Frontier between the two Powers from Yola in the North to the Sea as well as the regulation of the navigation on the Cross River. The second was signed at Obokun on April 12, by Hans Detzner, representing Germany and W.V Nugent, representing Britain. It is said that both agreements ‘addressed the precise demarcation of the Anglo-German Boundary between Nigeria and Kamerun from Yola to the Cross River’ (Nugent 1914: 630-651). Both agreements of March and April encompass the Treaty of 1913, and were to in future have direct bearing and impact on the dispute over the Bakassi Peninsula between Nigeria and Cameroon. Odje (2002) says that these agreements redefined the maritime boundary of Akpayofe River, placing the entire Bakassi Peninsula under German authority. In the same vein, Soremekun (1988; 221-222), as quoted by Babatola (2012) contends that ‘this new instrument of 1913 neutralized the British possession of Rio del Rey (Bakassi).’ Similarly, Eze (2008: 22) explains that the 1913 treaty drew from an earlier October 1906 Demarcation Agreement between Britain and Germany which extended the boundary southwards, in the process redrawing the eastern boundary of the Protectorate of Southern Nigeria in such a way that the boundary between the Protectorate and Cameroon became a line to the West of Bakassi thereby placing the Bakassi Peninsula under German control.

Further on the significance of the various treaties and agreements between the Imperial Powers in relation to the dispute, we are informed that the most important document that concerns the demarcation of the border between the Cameroons (then Southern Cameroons and *Cameroun*) and Nigeria is indeed the 1913 Treaty. Muluh Mbuh, says that ‘confidential documents made public in London have thrown light on how important an instrument the treaty was, and that not only are the pillars of the treaty the only pillars that completely marked the entire border, but also, the entire confidential documents reveal a high degree of reliability – so much that not even Her Majesty’s government dared to temper with the treaties that fixed the pillars’ (Muluh Mbuh 2004: 9).

Further Arrangements

The preceding summary of British and German arrangements remained until the out break of the First World War in 1914. In 1916, Britain invaded German Kamerun, at the end of the war, German territories were all shared between Britain and France according to the provisions of the Versailles Treaty of settlement, under the auspices of the Paris Peace Convention, thus, the Cameroons became British and French mandate Territories. By 1919, five years after the British proclaimed the colony of Nigeria through the amalgamation of her Southern and Northern Protectorates, a need to redefine her boundaries this time with the French arose. As such on July 10, 1919 the boundary between British and French mandated Kamerun was settled by a joint declaration of the British Secretary of State for Colonies, Viscount Milner and the French Minister for the Colonies, Henry Simon. Omoigui (2012) apprises us that, in this agreement, Bakassi and the rest of what became the British Cameroons were included in the British mandate and administered as part of Nigeria. However, he adds that even though the territory was coterminous with the Colony of Nigeria, it was not actually merged with it, and that the old 1913 arrangement was retained, such that in order to codify this further, the British and the French designed another settlement in December 1929, and January 1930. Again, the events of the Second World War also presented a need for further arrangements. This time, at the end of the war, the French and British League mandates were taken over by a United Nations Trusteeship design in 1946. This new UN arrangement re-ratified the earlier agreed borders as enunciated by hitherto Anglo-German and Anglo-French settlements. In both these cases, maps from that period show the Bakassi area was within the British Cameroons and not the Colony of Nigeria (Eze 2007).

A cursory appraisal of the above-discussed settlements from 1884 reveals some legal and pseudo-legal issues worth commenting on. The first is that from the pre-1913 agreements, we can discern that the Bakassi Peninsula was administered as part of British possessions. However, going by the 1913 settlement between Britain and Germany, the area of Bakassi effectively came under German control. Secondly, Germany, as a result of the war of 1914 could not take physical control of the Bakassi territory and as such the 1913 agreement could not be ratified, in the process, allowing the British to add adjoining parts of German territory of Cameroon and administer them as part and parcel of colonial Nigeria up to 1960. This scenario has influenced some Nigerian commentators to opine that the 1913 Anglo-German Treaty is not binding on Nigeria (Ate 1992; Akinjide 1994). As a matter of fact, Akinjide who is a one time Minister of Justice in Nigeria argued that the Anglo-German Treaty was not binding since the Order-in-Council of November 22, 1913, which came into force on January 1, 1914, amalgamating the Northern and Southern Protectorates into a single Protectorate of Nigeria, came into being after the Treaty. Moreover, it is also argued that the Treaty lapsed with the War and that under the terms of the Versailles settlement as provided for in Article 289, Britain ought to have made effort to revive pre-war bilateral Treaties with Germany, since Britain took no steps to do so then in the terminology of Article 289 it was and remained abrogated, and therefore Cameroon could not succeed to the Treaty (Eze 2007). As plausible as these arguments may sound, the fact of the principle of *Uti Possidetis*, in International Law, which relates to the sanctity of colonial boundaries, a principle which the OAU (AU) Charter adopted in 1963 suggests that Cameroon has a right to succeed to the treaty, especially when considered against the understanding that France, replaced Germany as the colonial Over-Lord of the Cameroons, and agreed other settlements with Britain on their common borders after the two wars, up to 1960. These are the 1929-1930 Thomson-Marchand Declaration, to which the UK and France agreed and made detailed delimitations of the interstate border and the 1931 Henderson-Fleuriu exchange of diplomatic notes, which made the earlier declaration an international agreement at Law (Sumner 2004: 1802-1803). Therefore, suggestions that Britain ought to have revived pre-war Treaties with Germany are not tenable, for, she actually did arrive at new agreements, but with France instead. We now take this general understanding of the colonial attributes of the dispute to examine the various claims to the territory by Nigeria and Cameroon.

Contending views: Who owns Bakassi?

In the light of the foregoing colonial arrangements, both parties subsequently relied on them to strengthen their respective arguments and claims of ownership to the Peninsula, hinging their positions on their interpretations and understandings of the various agreements, and Treaties between Germany and Britain on one hand, and Britain and France on the other. However Cameroon drew on other post colonial arrangements she also entered into with Nigeria to buttress her claim. Thus, before the Court, the parties made arguments based on treaties, history, effective occupation, and *uti possidetis*.

In this vein, Nigeria premised her claim to the territory largely on the various Anglo-German correspondences (Exchange of Notes) of the 1880s, as well as the Treaties of protection between the British and the indigenous Kings and Chiefs of the area. Nigeria argued that the legal situation at the time of her independence in 1960 from Britain was such that, she inherited the original title of Bakassi, which was vested in the Kings and Chiefs of Old Calabar and that this title was not affected by the Anglo-German Treaty of March 11, 1913. According to Ofonagoro (2013), this view by Nigeria was anchored on the notion that the 1884 Treaty

of Protection between Britain and the Kings and Chiefs of Old Calabar did not entitle the British Monarch to alienate the territory of the Efik (indigenous) Kingdom, without the approval of the Efik King and Chiefs as landowners. Sumner (2004) captures Nigeria's four points claim to title over the peninsula:

1. Long occupation by Nigeria and by Nigerian nationals constituting an historical consolidation of title and conforming to the original title of the Kings and Chiefs of Old Calabar which became vested in Nigeria at the time of independence.
2. Effective administration by Nigeria, acting as Sovereign, and an absence of protest.
3. Manifestations of Sovereignty by Nigeria together with the acquiescence by Cameroon to Nigerian Sovereignty over the Bakassi Peninsula.
4. Recognition of Nigerian Sovereignty by Cameroon

On her part, Cameroon predicated her claim mainly on the Anglo-German Treaty of 1913 which defined the spheres of control in the area between the two colonial powers. She also based her claims on two arrangements entered into with Nigeria in the 1970s, in the form of the Yaounde II Declaration of April 4, 1971, and the Maroua Declaration of June 1, 1975 (Ate 1992: 152-162). These arrangements demarcated the maritime boundary between the two countries. In this instance, the settlement line was drawn through the Cross River estuary to the West of the peninsula, effectively placing Bakassi on Cameroonian territory. Ofonagoro (2013) sums up the Cameroonian claim on these grounds:

1. The Anglo-German Agreement of March 11, 1913, relating to the settlement of their Colonial Frontier between Yola and the Sea and the Regulation of Navigation on the Cross River.
2. The Anglo-German Agreement of April 12, 1913 regarding the boundary of Nigeria and Cameroon from Yola to the Sea.
3. The Yaounde II Declaration of April 4, 1971, following that of Yaounde I of August 14, 1970.
4. The Lagos Declaration of June 21, 1971.
5. The Kano Declaration of September 1, 1974 delimiting a 4-kilometre buffer corridor, i.e. 2 kilometres on either side of the line joining Fairway landing buoy to buoys No. 1, 2 and 3 of the Calabar Channel.
6. The Maroua Declaration of June 1, 1975, which extends the course of the Boundary from point 12 to point G.

The foregoing represents the general claims that both countries relied on as Cameroon instituted proceedings at the International Court of Justice, in the process submitting its entire set of border-related disputes with Nigeria before the World Court.

The Case before the ICJ

Matters between Nigeria and Cameroon came to a head over the peninsula in 1993 when Nigerian troops entered and occupied the area. Following a series of further border incursions that provoked shootings from both sides in the process resulting in casualties and deaths recorded on each side. Cameroon formally on March 24, 1994 instituted a suit against Nigeria at the International Court of Justice, at the Hague, seeking an injunction for the expulsion of Nigerian troops, which it said were occupying its territory and to restrain Nigeria from laying claim to Sovereignty over the Peninsula (Aghemelo and Ibhasebhor 2006).

Nigeria and Cameroon agreed and accepted the compulsory jurisdiction of the ICJ in line with the provisions of the Statute of the Court as outlined in Article 36, which states inter-alia in paragraph 2 that 'the states parties to the present Statute may at any time declare that they recognize as compulsory ipso facto and without special agreement, in relation to any other state accepting the same obligation, the jurisdiction of the Court in all legal disputes...' (www.icj-cij.org). Before the Court both parties made arguments based on treaties, history, effective control, as well as *uti possidetis* (Sumner 2004). Indeed in their respective final presentations before the Court, Cameroon on her part asked for the following prayers: that the land boundary between Cameroon and Nigeria was determined by the Anglo-German Agreement of March 11, 1913; that in consequence, sovereignty over the Bakassi Peninsula is Cameroonian. Conversely, Nigeria requested the Court to adjudicate and declare that 'sovereignty over the Peninsula is vested in the Federal Republic of Nigeria; and that Nigeria's sovereignty over Bakassi extends up to the boundary with Cameroon (THISDAY Nigerian Newspaper 2002).

After a little over eight years of examining the matter, the ICJ delivered judgment on October 10, 2002, deciding that the very important issue of sovereignty over the Bakassi Peninsula rested with Cameroon and not Nigeria. The Court hinged her decision on the same old colonial agreements and settlements between Britain and Germany (Lacey and Banerjee 2002). Consequently, the Court directed Nigeria to withdraw all administrative, police and military personnel unconditionally from Cameroonian territory including the Bakassi Peninsula. It equally requested Cameroon to do likewise along the land boundary from Lake Chad to the Bakassi Peninsula on areas which pursuant to the judgment were under the sovereignty of Nigeria (Baye 2010). Furthermore, the Court settled the land boundaries between the two countries from Lake Chad in the North to Bakassi in the South. However Bekker (2003) says that the Court could not specify an actual location of their maritime boundary off

the Coast of Equatorial Guinea.

Reactions to the ICJ's Judgment

The Court's decision satisfied the prayers of Cameroon for sovereignty over Bakassi, so naturally, it was Nigeria that had a reason to question and raise objections to the judgment. The emergent scenario was one of domestic reluctance from both the government and informed public opinion to accept the decision. The implication of the judgment clearly is that Nigeria had lost the territory completely to Cameroon. Consequently, the immediate reaction was that Nigeria rejected the ruling with a rhetoric that could apparently suggest recourse to war to hold on to the territory (Friends of the Earth 2003). Indeed, in an official government statement days after the judgment, Nigeria according to Llamzon (2007) appeared to accept aspects of the Court's decision it considered favourable, and rejected other parts it felt uncomfortable with. The government of President Obasanjo pleaded Nigeria's constitutional provisions as a federal state as a case for non-compliance. The argument was that since all land and territorial makeup of the country is specified in the constitution, then the federal (central) government alone can not give up the Bakassi territory without the necessary inputs from the state and national assemblies to amend the constitution (Africa News Service 2003). In explaining this position, President Obasanjo says thus 'we want peace, but the interest of Nigeria will not be sacrificed....What may be legally right may not be politically expedient' (Vanguard Nigerian Newspaper 2002).

Clearly, Nigeria's position on the judgment was an ambivalent one of deliberate indifference where she neither wholeheartedly accepted nor rejected the decision of the Court. In the official statement of the government released via the office of the special assistant to the president on National Orientation and Public Affairs, the summary states as follows:

'Having studied the judgement as entered by the Court, it is apparent that a lot of fundamental facts were not taken into consideration in arriving at their declaration. Most disturbing of these being the difficulties arising from the Orders contained in the judgement, particularly, the Order relating to Nigerian communities in which their ancestral homes were adjudged to be in Cameroonian Territory but which are expected to maintain cultural, trade and religious affiliations with their kith and kin in Nigeria. Nigeria takes cognizance of these serious implications and therefore appeals to all her citizens at home and abroad to remain calm, positive and constructive until we can find a peaceful solution to the boundary issue between Nigeria and Cameroon. We appreciate and thank the Secretary General of the United Nations for brokering meeting at the highest political level between Nigeria and Cameroon before the judgement was delivered and for offering his good offices to broker a similar meeting now that the judgement has been delivered with a view to effecting reconciliation, normalization of relations and good neighborliness. Nigeria thanks all leaders of the international community who have expressed concern over the issue and re-assures them that she will spare no efforts to maintain peace between Nigeria and Cameroon and indeed in the entire region. However, Government wishes to assure Nigerians of its constitutional commitment to protect its citizenry. On no account will Nigeria abandon her people and their interests. For Nigeria, it is not a matter of oil or natural resources on land or in coastal waters; it is a matter of the welfare and well-being of her people on their land. We assure the people of Bakassi and all other communities similarly affected by the judgement of the International Court of Justice on the support and solidarity of all other Nigerians. Nigeria will do everything possible to maintain peace in Bakassi or any other part of the border with Cameroon and will continue to avail itself of the good office of the Secretary-General of the United Nation and other well meaning leaders of the International community to achieve peace and to maintain harmony and good neighborliness' (The Guardian Nigerian Newspaper 2002).

This veiled threat to reject the judgment by the government of Nigeria resonated further in some aspects of the population. We could discern that post judgment rhetoric from informed public commentators was troubling and recalcitrant, coupled with internal political pressures on the government not to respect the Court's decision (Asobie 2003). The general picture was one in which such forces called on the government not to consider handing over the territory to Cameroon under any guise, arguing that historical antecedents and long period of occupation warrants Nigeria to hold on to the territory (Okoh 2006). This recalcitrant position of Nigeria was worrisome when considered against an earlier agreement between the leaders of the two countries before the judgment of October 10, 2002. Llamzon (2007) informs that President Biya of Cameroon reported that he and President Obasanjo had an understanding to accept the judgment of the Court in a meeting with UN Secretary-General Kofi Annan on September 5 2002. This position is clearly supported by a UN press statement to that effect even though Nigeria denied the existence of any such agreement (UN Press Release 2002). Generally, Cameroon took Nigeria's stance with relative calm, with her minister for communication, Jacques Ndongu calling on his countrymen to absorb the reaction of Nigeria to the ruling with 'calm, dignity and serenity' (Cameroon Television (CRTV) Online 2002).

On the whole, this was the general scenario following the judgment of the Court on October 2002. Nigeria was expected to comply and quickly set in motion the machinery for ceding the territory to Cameroon as directed by the Court. However, the domestic constraints identified earlier prevented the leadership of the day to

act as expected, so that it was left for the international community and other peace loving and well meaning bodies to broker further interactions and understandings between the two countries over several years to arrive at any meaningful settlement. What we see is that though Nigeria lost her claim to the territory, but statesmanship prevailed to allow for diplomatic means to resolve the deadlock.

The Triumph of Bilateralism

We can recall that the good offices role of the UN Secretary-General had been put to use even before the judgment of October 2002. This was applied further after the judgment to make the parties to agree on an implementation plan that will facilitate an acceptable and amicable settlement. Meanwhile, following Nigeria's ambivalence toward the Court's decision, the international community developed interest in seeing to the compliance of the ICJ's judgment. This display of naked defiance by Nigeria prompted fears from many quarters that enforcing the ruling may present glitches (Anyu 2007). As a result, the United States, France and Britain, all, exerted diplomatic pressures on Nigeria to abide by the ruling of the Court. Britain in particular through her High Commissioner to Nigeria buttressed the fact that 'ICJ judgments are binding and not subject to appeal, so that Nigeria has an obligation under the United Nations Charter to comply with the judgment' (Agence France – Presse 2002). In the same vein, the British Foreign Minister for Africa met with the Nigerian Ambassador to remind him of President Obasanjo's earlier promise to abide by the Court's ruling (Llamzon 2007).

As the years rolled by, the United Nations and its Secretary-General became the pivot around which settlement efforts revolved as well as for the easing of tensions and renewing of brotherly relations between Nigeria and Cameroon. Following the judgment, a series of bilateral meetings brokered by the UN were held between both parties from which both countries requested for a UN Joint Commission to be established to look at all possible implications of the ruling. Under the auspices of the Secretary-General's good offices role, the first of such achievements was on November 15, 2002 in Geneva when both Presidents in a joint communiqué agreed not only to the setting up of their Mixed Commission, but also 'to consider ways of following up on the ICJ ruling and moving the process forward' (Eze 2007), protect the rights of the people in the affected areas, and propose a workable solution (Llamzon 2007). Again, on January 31, 2004, after a Tripartite Summit in Geneva, both Presidents Biya and Obasanjo, and the Secretary-General issued a joint communiqué, in which they adopted a comprehensive settlement plan up to 2005. This progressive plan also involved the smooth and gradual withdrawal of all civilian, military and police forces from affected areas. Furthermore, the UN Secretary-General called on the international community to provide assistance within the purview of preventive diplomacy for the bilateral efforts of the two countries, particularly, funds for boundary demarcation and confidence building measures (Eze 2007).

The Cameroon-Nigeria Mixed Commission

As noted above it is at the behest of the two countries that the Mixed Commission came into being. Chaired by a Special Representative of the UN Secretary-General, Ahmedou Ould-Abdallah, the Mixed Commission met eighteen times between 2002 and 2007 every two months on an alternating basis in Abuja and Yaounde comprising delegations from both parties and with the following as its mandate: the demarcation of the land boundary between the two countries; the withdrawal of civil administration, military and police forces and transfer of authority in relevant areas along the boundary; the eventual demilitarization of the Bakassi peninsula; the need to protect the rights of the affected populations in both countries; the development of projects to promote joint economic ventures and cross-border cooperation; and the reactivation of the Lake Chad Basin Commission (Baye 2010). To achieve this set mandate, the Commission went further to establish sub commissions and working groups made up of experts from both countries and the United Nations covering the following areas of, boundary demarcation including maritime; population; civil administration and police forces; as well as complete withdrawal and transfer of authority in the Bakassi Peninsula (Eze 2007).

The first task of the Mixed Commission was the demarcation of the land boundary between the two countries from the North to the South. To this end in 2003 it embarked on field visits to the Land boundary, the Lake Chad area, and the Bakassi Peninsula. By January 2004, the working group on the withdrawal of civilian, military and police forces completed its assignment and effected transfer of authority in the Lake Chad area to Cameroon. In this same spirit, the process of disengagement and handover of authority as stipulated in the Court's judgment was implemented with respect to other contested areas of their boundary. Both states, employing a give and take format, traded villages across their long mutual border in 2004, and 2006 (The Tide Online Nigerian Newspaper 2006). Indeed in a public statement through her National Boundary Commission, Nigeria affirmed the resolve by both parties to implement the decision on the Lake Chad Region, the land boundary from the lake to the sea and their maritime boundary. The statement further added that field work on the land boundary, including mapping and identification of pillars in accordance with the decision was also being implemented (Llamzon 2007).

On the aspect of joint economic cross-border cooperation, the Mixed Commission monitored the

construction of border markets and roads linking the two countries. However, in as much as all appeared smooth sailing and on track, the thorny issue of the oil-rich Bakassi could not be resolved timely and amicably like the other areas. According to Borzello (2004), Nigeria could not respect two disengagement timetables set out by the Commission, as thousands of Nigerians in the Peninsula were disillusioned, unsure of their citizenship with many wanting to remain Nigerians due to their cultural and economic ties with the country. So that by January 2006, the Bakassi Peninsula was still under Nigerian control with Nigeria putting forward arguments that her withdrawal would lead to the breakdown of law and order. Additionally, Nigeria proposed a referendum to decide the sovereignty of the peninsula since the people on the Peninsula prefer to remain in Nigeria (Eboh 2005).

This logjam over Bakassi's sovereignty became a source of great concern probably due to its rich hydrocarbon resources. As a matter of fact, strong internal opposition towards relinquishing the area to Cameroon increased in Nigeria. The Tide Online (2006) reported that there were calls on the government of Obasanjo to go to war, with this school of Nigerians arguing that it is against the national interest of the country with regard to security and economic considerations to abide by the Court's decision in its entirety. Interestingly anti-war proponents cautioned against the calls for war, pointing out the consequences of such an action on women, children and youths in general (Asobie 2003). Furthermore, they offered that 'the principle of good faith' in international relations demands that Nigeria should adhere to the ICJ's judgment and respect her words of honour embedded in the Diplomatic Notes of 1962 (Aghemelo and Ibhasebhor 2006). This was the general state of events following the work of the Mixed Commission which led to the peaceful settlement of other aspects of the boundaries between the two parties. With sovereignty over Bakassi still unresolved, it took intensive mediation efforts by the UN Secretary-General Kofi Annan to bring the two parties together to set out a comprehensive agreement in consonance with the ICJ's ruling.

The Greentree Agreement and final resolution

Brokered by the UN Secretary General and witnessed by Britain, France, Germany, and the United States, this last comprehensive agreement came out of a summit in June 2006 at Greentree, United States of America. Its task was to work out modalities for the withdrawal of Nigerian troops and transfer authority to Cameroon (Gambari 2007). Under its general terms, Nigerian troops are to withdraw within a time frame of ninety days, while a transition period of two years provided for Cameroonian administration to take over from Nigerians. It also provided for Nigerians living in the Peninsula to remain there under a special arrangement for four years after which Cameroon takes over full control. It became the basis for final resolution of the Nigeria-Cameroon dispute over the Bakassi Peninsula and formally put an end to a tricky and tempestuous series of events that had all the hallmarks of potentially degenerating into an all out war situation. Commenting on the significance of this arrangement, Kofi Annan observes that 'with today's Agreement... a comprehensive resolution of the dispute is within our grasp; the momentum achieved must be sustained' (UN Press Release 2006).

This Agreement as the basis for the final resolution of the dispute and the decisive point of compliance to the ICJ's ruling of 2002 ensued that by 1 August 2006 according to the BBC, Nigeria began withdrawing her about 3,000 troops from the area in line with the provisions of this settlement to pull out troops within 90 days. This move by Nigeria set the pace for Cameroon to subsequently send in her civil administration and regain the peninsula (The Washington Times 2006). However, a face saving measure in the agreement made provision for a time table for complete and final hand over in June 2008, allowing for Nigeria to maintain its presence in 18 percent of the area from 2006 to 2008, and on the part of Cameroon, she was to follow a code of conduct for the treatment of the local Nigerian population pending their resettlement (This Day Nigerian Newspaper 2006). This fourteen years quest for peaceful resolution of this border dispute between Nigeria and Cameroon climaxed on 14 August 2008 with the Treaty of Calabar between the two which marked the total pull out of all forms of Nigeria's civilian and police forces from the Bakassi Peninsula as enshrined in the Greentree settlement.

Conclusion

With regard to the territorial dispute between Nigeria and Cameroon, what we see is the application of diplomatic mechanisms for final resolution based on the ruling of the ICJ, a ruling which in itself could not yield instant settlement. As such, as a means of moving forward the process of resolution along the lines of the judgment, the diplomatic approach had to be adopted. It proved efficacious in bringing together the parties under a bilateral umbrella brokered by a third party, and making them to agree to mutually acceptable terms of final resolution.

References

- Africa News Service*, (2002) 'Cameroon, Bakassi: Why the ICJ Judgment is Unacceptable-Government' 24, October. Available in Lexis, News Library, All news File.
Agence France-Presse, (2002) Doc. FBIS-AFR-2002-1025

- Aghemelo, A.T. and S. Ibhasebhor, (2006) 'Colonialism as a Source of Boundary Dispute and Conflict among African States: The World Court Judgement on the Bakassi Peninsula and its Implications for Nigeria.' *Journal of Social Science* 13 (3), pp. 177-181.
- Akin, J. and E. Brahm. (2005) 'Diplomacy', *Beyond Intractability*. Eds, Guy Burgess and Heidi Burgess, Conflict Information Consortium. Boulder: University of Colorado.
- Akinjide, R. (1994), 'Bakassi, Whose? Bakassi?' *West Africa News Magazine*, April Edition.
- Allee, T.L and P.K. Huth (2006) 'Legitimizing Dispute Settlement: International Legal Ruling as Domestic Cover', *American Political Science Review*, Vol.100, No.2.
- Anyu, J. Ndumbe (2007) 'The ICJ and Border-Conflict Resolution in Africa: The Bakassi Peninsula Conflict' *Mediterranean Quarterly: A Journal of Global Issues*, Volume 18 (3) Duke University Press.
- Asobie, A, (2003) 'Nigeria, Cameroon, and the Unending Conflict over Bakassi' *Vanguard Nigerian Newspaper*, 27 February.
- Ate, B. E. (1992) 'Nigeria and Cameroun', in B.E. Ate and B.A. Akinterinwa (Eds.) *Nigeria and its immediate Neighbours: Constraints and Prospects of Sub-Regional Security in the 1990s*. Lagos: Nigerian Institute of International Affairs.
- Babatola, Jadesola.E.T. (2012), 'Nigeria-Cameroon Boundary Dispute: The Quest for Bakassi Peninsular', *International Affairs and Global Strategy*, Vol. 4.
- Baye, F.M, (2010) 'Implications of the Bakassi conflict resolution for Cameroon' *Africa Journal on Conflict Resolution*, Vol. 10, No. 1
- Bekker, P.H.F (2003) 'Land and Maritime boundary between Cameroon and Nigeria (Cameroon v. Nigeria: Equatorial Guinea intervening)' *The American Journal of International Law* 97 (2), pp 387-398.
- Berridge, G.R. (2005) *Diplomacy: Theory and Practice*. New York: Palgrave Macmillan.
- Borzello, A (2004) 'My Home is another Country' *BBC News Report* 19 January. Available from <http://news.bbc.co.uk/pr/fr/-/hi/world/Africa/3401407.stm>
- Brierly, J.L. (1963) *The Law of Nations: An Introduction to the International Law of Peace*. Oxford: Clarendon Press.
- Brownlie, I. (2009) 'The Peaceful Settlement of International Disputes', *Chinese Journal of International Law*, Vol.8. No. 2.
- Cameroon Television (CRTV) Online (2002) 'Nigeria Rejects ICJ Ruling; Cameroonians Urged to Continue to Live in Harmony with Nigerians' National News Round-up, 25 October. Available from, http://www.crtv.cm/actualite_det.php?code=592.
- Collier, J.G. (1996) 'The International Court of Justice and the Peaceful Settlement of Disputes', in Lowe, V, and M. Fitzmaurice (eds), *Fifty Years of the ICJ: Essays in Honour of Sir Robert Jennings*, Cambridge: University Press.
- Dinkle, A. (2011) 'Diplomacy – The Alternative Dispute Resolution of the Ancients', *Ezine@rticles*
- Eboh, C (2005) 'Nigeria-Cameroon fail to set new Bakassi pullout date' *Washington Post Online* 15 October.
- Eze, O. (2007) 'Nigeria and Cameroon Before the International Court of Justice', paper presented in the International Peace Institute Conference on the Pacific Settlement of Disputes, New York, 18, July.
- Friends of the Earth (2003) 'Conflict, corruption and climate change: George Bush's new Oil agenda.' Available from: www.oe.co.uk
- Gambari, I.A (2007) 'Keynote Address' presented at the International Peace Institute (IPI) International Policy Conference on the Pacific Settlement of Border Disputes. New York, 18 July.
- Lacey, M and N. Banerjee (2002) 'World Court Rules for Cameroon in prolonged oil-land border dispute with Nigeria' *New York Times* 11, October. Available from: <http://www.globpolicy.org/wldcourt/icj/2002/1011bakassi.htm>
- Llamzon, A.P (2008) 'Jurisdiction and Compliance in recent decisions of the International Court of Justice' *European Journal of International Law*, Vol.18, No. 5
- Martin, L. (2001) *British Documents on the End of Empire (Nigeria) Series B, Volume 7*. London: Institute of Commonwealth Studies.
- Mbuh, J.M. (2004) *International Law and Conflicts: Resolving Border and Sovereignty Disputes in Africa*. Yaounde: iUniverse Incorporated.
- Menkel-Meadow, C. (2012) 'Introduction and Coda: International Dispute Resolution', in Carrie Menkel-Meadow (ed), *Complex Dispute Resolution: Volume III*. Farnham, UK: Ashgate.
- Nowa, O. (2012), 'The Bakassi Story', *Vanguard Nigerian Newspaper*, 20, September.
- Ntamark, G. (2002), 'The League of Nations Mandate System with special reference to the Cameroons', Unpublished PhD Thesis, Keele University,
- Nugent, W.V. (1914), 'The Geographical Results of the Nigeria-Kamerun Boundary Demarcation Commission', *Geographical Journal*, pp.630-651.
- Odje, A.M. (2002), 'ICJ Judgment on Bakassi: How enforceable?' Available from: < <http://>

- www.nigerdeltacongress.com/iarticles/icj_judgment_on_bakassi.htm >.
- Ofonagoro, W (2013) 'The Bakassi Sovereignty and International Politics' *Vanguard Nigerian Newspaper* 3, April
- Okoh, W.I (2006) 'Bakassi Belongs to Nigeria' *THE SUN Nigerian Newspaper*, 14 August.
- Rupesinghe, K. (1995) 'Multi-Track Diplomacy: and the Sustainable Route to Conflict Resolution', *CSQ Issue; Culture, Resources and Conflicts*, Vol.19, No.3.
- Sumner, B.T (2004) 'Territorial Disputes at the International Court of Justice' *Duke Law Journal*, No. 53
- The Guardian Nigerian Newspaper* (2002), 15 November.
- The International Court of Justice Web site, www.icj-cij.org.
- The Tide Online Nigerian Paper* (2006) 'Nigeria, Cameroon reach Accord on Boundary' 17 January. Available at www.thetidenews.com
- The Washington Times* (2006) 15 June
- This Day Nigerian Newspaper* (2006) 'Now August 2008' 13, June
- This Day Nigerian Newspaper* (2002) 15 November
- U.N Press release (2006) 'Nigeria, Cameroon Sign Agreement ending Decades-ld border Dispute; Sets Procedures for Nigerian withdrawal from Bakassi Peninsula' AFR/1397 12 June
- U.N Press Release (2002) 'Nigeria Defends Defiance of World Court Border Ruling' SG/T/2344 10 September.
- Vanguard Nigerian Newspaper* (2002) 'UN Panel on Bakassi meets December 1', 29 November
- Vinuales, J.E and D. Bentolila. (2012) 'The use of alternative (non-judicial) means to enforce investment awards', in Boisson de Chazournes, L., M. Kohen and J.E. Vinuales (eds) *Diplomatic and Judicial means of Dispute Settlement: Assessing their interactions*, The Hague: Brill.