

Nigeria-Cameroon Boundary Dispute: The Quest for Bakassi Peninsular

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Abstract

This paper appraises African Boundary Politics within the theme of boundary conflicts, questions after independence – irredentism, the concern and intervention of international bodies with focus on Nigerian-Cameroon Boundary Disputes: The Quest for Bakassi Peninsular. The aim is to highlight European conquest and division of Africa contrary to existing traditional boundaries in the Pre-Colonial Africa and how modern African boundaries evolved in the colonial era affected post-colonial era territorial boundaries, cross-border activities and the basis of boundary disputes in modern African states. The paper noted the level of cooperation achieved in resolving boundary issues, securing interventions and other approaches to peace settlement. Research method adopted is historical approach which took cognizance of existing scholarly works and the use of simple descriptive analysis of historical data to authenticate their accuracy in the advancement of knowledge.

Keywords: African Boundary Politics, Nigerian-Cameroon Boundary Dispute, Bakassi Peninsular, Boundaries, Cross-Border Relations, Colonialism, Treaties, International Law and Diplomacy, ICJ, Nigeria, Cameroon.

1. Introduction

Phenomenon causing boundary or territorial disputes in modern States are usually difficult to explain though the factors inhibiting boundary disputes or proffering settlement of same exist with a view to achieve harmonious interstate border relations and world peace. Boundary politics are the inherent issues in boundary dispute and territorial claims which affects the assertion of territorial integrity or sovereignty of any nation and the approaches to settlement of such crises. This can be linked to Robert Mandel (1980) observation that interstate disputes may occur with or without reference to border disputes and that border disputes may occur as a result of border clashes without contention over border demarcations or as a result of conflicts over jurisdictions and control of off-shore islands which are not land boundaries.

Ajala (1983:177) described international boundary as a wall or a partition between the peoples on opposite sides, an artificial (man-made) with boundary lines that partitions the people to restricts their movement and trade relations across frontiers and to impact on their cross-border nationalities and payment of customs duties. Three processes identified for drawing boundary lines are: Allocation (*political division of a territory*), Delimitation (*selection of a specific boundary site for data purposes*) and Demarcation (*marking of the boundary on the ground through placement of pillars and beacons, fences and cutting of vista across forest*).

Adejuyigbe (1989:31-35) considered the characteristics of borderland and African borderlands and concluded that they consist of the following summarised features: Location (*distance of border to the Capital and how Government machineries function in relation to borderland areas and her population*), Interaction Patterns (*Interstates relations on cross border issues and interactions among neighbouring population in borderlands, the existing restrictions, political identities of individuals and communities, potential conflicts and fighting over territorial boundaries and the strategic importance to the borderland, role of the military, citizens loyalty and exercise of sovereign rights*) and Transitional Features (*nature of borderland with respect to her role as territorial, cultural and economic zone for regional integration, stability or conflicts*).

Existing works on international boundary conflicts by Garnham (1976a), Starr and Most (1976: 584-585) shows how geographical proximity of states, interstate interactions and perceived threats results to interstate disputes, conflict and war, though Richardson (1960) concluded that interstate wars are largely facilitated by boundary disputes. Lord Curzon (1907:7) asserted that boundaries are the razor edge on which hang suspended the modern issues of war or peace, of life or death to nations, since the protection of the home is the most vital care of the private citizen, so is the integrity of borders a condition for the existence of modern state. Hence, it is clear that boundaries have significant considerations on the political, economic and social development and existence of the modern state. Butterworth (1976:488) refers to border or boundary dispute as territorial claims over demarcation of a territorial boundary between two bordering states or a land area between their borders of questionable ownership while Ajomo (1989:39) agreed that Border disputes may be territorial or boundary claim existing between a state and the neighbour based on the challenge of territorial allocation requiring adjustment and arising from historical, geographical, ethnic or cultural, economic, military or strategic reasons.

Vittorio Asami (1927:3) adopted a legal perspective to boundary claims and dispute by stating thus: 'the state frontier is that line which marks the limits of the region within which the State can exercise its own sovereign right'. From all indications, his definition speaks volume on the extent of sovereignty among nations and how boundary politics play a role in the assertion of territorial integrity of a nation, though Jackson and Rosberg (1987:519) on the other hand adopted sociological approaches by stating that border dispute in Africa is an expression of 20th century anti-colonial ideology of self-determination. Foltz (1991) noted that the weak elites in the African State engages in border conflicts to minimise external threats to their rule, while Kornprobst (2002:369-393) asserted that 'Border disputes are a common feature of African politics', though each region manages the conflict in different ways.

Lloyd (1962:4, 28, 259) in his analysis of Yoruba Land Law and the issues of land boundary disputes, held that Africans love land dispute, because it reaffirms family or town loyalties. He noted that boundary disputes usually involve a large number of people while land cases between neighbouring towns occupy political attention and issues of local administration. He observed that boundary disputes ordinarily do not extend to dispute of each other's status outside disputed area or the right held therein, but on the location of the boundary which is in question. He concluded that land disputes rarely occur among descent groups because when land become scarce, men move ahead to seek land elsewhere. Herbst (1989) studied the causes of conflict in international boundaries and laid greater emphasis on demographic and ethnographic structure of the continent as a pointer to border disputes. Herbst perspective correlated with positions of Lloyd on the nature of African traditional boundaries and the cause of disputes which engenders the historical value-fact that the existence and or claims to traditional boundaries in pre-colonial era could facilitate post-colonial border conflicts in Africa.

Robert Mandel (1980) drew an extensive survey material for the study of international boundary disputes and adopted specific independent variables to measure causes of border disputes. This consist of the effect of the power disparity between adjacent states, the levels of technology of these states, the type of disagreement involved, the international alignments of these states and the size of each set of mutually contiguous states. He identified the dependent variables to measure interstate boundary disputes as the relative frequency of border disputes – a scale indication of how often they occur, the severity of these disputes – including the level of fatalities and size of military operations involved and the scope of these disputes – the degree of third-party intervention. Though, his methodology may not be applicable to all situations.

Boundary politics therefore brings to fore, the utility and definition of conflict (dispute and crises) enunciated by Kunle Ajayi (2007) as an interactional behaviour and her relational outcome while corroborating with the views of Nnoli (2003) that conflicts are the contradictions arising from perceptions, behaviours, phenomena and tendencies. Settlement of Boundary dispute in the context of conflict management initiated by Markus Kornprobst (2002:373) is the resolution, mitigation or prevention of

escalation of conflict i.e. the propensity of one party or several parties to hurt, damage, destroy or frustrate another party or other parties.

2. Critique of the Evolution of Modern Africa State and International Boundaries

A critique of the evolution of modern African States and international boundaries lies in the ability to understand the frequencies of border disputes in Africa and the degrees of hostilities with specific reference to the impact on inter-state relations, regional cooperation and political and economic development of the continent while examining causes, nature and scope of these conflicts, settlements proffered and its effectiveness.

The contextual framework of this study basically concentrates on Cameroon-Nigeria border dispute over Bakassi Peninsular. However, a list of notable border disputes and interstate boundary conflicts in Africa since independence rule include: Algeria-Libya-Tunisia, Algeria-Libya-Niger, Algeria-Mali-Mauritania, Algeria-Mali-Morocco, Algeria-Mauritania-Morocco, Algeria-Mali-Niger, Algeria-Zaire-Zambia, Benin-Niger-Nigeria, Benin-Niger-Burkina Faso, Benin-Togo-Burkina Faso, Botswana-Zimbabwe (Rhodesia)-South Africa, Burundi-Rwanda-Tanzania, Burundi-Rwanda-Zaire, **Cameroon-Nigeria**, Cameroon-Central Africa Republic-Chad, Cameroon-Central Africa Republic-Congo, Cameroon-Congo-Gabon, Cameroon-Equatorial Guinea-Gabon, Central African Republic-Chad-Sudan, Central African Republic-Congo-Zaire, Central African Republic-Sudan-Zaire, Chad-Libya-Niger, Chad-Libya-Sudan, Congo-Rwanda, Djibouti-Eritrea, Djibouti-Ethiopia-Somalia, Egypt-Libya-Sudan, Eritrea-Ethiopia, Egypt-Libya-Sudan, Egypt-Israel, Ethiopia-Kenya-Somalia, Ethiopia-Kenya-Sudan, Ghana-Ivory Coast-Burkina Faso, Ghana-Burkina Faso, Ghana-Togo-Burkina Faso, Gambia-Senegal, Guinea-Ivory Coast-Liberia, Guinea-Ivory Coast-Mali, Guinea-Liberia-Sierra Leone, Guinea-Mali-Senegal, Ivory Coast-Mali-Burkina Faso, Kenya-Sudan-Uganda, Kenya-Tanzania-Uganda, Lesotho-South Africa, Liberia-Sierra Leone, Malawi-Mozambique-Tanzania-Zambia, Mali-Mauritania-Senegal, Mali-Niger-Burkina Faso, Morocco-Western Sahara, Mozambique-Zimbabwe-Zambia, Mozambique-Swaziland-South Africa, Rwanda-Tanzania-Uganda, Rwanda-Uganda-Zaire and Sudan-Uganda-Zaire.

Many writers of modern African history noted that the consequences of European Imperialism and colonialism of Africa actually disorganized, disoriented, displaced and disunited the African continent and disrupted her age-long mode of development and approach to modern life. Ethnographic and historical studies of pre-colonial Africa showed stages of development of the African Continent before 19th Century. Between 1884 and 1885, Europeans gathered at Berlin Conference to divide Africa into colonial territories, without the participation of Africans, except from South African observers. Thereafter, Europeans commenced full scale conquest and occupation of African territories, entering into treaties with their Kings and rulers in the process of installing colonial presence and rule across African continent.

European Imperialism and colonialism in Africa in the 19th and 20th centuries was conceived to expand European influence to other frontiers and help develop their potentials in a growing market and modernized world system. Berlin Conference of 1884-85 to scramble for and partition Africa left the continent with these goals of European expansionism. European conquest of African territories led to creation of new African States with aggregated political and economic structures consisting of European merchants and colonial trading houses, spheres of influence of European powers over some African territories as their exclusive investment realm or trading posts, Protectorates where colonizing European powers allowed African native authorities to exist and operate under foreign powers and colonies under direct European rule with or without direct participation of the local people.

Isola Olomola (2012) observed that few known interstate boundaries existed in Africa before colonial rule though existing African traditional boundaries were affected by several factors such as warfare, rise and fall of African nation-states, trade expansion and cultural influences. Boundary agreements among city-states

and communities, right of access, land grants and creation of boundaries were surrounded by spiritual ceremonies and the use of natural features like trees, rivers, hills and mountains, forests etc. These natural features for boundary demarcation did not prevent interstate cross border relations, though it dictated and influenced by the power relations and expansionist interest of the neighbouring states. The features of African traditional boundaries were weak compared to the colonizers boundaries marked through surveys and creation of maps. Yet European boundaries created in Africa divided the African people and their population without regard for their traditional way of life and culture or existing traditional boundaries.

Ajala (1983:177-189) asserted that existing modern boundaries in Pre-Colonial Africa in form of survey whether geometrical, astronomical or cartographic measurements were limited to those drawn in areas of Algeria and Morocco, Basutoland-Boers-Transvaal (South Africa) and the Walvis Bay. Other existing boundaries were localized (traditional boundaries) and did not exist in the modern form as inherited or created by the colonial state in order to form the basis of conceptualizing or understanding the issues of boundary politics, boundary disputes and settlements in modern African States under review.

Griffiths (1986:204-216) postulated that the inherited political geography of Africa is as great an impediment to independent development as her colonially based economies and political structures. Since boundaries are aspect of Africa's inherited political geography, European colonialism resulted in the clustering of people of diverse cultures and traditions, whose aspirations may eventual result to secessionist movements or civil war. Moreover, African boundaries collectively divided the continent into many states and individually divided the people. He concludes that the 'weak' boundaries in Africa do cause problems because its arbitrariness divides people and results to absurd situations and inconsistency in the use of physical features. Hence the dispute has weakened African States by diverting scarce resources to military engagements in the frontiers among others suffice international conflicts and spatial pattern of economic development.

Steve Tonah (2001:551-567) encapsulate the relationship between Ghanaian sedentary farmers and Burkina Faso nomadic pastoralists within the context of cross-border relations and the crisis generated by their national governments due to boundary conflicts. The Ghanaian sedentary farmers were age-long partners of their neighbouring Burkina Faso pastoral groups in the border areas and the two groups cooperate for mutual benefit to the extent that sedentary farmers entrusted their cattle herds to nomadic pastoralists who possess better knowledge of livestock herding and whose nomadic life style facilitates the utilisation of pastures and waterholes in distant locations. The Burkina Faso nomads provide cow milk and help Ghanaian farmers to spend less times and energy in search of pasture and water. This explains the specialisation of profession in African culture and traditional interrelations for communal benefits. However, when conflict broke out between the two inter-states border settlers over land and water in border areas, the consequences was a restriction of their activities in both ends and expulsion of the nomads considered as seasonal migrants and intruders back to their countries to avoid breach of national integrity. The age-long relationship of inter-marriages and shared cultural affinity among the border population were compromised and lost in the face of interstate boundary disputes. The expulsion of the fulbe nomads affected the development of livestock and herding and the cordial relations among these Africans at the borders. This scenario represents one of several cases of effect and consequences of the evolution of modern African State interstate cross border relations and boundary disputes.

J. Abbink (1998) in his works on the Eritrean-Ethiopian Border dispute noted similar account when he traced the cause of 6th May, 1998 Eritrean troops crossing and invasion of the western border between Eritrea and Ethiopia with the occupation of Badme village. The escalation of the cross border conflict resulted to the subsequent Eritrea bombing of Towns of Meqele and Adigrat and the Ethiopia's retaliation of bombing of Asmara's Air Force Base. Other recorded skirmishes resulted in scores of death, looting and destruction of buildings, properties and displacement and relocations of over 130,000 inhabitants in borderlands. Armed conflict between the two countries affected air and road links, telephone lines and

cross-border trades. Prices of staple food rose in Eritrea while Ethiopia access to Eritrea port city of Asseb was blocked.

Historical accounts showed that Tigrayan inhabitants of the Ethiopia and Eritrea borders were the same ethnic groups. Many of the Tigrayans of Eritrean origin settled in border towns on the Ethiopian side for decades in search for farmland or alluvial gold and dominated the area, though they were politically and judicially administered by Ethiopian authorities and paid taxes to Ethiopia before the cross border crisis. The border between Ethiopia and Eritrea after her May 1991 Independence was based on Italy colony of Eritrea established through Treaties of 1897 (after the Battle of Adowa) and treaties of 1900 and 1902 between Italy and Ethiopian Emperor Menelik II. (*This boundary had been refuted by Italy after full scale invasion of Ethiopia in 1935*). However when Eritrea became independent from Ethiopia in 1991, her borders was restricted to the areas existing as colonial boundaries by 1890 treaties. Political differences between Ethiopian and Eritrean Leaders dated back to the revolutionary struggles to oust Ethiopian Government and the grant of independence to Eritrean nation. Eritrean population therefore in her quest for land and political presence at the border areas began to lay historical claims to the affected territories in pre-1869 era when Italians incursion led to the submerging or annexation of their separate territory (Bahr Negash area) as part of Ethiopian highland polity.

G.L. Beer (1923:436) in his work dwell extensively on the 1919 boundary split arising from the French and British Mandate of the Cameroons led to a division of some ethnic groups across the borderlines notably the Mandara, Kanurim Dschang-Bangwa and Bakkossi-Mbo, though these ethnic groupings continued to have economic and socio-political relationship across the borderlines. The implication is that the international borders inherited by the two countries – Nigeria and Cameroon, contradict the traditional African boundaries existing among them while their cross-border relations escalated into border crisis in the post-independence era. These similar occurrences exist elsewhere in other parts of Africa as shown in the case of Nigeria-Cameroon quest for Bakassi Peninsular. Nigeria and Cameroon became independent respectively in 1960 as separate Republics. Cameroon in 1961 was united with the southern part of British Cameroons (Southern Cameroons) as the Federal Republic of Cameroon and was renamed United Republic of Cameroon in 1972. Nigeria and Cameroon as African states evolved through European colonial ingenuity, a situation which left the ethnic groups and their territories partitioned to both sides of colonial interest without full recourse to Africans, the result of international boundary disputes between the two countries since the attainment of their independence.

The above notions indicates that boundary issues in Africa cannot be addressed with a light-heart because of its overall implication on the space, population, resources and need of each State to survive in the modern world system. There is the need to harmonise positions in other researches in order to correct any wrong notion that suffice in those works, if they exist.

4. Archival Search on the Traditional, Geographic and Political Features of Bakassi Peninsular

Aghemelo and Ibhasebhor (2006:177-181) described Bakassi Peninsular by quoting J.C. Anene (1970:56) as an area of some 1,000 kilometres of mangrove swamp and half submerged islands protruding into the Bight of Bonny which had been effectively occupied since the 18th century by fishermen settlers mostly of the Efik-speaking people of Nigeria. In further describing the citizenship of the population of Bakassi Peninsular, Aghemelo and Ibhasebhor (2006:177-181) quoting V. Akanmode (2002) noted that the ICJ ruling on the Bakassi Peninsular is an attempt to change their citizenship from Nigerians to Cameroonians.

Bakassi and other 33 villages in the Lake Chad area have been regarded as age-long Nigerian settlements with citizens that owe their allegiance to local Nigerian rulers. The area was administered by authorities within 'Nigerian' local affiliations before and after 1914 amalgamation of the Colony and Protectorates of Northern and Southern Nigeria. The citizens were practically under Nigerian and not Cameroonian rule. The exercise of authority of traditional rulers - the Efik and Efiat toponymy-over Bakassi Peninsular and its ethnic affiliation with Old Calabar Kingdom, point to the settlement as a long established permanent home of Nigerians. Study of historical records shows that agents of Imperial Great Britain had entered a TREATY OF PROTECTION in 1884 with the Kings, Chiefs and People of Old Calabar, which covered the Old Calabar

Kingdom including Bakassi Peninsular and which translate to the Colony and Protectorate of Southern Nigeria in 1900, without conceding any part of the Territory away to any other country.

All land and territory comprising the nation of Nigeria were specified in 1999 Constitution of Nigeria with Bakassi described as a Local Government in Part 1 of the 1st schedule of the Constitution. Nigeria had undisturbed manifestation of sovereign acts over Bakassi through tax collection, census-taking, provision of education, judicial and public health services, on which basis, she formed an historical territorial title over Bakassi, which is known as 'effectivites' in international law, until it was challenged by Cameroon. However, colonial treaties took precedence over the inalienable rights of the Nigerian inhabitants who own the land through the 2002 International Court of Justice (ICJ) ruling over Bakassi.

On 11th March, 1913, the British Government and Germans had signed an Agreement in London to delimit Nigerian-Cameroon Borders and it included Bakassi as part of Cameroons in the Article 21 of that Anglo-German Agreement. This was followed in April 12, 1913 with a signing of protocol at Obakin and an exchange of letters on July 6, 1914 which reiterated and showed that the British Colonial Government had alienated part of the Colony and Protectorate of Southern Nigeria to German Cameroon through 1913 Anglo-German Treaty. This shows that at the levels of European diplomacy from the Berlin Conference, the need for peaceful engagement and relationship over conquest occupation and control of Africa territories went beyond the Treaties signed with African Rulers. The colonizers shared Africa into specific areas based on possible treaties and presence earlier established. The need to negotiate peace and sphere of interest resulted in further exchanges and concessions among European powers without recourse to original owners of the territories shared. This point can be seen in the division of Yoruba territories between the British Nigeria and the French Dahomey (Benin) and Togo without recourse to their traditional political system.

In a November 2002 publication of Prince Mosongo Njong, a Cameroonian admitted the existence of cross-border relations in Bakassi zone (Usak-Edet/Isangele/Rio-Del-Ray) which comprises Isangele, Idabato, Kombo Abedimo and Kombo Itindi Sub-Divisions and Nigerian communities particularly the old Calabar kingdom. He asserted that the Bakassi dispute was caused by inactiveness and cowardice on the part of Cameroonians in face of 'the overwhelming population of the creek area' by Nigeria 'settlers'. He recalled that J.C. Drummond Hay led British Boundary Commission had specified Bakassi to fall on Cameroon's territories, while refuting any claim that Nigeria owns or ruled Bakassi in the traditional African setting.

To the contrary, specific archival documents obtained from Nigeria's National Archives on the study to review the facts of disputation over Bakassi and the claims and counter claims of Nigeria and Cameroons elicited series of Colonial Government documents which raised specific issues on the use and possession of land, boundary questions and ownership of the area. In a document classified as CSO 2603062 Vol. IV and Memorandum No. 1547/472/1921 of 2nd September, 1926 addressed by the Resident, Cameroon Province with headquarters at Buca to the Hon. Secretary, Southern Province of Nigeria at Lagos titled ANGLO-FRENCH FRONTIER, KUMBA DIVISION, the observations noted in the study were summarized below:

1. The Moisel's Frontier map is misleading as stated in the Convention of 1919.
2. It was necessary to suggest a new line for the frontiers, a situation which had resulted in disagreement between the Resident and the French counterpart
3. The land of the Bakossi from immemorial which should fall ordinarily in the British side are being held by the French sides by mistakes since they are of navigation and agricultural importance to the Bakossi
4. The uncertainty left by the Milner-Simon Declaration can be substituted by a review of the map in light of 1913/1914 boundary adjustment (*that is, Anglo-German Treaty of 1913*).

Another accompanying document titled: DELIMITATION OF THE ANGLO-FRENCH FRONTIER BETWEEN THE KUMBA DIVISION (CAMEROONS PROVINCE) AND THE CIRCOSCRPTION OF DSCHANG was found in the archival records and summarized below:

1. It was impossible to carry the frontier along the lines of the watershed as shown by Moisel even if they were accurate *'without seriously prejudicing the interests of the natives living on either side of the frontier and creating among them great discontent; for in this country all the villages are on*

- the upper slopes of the hills and their farms in the valleys, and the line of the watershed would leave their villages on one side and their farm on the other’.*
2. It is considered that wherever possible *‘the frontier should necessary follow the native village boundaries which are logical and are recognized in every detail by and are well-known in every village. This is in conformity with Article 2, paragraph 1 of the Convention of 1919.’*
 3. It was also suggested that the intention of the 1919 Convention *‘with the consent of the whole population concerned’* is to delimit the frontiers from the South to the North leaving the plantation of ESSOSONG in English Territory while the boundary lines should be marked by chiefs concerned jointly and allowing the lakes to remain in the British territories.

Another document classified as CSO 19/4 916/1916 No. 987 of 18th July, 1916 entitled: REPORT ON THE SUITABILITY OF THE HARBOURS, SEA-BEACHES, AND CREEKS OF THE BRITISH PORTION OF CAMEROON TERRITORY FROM THE POINT OF VIEW OF COMMERCIAL DEVELOPMENT indicated part of the areas apportioned to the British Administration on 1st April, 1916 to include Amba Bay, Landing Places like Bota and Tiko Island, Bibundi, Debundscha, Isongo, Mokundange, Man of War Bay, Bimbria Creek, Missellele Beach, Mpundu Beach, Meanja and most importantly the Rio-Del-Rey which Prince Mosongo Njong (2002) referred to as Bakassi zone (Usak-Edet/Isangele/Rio-Del-Ray). The archival document described Rio-Del-Rey being *‘situated in a mangrove swamp, where the land, on which houses are built, has continually to be re-inforced by a form of wattling. The main channel, form the southward, is buoyed, and vessels, of the West Coast Branch Steamer type, have easy access to it. During the Cameroon Expedition, two channels to the westward of Rio-Del-Rey were resurveyed...a distance of 43 miles is saved between Rio-Del-Rey and Calabar...’*

To understand and further review the Nigeria-Cameroon administration, cross border relations, boundaries and land matter in the colonial era, some available archival documents designated as classified documents - File No. CSO 26/06711 Vol. 4 covering pages 359 to 399; File No. CSO 26/29682 covering pages 27 to 61; File No. - CSO 2628296/S.I covering 91 pages notes; and File No.- CSO 2628296/S.I of 91 pages notes were perused and specific discoveries highlighted in the documents are summarized below:

- a. The Nigeria Gazette of 20th January, 1927 – A Proclamation of the boundary post on the **‘old’** *(which in my own words substitutes for **outdated, unusable, former, eroded or impracticable**)* Anglo-German frontier marking the Franco-British Frontier;
- b. The Statement of the cost of the Mandated Territory to Nigeria which indicated in page 28 No. 3 of the memo thus: *‘Nigeria has obtained no benefit from the mandated territory which has been a burden on the finances of the Colony and Protectorate from the moment that the administration of the Cameroons under British Mandate was undertaken...’*;
- c. Further to the above in pages 29 and 30 was a letter dated 21st January, 1929 from an Officer administering Government of Nigeria from Downing Street where it noted on No. 4 of the memo thus: *‘Sir Donald Cameron said that Nigeria has obtained no benefit from the mandated territory; but **I understand that it is the case that difficulties caused in tribal administration by the international boundaries were to some extent removed by the assumption of the Mandate; and it would seem from the proceedings of the Council at the time of the war that the acquisition of the administration of the territory was a matter of great satisfaction to Nigeria, and that not solely for patriotic reasons’.***
- d. Memorandum SLS 953/35 of 11th January, 1946 titled RIGHTS IN LAND SUBJECT TO CAP 85, JURISDICTION OF NATIVE COURTS OVER LAND etc indicated the interpretation of Cap. 85 of the Law of Land Tenure by stating her fundamental principles to construe that a whole land whether occupied or unoccupied is subject to Government control and that such control can be exercised as far as possible in accordance with native customs. Hence, the goals of the Government is *‘to secure to the native, the undisturbed enjoyment of his occupation and use of land...In so far as the chiefs continue to exercise control, they do so under the authority and subject to the supervision of the British Government. It is the duty of the Government to protect the occupier from disturbance’.*

The foregoing shows that contrary to the claim that Bakassi was not part of Nigeria in traditional society, it is to a great extent a Nigerian Settlement; a part of the Nigerian-Cameroon frontiers or at least a part of Mandated areas that Nigerians had contested or lay claim to at the verge of colonial rule, though it was ceded to Germans in 1913 and later conceded by an error of a Nigerian Diplomatic Note of 1962 as this study further reveals. The basis of this historical premise is drawn from the fact that the official report generated by the colonial officials did not refer the area to Doula or any other part of French Cameroon in describing Bakassi zone (Rio-Del-Ray), but to Calabar on the Nigerian side, except where such reference was made with limitation to areas covered by the British and not the area of traditional controls and access or nearness to Cameroon. Furthermore, pages 29 and 30 of the letter dated 21st January, 1929 from an Officer administering Government of Nigeria from Downing Street noted on No. 4 of the memo that *difficulties caused in tribal administration by the international boundaries were to some extent removed by the assumption of the Mandate; and it would seem from the proceedings of the Council at the time of the war that the acquisition of the administration of the territory was a matter of great satisfaction to Nigeria.*

Yet the contradiction in resolving those issues that exist over the claim to Bakassi Peninsular by the old kalabari Kingdom in Nigeria suffice in the extant law which the British pronounced for the acquisition and protection of native lands, which could be misconstrued as a matter of necessity to mean that the Bakassi Zone still exist within the old Kalabari Kingdom, going by the administration of the area by the British and the law which confers all land in the Colony and Protectorate of Nigeria in the same British Government. By implication, any dissatisfaction, observed error of judgment or disputation that arose in the colonial era or any undercurrent and local agitations and quest for Bakassi Peninsular through interactions of the inhabitants of the frontier settlements and cross-border areas were managed during colonial era without any sizeable hostilities or disruption of border activities and livelihood.

Moreover, the way and manner through which international boundaries of Nigeria-Cameroon borders were reviewed by 1913 Anglo-German Treaty and which excised Bakassi Peninsular to the German Cameroons suggest either a concession on the part of the British to either German's claim over the area, a trade off between the two European powers without consideration of the facts of ownership or a means of settlement of claims by either sides of the traditional settlers (*though no genuine records was discovered on the potency of the third plausible propensity and historical idea*). It therefore infers that appropriate means of addressing the ownership issue or redressing claims among parties over Bakassi Peninsular could be drawn from the mandate which gave administration of the affected area to Nigeria as a pointer to whose side (citizens, inhabitants and boundaries) were originally found. It was by the way, a means to pacify the 1913 mistake in Anglo-German Treaty as shown by 1922 Downing Street letter which admitted that it was '*a matter of great satisfaction*' to Nigeria.

Going from the above position, it is empirical to note that the validity of the ownership and occupation of the Bakassi zone (Usak-Edet/Isangele/Rio-Del-Ray) in the pre-colonial era and up to 1913 was in greater favour of the historical claims of Nigeria than those of Cameroon, who lay claim under international laws to the Treaty that legally transferred Bakassi Zone to Cameroon by 1913 Anglo-German Treaty. This treaty in itself could be regarded as expired by circumstance, void or voidable with the use of the word '**old**' (which is a substitute for a matter that is **outdated, unusable, former, eroded, impracticable**) when describing Anglo-German frontier to the prominent peak marking the Franco-British Frontier in the Nigeria Gazette of 20th January, 1927 – A Proclamation of the boundary post.

In the Franco-British declaration of 10th July, 1919, the Milner to Clifford Paper of 19th September, 1919, it was noted that the British and French wanted "*to make the boundary conform in a general way to the ethnic and tribal facts*". The indirect return of the affected area back to Nigeria through British Occupation of the Territory in 1915/1916 and the 1922 British Mandate for the Cameroons and the 1919 Peace Treaty with Germany therefore suffice with the '*great satisfaction*' implied was that the Bakassi Peninsular was part of a contentious colonial issues that the Europeans on either sides had 'apparently resolved' during the

period that the colonial rule lasted, though they failed to effect the legal process that could properly address the matter before Nigeria and Cameroon became independent in 1960 irrespective of their different colonial experiences.

In 1914 when the World War I broke out between European Powers, Germany lost out in the war. During the League of Nations Mandate, and subsequently, the United Nations Trusteeship, the administration of Bakassi was transferred to the British Colonial Government of Nigeria and referred to as part of the Mandate/Trust territory rather than a Nigerian Territory to which it originally belong. When Colonial Government implemented the 1960 Southern Cameroons plebiscite Order it "*made no mention of any polling station bearing the name of a Bakassi Village*" nor the fact that people of Bakassi should participate in the exercise, though inhabitants of Bakassi presumed that they had exercised their rights to self-determination, by remaining part of Nigeria.

5. The Quest for Bakassi Peninsular – The Cameroun-Nigeria Question

Information available in the records of Federal Directorate of Survey, Lagos showed that Bakassi Peninsular was regarded as Southern Cameroon which ceased to be part of Nigeria by 1961. This premised the Nigerian Minister of Foreign Affairs to forward a Diplomatic Note No. 570 of 27, 1962 to the Embassy of the Cameroon in Lagos with an attached map prepared by the Federal Directorate of Surveys (Nigeria) which recognized the Bakassi Peninsular as part of Cameroon. However, when Cameroon in 1965 came up with the territorial claims over certain areas in the borderland, Boudan and Danare, a Joint Technical Commission was set up to retrace the boundary and by April 1971, the need to consider the compromise lines drawn up in the 1913 Anglo-German Treaty between Sandy point and Tom Shot point.

During the Presidency of Ahidjo of Cameroon and the Nigeria's Military Government under General Gowon, Nigeria entered into peaceful engagement with Cameroon by setting up a Boundary Commission of Experts of both countries to look into the issues and proffer solutions. On June 1, 1975, a Treaty known as 'The Maroua Declaration' was signed by Cameroon and Nigeria purportedly to delimit the maritime boundary between the two countries from the point where the relevant colonial treaty ended, which extended down to the Calabar and Cross River estuaries and out to sea to a point south of Bakassi. However, the interpretation of the Treaty was not acceptable to Nigeria, when it became clear that Bakassi Peninsular would be lost, due to her strategic-military and economic status, the political consequence and the population. Armed with the treaty, Cameroon's engaged in hostilities with Nigeria in 1972-1973 and in May 1981 by invading Nigerian villages in the Adamawa Province and as well as Bakassi Peninsular, an act of provocation which prompted increased Nigeria's naval and military presence in Bakassi area and other parts of South-South and South-East Nigeria.

The worst attempt to instigate armed conflict and war was noted by Aghemelo and Ibhasebhor (2006:177-181) that dispute in the oil rich area between Nigeria and Cameroon from 1993 led to the loss of lives from military aggressions that was instigated often by Cameroon. It is noteworthy to mention that Cameroon had a subsisting Defence Pact with France unlike Nigeria who did not signed the Anglo-Nigeria Defence Pact in the 60s after independence from Britain. Under the Pact, France as a developed European State and one of the military powers of the world with a permanent seat on the Security Council of United Nations Organization (UN) is an ally of Cameroon in the event of any escalation of territorial dispute or border conflict result to war between Cameroon and Nigeria.

During the last raid on Bakassi Peninsular by Cameroon, Nigeria claimed that 30 Nigerians were killed including 3 soldiers while 117 were wounded apart from destruction of 8 houses and 4 boats. Nigeria was of the opinion that Cameroon surprise attack was an invasion of her territories since she knows that the inhabitants of the territories were Nigerian citizens and not Cameroonians. Hence, the ruthless attacks. Cameroon in her opinion did not refute the attack, but claimed that the numbers of casualties were exaggerated. Various international interventions failed to settle the territorial disputes until Cameroon eventually approached International Court of Justice (ICJ) for settlement of the boundary disputes. Cameroon put in issue 1800 kilometres of land boundary between Lake Chad and Bakassi before ICJ while Nigeria made detailed submissions to identify areas of uncertainty and dispute and to settle once and for all outstanding boundary issues between the two States. In addition to her territorial claims, Cameroon made substantial claims: against Nigeria for reparations to be paid on the basis that Nigeria has encroached on sovereign Cameroonian territory. Nigeria made corresponding claims against Cameroon. Both claims were

rejected by the Court. The Court ruled that it was sufficient for both Nigeria and Cameroon peacefully to return territories and did not require the parties to pay any compensation to one another.

The ICJ examined some 17 areas along the boundary, in each case ruling exactly where the boundary should run. The net result of this exercise has been that some 1,7,000 hectares of land have been affirmed as being Nigerian territory, including some significant Nigerian settlements, such as Sapeo, Tipsan, Lip and Mberogo. By contrast, some 4,000 hectares of disputed territory were held to be within Cameroon. In some areas, such as at Turu in Adamawa State, the Court found that there has been substantial encroachment by Cameroon into Nigerian territory and directed Cameroon to withdraw her administration and military or police forces from all the areas along the land boundary which were confirmed as being under the sovereignty of Nigeria, including Turu, Bourha Ouango and Nyaminyami. In the Lake Chad region, where the Lake Chad Basin Commission (LCBC), comprising Nigeria, Cameroon, Chad, Niger and the Central African Republic has long been established to coordinate efforts to preserve and protect the environment and people of the ecologically fragile area with Nigeria providing over 50% of the LCBC budget, Nigeria with her 60,000 population living in the area were directed by the ICJ to respect the colonial boundaries.

The ICJ rulings transferred the sovereignty of Bakassi to Cameroon, without affecting the rights of passage by all vessels enjoyed under international law, including Nigerian vessel, travelling to and from the sea to the west of Bakassi, whether on the Nigerian or the Cameroonian side of the Maroua. The ICJ ruling indicated to Nigeria and Cameroon, the direction of their international boundary south of the Maroua line. The line was to be drawn between them which could rapidly reach the outer limits of Equatorial Guinea's maritime Space, thus causing her to join issues with the two countries. The effect of the line was to determine the degree of Cameroon access to Nigeria's offshore fields and invariably those of Equatorial Guinea.

On 12 June 2006, the two countries concluded the "Green Tree Agreement" negotiated by the Cameroon-Nigeria Mixed Commission, established by the UN. Despite security concerns, restraining court order against handover and the dissent of National Assembly (Nigeria's Parliament), the representatives of Nigeria led by the Attorney General and Minister of Justice, peacefully hand-over Bakassi Peninsular to the officials of the Government of Cameroon in the presence of senior UN officials and diplomats from numerous countries. The Bakassi Peninsular considered being rich in oil and gas deposits was the major cause of frequent violent attacks between Nigeria and Cameroon, which the handover intended to halt. However, the Nigerian people of Bakassi origin were displaced and relocated into other parts of Nigerian territory as a result of the ICJ ruling which turned them to refugees and new settlers.

In September, 2012 an online newspaper publication of the Nation Newspaper reported the opinion of two respected Nigerians – Prof. Wole Soyinka, a Nobel Laureate and another jurist and scholar, Prof. Akin Oyebo who vented the frustrations of Bakassi people on the loss of the territory to Cameroon and the need to review the ICT ruling with a view to recover the Bakassi Peninsular to Nigeria. The two scholars advocated the right to self determination of the people of Bakassi and the need to create international awareness on the losses of the peoples' territory through the event that culminated in the handover to Cameroon. Oyebo was quoted as saying that the *'Bakassi Case is not closed'*. Subsequently upon the declarations of these notable academics, Hon. Justice Prince Bola Ajibola, in the Vanguard Newspaper (Nigeria) publication of 29th September, 2012 noted in an interview that Nigeria lost Bakassi since 1961 by her faulty diplomatic positions and adoption of the use of a map that *'agreed that our boundary is in Akwa Yafe as opposed to Rio del Rey. If we own Bakassi, the boundary would have been in Rio del Rey and not Akwa Yafe. We agreed to that! We Nigerians in Nigeria here. And we even at a time asked Professor Valad in Britain to advise us on the matter and that professor told us clearly that we had an uphill task, that what we thought we owned had already been transferred to Cameroon through that treaty. That is the situation. But there are still questions to be answered, which had already been ignored or decided against by the ICJ...We are now raking the misfortunes of yesteryears (colonial rule) and we are now the victims of the problems that arose before now. That was at the time of our independence.'*

In October, 2012, 20 indigenes of Bakassi in Cross River State under the Free Bakassi Association filed a suit against the Federal Government of Nigeria before a Federal High Court in Abuja with a view to void the Green Tree Agreement which Nigeria signed with Cameroon in 2006 to hand-over of the oil rich Bakassi region to Cameroon. The court proceedings instituted in pursuant to Section 1 of African Charter on Human

and Peoples' Rights Enforcement and Ratification Act Cap 10, Laws of the Federation of Nigeria, 1990, and order 34 rules 1(a), 3(1) and (2) of the Federal High Court Civil Procedure Rules (2007) sought to compel the Government of Nigeria to unilaterally resile and revoke Nigeria's obligations under the Green Tree Agreement entered with Cameroon in Green Tree, New York, USA on the 12th day of June, 2006 and by so doing, repossess, occupy and take full legal and administrative control of Bakassi Peninsular. The litigants avers that the Green Tree Agreement is invalid and breaches Articles 1, 2, 20, 21, 22 and 24 of African Charter on Human and Peoples Rights, Article 1 of the International Covenant on Economic, Social and Cultural Rights, Article 1(2) of the UN charter, and the UN declaration on the rights of indigenous peoples, and being inconsistent with sections 1-3, 2(1) and (6), 13, 14(1) and (2)(b), 17(1), (2)(b), (c) and (d), sections 19(a) and 9d, 21(a) of the Constitution of the Federal Republic of Nigeria (as amended). The litigants concluded that the ICJ gave its judgment on the protracted dispute over ownership of the Bakassi Peninsular based "on archaic and anachronistic colonial declarations, and communications between colonial officers" and that they were not consulted by former Nigerian President Olusegun Obasanjo before he endorsed the Green Tree Agreement. Ruling on the application was then adjourned to October 9th with a view to carefully peruse the "weighty national issues raised therein."

The above implies that several possessory and communication issues remained unresolved and the agitation for the ownership and occupation of Bakassi Peninsular persist after ICJ had ruled over the matter because of the citizenship and location of interest of those who have properties, natural ties and claims over the disputed area.

Conclusions

Soremekun (1988:221-222) as I quote herein asserted that:

'The area in dispute was an integral part of the British possession having been noted in the British Admiralty chart as Rio Del Rey. However, definite demarcations were not marked. Understandably, the Germans, who felt cheated, took advantage of the imprecise nature of things and pressed for a new border agreement. The consequence of this was a new instrument in 1913 which neutralised the British possession of Rio Del Rey (Bakassi). But the global war (WWI) of 1914 shattered this agreement. Indeed, two years later, an arrangement came into force dividing Cameroons into British and French zones. Since then, there have been intermittent attempts to define their respective spheres of authority.'

The implication is that the World War led to the loss of the German Cameroon Territory and its translation to a British Mandate Territory which became part of Nigeria at independence and it was never returned to Germany, then Bakassi is part of Nigeria unless its people had decided to go with Cameroon in 1961 or thereafter. The contradictions in resolving the issues of claim over Bakassi Peninsular suffice in British colonial acquisition and relinquishing of those native lands while it was misconstrued that Bakassi Zone still existed as part of Nigeria going by her administration as a part of the Colony and Protectorate of Nigeria until after independence in 1960.

Other discoveries as indicated by me in the early part of this paper showed that owners of Bakassi were seemingly pacified as documented in a letter dated 21st January, 1929 from Downing Street which reassessed the report of Governor of Nigeria and noted on No. 4 of the memo that:

'...difficulties caused in tribal administration by the international boundaries were to some extent removed by the assumption of the Mandate;... the acquisition of the administration of the territory was a matter of great satisfaction to Nigeria...'

Yet, Tekena N. Tamuno (2012) noted that no one can turn a blind eye completely to the issues that resulted in Nigeria-Cameroun Border conflicts and the quest for Bakassi Peninsular by quoting Justice Bola Ajibola (2008) who chaired Nigeria-Cameroon Mixed Peace Commission thus:

'Nigeria did not wrongly cede Bakassi...from the inception, the colonial master kept the entire Bakassi peninsula within the area that is part of Cameroon. Even as far back as

1962...the sovereignty of Bakassi is that of Cameroon and not that of Nigeria. Even within that time, the map of Nigeria excluded Bakassi...However, the legal title is one thing, the possession or possessory title is another thing. But the law (international law) recognizes the legal title in preference to possessory title.'

The findings from this study showed that crux of the boundary disputes in African States may be defective when comparing the position taken by ICJ in resolving similar disputation over territories and in determining the cause of action in the case of Bakassi Peninsular. Hence, acceptable settlement of boundary disputes can only be seen to be arrived at for both sides, if the process considers the areas and causes of disagreement along with the structures of claims in determining the disputation and addressing the disagreement. The variables inherent in each claim would bother on issues of original ownership, occupation and traditional ties to Bakassi Peninsular before disputation, the status of disputed areas under colonial treaties and their relevance to subsequent colonial rule and the role of the two states in access to and control of the disputed areas since colonial era. Other issues that requires further observation include the citizenship, relationship and aspirations of the inhabitants of Bakassi Peninsular with Government of the two States prior to the ICJ ruling, the effects of change in their status within the disputed area on land and maritime boundaries and sovereign rights of each state in the emerging situation over access to land and waters, likely direction of diplomatic and political cooperation among the states in the emerging settlement of border disputes, direction of police and military operations and control of airspace, cross-border activities and territorial space and the cost of either side over disputed area, where a disputant incurs tremendous irreversible human and psychological ties, economic and political loses.

Recommendations

Richard Mukisa (1997:7) noted that serious arbitrariness caused by colonial evolution of modern African national boundaries had been under discussions since 1950s and that by the 1962, African Leaders raised the issue of compartmentalization of the African continent into more than 50 nations, a fragmentation that could lead to disputes over borders and mineral wealth. He re-echoed Peter Enahoro (1972) position that no one is seeking to redraw African boundaries and that secession in Africa may be at a tragic cost. Mukisa noted that the problem should be addressed through determination of African political leadership to resolve their continent's current economic crisis, Africans' increasing realization that peace and security are prerequisites for the economic development of the continent and the urgent need to curb political crises.

Markus Kornprobst (2002) noted that border disputes varies in the African sub-regions and that escalation of such disputes into wars are due to the norm of territorial integrity features on region-wide consensus basis due to the characteristics of African elites to minimize external threats to their rule through engaging in border conflicts, ethnographic and demographic nature of African continent and the impact on the creation of modern African State, issues of norms and identity in cross-border interactions and the need to either create new states, adjust boundaries or grant autonomy to areas affected by such interactions.

Looking at the position of OAU/AU (1963) in fermenting African Unity to reduce the conflagration and fragmentation of African States as a pointer towards resolving border conflicts, it was noted that could not fight colonialism and neo-colonialism without unity and a common front. The need for compromises would not only hasten the continent's reunification, but would guarantee the Africa's territorial integrity and sovereignty. Hence, I borrow the words of former Mali's President – Modibo Keita (quoted in Touval:1967:104) thus: *'We must take Africa as it is, and we must renounce any territorial claims, if we do not wish to introduce what we might call black imperialism'*.

Aghemelo and Ibhasebhor (2006:177-181) noted that for Nigeria to give Bakassi Peninsular to Cameroon, the nation would achieve two things which consist of applying 'the principle of good faith' in the rule of International Relations and Diplomacy by honouring her 1962 Diplomatic Note that conceded Bakassi to

Cameroon and by upholding ICJ ruling though it make Nigeria vulnerable since Bakassi is strategic to her national security apart from the maritime access to Nigerian coast and other issues.

The implication is that the future of Bakassi Peninsular would not end with ICJ ruling, if the rights of the people to the aspirations and principles of self-determination is guaranteed by the United Nations and if the interest of world powers to provide for humanitarian causes, world security and peace are to be enhanced, for the inalienable rights of all people of the world. That right is the crux for aspirations by Kurds in Syrian, Iraq and Turkey, just as Israelis and Palestinians contend for the Middle East like and other ethnic minorities, whether in Niger-Delta of Nigeria or other parts of Africa and the world as a whole. The Federal Government of Nigeria is at liberty to appeal against the excising of Bakassi and its handover to Cameroon with a view to ensure that constitutional and human right protection of her citizens of Bakassi origin are not jeopardized.

Beyond the above conclusions and recommendations, Nigerian Government took a position on 9th October, 2012 when the revision of the ICJ ruling on Bakassi was to be statute-barred that it was impossible for Nigeria to satisfy ICJ Statute requirements for a revision of the ruling. The Government noted the resolutions of the National Assembly seeking a review of ICJ ruling, but reiterated that the ICJ judgment is final and not subject to appeal, although the court's Statute provides for circumstances under which a judgment can be reviewed. Adoke (2012) noted that Nigerian Government reviewed the situation and examined the case for revision against the requirements of Article 61 of the ICJ Statute and was constrained by the oral presentations made that the revision cannot meet the strict requirements of ICJ Statute since the issues canvassed had been pronounced upon by the ICJ in 2002. The opinion of international legal experts sought also concluded that **“an application for a review is virtually bound to fail”** and that a failed application will be diplomatically damaging to Nigeria.

What is therefore left to be concluded is the approach and responses of the two States to the challenges of the boundaries and cross border relations and diplomacy, beyond 2002 ICJ ruling and the subsequent handover of Bakassi to Cameroon.

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Narratives (Oral Tradition)

Prof. Isola Olomola, Postgraduate Classes Lecture on African Boundary Politics, Department of History and International Studies, Ekiti State University, Ado-Ekiti (Sept. 2012)

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