

Nigeria Complied, but Dissatisfied: A Reappraisal of the Verdict between Nigeria and Cameroun over Bakassi-Peninsula

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Abstract

Boundary disputes affect nation building process in Africa. The Nigeria and Cameroon dispute over Bakassi (Backassey) Peninsula ownership is one of such disputes. On the 10th of October 2002, the International Court of Justice, which was handling the case ruled in favour of Cameroon. Though Nigeria complied, it expresses dissatisfaction of the verdict. Adopting the qualitative and historical descriptive methods of analysis, the work contends that France's Defence Pact with Cameroon by encouraging Southern Cameroons to enter into a federal relationship with "la Republique de Cameroon would make France bias owing to the influence it could have on the court because France had the deputy registrar, and a judge in the court that ruled the case. This alone, in the view of Nigeria discredited the credibility of the court's ruling. An isolated argument of the paper is that, the case be reopened to admit the presented but ignored valid six colonial/post-colonial treaties by Nigeria, or conduct another referendum to accommodate the position of the displaced indigenes. This is in view to serve justice in order to douse the mutual suspicious, distrust and outright alienation and build a better harmonious cooperation between the two African Union and ECOWAS member countries.

Keywords: Bakassi-Peninsula, Nigeria, Cameroun, referendum, indigenes, dissatisfaction, dispute, verdict.

Introduction

Boundaries which mark the geographical limits of nations as well as the extent of its sovereignty are notable strategic features of nations' survival. This explains why nations jealously protect and defend their political frontiers and boundaries. The outcome of this protection in international relations is incessant territorial disputes among nations of the world (Njoku, 2010, p. 1). This is more so if the zone is economically viable. The Bakassi Peninsular that is 1000 kilometres long is rich in oil mineral, and a strategic military base (Etekpe, 2013, p. 286). Until formally removed from Germany and made a League of Nations' mandate territory at the end of World War 1, Camerron was a German colony. After World War 1, Britain and France jointly administered Cameroon. Britain administered the Western and Southern Cameroon from Nigeria because

these parts shared a boundary with Eastern Nigeria. Incidentally, Bakassi Peninsula is situated at the southern end of the boundary. France, on the other hand, administered the eastern part of Cameroon (Etekpe, 2013, p. 286). This is a clear proof that France never had any connection with Britain over the Bakassi Peninsula.

Although, Bakassi Peninsula dispute revolved around the one of environment endowments such as oil and fish, at the time of the Anglo-German struggle for territorial sphere, the Bakassi Peninsula did not offer any attraction. Claude Macdonald in his correspondence to the British Foreign Office dated January 21, 1893, described the Peninsula as a "dismal swamp, peopled by a few miserable folk" (Ede, 1981, pp. 292–300). The seeming lack of interest by both Germany and Britain left Bakassi as an intervening no-man's land. However, the Peninsula in the 1970s

became a bone of contention between the two successor-states of Nigeria and Cameroon owing to the discovery of rich hydro-carbon deposits. Other resource endowments within the Southern borderlands which exploitation by Nigeria contributed to having the dispute with Cameroon included forestry resources and fisheries.

This work would look at, among other issues, retrospective relations between Nigeria and Cameroon; post-independence African boundaries and territorial disputes, especially the Nigeria-Cameroon experience for the basis of discussion; the ICJ's ruling on the Bakassi Peninsula and Nigeria's reaction, especially, why the ICJ relied on only two (i.e., the 1913 and 1931) treaties out of the eight relevant treaties presented before it to rule in favour of Cameroon; establishment of the Cameroon-Nigeria Commission, its mission and results; suspicion and distrust among the two countries despite the establishment of the mixed commission which slowdown in combating Boko Haram terrorism in the region. The place of continental and regional organisations such as the AU and ECOWAS to encourage synergy in order to promote peace and development in the region including the respective countries would however, form the earlier base for discussion. The study would also demonstrate the implications of the ICJ's ruling on the Bakassi inhabitants. The last part of the paper is the conclusion.

A Brief Background to the Formation of the Organisation of African Unity (OAU), now African Union and the Economic

Community of West African States (ECOWAS)

The Organisation of African Unity (OAU), now African Union (AU) is an offshoot of Pan-Africanism which central sentiment is about African unity and solidarity, originated in the West Indies and North America. The diplomacy according to Ebilabo Obubo (2021, p. 222), is geared towards the removal of territorial boundaries and see the larger African state as a single and supra national entity. The basic reasons among others for the formation of the OAU (AU) in 1963 were to foster economic and social cooperation among member states; to have a single voice in African affairs; the desire for peace in Africa and peaceful resolution of African problems by Africans themselves without external influences. Hence, Africa for Africans, African Federalism, the African Personality, a new Communalism, and Ghandhi's non-violence as well as Nkrumah's positive action as a means towards independence for all African countries form the general principles for the OAU (AU) (Obubo, 2021, pp. 222–223). For the sake of emphasis, evidence abounds that Nigeria played a very substantial role in the formation of OAU (AU) and contributed financially and in human resources to its success story. For instance, the charter of this continental body was said to have been drafted by Teslim Elias, the then Nigerian Attorney-General and subsequently, Chief Judge of the Federation. Since then, Nigeria has been acting as the “image maker” of this supra-national body-OAU (Obubo, 2021, pp. 222–223). Similarly, the Economic Community of West African States (ECOWAS) came into

being on May, 1975. The treaty for the ECOWAS was signed in Lagos by fifteen West African countries, namely: Nigeria, Benin, Togo, Ghana, Ivory Coast, Liberia, Sierra Leone, Guinea Bissau, Senegal, Mauritania, Mali, Upper Volta and Niger.

Two basic aim and objectives of ECOWAS are: i. to promote co-operation among West African states in all fields of development - industry, transport, telecommunications, energy, agriculture, natural resources, commerce, monetary and financial questions, social and cultural matters, for the purpose of raising the standard of living of the people, and ii. to increase and maintain economic stability in member states by fostering closer relations among its members with a view to increasing the development of the African continent. Unfortunately and regrettably too, the ideals of these respective continental and regional bodies are now been threatened by boundary and territorial disputes that have obliterated the principle of non-interference in African affairs by external powers and have attracted the arbitration of foreign institutions such as the ICJ's ruling in the Nigeria-Cameroon Bakassi Peninsula in 2002. The implication of this dispute greatly affects the process of development in the two countries. As A. I. Nwabughuogu (2016, p. 28) stated "international boundary disputes dissipate the resources of African nations. The cost of hiring lawyers to the World Court could be a heavy burden on the disputing countries, money that could have been used to develop the countries involved are instead, channeled to litigation charges.

A Historical Review of Nigeria-Cameroon Relations

The actual demarcation of the Nigeria-Cameroon border took place over a long period of time (from 12 July 1884) when the German colony of Kamerun (Cameroon), was established through the plebiscite that divided the British Northern and Southern Cameroons into distinct territories, which choose independence by joining Nigeria and French Cameroon respectively (Brownlie, 1979, p. 74). It is important to note that Northern and Southern Cameroons were British protectorate territories administered as part of Nigeria, and there was no separate administrative agency for the Cameroons. As a result, the colonial boundary was not considered as an impediment to social and economic activities, thus maintaining the ethnic-linguistic continuity of the region. It was in the spirit that the Cameroonians participated fully in Nigerian parliament under the National Council of Nigeria and the Cameroons (NCNC), a political party dominant and domiciled in Nigeria. This shared colonial history encouraged the Nigerian state to lay claim to the Bakassi Peninsula. In clear terms, Ambly Etekpe states that:

The border between Nigeria and Cameroon extends from Lake Chad to the Gulf of Guinea, including offshore areas of Bakassi Peninsula that was thought to possess no particular value. Thus, the Bakassi Peninsula was for several decades not an issue to Nigeria and Cameroon; and as such the two countries signed the Organisation of African Unity (OAU) Declaration on Border Disputes among African States in Cairo, Egypt, in 1964.

The essence of the Declaration was to forestall ethnic and or national fragmentation in post-colonial African countries. Be that as it may, African countries continue to call on the international judicial institutions like the IJC to mediate on contemporary border disputes including the Bakassi Peninsula (Etekpe, 2013, pp. 286–289).

The quotation above is a negation of one of the core principles for the formation of the OAU. The emphasis of that principle lies on the Africans' desire for peace in the continent and peaceful resolution of their internal problems by themselves without external influences. However, critics like D. A. Adeboye, are of the view that the British method of administration appeared that Nigeria rather than Britain was the colonial master of the Southern Cameroons. According to this account, the post-1945 nationalist struggle in Southern Cameroon was more anti-Nigeria than anti-colonial in character. The writer mentions that this situation gave rise to the increasing peripheralization of Southern Cameroon which seemed to be more of a colony within a colony (Adeboye, 2015, p. 15).

Being administered as an appendage of Nigeria led to lack of socio-economic development and little advancement in the economy from the plantation economy established under German colonial rule. In addition to this point is the quasi-regional status and limited degree of self-government gained by Southern Cameroons in 1954, German Kamerun Protectorate in Nigeria. However, the Southern Cameroons achieved full regional status within the Federation of Nigeria in 1958. But this autonomy gave rise to

two problems once independence of Nigeria was achieved. First, the Southern Cameroons entered into federal relationship with the La Republique de Camerron, which proved to be unequal and antithetical to the democratic traditions that begun to take root there. Second, La Republique treated the border between it and Nigeria as sacrosanct and resented the continuing ties between Nigeria and Southern Cameroon (Asiwaju, 1990, p. 72). Ever since, when Nigerian troops ventured and fought across the border, Cameroon reacted strongly, and sometimes, conflictual relationship developed around the border. In view of this background, it is not surprising that Cameroon filed this case at the ICJ bearing in mind that its newly made ally-France-had a judge and the Deputy Registrar in the ICJ as at then. Otherwise, they would have toed the path of Nigeria that favoured an internal diplomatic solution that would have addressed the arbitrary nature of pre-colonial and post-colonial boundaries.

The International Court of Justice's Ruling on Bakassi Peninsula and Nigeria's Reaction

Before delving into discussing the ICJ's ruling on Bakassi Peninsula and how Nigeria reacted and still reacting to the judgement, it is expedient to first and foremost, describe this very vital organ of the United Nations. Established at the Hague in 1946, the ICJ settles disputes submitted to it by states by virtue of jurisdictional clause, i.e. typically when they are parties to an existing treaty, reciprocal effects of declarations made by parties under the statues whereby each has

accepted the jurisdiction of the court as compulsory in the event of a dispute with another state having made similar declaration, and advisory opinions on legal questions.... (Etekpe, 2013, p. 290). Though established at the Hague, the statute of the court was adopted at the San Francisco conference to replace the League of Nations Permanent Court of International Justice. Members of the UN are ipso facto parties to the statute of the court, and other states may become parties to it (Palmer & Perkins, 2010, p. 315). UN members pledged themselves to comply with the decisions of the court, although they retain the right to use other tribunals. The General Assembly and the Security Council, and other organs and specialized agencies of the UN, if authorized by the Assembly, may request advisory opinions (Palmer & Perkins, 2010, p. 315)

Between 1946 and 1997, the court handled 41 contentious cases and delivered 21 advisory opinions. The court adopts both English and French as official languages. Its judgment is final and enforceable by the UN Security Council. The court has 15 judges elected to serve for a period of nine years. Although the judges are independent magistrates and do not represent their countries (Etekpe, 2013, p. 290), there is no clause that stops them from having moral obligation to their countries, nor favouring their allies and colonies. Owing to this, the Cameroonian 15-member delegation to the ICJ was alleged to have been supported by the French government, which at that time had the Deputy Registrar, and a judge in the court. As Etekpe presumably pointed out, "this could be a reason behind the Cameroonians lack of

interest in the mood of Pan-Africanism that has endured over the years by not allowing African Union to resolve the dispute through diplomatic means, instead of ICJ to secure judgement". This shows that Cameroon had prepared for it for some time (Etekpe, 2013, p. 290). Both the Pre-colonial and Colonial Treaties of friendship and protection in Bakassi Peninsula, the composition of ICJ and senior support staff at the time of the ruling the case, and some of the witnesses of both countries would be presented in tabular forms to support this argument.

As earlier discussed, Cameroons was a former British territory which was a United Nations Trust Territory, comprising the Northern and Southern Cameroons, it was administered by Her Majesty's Government as an integral part of Nigeria, the Northern Cameroons, forming part of the Northern region, and the Southern Cameroons having a separate administration within the Federation of Nigeria (A Daily Times Publication, 1982, p. 123). However, following a recommendation by the United Nations that both parts of the territory should be constitutionally separated from Nigeria by October 1, 1960, when Nigeria would become independent, and that there should separate plebiscites by March, 1961, in each part of the Cameroons to ascertain whether the people wished to achieve independence as part of Nigeria or as part of Republic of Cameroon. A plebiscite was held on February 11 and 12, 1961. The Northern Cameroons voted for unification with Nigeria and was formerly incorporated into the Federation on June 1, 1962, and later renamed Sarduna Province. The Southern Cameroons

on October 1, 1961, ceased to be administered as part of the Federation of Nigeria (A Daily Times Publication, 1982, pp. 123–124). Following this, there was an Exchange of Notes between the British Consul and Ahidjo (former President of Cameroon) that terminated the trusteeship Agreement on 27 September 1961 (Etekpe, 2013, p. 287).

The Notes of 1961 recognised Rio Del Ray estuary as frontier between Nigeria and Cameroun, and there was no dispute over the ownership of Bakassi Peninsula and parts of the Lake Chad as repeatedly mentioned. However, the problem arose when crude oil was discovered in the Peninsula and Cameroonians laid claims of ownership based on the Anglo-German treaty of 1913, but Nigerian government objected the claims saying, “the 1913 treaty imprecisely and poorly demarcated the border” (Etekpe, 2013, p. 287). The conflicting interpretations of the treaty led to military disturbances and hostilities in the years 1981, 1983 and 1994 which prompted Cameroon to file a case at the ICJ against Nigeria’s sovereignty over the disputed area on March 29, 1994. Since the problem arose from the application and or varied interpretations of colonial treaties especially the maritime boundaries, Cameroun requested the court to determine the maritime frontiers between the two countries-Nigeria and Cameroun under Article 31(2) of the Statute of ICJ (Etekpe, 2013, p. 287).

Cameroun equally alleged that Nigerian troops were occupying several areas of the Peninsula, thereby violating the fundamental principles of respect for frontiers inherited from colonial masters. She supported

her claims with the British-German treaty of 11 March, 1913 and Henderson-Fleurian Exchange of Notes between Britain and France on 9 January, 1931. Reacting to these claims, on the 17th of December 1995, Nigeria filed objections to Cameroun’s claims and equally questioned the jurisdiction of ICJ to entertain the suit filed by Cameroun (Etekpe, 2013, pp. 287–288). the other selected treaty presented at the ICJ by Cameroun was the 1932 exchanged Diplomatic Notes on the sovereignty of Bakassi, as stated above which gave Britain conditions to continue to administer Bakassi Peninsula as part of the then Eastern Nigeria (Etekpe, 2013, p. 287).

On 8 October, 2002, these selected two treaties secured victory for Cameroun over Nigeria. It is worthy of note that even before the October 8, 2002 ICJ judgement, post-independence Nigerian leaders reneged from ownership claim of the disputed Bakassi Peninsula. For instance, in January 1962, Abubakar Tafawa Balewa exchanged diplomatic notes with Cameroun where he acknowledged the fact that BP was not Nigerian territory. This stance was retained by Aguiyi Ironsi in 1966 where he committed his government to respect all previous international agreements. Yakubu Gowon who succeeded Ironsi and came to power in 1966 also committed his government to honour all previous treaties and agreements. He was not perturbed whether the Nigerian map included BP or not (Etekpe, 2013, p. 291). All these could be viewed as self-indicting evidence of acceptance that the BP is Camerounians’.

However, Nigeria sought for clarification of the ‘vaguely’ defined maritime

border of the Anglo-German Treaty of 1913 after the Nigerian civil war in 1970. According to an online source, this became necessary because the offshore boundary was ambiguous as there was no detailed demarcation of the 'navigable portion' to the Calabar estuary (Gamji, n.d.). According to this source, the Attorney-General of Nigeria at that time, Teslim Elias advised the government of Gowon that:

This Ministry has given a most careful consideration to the whole question in the light of all the available evidence, and the conclusion is that there is no legal basis for Nigeria's claim to the Bakassi Peninsula for the reason stated therein....According to the information received from the Federal Director of Surveys, the Bakassi Peninsula has never been included as part of Nigeria in the administrative maps of Nigeria since the then Southern Cameroun ceased to be part of Nigeria in 1961. Also, the Northern Region, Western Region and Eastern Region proclamation of 1954 showed Bakassi Peninsula as forming part of the then Southern Cameroun. Moreover, by a diplomatic Note no. 570 of March 27, 1962 from Ministry of Foreign Affairs to the Embassy of Cameroun in Lagos to which was attached a map prepared by the Federal Surveyors, Nigeria recognized Bakassi Peninsula as forming part of Cameroun (Gamji, n.d.).

The afore-discussed accounts could serve as a clog in the wheel of victory for Nigeria over Cameroun, despite Nigeria's view on the verdict. This is a proof of relinquishing and admission of non-ownership of the disputed portion in question. The crux of the dispute was on deciding exactly what part was

'navigable' and what was not. This was then addressed by Nigeria's then Head of State, Yakubu Gowon and his Cameroonian counterpart, Ahmadu Ahidjo at Yaoundé, Cameroun on 4 April 1971. Both parties resolved that the boundary shall be 'Coker-Ngo line on British Admiralty Chart No. 3433 as far as the 3-nautical mile limit'. The status of BP proper, according to Etekpe (2013, p. 291), was not an issue for discussion and the maps showing BP in Cameroun was not challenged. Again, on 1 June 1975, Gowon and Ahidjo signed the Marova Declaration for the partial extension of the 1971 maritime boundary without discussion on the status of BP proper.

It was Murtala Mohammed who overthrew and succeeded Gowon as Nigeria's third Head of State and Government (HOSG) on July 29, 1975 that raised the issue of BP for the first time (Anene, 1970). He frowned and queried 'all the domestic and foreign policy decisions' of his predecessors, including the offshore maritime border with Cameroun. He particularly accused Gowon for giving away BP to Cameroun, and decided to renege on Gowon's earlier agreements with his Cameroonian counterpart. He (Murtala) however, failed to argue that Nigerian official maps still showed Bakassi Peninsula in Cameroun. This could be an error due to his stance on the issue. Observing this presumed error, Ibrahim Babangida, Nigeria's 5th HOSG, ordered reprint of Nigerian maps to include BP in Nigeria in 1991 (Etekpe, 2013, p. 291).

As a sign of agreement with his immediate predecessor's action, Sani Abacha

created an administrative structure, known as Bakassi Local Government Council, as part of Cross Rivers State, in Nigeria and asserted full control of the Peninsula. As put forward by Etekpe (2013, p. 291), this action led to sporadic clashes between the two countries until the ICJ at the Hague confirmed on 10 October, 2002 what Elias had stated in 1970. The ICJ reiterated the relevance of pre-colonial and colonial treaties and agreements that placed BP and some parts of Lake Chad inside Cameroun. The ruling, according to E. M. Baye (n.d.), also provided guidelines for the final clarification of the offshore borders that places BP and thirty-three villages at Lake Chad inside Cameroun.

Although, the ICJ has ruled in favour of Cameroun against Nigeria, Nigeria has abided to a large extent, the Nigerian government yet rejected this verdict on various grounds. This could be best captured in the work of J. O. Fatile and K. D. Adejuwon:

Nigerian government issued a statement rejecting the verdict of ICJ. Yet, following negotiations between the two countries, facilitated by the UN and crowned by June 2006 Green-tree Agreement in New York and subsequent instruments, Nigeria completed the withdrawal of its military, administration and police from Bakassi Peninsula in August 2008.... However, it will be naïve to conclude that the issue has been neatly resolved.... (Fatile & Adejuwon, 2012, pp. 221–226).

Nigeria also doubted the 1913 treaty between France and Cameroun. Nigeria recalled that Cameroun was a German colony until the treaty of Versailles after the World War 1. France was by then nowhere near the Bakassi

Peninsula and could not have entered into treaty obligation with either Britain or the Efiks in 1913. It was after WW1 when France “acquired” the Eastern part of Cameroun, and still never had any connection with Britain over Bakassi Peninsula. France came in after Nigeria’s independence when Camerounians opted to join their brothers in the French-speaking part. It is, therefore, difficult to understand how the 1913 treaty became major prima facie evidence (Etekpe, 2013, pp. 291–292).

Owing to politics of interests and or allies in the UNOSC, most ICJ rulings and enforcements are partial. In this case, the Western capitalist world sees that there should be enforcement, evidence abound that previous ICJ rulings and or verdicts have been disregarded and downplayed. For instance, on 10 July 2004, the then President of the ICJ, Shijiu Young ruled that Isreal should pull down the 600 kilometres of illegal barriers at the West Bank that imposed undue hardship on Palestinians, but the United States of America disagreed with the judgement and the UN Security Council did not enforce it. M. Oloja succinctly puts it “the United States White House Spokesman, Scott Miccellen, reacted that, we do not believe that this (ruling on Israelis pulling out) is the appropriate forum to resolve what a political issue is. This is an issue that should be resolved through the process that has been put in place, specifically, the road map” (Oloja, 2004, p. 10).

With this backing from a big ally like the US, Isreal as expected disregarded the ruling, and yet, the UN Security Council did not enforce it. This is what was expected of

Britain in defending Nigeria in UN Security Council. But the sole blame should not be put on Britain, Nigeria's reliance on the expertise of Bola Ajibola and Richard Akinjide to whittle down French influence in the case may have dampened Britain's interest in the case. Otherwise, there would not be any base why Britain was not used as the crown witness for Nigeria at the ICJ. Isreal was bold enough to disregard the court's verdict because she looked to US veto in the Security Council to block any bid for punishment. Another instance is the apartheid South Africa that ignored ICJ ruling against its illegal occupation of the then Southwest Africa (now Namibia) in 1971 as it looked to Britain to veto UN Security Council's enforcement. R. Adams views that such inconsistencies could portend danger in the world. The author cautioned against the developed world's management of the post-cold war era and global peace (Adams, 1998).

Again, according to Etekpe (2013, p. 291), Adams' caution is imperative in view of the far-reaching results or implications of the ICJ ruling on Nigeria-Cameroun boundary dispute on Nigeria that would be presented as table 4. The table would show how the Court drew a fresh boundary between Nigeria and Cameroun in Lake Chad where Nigeria ceded 33 villages in Borno state to Cameroun. More worrisome is the fact that the litigants and the court did not seek the consent of the indigenous communities whether they favoured cessation or not. The socio-economic effects of this verdict on these abruptly ceded erstwhile Borno indigenes cannot be overemphasized.

So, the position of the Bakassi returnees and indigenes of the thirty-three villages (with a population of about 60, 000) at the Lake Chad that were ceded to Cameroun have frown at the ICJ ruling, and demanding for a referendum in which they would be the deciding factor as it was done in the past, including the case in Southern Sudan in 2012 (Pratt, 2006, pp. 330–332; Etekpe, 2013, pp. 292–293). for them, their demand for referendum is in line with both USA position on the Israeli-Palestinian conflict as stated earlier where the Americans stated that the ICJ 'is not the appropriate forum to resolve what is a political issue'. They asserted that the dispute over Bakassi Peninsula is also a political issue, and should be resolved by referendum (Etekpe, 2013, p. 291).

Though skeptical about the outcome due to the veto influence, France has in the UN Security Council, the indigenous 'scattered' people urge the Nigerian government to vigorously reestablish this case. According to G. P. Gooch, and H. Temperley, "this is where Britain has to come in through treaty obligations the same way France is dragged in by Cameroun through their Defence Pact (Gooch & Temperley, 1926, pp. 402–420). Even so, the people expressed their disappointment at Nigeria for not putting up a formidable team for the litigation. They particularly blamed Nigeria that it never had any treaty mandating like Harold Dappa-Biriye, Obong of Calabar, Yakubu Gowon or experienced traditional ruler's privy to the colonial treaties that had hindsight to the ambiguous clauses in the 1913 treaty that formed the basis of the ruling (Etekpe, 2013, p. 293). As earlier highlighted,

the tables below would give a clearer description of the facts put up by this essay.

Table 1: Pre-colonial and Colonial Treaties of Friendship and Protection in Bakassi Peninsula

Year	Chaseter of Treaty	Treaty Partners	Content
1841	Anti-slavery	British-Efik at Old Calabar	To stop slave trade and embrace legitimate trade
1842	Enforcement of Anti-slavery activities	British and Efiks	To empower Britain to intervene on slavery matters with force
1847	Friendship and Protection	French and King Duala, Karmaroun (Cameroun)	Part of Cameroun sought to remain under British rule and Eastern Nigeria
1881	Annexation	British and Efiks	Annexation of territory from Bini (Benin) to Cameroun to preclude French territorial ambition
1884	Balkanization of Africa (Berlin Conference)	British and Germans	Deciding on colonial borders and claims, and making Rio Del Roy estuary as accepted ethnic frontier between Nigeria and Cameroun on the Peninsula to forestall territorial conflict of ownership.
1913	Sovereignty over Bakassi Peninsula	British and Germans	Defined land and maritime boundary by relying on Rio Del Roy as accepted frontier on the Peninsula
1931	Henderson Fleurian Exchange of Notes on sovereignty of Bakassi	Britain and France	Setting out conditions for British continued retention of Bakassi area as part of Eastern Nigeria
1961	Trusteeship agreement	British and Ahidjo	Exchange of Notes on withdrawal of British occupation of Southern Cameroun. It was fast but not totally

			unexpected or sudden.
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Sources: excerpts from Ambly Etekpe, 2012: 288

Table 2: Composition of ICJ and Senior Support Staff, Hague, October, 2002

S/N	Name	Position Held	Country of Origin
1.	Shijiu Young	President	China
2.	'Raymond Ronjeva	Vice-President	Madagascar
3.	Abdul G. Koroma	Judge	Sierra-Loene
4.	Vladlen Vereshuhetin	Judge	Russia
5.	Rosalyn Higgins	Judge	United Kingdom
6.	Gonzalo Parra Aranguran	Judge	Venezuela
7.	Pieter H. Kooljans	Judge	Netherlands
8.	Francisco Razez	Judge	Brazil
9.	Awashawkat Al-Khasaw	Judge	Jordan
10.	Thomas Buergenthal	Judge	USA
11.	Nabil Elaraby	Judge	Egypt
12.	Hisashi Owada	Judge	Japan
13.	Brouno Simma	Judge	Germany
14.	Peter Tomka	Judge	Slovenia
15.	Ronny Abraham	Judge	France
16.	Phillipe Couvreur	Registrar	Belgium
17.	Jean-Jacques Amaldez	Deputy Registrar	France

Sources: Ambly Etekpe, 2012: 289

Table 3: Witnesses at ICJ on Nigeria-Cameroun Boundary Dispute at Hague, February 18-March 21, 2002

S/N	Witnesses for Nigeria	Witnesses for Cameroun
1.	Hon. Musa E. Abdullahi	Amadu Ali
2.	Mrs. Nella Andem-Ewa	Mr. Maurice Kanto
3.	Sir Arthur Watts	Mr. Alain Pellet
4.	Mr. Lan Brownlie	Mr. Peter Y. Ntamak
5.	Mr. George Abi Saab	Mr. Maleom N. Shaw
6.	Alhaji Abdullahi Ibrahim	Mr. Bruno Simma
7.	Mr. Alastar MacDonald	Mr. Jean Peirre Cot
8.	Mr. James Crawford	Mr. Daniel Khan

9.	Mr. Richard Akinjide (Attorney)	Mr. Joseph Marie Bipoun Woun
10.	Prince Bola Ajibola (Attorney)	Michael Aurillac
11.		Christian Tomusschat
12.		Maurice Mendelson
13.		Jean-Marc Thouvenin
14.		Oliver Corten
15.		Sir Lan Sinclair

Sources: Amby Etekpe, 2012: 289

Table 4: ICJ Judgement on Bakassi and Lake Chad on Nigeria-Cameroun Conflict at the Hague, 10 October, 2002.

S/no.	Claim	Ruling
		Cameroun (Kamerun)
		Nigeria
1.	Bakassi Peninsula	1. Accepted that land (boundary) had been fixed by pre-colonial and colonial treaties of friendship and protection. 2. Affectivities relied upon by Nigeria could not prevail over Cameroun's conventional titles 3. Pursuant to Anglo-German treaty of March 11, 1913, sovereignty over Bakassi lies with Cameroun.
2.	Lake Chad	4. Pursuant to Henderson Fleurian exchange of Notes on January 9, 1931 between Britain and France, an extremely precise boundary was drawn between Nigeria and Cameroun. 5. Pursuant to Yaounde II and Maroua declaration of 1971 and 1975, the maritime boundary from the mouth of Akwayefe to the Sea (to the advantage of Cameroun) was fixed. 6. Cameroun under an obligation to expeditiously and without condition withdraw its administration, military and police forces from Bakassi Peninsula and Lake Chad

	falling within the sovereignty of Nigeria.	
	7. Cameroun to continue to be faithful to its traditional policy of hospitality, tolerance and protection of Nigerians living in the Bakassi Peninsula and Lake Chad.	4. Rejected Cameroun's submission of seeking Nigeria to repair the injury suffered by Cameroun resulting from the occupation of Bakassi.
	8. Cameroun secured recognition of sovereignty over Bakassi Peninsula and disputed area of Lake Chad.	

Sources: Excerpts from John Kalama, (International Law and Global Conflict Prevention: The Nigeria-Cameroun Experience (Port Harcourt: Pearl Publishers, 2007), 36-39, cited in Ambly Etekpe, 292.

From the tables above, especially table 2, show France' alleged influence in the court verdict as it had both a judge and deputy registrar. Notwithstanding, Ambassador Gerard Araud, the then President of UN Security Council that superintended the activities and virtually enforced the judgement of the court was a French national.

Aftermath and Implications of the Court's Ruling, and the Place of the Cameroun-Nigeria Mixed Commission in Peace Building

By the ICJ verdict, Nigeria has lost the case to Cameroun. By implication, Nigeria has also lost entrance to the Calabar port to Cameroun owing to the fact that, that port lies in the Calabar channel that has become Cameroun's. A striking result of this is the danger placed on the multi-billion dollar Export Processing Zone (EPZ). This is because the Calabar EPZ depends largely on the

import-export activities of companies operating in the zone, and Nigeria must pay charges.

As discussed by Etekpe (2013, p. 293), the ruling security or strategic implications for the Nigerian State too. The victory of Cameroun has made Nigeria lose its eastern access to the Atlantic Ocean. This implies that without Cameroun's approval or permission, Nigeria's naval ships cannot move freely to Southern Africa. Another disturbing implication of the verdict is the social implication. Nigerians, who have lived in Bakassi and the thirty-three villages in the Lake Chad area all their lives are now facing the reality of relocation as displaced persons to new environment in Cross River, Akwa Ibom and Bayelsa States respectively. Economically again, most of these Bakassi returnees had businesses located on the disputed portions and now detached from their sources of income.

With these realities, the positions of the indigenous people, particularly the affected persons call for a plebiscite or referendum is not out of place. With the many concerns from Nigeria such as the call for reconsideration of readmission of additional treaties by the ICJ, especially the treaties of 1842, 1847, 1881, 1884 and 1961 that fixed the territorial boundary at Rio Del Roy and not only the 1913 and 1931 treaties in their (Nigerians) view were insufficient to form the basis for ruling in favour Cameroun, the threat of peace is inevitable. It is on this account that the Cameroun-Nigeria Mixed Commission would play or act as preventive diplomacy to forestall peace in the region.

It was at this critical point in the history of these two West African countries that the then Secretary-General of the UN, Kofi Annan, in his bid to achieve lasting peace between both countries invited both Presidents Olusegun Obasanjo of Nigeria and Paul Biya of Cameroun to a summit meeting in Geneva on November 15, 2002 where the leaders agreed to request Annan to set-up a Cameroun-Nigeria Mixed Commission made up of representatives of both countries and UN experts chaired by a special representative of the Secretary-General.

The establishment of the Commission was of great necessity because it was clear that court's decision alone may not be enough to bring a sustainable agreement between the two countries. This is because while both parties were more or less ready to accept the court's decision, none of them came up with any concrete proposal of their own for the implementation of the ruling in the heat of alleged bias and controversial circumstances. The basic function of the Mixed Commission was to work out ways of implementing the ruling of the court and moving the process forward. The choice of Annan to choose his representative from Mauritania, West Africa, Ahmedou Ould-Abdalla to chair the commission was considered acceptable by both countries. In that atmosphere of brotherhood, the two countries accepted to identify a number of confidence building measures. The core mandate of the Mixed Commission according to Kevin Ngang, included:

- i. a demarcation of the land boundary;

- ii. withdrawal of civil administration, military and police forces and the transfer of authority;
- iii. eventual demolication of the Bakassi Peninsula;
- iv. protection of the rights of the affected population;
- v. promotion of joint economic ventures, and
- vi. the reactivation of the Lake Chad basin Commission

The first meeting of the Commission was held in Cameroun's capital city, Yaoundé on 1 December, 2002. To carry out the various aspects of its work effectively, two sub-commissions and five working groups were created. In order to have a functional Mixed Commission, the UN established a support team of experts with its base at the Senegalese capital of Dakar. The core responsibilities of this team are to provide technical and logistical assistance to the Commission as well as substantial support to the sub-commissions and working groups. The Commission meets once every month in the early formation years and perhaps up till now, alternating between Yaoundé and Abuja. The Commission started its work of field visits by deploying its Personnel Observation Group made up of members from both countries to boundary for a period of one year. The Observation Group had a task of presenting a report one month after handover (Ngang, n.d., pp. 14–20).

Aside the mixed Commission, the UN, in a bid to achieve a hitch free compliance of the court's ruling, deployed a team of civilian observers to the region to monitor and assess the transfer of authority in accordance with the court ruling and to ascertain whether or not the rights of the affected population were

guaranteed. By mid-2004 (about two and a half years) after the court's verdict, the UN and the two countries could retrospectively account for a number of great developments. In particular, the then President of Nigeria, Olusegun Obasanjo's visit to Yaoundé in July 2004 and the appointments of new ambassadors to both countries were considered important turning points in the relationship between the two countries. Nigeria finally signaled its readiness to transfer the most coveted Bakassi Peninsula to Cameroun, and the earlier suspicions which had characterized the early work of the Mixed Commission had given way to trust (Bekker, 2004, pp. 387–398).

Another milestone achievement of the court's post-verdict was the eleventh meeting on 18-19 August, 2004 at Yaoundé. That meeting adopted a breakthrough document on the withdrawal and transfer of authority along the land boundary. This meeting also registered progress in connection with work on the maritime border. Owing to a chain of successes in the Cameroun-Nigeria border relations engineered by the Mixed Commission, the commission concept according to a new paper, "gained substantial grounds with observers of the African political situation and is being considered a novel approach to preventive diplomacy and a new model for the settlement of conflicts between states" (Aghemelo & Ibhasebhor, n.d., pp. 177–181).

But the hopes and expectations of both the UN and Cameroun dampened due to Nigeria's failure to completely withdraw from Bakassi on the fixed deadline, i.e., 15

September, 2004 for some unforeseeable “technical” difficulties. Despite these waves and hiccups, the fact that Cameroun remained calm was a proof of confidence it had in the work of the Mixed Commission, its renowned friendship with Nigeria. The tireless and relentless efforts of Quld-Aldalla are commendable in this regard. Going by J. M. Mbuh’s account, the UN Security-General’s special representative’s endless energy and enthusiasm in maintaining contact with the two parties through shuttle diplomacy between the two capitals was an enormous importance in avoiding the breakdown of the entire process (Mbuh, 2004, p. 29).

In spite of the tremendous efforts of the Mixed Commission, the alleged partiality and injustice of the court’s ruling on the Bakassi Peninsula case, mistrust or distrust, suspicion etc. have characterized relationship between the two OAU (AU) and EOWAS members countries. These soured relations have several implications including security challenges and disagreements over how to deploy troops against Boko Haram have stalled efforts to set up a regional force to combat the Islamic militants (terrorists). Failure to launch the 2800-strong mission as planned in November, 2014 left the insurgents in control of several states in Nigeria’ north east from where they launch attacks (Felix, 2015). as P. Mallick rightly puts it, “the resolution of any problem creates a new problem”, and until equity is brought into the case, it will not “remove” the UN Security Council’s expected security “threat to peace in the sub-region and by implication, Africa. The ruling therefore, remains a keg of gunpowder in the wheel of

peace and socio-economic integration in Africa. This is where the earlier highlighted continental and regional bodies, especially the AU should play some vital roles. The essence of the two countries signing of OAU Declaration on Border Dispute among African states in Cairo, Egypt, in 1964 was to forestall ethnic and or national fragmentation in post-colonial African countries (Etekpe, 2013, p. 286).

Conclusion

This study has articulately interrogated judicial justice in the ruling of Bakassi Peninsula border dispute between Nigeria and Cameroun, and part of Lake Chad by the ICJ at the Hague on October 10, 2002. Although the ICJ is independent and its judges are also independent magistrates that represent no particular nation, there is also no clause stopping them from moral obligation to favour countries of their interest. Hence, such judgements are often times viewed to be inconsistent and partial or biased. This is the position of Nigeria in the court’s ruling of the BP case between her and Cameroun.

Indeed, the ICJ replete with instances of inconsistencies, and these have brought favouritism and denials to some member countries of the ICJ. The earlier highlighted verdict of the ICJ against Israel in favour of Palestine and the USA’s stance on the matter is a clear proof of politics of interest in the ICJ and the UN Security Council owing to the veto clause regarding enforcements. Yet, the same demand made by Nigeria and especially, the indigenous returnees were ignored. Another glaring example in the paper is the apartheid

South Africa that ignored ICJ ruling against its illegal occupation of former Southwest Africa (now Namibia) in 1971 because they had Britain in the Security Council to block any resolution aided and abated by the veto clause.

The alleged bias however, was the reliance on only two treaties (those of 1913 and 1931), out of 8 valid treaties presented at the court. This calls to question the composition and characters of the judges. As repeatedly highlighted, France which is an ally to Cameroun in the case had a judge and a deputy registrar that delivered judgement ignoring the other valid treaties, especially the 1884 treaty of protective has breached the oldest principle of international law of “Pacta Sunt Servanda” (the sanctity of treaties) and “Nemo dat Quod nou habit (nobody gives what doesn’t have)” (Etekpe, 2013, p. 286). The rule “Pacta Sunt Servanda” cannot be circumvented by any attempt to distinguish “treaties of protection” as a special category of treaties by the ICJ. The treaty title alone is sufficient indication of the subject of the treaty, “protection and non ‘colonial title’. By this Britain is guilty of the international law principle “Pacta Sunt Servanda” by entering into the 1913 treaty with Germany that ceded Bakassi to Cameroun. Again, the ICJ perhaps ‘programmedly’ failed to look at the provisions of the 1884 treaty of protection to establish its intention and meaning. So, contrary to the position held by the ICJ, the 1884 treaty with the Kings and Chiefs of Old Calabar was a treaty of international protection. It was one of the 350 treaties that Great Britain concluded with the Niger Delta chiefs and kings to establish the

protectorate of Southern Nigeria. But Britain breached this treaty (Bassey, 2006, pp. 5–7).

Owing to the 1884 treaty, the 1913 Anglo-German treaty that was used as prima facie evidence by the court is regarded as invalid treaty by Nigeria because by the terms of the 1884 treaty, the original title of the land in Old Calabar, not excluding the disputed Bakassi, was vested in the native potentates of the province. Britain’s pre-occupation was only protection. Consequently, the Anglo-German Treaty of 1913 violates the principle of “Nemo dat Quod nou habet” which means nobody gives what doesn’t have. This implies that Britain, which at the time in question had no title or authority to the territory of Bakassi Peninsula, could not validly cede or relinquish it to another power. International law has it that “during cession entailing the replacement of one sovereign state by another over a particular place of territory, the acquiring state cannot possess more rights over the land that its predecessor had” (Bassey, 2006, pp. 5–7).

Until these concerns are addressed, contrary to Cameroun and France’s expectations, peace and socio-economic integration in the two countries-Nigeria and Cameroun remains a keg of gunpowder. While it is truism that different countries whose interests and goals are not often compatible which pose a big challenge in accepting outcomes of judicial verdicts, to make a meaning out of this quagmire and in the spirit of Pan-Africanism, let the two countries sheath their grievances and favour diplomatic solution that would allow the AU and ECOWAS to address the arbitrary nature of pre-colonial and colonial boundaries while

remolding the Cameroun-Nigeria Mixed Commission for other areas of cooperation.

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