

# Understanding The Role Of International Law In The Resolution Of The Conflict Between Nigeria And Cameroon Over The Bakassi Peninsula

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## Abstract

This study investigated the role international law played in the resolution of the territorial conflict between Nigeria and Cameroon over the Bakassi Peninsula from 1994 to 2008. Employing the use of primary and secondary source materials, it argues that even though the ICJ's ruling of October 2002 did not elicit direct and immediate compliance and resolution of the dispute, the law in the form of the judgment served as a guide for all subsequent efforts at resolution. Indeed, all diplomatic measures applied were tailored along the lines of the Court's ruling, leading to the amicable resolution of the conflict, thereby once again bringing to the fore the continuous role of the law in relations between states in the international arena.

**Keywords:** conflict resolution, International Law, Bakassi Peninsula, Cameroon, Nigeria

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## 1. Introduction

Extant theoretical discourses on the usefulness and significance of international law in the global system, revolves around two major prisms. On the one hand, liberalists maintain that international law is essential in ordering states and for the maintenance of peace in the global commonwealth, which is considered as anarchic, and therefore offers that international law is an important aspect of international political reality since it affects the way states behave in relation to their international obligations (Nye and Welch 2013, Lowe 2007, Slaughter 1995). Conversely cynicism from the realist camp towards international law stems mainly from its supposed weakness of unenforceability. This is used to underscore its limitations as an instrument for maintaining world peace. The basic argument is that international law lacks an executive authority with powers to enforce it, and therefore incapable of providing useful approaches to structuring international society (Koskenniemi 2007, Henkin 1979).

Irrespective of this ongoing debate, it must be noted however that the designers of the United Nations and its Organs were ultimately guided by first, the failures of the League of Nations, and secondly by the horrific consequences of the Second World War. This undoubtedly provoked a strong desire to put in place measures for regulating and ordering states' relations within the international system. Thus, international law through its arbitral instrument, the International Court of Justice (ICJ), was birthed with the responsibility to serve as the principal judicial organ of the United Nations System.

Over the years since its establishment, we can discern two phases in the life of the World Court with regard to its activities and performances. In the first instance, we see a Court that was shunted to the background during the Cold War, unable to function effectively due mainly to superpower rivalries (Armstrong, Lloyd, and Redmond 2004). Secondly, the end of the Cold War ushered in a new era for the Court as States saw in it, a better option

for the settlement of their disputes (Heywood 2011). From the early 1990s, the docket of the Court witnessed substantial increases in the number of cases, both litigatory and advisory, brought before it by states (Brownlie 2009, Schulte 2005). In this light, Heywood (2011) offers that, the extent to which international law has operated effectively in the absence of conventional compliance mechanisms is a paradox.

The intersection between the preceding characterization of international law and the subject under review is that, one would want to know the role played by the law in the pacific resolution of the conflict between Nigeria and Cameroon over the oil-rich Bakassi Peninsula. The study systematically follows a scrupulous examination of primary and secondary evidences geared towards generating new empirical data in our general understanding of the events associated with this dispute. In so doing, it adopts a chronological structure and format, presenting the issues as a series of events over time. This is to allow the discerning observer have a holistic grasp of the dynamics of this case.

## **2. The Law and Conflict/Dispute Resolution**

According to Malanczuk (1997) disputes between states arising from claims and counter-claims concerning a matter of fact, law and policy are an inevitable part of international relations and have frequently led to armed conflict. As the principal, legal Organ of the United Nations system, the International Court of Justice (ICJ) remains the judicial arm of the UN with the responsibility to address issues bothering on disputes between states. Barring the use of threats as well as force under Article 2.4, the UN Charter places states under an affirmative obligation to settle, their international disputes through peaceful means (The Carter Center 2010). Over the years since its creation in 1945 under the UN Charter, the ICJ has become a major player in world politics entrusted with adjudicating international Law disputes, even though there were times when its function was encumbered by Super Power, Cold War rivalries and Third World cynicism, which ensured that it remained marginal until the late 1980s.

As envisioned in the UN Charter, states have

agreed to settle their international disputes by peaceful means in a manner that does not endanger international peace, security, and justice (U.N Charter; Chapter VI). In this sense, the ICJ represents the instrument for achieving the UNs dream of 'pacific settlement of disputes' through the law. Thus, it is where contested and protracted disputes of legal nature involving states should normally be referred to for resolution. In so doing, the Court's function under Article 38 of its Statute, states that it will decide on disputes that are submitted to it by states (Collier, 1996). Thus, what we see is that, the ICJ has acted severally as an arbiter between states, in the process continuously playing its role in maintaining international peace through dispute resolution, especially contested terrestrial disputes between states.

Indeed the role of the law in this direction has received elaborate mention in the literature. It is interesting to note that, the ICJ has considered several cases between states on territorial jurisprudence, despite the cynicism of some to its valuable role in dispute resolution (Koskenniemi 1990). If States' recourse to the law through the adjudication of the World Court is for the peaceful settlement of disputes between and amongst them, then, how has it fared in this function? So far, according to the Carter Center (2010), the Court has considered numerous cases regarding terrestrial boundaries including maritime and coastal issues and that, it has given final decisions (judgments) in 14 cases involving land territories. Similarly, Georges Abi-Saab (1996:11) says that 'the Court has gone far in adjudicating between States, giving judgments and advisory opinions in several cases brought before it.' In emphasizing the link between legal disputes and global peace, Abi-Saab offers that 'as the principal judicial organ of the UN, the Court partakes in world governance, notably through its contribution to the peaceful settlement of international disputes, which is the preventive approach to the pursuit of the first UN purpose, the maintenance of peace and security' (Georges Abi-Saab 1996:14).

One observer assessed the activities of the Court on the occasion of its fiftieth anniversary, and says

that the Court has settled cases vital to the interests of States, cases that constitute a real source of tension between the parties with the likelihood of breaching the peace. According to him, over the years, 'the Court has come to play a significant role in the settlement of ... disputes which might threaten the stability of nations, and that, often, the Court's judgments open the way to the peaceful settlement of a long-standing dispute between neighbouring states' (Akande 1996). Disputes such as those between Burkina Faso and Mali, and Libya and Chad which were settled amicably by the Court are identified as cases that would likely have led to a breach of the peace through hostilities. Likewise, Shaw (1997) underscores the role and importance of the ICJ to dispute resolution and the maintenance of peace when he asked whether Libya would have so readily withdrawn from the Aouzou Strip without the decision of the Court on title to the territory. Indeed, he offers that, there is clearly some international benefit to be derived from proceeding to judicial settlement and accepting the consequences.

Anyu (2007) informs that the ICJ has responded well to its designation as the institution to play an important legal role in the resolution of border conflicts among UN member states. He refers to several cases addressed by the Court as a pointer to its entrusted role in the settlement of disputes between sovereign states. Cases such as the Minuire and Erehos islands between the United Kingdom and France (1950), the border enclaves dispute between the Netherlands and Belgium (1957), the Beagle Channel Islands between Argentina and Chile (1970), the territory along Beli River between Mali and Burkina Faso (1983), the Gulf of Forsenca between El Salvador and Honduras (1986), and the islands in the Chobe River between Botswana and Namibia (1995) are show cased as positive dimensions towards a preference for the law instead of war for dispute settlement.

Merrills' analyses the Court's handling of territorial and boundary disputes, offering that they provide a major part of the Court's work. He says that in

such cases, the Court considers issues of jurisdiction and justiciability, establishes the facts, applies the law, and finally decides the question of implementation and the factors which determine the effectiveness of its judgments. He goes on to conclude that in territorial and boundary cases, the Court's decisions serve both to resolve specific disputes and to develop the law, while also highlighting the political context of international adjudication (Merrills 2000).

Similarly Sumner (2004) in an analysis of the jurisprudence of the Court on land disputes examines nine cases including the Nigeria-Cameroon dispute with regard to the basis for territorial claims. He says that in concluding these cases, the Court applies a tripartite hierarchical decision rule that incorporates treaty law, *uti possidetis* and effective control. He adds that it is an intricate system of hierarchical justification that the Court adopts to resolve tensions that normally crop up in such territorial cases laden with colonial heritages.

Tiefenbrun (1997) evaluates the World Court's effectiveness as a forum for settling international disputes by looking at its past and current record. She offers that the Court's record improved from the 1990s as it increasingly gained respect as an international adjudicator, and no longer viewed as an irrelevant judicial institution. Dwelling further on the Court's jurisdictional reach and record, she says that despite its seeming weaknesses occasioned by the optional clause, the Court had been busier than ever in maintaining World peace. According to her, 'the World Court provides a State the opportunity to resolve an international dispute if it has a legal interest. The very existence and active use of the Court enhances international legal order. The Court plays the role of a teacher, an advisor, a source of developing international law, and the hope of a world built on law and justice' (Tiefenbrun 1997: 1-27).

In relating the activities of the Court specifically to the resolution of boundary disputes in Africa (McHugh 2005) offers that in all but the rarest cases, the Court is the best forum available for the

resolution of border disputes in the continent. He adds further that from the 1990s, the Court stopped suffering from lack of credibility from the continent compared to the first decades of its existence when African countries viewed it with cynicism. The Court's experience in resolving such conflicts following the Frontier Dispute between Burkina Faso and Mali in 1986 he says, has led to a good record of compliance from parties in Africa.

Heywood (2011) also holds this view. He provides an understanding of the significance of International Law and the ICJ with regard to dispute resolution by postulating that the ICJ is the most far-reaching attempt to date to apply the rule of law to international disputes, and that the Court, has indeed recorded many successes in settling international disputes, including the border dispute between El Salvador and Honduras, and the violent dispute between Cameroon and Nigeria over Bakassi. Likewise, in their extrapolation of the role of the law in the Nigeria –Cameroon case, Anyu (2007), and Udogu (2008) illustrates the impressive amicable settlement of a highly combustible dispute over a natural resource rich Peninsula through the instrument of the law rather than a major arms struggle. From the records of the Court itself, it has (as of DATE) in its docket 153 cases entered in the General List from 22 May 1947 ([www.icj-cij.org/docket/index.php?p1=3&p2=2](http://www.icj-cij.org/docket/index.php?p1=3&p2=2)). We take this understanding of the role international law had played over the years in the settlement of disputes between states<sup>1</sup> to analyse its role in the case between Nigeria and Cameroon.

### **3.1 Historical Dimensions of the dispute**

The historical root of this dispute rests on European imperialistic designs of the 19<sup>th</sup> and 20<sup>th</sup> centuries, especially, the colonial enterprises of the Germans, the French and the British, and according to Anyu (2007: 41) 'the Bakassi Peninsula conflict is one of Africa's throwbacks to the colonial demarcation of the continent' It would be recalled that the Cameroons had been divided between Britain and France following its capture from Germany in 1916, and then subsequently held as a mandate of the League of Nations (Ntamark 2002). Following World War II

the Cameroons were administered as Trust Territories of the UN, with a Trusteeship agreement settled in December 1946. It has been observed that until 1960, both the Northern and Southern Cameroons, were in fact administered as part of Nigeria; the Southern Cameroons as part of the Eastern Region of Nigeria until becoming a semi-autonomous region in 1954 and gaining full regional status in 1958, while the Northern Cameroons was governed as part of the Northern Region of Nigeria (Martin 2001: xxxvi).

### **3.2 Spheres of Influence**

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

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

influence. These arrangements were to later have profound effect on the status of Bakassi.

### **3.3 Anglo – German Arrangements**

In consonance with the resolutions of the 1884/85 Berlin Conference on effective occupation of territories, both Britain and Germany moved on to inaugurate several agreements in relation to their respective colonial possessions of Nigeria and Cameroon. Eze (2007) informs that the first of such agreements designed to settle the line of separation between the activities of both powers in the area was the exchange of notes on April 29 and May 7, 1885. These exchanges, it is said culminated in negotiations for the separation and defining of the spheres of action of Great Britain and Germany in those areas where the colonial interests of the two countries might conflict. Further agreements along the line defining boundaries of both powers in Africa includes; the exchange of notes of July 27 and August 2, 1886, the one of November 15, 1893, supplemented by another agreement on March 19, 1906 (Omoigui 2012). It has been observed that in all these cases, as it affects the Nigeria – Cameroon boundary, the Bakassi area was placed within British sphere of influence (Eze 2007).

Perhaps the most significant of the various agreements between the two powers are the ones of 1913, (Anglo-German Treaty of 1913). According to Omoigui (2012) the first of these agreements signed in London on March 11, 1913 covered the settlement of the Frontier between the two Powers from Yola in the North to the Sea as well as the regulation of the navigation on the Cross River. The second was signed at Obokun on April 12, by Hans Detzner, representing Germany and W.V Nugent, representing Britain. It is said that both agreements 'addressed the precise demarcation of the Anglo-German Boundary between Nigeria and Kamerun from Yola to the Cross River (Nugent 1914: 630-651).

Comprehensive as they are, these agreements of March and April were to in future have direct bearing and impact on the dispute over the Bakassi Peninsula between Nigeria and Cameroon. Odje (2002) says that these agreements redefined the

maritime boundary of Akpayofe River, placing the entire Bakassi Peninsula under the German authority. In the same vein, Soremekun (1988; 221-222), as quoted by Babatola (2012) offers that 'this new instrument of 1913 neutralized the British possession of Rio del Rey (Bakassi).' Similarly, Eze (2008: 22) explains that the 1913 treaty drew from an earlier October 1906 Demarcation Agreement between Britain and Germany which extended the boundary southwards, in the process redrawing the eastern boundary of the Protectorate of Southern Nigeria in such a way that the boundary between the Protectorate and Cameroon became a line to the West of Bakassi thereby placing the Bakassi Peninsula under German control.

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

### **3.4 Further Arrangements**

The preceding summary of British and German arrangements remained until the out break of the First World War in 1914. In 1916, Britain invaded German Kamerun, at the end of hostilities; German territories were all shared between Britain and France according to the provisions of the Versailles Treaty of settlement, while the League of Nations placed them under British or French mandate. By 1914 when the British proclaimed the colony of Nigeria through amalgamation of her various spheres of influence, there arose a need to redefine her boundaries this time with the French. Thus on July 10, 1919 the boundary between British and French mandated Kamerun was settled by a joint declaration of the

British Secretary of State for Colonies, Viscount Milner and the French Minister for the Colonies, Henry Simon. Omoigui (2012) apprises us that in this agreement, Bakassi and the rest of what became the British Cameroons were included in the British mandate and administered as part of Nigeria. However, he adds that even though the territory was coterminous with the Colony of Nigeria, it was not actually merged with it, and that the old 1913 arrangement was retained, such that in order to codify this further, the British and the French designed another settlement in December 1929, and January 1930. Again, the events of the Second World War also presented a need for further arrangements. This time, at the end of the war, the French and British League mandates were taken over by a United Nations Trusteeship design in 1946. This new UN arrangement re-ratified the earlier agreed borders as enunciated by hitherto Anglo-German and Anglo-French settlements. It should be noted that in both these cases, maps from that period show the Bakassi area within the British Cameroons not the Colony of Nigeria.

A cursory appraisal of the various settlements seen above from 1884 reveals some legal and pseudo-legal issues worth commenting on. The first is that from the pre-1913 agreements, we can discern that the Bakassi Peninsula was administered as part of British possessions. However, going by the 1913 settlement between Britain and Germany, the area of Bakassi effectively became a German territory. Secondly, Germany, as a result of the war of 1914 could not take physical control of the Bakassi territory and as such the 1913 agreement could not be ratified, allowing the British in the event to seize adjoining parts of German territory of Cameroon and administered them as part and parcel of colonial Nigeria up to 1960.

This scenario has influenced some commentators to opine that the 1913 Anglo-German Treaty is not binding on Nigeria (Ate 1992; Akinjide 1994). As a matter of fact, Akinjide who is a one time Minister of Justice in Nigeria argued that the Anglo-German Treaty was not binding since the Order-in-Council of November 22, 1913, which came into force on January 1, 1914, amalgamating the Northern and

Southern Protectorates into a single Protectorate of Nigeria came into being after the Treaty.

Moreover, it is also argued that the Treaty lapsed with the War and that under the terms of the Versailles settlement as provided for in Article 289, Britain ought to have made effort to revive pre-war bilateral Treaties with Germany, since Britain took no steps to do so then in the terminology of Article 289 it was and remained abrogated, and therefore Cameroon could not succeed to the Treaty (Eze 2007).

As plausible as these arguments may sound, the fact of the principle of *Uti Possidetis*, in International Law, which relates to the sanctity of colonial boundaries, a principle which the OAU (AU) Charter adopted in 1963 suggests that Cameroon has a right to succeed to the treaty, especially when considered against the understanding that France, with its League and UN investitures, agreed other settlements with Britain after the two wars, and remained as the Colonial Master, not Germany, of Cameroon up to her independence. We now take this general understanding of the colonial attributes of the dispute to examine the various claims to the territory by Nigeria and Cameroon.

#### **4. Claims and counter Claims**

In the light of the colonial heritage of the boundary between the two countries, they both subsequently drew on that to make their claims of ownership of the Peninsula, hinging their respective positions on their interpretations and understandings of the various agreements, settlements and Treaties of the late 1880s to the post World War II era entered into between Germany and Britain on one hand, and Britain and France on the other. However Cameroon drew on other post colonial arrangements she also entered into with Nigeria to buttress her claim.

In this vein, Nigeria premised her claim to the territory largely on the various Anglo-German correspondences (Exchange of Notes) of the 1880s, as well as the Treaties of protection between the British and the indigenous Kings and Chiefs of the area. Nigeria argued that the legal

situation at the time of her independence in 1960 from Britain was such that, she inherited the original title of Bakassi which was vested in the Kings and Chiefs of Old Calabar and that this title was not affected by the Anglo-German Treaty of March 11, 1913. According to Ofonagoro (2013), this view by Nigeria was anchored on the notion that the 1884 Treaty of Protection between Britain and the King and Chiefs of Old Calabar did not entitle the British Monarch to alienate the territory of the Efik (indigenous) Kingdom, without the approval of the Efik King and Chiefs as landowners. Sumner (2004) captures Nigeria's four points claim to title over the peninsula:

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

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

1. The Anglo-German Agreement of March 11, 1913, relating to the settlement of their Colonial Frontier between Yola and the Sea and the Regulation of Navigation on the

Cross River.

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

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

### **5. Adjudication at the ICJ**

Matters between Nigeria and Cameroon came to a head over the peninsula in 1993 when Nigerian troops entered and occupied aspects of the area. Following a series of further border incursions that provoked shootings from both sides which led to casualties and deaths on each side, Cameroon formally on March 24, 1994 instituted proceedings against Nigeria at the International Court of Justice, at the Hague, under Article 36 paragraph 2 of the Court's Statute (the Optional Clause) claiming Nigeria had committed 'aggression' that had resulted 'in great prejudice to the Republic of Cameroon', and requesting the Court to adjudge and declare:

- “(a) that sovereignty over the peninsula of Bakassi is Cameroonian, by virtue of international law, and that the peninsula is an integral part of the territory of Cameroon;
- (b) that the Federal Republic of Nigeria has violated and is violating the fundamental principle of respect for frontiers inherited

- from colonization (*uti possidetis juris*);
- © that by using force against the Republic of Cameroon, the Federal Republic of Nigeria has violated and is violating its obligations under international treaty law and customary law;
  - (d) that the Federal Republic of Nigeria, by militarily occupying the Cameroonian peninsula of Bakassi, has violated and is violating the obligations incumbent upon it by virtue of treaty law and customary law;
  - (e) that in view of these breaches of legal obligation, mentioned above, the Federal Republic of Nigeria has the express duty of putting an end to its military presence in Cameroonian territory, and effecting an immediate and unconditional withdrawal of its troops from the Cameroonian peninsula of Bakassi;
  - (e) that the internationally unlawful acts referred to under (a), (b), (c), (d), and (e) above involve the responsibility of the Federal Republic of Nigeria;
  - (e) that, consequently, reparation in an amount to be determined by the Court is due from the Federal Republic of Nigeria to the Republic of Cameroon, which reserves the introduction before the Court of [proceedings for] the precise assessment of the damage caused by the Federal Republic of Nigeria;
  - (f) in order to prevent any dispute arising between the two States concerning their maritime boundary, the Republic of Cameroon requests the Court to proceed to prolong the course of its maritime boundary with the Federal Republic of Nigeria up to the limit of the maritime zones which international law places under their respective jurisdictions" (ICJ press release 1994/12, 30 March 1994).

Nigeria and Cameroon agreed and accepted the compulsory jurisdiction of the ICJ in line with the provisions of the Statute of the Court as outlined in Article 36, which states inter-alia in paragraph 2 that 'the states parties to the present Statute may at any time declare that they recognize as compulsory ipso facto and without special agreement, in relation to any other state accepting the same obligation, the jurisdiction of the Court in all legal disputes...' ([www.icj-cij.org](http://www.icj-cij.org)). In their respective final presentations before the Court with regard to the Bakassi Peninsula, Cameroon on her part asked for the following prayers: that the land boundary between Cameroon and Nigeria was determined by the Anglo-German Agreement of March 11, 1913; that in consequence, sovereignty over the Bakassi Peninsula is Cameroonian. Conversely, Nigeria requested the Court to adjudicate and declare that 'sovereignty over the Peninsula is vested in the Federal Republic of Nigeria; and that Nigeria's sovereignty over Bakassi extends up to the boundary with Cameroon (*THISDAY Nigerian Newspaper* 2002). Procedurally, hearings began in earnest in March 1996, involving a combination of incidental proceedings, provisional measures, interpretations, intervention, and introduction of counterclaims, written proceedings and after preliminary objections by Nigeria and Cameroon on the 16<sup>th</sup> and 26<sup>th</sup> of February respectively.

In its initial judgment of June 11, 1998, the Court rejected Nigeria's seven preliminary objections alleging that the Court lacked jurisdiction and that Cameroon's application was inadmissible, but it reserved the remaining, eight objection, relating to the parties' maritime boundary, for consideration at the merits stage. Also, in its subsequent order of October 21, 1999, the Court unanimously authorized Equatorial Guinea to intervene in the case as a nonparty ([www.icj-cij.org/docket/index.php?p1=3&p2=1&case=94&code=cn&p3=3](http://www.icj-cij.org/docket/index.php?p1=3&p2=1&case=94&code=cn&p3=3)).

After a little over eight years of examining the matter, the ICJ delivered its final judgment on October 10, 2002. The Court was composed as follows: President Guillaume; Vice-President Shi;

Judges Oda, Ranjeva, Herczegh, Fleischhauer, Koroma, Higgins, Parra-Aranguren, Kooijmans, Rezek, Al-Khasawneh, Buergenthal, Elaraby; Judges *ad hoc* Mbaye, Ajibola; Registrar Couvreur. The Court ruled, by 13 votes to 3 (Judges Koroma and Rezek and Judge *ad hoc* Ajibola, chosen by Nigeria, dissenting) that the very important issue of sovereignty over the Bakassi Peninsula rested with Cameroon and not Nigeria. The Court hinged her decision on the same old colonial agreements and settlements between Britain and Germany (Lacey and Banerjee 2002), and according to Bekker (2003), in upholding the validity of the colonial arrangements, the Court fixed, by clear majorities, the land boundary from Lake Chad in the north to the Bakassi Peninsula in the south. In addition, the Court, in fixing the portion of the maritime boundary between the two states, over which it had jurisdiction, agreed with Nigeria that the equidistant line between them produced an equitable result. However Bekker (2003) says that the Court could not specify an actual terminal (the "tripoint") of their maritime boundary off the Coast of Equatorial Guinea. Consequently, the Court directed Nigeria to withdraw all administrative, police and military personnel unconditionally from Cameroonian territory including the Bakassi Peninsula. It equally requested Cameroon to do likewise along the land boundary from Lake Chad to the Bakassi Peninsula on areas which pursuant to the judgment were under the sovereignty of Nigeria (Baye 2010). On the whole, the Court's ruling covered the following: The Land Boundary in the Area of Lake Chad; the Land Boundary from Lake Chad to the Sea (the Bakassi Peninsula); the Maritime Boundary – Admissibility; the Maritime Boundary to Point G; the Maritime Boundary Beyond Point G, and Issues of State Responsibility (Bekker 2003).

## **6. Significance of the Law to Settlement**

It must be noted that the ruling of the Court did not translate to an expected swift settlement of this dispute. What was expected was for Nigeria in particular to accept the decision and as directed by it, withdraw her civilian, police and military forces from the territory, allowing for Cameroonian takeover. Instead, the emergent scenario was one

of implied reluctance to implement the Judgment with regard to the Bakassi Peninsula (Bekker 2003). The immediate response was that Nigeria rejected the ruling with a rhetoric that could apparently suggest recourse to war to hold on to the territory (Friends of the Earth 2003). Indeed, in an official government statement days after the judgment, Nigeria according to Llamzon (2007) appeared to accept aspects of the Court's decision it considered favourable, and rejected other parts with which it felt uncomfortable.

The government of President Obasanjo pleaded Nigeria's constitutional provisions as a federal state as a case for non-compliance. The argument was that since all land and territorial makeup of the country is specified in the constitution, then the federal (central) government alone can not give up the Bakassi territory without the necessary inputs from the states and national assemblies to amend the constitution (*Africa News Service* 2003). In explaining this position, President Obasanjo said 'we want peace, but the interest of Nigeria will not be sacrificed....What may be legally right may not be politically expedient' (*Vanguard Nigerian Newspaper* 2002). In the official statement of the government released via the office of the special assistant to the president on National Orientation and Public Affairs, the summary states as follows:

'Having studied the judgement as entered by the Court, it is apparent that a lot of fundamental facts were not taken into consideration in arriving at their declaration. Most disturbing of these being the difficulties arising from the Orders contained in the judgment, particularly, the Order relating to Nigerian communities in which their ancestral homes were adjudged to be in Cameroonian Territory but which are expected to maintain cultural, trade and religious affiliations with their kith and kin in Nigeria.

Nigeria takes cognizance of these serious implications and therefore appeals to all her citizens at home and abroad to remain calm, positive and constructive until we can find a peaceful solution to the boundary issue between Nigeria and Cameroon. We appreciate and thank the Secretary General of the United Nations for brokering meeting at the highest political level

between Nigeria and Cameroon before the judgement was delivered and for offering his good offices to broker a similar meeting now that the judgement has been delivered with a view to effecting reconciliation, normalization of relations and good neighborliness. Nigeria thanks all leaders of the international community who have expressed concern over the issue and re-assures them that she will spare no efforts to maintain peace between Nigeria and Cameroon and indeed in the entire region.

However, Government wishes to assure Nigerians of its constitutional commitment to protect its citizenry. On no account will Nigeria abandon her people and their interests. For Nigeria, it is not a matter of oil or natural resources on land or in coastal waters; it is a matter of the welfare and well-being of her people on their land. We assure the people of Bakassi and all other communities similarly affected by the judgement of the International Court of Justice on the support and solidarity of all other Nigerians. Nigeria will do everything possible to maintain peace in Bakassi or any other part of the border with Cameroon and will continue to avail itself of the good office of the Secretary-General of the United Nation and other well meaning leaders of the International community to achieve peace and to maintain harmony and good neighborliness' (*The Guardian Nigerian Newspaper* 2002).

This logjam engendered by Nigeria's apparent defiance to the ICJ's ruling orchestrated a series of diplomatic efforts championed by the UN and its then secretary-General, Kofi Annan, to bring the parties together to achieve amicable settlement. At the behest of the parties, the UN established the Cameroon-Nigeria Joint Commission to examine all possible implications of the Court's ruling. This Commission met 18 times alternatively in Yaounde and Abuja between 2002 and 2007 to consider ways of following up on the Court's ruling and moving the process forward by coming out with workable solutions (Eze 2007, Llamzon 2007). Thus, by 2004 it had succeeded in through a process of give and take adopted by the parties, resolved the bulk of the land dispute between them from Lake Chad to the South. However, the thorny aspect of Bakassi remained unresolved

(Baye 2010). Again, the UN and its top hierarchy brokered the Greentree Agreement as a panacea for resolution of the Bakassi question. This last comprehensive agreement came out of a summit on 12 June, 2006 at Greentree, in Long Island, New York, United States of America. Its task was to work out modalities for the withdrawal of Nigerian troops and transfer authority to Cameroon in pursuance of the ICJ Judgment (Gambari 2007). Under its general terms, Nigerian troops were to withdraw within a time frame of ninety days, while a transition period of two years provided for Cameroonian administration to take over from Nigerians. It also provided for Nigerians living in the Peninsula to remain there under a special arrangement for four years after which Cameroon took over full control. It became the basis for final resolution of the Nigeria-Cameroon dispute over the Bakassi Peninsula and formally put an end to a tricky and tempestuous series of events that had all the hallmarks of potentially degenerating into an all out war situation. Commenting on the significance of this arrangement, Kofi Annan observed that 'with today's Agreement... a comprehensive resolution of the dispute is within our grasp; the momentum achieved must be sustained' (UN Press Release 2006).

The point to be noted here is that, all post judgment efforts at resolution followed the directives of the Court's ruling. As a matter of fact the provisions of the Mixed Commission as well as the Greentree Agreement were elaborations of the ICJ's judgment. Indeed, the BBC in emphasising the significance of the law to settlement offers that, the Greentree Agreement as the basis for the final resolution of the dispute and the decisive point of compliance to the ICJ's ruling of 2002 ensued that by 1 August 2006, Nigeria began withdrawing her about 3,000 troops from the area in line with the provisions of the judgment to do so. This move by Nigeria set the pace for Cameroon to subsequently send in her civil administration and regain the peninsula (*The Washington Times* 2006). However, a face saving measure in the agreement provided for a time table for complete and final hand over in June 2008, allowing Nigeria to maintain her presence in 18 percent of the area from 2006 to 2008, while on

her part Cameroon, was to follow a code of conduct for the treatment of the local Nigerian population pending their resettlement (*This Day Nigerian Newspaper* 2006). This fourteen years quest for peaceful resolution of this border dispute between Nigeria and Cameroon climaxed on 14 August 2008 with the Treaty of Calabar between the two which marked the total pull out of all forms of Nigeria's civilian and police forces from the Bakassi Peninsula as enshrined in the Green tree settlement.

## **7. Conclusion and Contributions to Knowledge**

This dispute provided a test case for international law and its continuous usefulness in the global arena. Nigeria's apparent ambivalence and defiance to the ruling created a logjam which necessitated recourse to diplomatic measures for eventual final settlement. What must be taken into consideration however is that, all post judgment mechanisms followed the line of the law as outlined in the ICJ's ruling of 2002. The law set the benchmark for whatever arrangements, bilaterally and multilaterally, that led to eventual resolution of the dispute. In this light, the contributions of this study to existing body of knowledge in relation to international law and conflict resolution includes: that, international law remains a veritable instrument for regulating relations between states in the global system; disputes and conflicts of all kinds involving states' can be amicably resolved if parties refer them to existing international regimes; in this Bakassi case, both Nigeria and Cameroon exhibited will and statesmanship in arriving at final resolution along the lines of the ICJ judgment.

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