

Colonialism as a Source of Boundary Dispute and Conflict among African States: The World Court Judgement on the Bakassi Peninsula and its Implications for Nigeria

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ABSTRACT The African territories, which have attained independence and national sovereignty, cannot in a strict sense, be regarded as national states. They do not embrace a common past and a common culture, they are indeed, the arbitrary creations of colonialist. The manner in which European nations descended on Africa during the closing years of the nineteenth century in their scramble for territory, was bound to leave a heritage of artificially controlled borderlines, which now demarcate the emergent African states. It is against this backdrop that the International Court of Justice (ICJ). Judgment on the Bakassi peninsula is critically examined. It is the intention of this study to demonstrate that the international agreements of the era of the scramble for Africa are source of conflict among African states, themselves. Undoubtedly, several boundary disputes have broken out between African states and so far, there is no acceptable criteria which may afford the best guide to a settlement of an 'unhappy legacy of colonialism'. Historical research may enable African statesmen to borrow a leaf from their pre-colonial ancestors, whose attitude to 'international' frontiers between one ethnic group and the other was much less emotional, much less rigid and much more pragmatic than that which many African leaders are adopting today. It is therefore hoped that African statesmen would adopt a more objective and 'pan-Africanist' attitude to their boundary problems. This could pave the way for peaceful, brotherly and fraternal relations between Nigeria and Cameroun.

INTRODUCTION

The Bakassi peninsular is an area of some 1,000km of mangrove swamp and half submerged islands protruding into the Bight of Bonny (previously known as the Bight of Biafra). Since the 18th century, the peninsular has been occupied by fishermen settlers most of whose inhabitants are Efik-speaking people of Nigeria (Anene, 1970: 56).

Since 1993, the peninsula, which apart from oil wealth also boasts of heavy fish deposit, has been a subject of serious dispute, between Nigeria and Cameroun with score of lives lost from military aggressions that have been mostly instigated by Cameroon (Saturday Olumide, 2002: 4). The matter, however, took a legal turn on march 24, 1994 when Cameroun instituted a suit against Nigeria at the International Court of Justice, at the Hague, seeking an injunction for the expulsion of Nigerian force, which it said were occupying the territory and to restrain Nigeria from laying claim to sovereignty over the peninsular.

Cameroun had hinged its case on its claims that an Anglo-German agreement during the colonial period had shifted the area from its

original position in Nigeria in favour of Cameroun. The Nigerian neighbour had also 1975 "Maroun Declaration" between the then Heads of state, General Yakubu Gowon of Nigeria and Ahmadu Ahidjo of Cameroun in which Gowon allegedly gave out the territory to Cameroun (Olumide 2002: 4)

Nigeria in its defences at the international court of justice in the Hague had punctured both arguments, saying that Britain and Germany, the two colonial masters had no *locus standi* to cede territories and that the agreement was not rectified by any of the parliaments of the two nations. Besides, Nigeria also maintained that the alleged ceding of the Peninsular by Gowon was not endorsed by the Supreme Military Council (SMC) which was the law making body of the country at that time.

The main thrust of this paper is to logically argue that the quagmire that confronts most African nations especially that of boundary, is a fall out of colonization, use the case of Nigeria and Cameroun's dispute over Bakassi Peninsula, as a frame. For a thorough analysis of the subject matter, we will make haste to address and do an evaluation of colonialism as a source of dispute in Africa.

BOUNDARY DISPUTE AND CONFLICT AMONG AFRICAN STATES

A lot of scholarly works has been published as regards colonialism, boundary disputes and conflicts among African States. But as regards the World Court judgement on the Bakassi Peninsula and its implications for Nigeria, nothing much has been done. Anene (1970), gave a detailed and interesting account of the international boundaries of Nigeria. The work was not only concerned with the foreign acts of partition, but with the impact of colonial boundaries on the peoples in whose history the acts of partition were a major intervention. This necessitated a multi-disciplinary inquiry into the ethnic situation at the time the boundaries were made, the history of the different peoples, particularly the question of the history of political and economic inter-group relationships, the knowledge of these available to the treaty makers, and the consequences of their decisions. Though he recognised that the boundary zones of Nigeria and her neighbours, were potential sources of boundary disputes, it did not put forward the criteria which may afford the best guide to a settlement of an unhappy legacy of colonialism.

Rudin (1938) traced the activities of the Germans and British traders in the areas during her colonial days. He observes that the German administrators in the Cameroons attached great importance to the Benue and its tributaries as the best, quickest and most profitable way of gaining access to the hinterland of their colony. He further observes that the attempts at penetrating this hinterland from the Cameroon coast failed disastrously. Hence the Germans through their agent Flegel pretended to regard all the region north of the latitude of the Cross River 'rapids' as no-man's land. Though the book is highly critical on the activities of the Germans and the British during the period, it failed to highlight the consequences of their actions on the boundary areas and inter state relations between the two African States.

Rouke (1997) assessed at length the legacy of colonialism in Africa. He points out that the industrialisation of the North was one factor that caused the colonisation of the South in the late 1800s and early 1900s. He showed that Africa was largely controlled by its indigenous peoples in 1878 but had, by 1914 become almost totally subjugated and divided into colonies by the European powers. The colonial boundaries had

little relationship to the territories occupied by the various indigenous peoples, grouping nations together in some cases and dividing them in others. He further points out that within seven decades, virtually all of the colonies regained their independence, but many of the new countries (such as Rwanda) have been troubled by the legacy of trying to get two or more states to live peacefully in a single state. Though he did not particularly highlight the Bakassi Peninsula, he however showed the general trend of European colonial imposed boundaries on Africa.

Akanmode (2000) pointed out that the Peninsula which covers a marshy area of about 1,000 square kilometres and located in Cross River State is occupied by a population of Nigerians. He further points out that if a judgment delivered by the International Court of Justice (ICJ) on Thursday October 10th 2002, was anything to go by, the inhabitants of the Peninsula may well be on their way to changing their nationalities from Nigerians to Cameroonians. In addition, Akanmode (2002) emphasis was on the paradox of the Peninsula. He maintained that the Peninsula is a community that subsists in the midst of plenty – plenty of fish and oil deposits – but is ravaged by poverty. He further traced the dispute in the oil rich area between Nigeria and Cameroon from 1993, leading to loss of lives from military aggressions that have been mostly instigated by Cameroon. Although this work deals extensively on the ICJ judgement, it fails to trace the genesis of the dispute to colonial imposed boundary in the area.

Kolapo (2002) gave a critical analysis of the far-reaching political, economic implications on the Nigerian state. He points out that the ruling would have adverse effect on the Nigerian state as a whole. His primary emphasis was on the security implications, the social structures, the pride of Nigerians and the economic jeopardy on the Nigerian state amongst others. However, it fails like Vincent Akanmode's article to point out how colonial imposed boundaries had affected inter-state relations in Africa particularly the Bakassi Peninsula between Nigeria and Cameroon.

Sanusi (2002) pointed out that the judgement made no sense. His question was "How do you cede a people with different culture, different language and background to another nation whose background differs completely?" He insisted that Bakassi people are Nigerians who cannot become Cameroonians overnight. He

pointed out the need for the Nigerian government to appeal to the World Court for a review of the judgment. The article did not highlight the genesis of the boundary dispute between Nigeria and Cameroon. It did not also trace the boundary dispute to colonialism as he was only interested on the way out of the judgment that ceded the Peninsula to Cameroon.

From the above literature review, it is clearly obvious that not much work has been done on colonialism as a source of boundary dispute and conflict among African States. In fact, none of the texts reviewed touched directly on the World Court judgement on the Bakassi Peninsula as being the result of European colonial imposed boundary in the area. Hence, the work tends to be more specific and gives a detailed analysis of how colonialism was the source of boundary dispute and conflict among African States, the Bakassi Peninsula not an exception. It is thus hoped that this work would encourage others who might want to carry out a similar work and of course, it should be noted that there is room for improvement on this work.

EUROPEAN PARTITION OF AFRICAN TERRITORIES

Reflecting on the emergence of many new sovereign states in contemporary Africa, Davidson (1967) observed:

Their history begins anew. They reappear today in the sad evening of the world of nation-states; Yet their own tradition, one may note was seldom on of narrow nationality. Their genius was for integration –integration by conquest as the times prescribed, but also by an ever partful mongling and migration. They were never patient of exclusive frontiers... Nineteenth century imperialism cut across boundaries and peoples and left; for a later Africa, the problem of redrawing frontiers on a rational plan. As independence widens across these coming years, will this plan stop short with the making of nation –states aping European example?..... it remains to be seen.

The contemporary African scene does not leave room for optimism and complacency. People who had assume that, in view of the arbitrariness of the boundaries, the preservation of the frontiers would arouse no patriotism, have been proved wrong. Anene (1970), posits that Morocco and Algeria resorted to war in order to maintain the

integrity of the boundaries which national honour appeared to demand. In many other African areas there is an uneasy string of irredentist claims kept alive by the clamor of groups whose traditional frontiers have apparently been outraged by the international boundaries.

It is perhaps necessary to observe that all political boundaries are artificial because they are demarcations by man. The accidents of history, the vagaries of geography and the exigencies of economics have all played a part in determining even European boundaries. The special circumstances which operated in Africa, East and Mody (1956) observed, made her international boundaries doubly artificial in the sense that they are not, like European boundaries, ‘the visible expression of the age-long efforts of the indigenous peoples to achieve political adjustment between themselves and the physical conditions in which they live.

In the successive phases of the European partitioning of Africa, the lines demarcating spheres of interest were often haphazard and precipitately arranged. The European agents and diplomats were primarily interested in grabbing as much African territory as possible, and were not unduly concerned about the consequences of disrupting ethnic groups and undermining the indigenous political order. This criticism obviously represent only a very generalized picture of the attitude of the European agents involved in the drawing of Africa’s boundaries.

A major example of the manner in which these boundaries were made is provided by a former Commissioner and Consul-General (1914), who played an active part in the drawing of the boundary between Nigeria and what is today Western Cameroon. He had this to say in a speech to the Royal European society:

In those days we just took a blue pencil and a rule, and we put it down at old Calabar, and draw that blue line to Yola... I recollect thinking when I was sitting harms an audience with the Emir (of Yola), surrounded by this tribe, that it was a very good thing that he did not know that I, with a blue pencil, had draw a line through his territory.

BAKASSI PENINSULA: A SOURCE OF CONFLICT

Nigeria is bound to honour a number of pre-independence agreements inherited from Britain by virtue of the Exchange of Notes of October 1,

1960, between Nigeria and the United Kingdom on treaty obligations. Rudin (1938), observed that the agreements relevant to the subject matter, which are binding on Nigeria and which should be read together showed that the peninsular belongs to the Cameroun, as the international boundary was drawn through the Thalweg of the River Akpayafe which puts the Bakassi peninsula on the Cameroun side of the Boundary. Article 21, of the agreement between the United Kingdom and Germany signed at London in March 11, 1913. The Anglo-German protocol signed at Obakin on April 12, 1913 and the exchange of letters between Britain and German governments on July 6, 1914 are pointer to the fact that the peninsular belongs to Cameroun.

Information available from the Federal Directorate of Survey, (CITED IN Olumide, 2002) showed that the "Bakassi peninsular" has never been included as part of Nigeria since the Southern Cameroun ceased to be part of Nigeria in 1961. Also, the Northern Region, Western Region and Eastern Region (Definition of Boundaries) proclamation 1954 (L.N 126 of 1954) showed the Bakassi Peninsula as forming part of the then Southern Cameroun. Moreover, by a Diplomatic Note No.570 of 27, 1962, from the Ministry of External Affairs to the Embassy of the Cameroun in Lagos, to which was attached a map prepared by the Federal Surveys, Nigeria, recognized the Bakassi peninsula as forming part of the Cameroun.

IMPLICATION OF ICJ JUDGMENT ON BAKASSI PENINSULA

On Thursday 10, October 2002 the International Court of Justice, Hague delivered judgment on the disputed oil-rich Bakassi peninsula and gave ownership to Cameroun over Nigeria. The court decision was based on the Anglo-German agreement of 11 March 1913. The court's decision (2002), was that the boundary follows the *mouth* of the River Akpakorum, dividing the Mangrove Island near Ikang as far as a straight line joining Bakassi point and king point.

In that judgment, the court requested Nigeria to expeditiously and without condition to withdraw its administrative and military or police force from the area of Lake Chad falling within the Camerounian Sovereignty and from the Bakassi peninsula. It also requested Cameroun to expedi-

tiously and without condition to withdraw any administrative or military or police forces which may be present along the land boundary from Lake Chad to the Bakassi peninsula on territories, which pursuant to the judgment fall within the sovereignty of Nigeria.

What are the implications of this judgment for the Nigeria state? For one, there are fears that losing Bakassi to Cameroun may mean the loss of the entrance to the Calabar port to Cameroun. This is because the entrance to the Calabar port lies in the Calabar channel and going by the terms of the 1913 agreement between Britain and Germany which the World court relied upon as the authority for Cameroun's claim to Bakassi, the channel belongs to Cameroun.

Secondly, the loss of Bakassi has also placed the multi-million Naira Export processing zone (EPZ) in serious danger. This is because the Calabar EPZ depends largely on this important segment, it would only mean that the port belongs to Cameroun outrightly or Nigeria will have to pay charge. There is also the danger of losing 100 million barrels of oil deposit and also four trillion cubic feet of gas deposits in the peninsula.

This will be a result of the oil companies having to leave the area and relinquish the oil wells to the Camerounians, the implication of this is that the huge revenue got from "Bakassi oil" will be lost to Nigeria. A nation striving to improve the lot of its people by adequately utilizing their sources of revenue will surely feel the severe impact of this type of judgment on the entire economy.

The social implications of the ruling are that Nigerians, who have lived in Bakassi all their lives, will have to face the sad reality of having to evacuate a region that is part and parcel of them immediately. Most people living in that area have their businesses located there and so leaving the area will mean detaching them from their source of income. Moreover, all infrastructural facilities, including hospitals, schools, recreational centres, that were originally put in place by the country stands the risk of being forfeited resulting in a fruit less effort and loss of income.

Another far-reaching implication of the judgment is the strategic or security implication for the Nigerian state. The victory of Cameroun will make the nation lose its eastern access to the Atlantic. This implies that without Cameroun's approval, Nigeria's naval ships cannot move freely to southern Africa. For security reasons,

this is not too palatable and not in the interest of the nation.

CONCLUSION

There had been contending arguments on what Nigeria should do concerning the area, (Bakassi) that was in dispute; some scholars are of the opinion that "the principle of good faith" in international relations demands that Nigeria should not disavow her world of honour as evidenced by the note of 1962. This school of thought also favours the immediate recommendations of the Nigeria - Cameroon joint Boundary commission dated August, 1970.

Another school of thought opposed to the above view contended that "there is no morality in international relations." It is against the national interest of Nigeria to accept the ICJ'S verdict in its totality. Nigeria may become vulnerable should the federal Government accept the ruling of the international court of Justice (ICJ) granting the disputed Bakassi peninsula to Cameroon. It is the contention of this school of thought that the area was strategic in the security of Nigeria.

It is the contention of these writers that both countries, Nigeria and Cameroon be commended for the matured manner they handled the Bakassi issue. This according to Rourke (1997), is against the backdrop of the fact that International law is least effective when applied to "high-politics" issues such as national security relations between sovereign states. When vital interests are involved, governments still regularly bend international law to justify their actions rather than alter their actions to conform to the law.

In addition, the delimitation of the Maritime boundary be carried out in accordance with the 1958 Geneva Conventions of the Law of the sea, and in accordance with the boundary marks and posts defined in the Anglo-German Agreement respecting the (a) the settlement of frontier

between Nigeria and Cameroun from Yola to the Sea; and (b) the Regulation of Navigation on the Cross River.

Finally, it is important to note that there are inevitably conditions of fluidity along most of the boundary zones of Nigeria and her neighbours, which are potential sources of boundary disputes. As it is well known, several boundary disputes have broken out between African states and, so far there is no acceptable criteria which may afford the best guide to a settlement of an "Unhappy Legacy of Colonialism". It is therefore hoped that the maturity and high level diplomacy exhibited by these two countries will be emulated by other African States with similar border problems

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