

INTERNATIONAL CONFLICTS AND ENFORCEMENT OF JUDGMENT: EXPLORING THE USE OF ADMINISTRATIVE IMPLEMENTATION MEASURES IN POST-ICJs DECISION ON BAKASSI

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ABSTRACT

The Judgment of the International Court of Justice (ICJ) in the Case Concerning the Land and Maritime Boundary between Cameroon and Nigeria, delimited the boundary between these countries. The Judgment awarded the Bakassi Peninsula to Cameroon and notwithstanding its initial rejection of the judgment and a promise to hold on to every inch of the Bakassi Peninsula, Nigeria gradually yielded to the persuasion of the international community for it to abide by the decision. Thus, the stage was set for the implementation of the judgment and negotiations as to how best to effect the border delimitation laid down in the Judgment were the subject of negotiation between the Parties and resulted in the creation of administrative and institutional framework which led to the effective and eventual handover of bakassi. This work evaluated these enforcement strategies so as to underscore their utility in execution of the judgement and accentuated their importance in peace building between the feuding countries.

Keywords: Bakassi Peninsula, ICJ's Judgement, Enforcement/Implementation, Nigeria-Cameroon.

INTRODUCTION

Nigeria and Cameroon have had long-drawn-out territorial dispute leading to considerable tension between the two countries. Dominion over the Bakassi Peninsula and expanses in the Lake Chad Basin was the main reason for this territorial disagreement. Physically, the Bakassi Peninsula lies around latitudes 4025 and 5010 north of the equator, and longitudes 8030 and 9008 east of the Greenwich meridian with projected inhabitants of about 40,000, and significant resources located therein (Efiong-Fuller, 2007). Nigeria and Cameroon had claimed ownership of the Bakassi Peninsula and Lake Chad basin for several years and bilateral negotiations achieved no positive results. It is under this apparent standoff and unfortunate state of affairs that Cameroon submitted the case unilaterally, and besought the ICJ's jurisdiction pursuant to both states' declarations adhering to Article 36(2) of the ICJ Statute (Aye, 2003).

At the end, the ICJ in a ruling delivered in October 2002, awarded Cameroon the Lake Chad boundary it sought, and allocated around 30 villages to Cameroon and a few to Nigeria. The hallmark of the judgment was the award of the contentious Bakassi Peninsula to Cameroon. The ICJ, in what appeared consolatory, awarded much of the boundary between Lake Chad and Bakassi in the maritime-related rulings contained in the Judgment to Nigeria. The Court in a strong and unmistakable language obligated both parties to withdraw their military, police, and administration from the affected areas expeditiously and without

condition. As for Equatorial Guinea, the intervener, the ICJ drew the maritime boundary in a manner favourable to it.

The early response of the Federal Government of Nigeria was one of outright rejection of the judgment contending the presence of politics and bias. According to Nigeria, French, British and German judges whose countries' acts were under examination in the case ought to have disqualified themselves, failing which they have acted as judges in their own case. For this and other reasons, Nigeria concluded that on no account will she 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. Nigeria position on the judgment was published in many national dailies including. Daily Champion of 24th October, 2002 and The Punch of 23rd October, 2002. All this is now history but it is considered apt at this juncture to examine the numerous legal and governmental misadventures that foisted this regrettable territorial loss on Nigeria.

The Loss of Bakassi: Could it have been Different?

It is the belief of these researchers that had Nigeria been more conscious and cautious about the matter, the story of Bakassi and its people would have been different today. The one most fundamental indiscretion by Nigeria was its failure to withdraw or amend its acceptance of the compulsory jurisdiction of the ICJ timeously as allowed by Article 36 (3) of the Statute of the ICJ. Nigeria deposited its declaration accepting the jurisdiction of the ICJ as compulsory with the United Nations way back in 13th September 1965; Cameroon did not do so until 3rd March 1994, just about three weeks to the filing of its Application at the ICJ. Had Nigeria withdrawn or even amended its acceptance of the compulsory jurisdiction of the ICJ, as it did belatedly in 1998 when the case was already subjudice, the story would obviously have been different today because the ICJ would not have been seized of the requisite jurisdiction to determine the matter as its jurisdiction over states is based on the consent of the states. It is to be noted that at all material time from the independence of Nigeria and Cameroon in 1960 up to 2008 when Nigeria finally handed over, Nigeria had always been in actual physical possession and control of Bakassi Peninsula. This scenario would have continued but for the decision of the ICJ brought about by Nigeria's failure to withdraw or amend its acceptance of the compulsory jurisdiction of the ICJ.

Nigeria's case was again not helped by the inaptitude of its officials which tended to contradict its claim of sovereignty over the Bakassi Peninsula, and which were copiously highlighted by Cameroon and accepted by the ICJ in paragraphs 213-217 of the judgement. These include:

1. By Nigeria's Note Verbale No. 570 of 27th March 1962 addressed to Cameroon, Nigeria recognised and accepted the Akwayafe River as the boundary between it and Cameroon at the south of their common boundary thereby placing Bakassi in Cameroon.
2. By three other instruments: Yaoundé I Agreement of 14th August 1970, the Yaoundé II Agreement of 4th April 1971, and the Maroua Agreement of 1st June 1975, Nigeria recognised and accepted the validity of the Anglo-German Treaty of 11th March 1913 by acknowledging and applying its terms, and sometimes reproducing some of its clauses verbatim.
3. All Nigerian official maps until 1992 did not include Bakassi as part of its territory.
4. Nigerian embassy officials in Yaoundé and Nigerian consular authorities, until the early 1980s, habitually requested for permission from Cameroon before visiting Nigerian nationals in Bakassi Peninsula.

Nigeria did not deny these allegations, but argued that these were not the bases upon which Cameroon could predicate the claim for title. Unfortunately for Nigeria, the Court held that they constituted Nigeria's recognition and acceptance of the validity of the Anglo-

German Treaty of 11th March 1913. It would have been easier for Nigeria to contest the validity of the Anglo-German Treaty of 11th March 1913 in the light of the nature and terms of the 1884 Treaty of Protection between Great Britain and Old Calabar but for the above obvious indiscretions.

Regrettably, Nigeria's ultimate acceptance of the adversative consequence of the judgment signified Nigeria's readiness to recognize the obligatory nature of the ICJ's final judgment. Issuing a judgment is one thing and ensuring compliance with the judgment another uphill task for the ICJ. Consequently, ICJ judgments often provide a legal basis for an ultimate political solution to challenging international problems. This is so because there are definite restrictions to what international law can do. The process that led to the eventual handover of Bakassi to Cameroon demonstrated that ICJ's judgments are often only part of what will finally be a diplomatic solution between the two contending states. This was exactly what played out as both countries participated in the measures that created the much needed congenial implementation atmosphere which apparently gave the needed impetus for full compliance to be achieved. This goes to demonstrate that although adjudication remains a prevalent method of settlement of boundary and territorial disputes, it does not always tantamount to definite resolution of the dispute. A mixture of these various approaches creates the necessary atmosphere for dialogue, acquaintance and cooperation, the result of which became the concrete settlement of the dispute. Our task is to identify and evaluate the various administrative enforcement strategies adopted in the aftermath of the ICJ's judgment so as to underscore their importance in the enforcement of international rulings on territorial dispute.

The Role of the United Nations

The United Nations, through the good offices of the Secretary-General played a pivotal role in the enforcement of the judgment in the Bakassi case. The various roles played by the United Nations in the Bakassi dispute can be found mainly in the organisation's website: www.un.org/unowa as well as in several others of its publications. This role manifested, mainly in the following respects:

- Extraction of pre-judgment commitments;
- The convening of post-judgment tripartite summits;
- The setting up of the Cameroon-Nigeria Mixed Commission; and
- The midwifing of the Greentree Agreement.

Several weeks before the pronouncement of the judgment, the Secretary-General of the United Nations invited the Presidents of Cameroon and Nigeria to a crucial meeting in Paris, France. At the end of the meeting, which was held on the 5th day of September, 2002, both Presidents agreed to respect and implement the decision of the ICJ on the Bakassi Peninsula, establish a mechanism for implementation with the support of the United Nations and adopt confidence-building measures, among other things. The Secretary-General urged, and the parties agreed, to continue the bilateral negotiations at the ministerial level. This achievement of the Secretary-General is unprecedented and marks a distinguishing feature of the settlement of the Bakassi dispute.

After the judgment, the Secretary-General of the United Nations again convened four tripartite meetings with the Presidents of Cameroon and Nigeria. In the meeting of 15th November, 2002 held in Geneva, the parties re-iterated their commitment to abide by the spirit and letters of the judgment and to ask the Secretary-General to establish a mixed commission of Cameroon, Nigeria and the United Nations *"to consider ways of following up*

on the ICJ ruling and moving the process forward". The Cameroon-Nigeria Mixed Commission was subsequently set up and chaired by Mr. Ahmaduo Ould-Abdallah; the Secretary-General's Special Representative for West Africa. Further meetings were held in Geneva on 31st January, 2004 and 11th May, 2005 to appraise the progress made by the Mixed Commission and to mobilise further support for it. The last tri-partite meeting was held in Greentree, New York on 12th June, 2006, where the parties signed the agreement called "*Agreement Between the Republic of Cameroon and the Federal Republic of Nigeria concerning the Modalities of Withdrawal and Transfer of Authority in the Bakassi Peninsula of 12 June, 2006*" otherwise called the "*Greentree Agreement, 2006*".

Another important role of the United Nations is the setting up of the Cameroon-Nigeria Mixed Commission (CNMC) by the Secretary-General and the appointment of his Special Envoy to chair the Commission. It did not stop at that. The United Nations also set up a Trust Fund to receive voluntary donations to ensure that funds were available for the work of the CNMC. The United Nations also supports the CNMC through the provision of experts in relevant areas. Further details on the CNMC are to be found below (Aghemelo & Ibhasebhor, 2006).

Again, it is the United Nations that mid-wifed the negotiations between Cameroon and Nigeria which resulted in the signing of the Greentree Agreement on the 12th day of June, 2006. The Agreement related to the modalities for the withdrawal and the transfer of authority in the Bakassi Peninsula. And lastly, to reduce tension at the border and disputed areas, the UN has been involved in confidence-building measures such as the supply of food items, educational materials and health equipment to the affected population (Anyu, 2007).

The Cameroon-Nigeria Mixed Commission

The Cameroon-Nigeria Mixed Commission (CNMC) was established as compromise machinery for the implementation of the Bakassi judgment. It was set up at the tripartite summit of Cameroon, Nigeria and the United Nations, which held on 15th November, 2002 in Geneva. Aside from the Chairman who was the UN Secretary-General's Special Envoy, the CNMC also comprised the Cameroon's representatives led by Mr. Ahmadou Ali; Deputy Prime Minister and Minister of Justice for Cameroon and Nigeria's representatives led by Prince Bola Ajibola; former Judge ad hoc of the International Court of Justice and former Attorney General and Minister of Justice of Nigeria (Eze, 2008). To facilitate the activities of the CNMC, the United Nations set up a support team at the headquarters of the United Nations Office for West Africa (UNOWA) in Dakar, Senegal. The objectives of the CNMC are to oversee and ensure:

- The demarcation of the boundary;
- The withdrawal of the civil administration, armed forces and the police, and the transfer of authority in Bakassi and other applicable areas of the boundary;
- The demilitarisation of the Bakassi Peninsula;
- The protection of the rights of the affected populations;
- The formulation of projects aimed at promoting joint economic enterprises and cross-border cooperation; and
- The reactivation of the Lake Chad Basin Commission (LCBC).

To assist in the achievement of these objectives, the CNMC set up some sub-commissions. These are the sub-commission on demarcation of the land boundary, on the rights of the affected population, on the withdrawal of civil administration, military and police forces, on the delineation of the maritime boundary, and on the withdrawal and transfer of authority in both land boundary and the Bakassi Peninsula.

To provide funds for the actualization of the CNMC's mandate, the United Nations set up a Trust Fund and called for voluntary donations. A budget of about 12 million US Dollars was projected for demarcation alone. Nigeria and Cameroon have each paid 3 million US Dollars into the fund. The United Kingdom has made a donation of 1 million pounds, Canada 273,000 Canadian Dollars, while the European Union agreed to contribute 4 million Euros. Other contributions have also been made in kind by Austria, Brazil, Italy, Norway, Pakistan, Sweden and Uruguay. A tripartite delegation of the UN, Cameroon and Nigeria embarked on a series of tours to mobilise further financial support for the process.

So far, the CNMC has recorded significant achievements. To articulate strategies for the realisation of its objectives, and to evaluate progress made, the CNMC holds regular meetings in ordinary and special sessions. As at November 2012, the Commission had held 29 ordinary meetings and several special meetings in-between. The ordinary meetings are held alternately in Abuja (Nigeria) and Yaoundé (Cameroon). These meetings can be said to have been quite productive in their activities and achievements which are hereunder summarised.

1. In December 2003, the CNMC supervised the withdrawal and transfer of authority in the Lake Chad area.
2. In July 2004, the CNMC ensured the successful withdrawal and transfer of authority in some villages along the land boundary southward.
3. Between 2006 and 2008, it oversaw the withdrawal and transfer of authority in all the villages in the Bakassi Peninsula.
4. The CNMC has undertaken extensive field assessment along with the technical teams of both countries and the United Nations.
5. Following the activities of the CNMC, Cameroon and Nigeria have agreed on about 2,001 kilometers of boundary which have been surveyed and decided upon by the Parties (the total boundary is believed to be approximately 2,100 kilometers long. Of the 2,001 kilometres, pillars have been planted along over 600 kilometres at about 500 meters intervals.
6. Based on the work of its technical team, the CNMC adopted the final map delimiting the maritime boundary between Cameroon and Nigeria thereby settling that aspect of the ICJ judgment.
7. As part of the confidence-building measures initiated by the CNMC, the African Development Bank is funding the rehabilitation of the Enugu-Abakaliki-Mamfe-Mutengene road which links Nigeria with Cameroon.
8. The CNMC is also involved in the promotion of environmental protection activities in the Lake Chad area and the Bakassi Peninsula.
9. And lastly, the CNMC itself has also been involved in mobilising funds for the prosecution of its activities.

With all these achievements, it appears obvious that the CNMC is close to accomplishing its set objectives, so far almost all villages have been handed over to Cameroon on the land boundaries and one to Nigeria. The whole of Bakassi has been handed over.

A major challenge of the Commission is that of protecting the rights of the affected populations, particular those in the Bakassi Peninsula who are yet to come to terms with the reality of their change of status. There are reports of incidences of harassment, intimidation, brutality, abductions and killing of Nigerian citizens in the Bakassi Peninsula by the Cameroonian authorities. This development was brought to the attention of the CNMC by the leader of the Nigerian representatives Prince Ajibola in the following words:

“Though the Mixed Commission was established to avert and resolve any crisis between the two countries, we in Nigeria have continued to receive reports of brutality, harassment and killing of Nigerians.”

In spite of the undertaking by the leader of the Cameroonian delegation Mr. Ahmadou Ali to intervene, the situation nonetheless persists. Another challenge facing the Commission

is that of insecurity in the Bakassi Peninsula brought about by the activities of criminal gangs in the form of armed robbery, piracy, abduction and murders. This prompted the CNMC at its 27th Meeting which held in Yaoundé, Cameroon to resolve that the two countries must “*resolutely work hand in hand in order to rapidly stamp out this threat*”. For this reason a joint border patrol was considered expedient. Another challenge faced by the Commission is the resistance by some sections of the affected populations mainly on account of neglect, absence of compensation and proper resettlement. No doubt this situation helps to fuel the criminal activities in these areas. Thus, whereas the CNMC may complete its job soon, total peace may not be achieved within the affected areas unless the agitations of the affected populations are adequately addressed (Koroma, 1996).

In all, the CNMC has been a wonderful tool in the hands of the United Nations, and indeed the international community for the enforcement of the ICJ decision in Bakassi dispute. It remains to be added that what appears to be similar to the CNMC, but with far less responsibility and a much shorter life span was the Chad-Libya Mixed Team which was set up pursuant to an Agreement for the implementation of the judgment in the Case Concerning Territorial Dispute (Libyan Arab Jamahiriya/Chad) ICJs Report, 1994. It is more like the Follow-Up Committee which was set up under the Greentree Agreement. Its cardinal responsibility was to supervise the withdrawal of Libyan administration and armed forces from the contested area – the Aouzou Strip. The CNMC is generally acclaimed as an instance of UN conflict preclusion successes in which the UN’s methodological, political and legal expertise, and good office functions, to firstly get the commitment to - and then to sustain the implementation of - an agreement between two countries on disputed territory.

The Greentree Agreement 2006

The importance of the Bakassi Peninsula in the boundary dispute between Cameroon and Nigeria once again came to the fore during the enforcement of the ICJ judgment on the dispute. It is to be recalled that between the years 2003 and 2004 Nigeria voluntarily withdrew its civil administration, military and police from the villages adjudged to be under Cameroon at the Lake Chad area and along the land boundary. But this was not to be the case with Bakassi Peninsula. Arising from intense domestic pressure, the Nigerian Government was hesitant to comply with the timetable of the Mixed Commission for the withdrawal from Bakassi and the transfer of authority there to Cameroon. Aside from the emotional attachment of Nigerians to Bakassi being a territory inhabited by their brothers and sisters, Bakassi is strategic to Nigeria for economic and security reasons, among others.

The Bakassi Peninsula is said to hold vast reserve of both on-shore and off-shore oil and gas resources, even though no clear estimate of the reserve exist. The immediate handing over of the Bakassi Peninsula would have amounted to a sudden loss of huge revenue to Nigeria. This is aside from other biotic and aquatic resources such fish, shrimps, etc, which also exist in the area in large amount. Further, access to the Calabar port and the multi-million Naira Calabar Free Trade Zone will be greatly inhibited. This will slow down business activities with the result that enormous revenue will also be lost.

It has also been opined that the loss of Bakassi had a far-reaching security implications for Nigeria. This is so because access of the Nigerian Navy to the Atlantic Ocean from its Eastern Command will be greatly impeded (Aghemelo & Ibhasebhor, 2006). This means that Nigeria will require the regular permission of Cameroon to access the Atlantic Ocean failing which it stands the risk of being attacked. The same will be the fate of oil tankers and other vessels seeking to access the Atlantic Ocean. Nigeria was also concerned about the security, welfare and fate of its citizens in Bakassi.

Thus, Nigeria needed to address these implications fully, particularly in the light of domestic resistance, before withdrawing from, and handing over the Bakassi Peninsula. From the point of view of the United Nations, this was taking too long a time, whereupon it engaged both parties (Cameroon and Nigeria) in intense diplomatic mediation and persuasion to address the legitimate concerns of Nigeria which were responsible for Nigeria's inability to honour deadlines for withdrawal from Bakassi. At a meeting called in Geneva on the 10th day of May, 2005 by the United Nations Secretary-General, both parties addressed the reasons put forward by Nigeria for the delay in the withdrawal at the end of which the Mixed Commission was mandated to draw up a new withdrawal programme to be submitted to the parties for approval (Brownlie, 2009).

On the 12th day of June, 2006, the parties met again at Greentree, near New York, USA to agree on a new time table for Nigeria's withdrawal from Bakassi. At the end of deliberations, the parties signed an agreement known as "*Agreement Between the Republic of Cameroon and the Federal Republic of Nigeria concerning the Modalities of withdrawal and Transfer of Authority in the Bakassi Peninsula*" otherwise called the "*Greentree Agreement*". The Agreement was witnessed by the United Nations Secretary-General and representatives of Britain, France, Germany and the USA. Under the Agreement, Nigeria accepted and recognised the sovereignty of Cameroon over the Bakassi Peninsula in accordance with the judgment of the ICJ of 10th October, 2002 and reaffirmed its commitment to continue with the process of implementation in which it was already involved. Article 2 provides specifically as follows:

"Nigeria agrees to withdraw all its armed forces from the Bakassi Peninsula within sixty days of the date of the signing of this Agreement. If exceptional circumstances so require, the Secretary-General of the United Nations may extend the period, as necessary, for a further period not exceeding a total of thirty days. This withdrawal shall be conducted in accordance with the modalities envisaged in Annex I to this Agreement."

On its part, Cameroon, under Article 3 (1) undertook, upon transfer of Bakassi to it, to protect the Nigerian nationals living in the Bakassi Peninsula and to guarantee the exercise of their fundamental rights and freedoms as provided for in international law. Specifically, Cameroon undertook:

- Not to force Nigerians living in the Bakassi Peninsula to leave or to change their nationality;
- To respect their culture, language and beliefs;
- To respect their rights to continue with their agricultural and fishing activities;
- To protect their property and their customary land rights;
- Not to levy in a discriminatory manner, any taxes rates or other payments, on Nigerians living in the Bakassi Peninsula; and
- And to protect Nigerians living in the Bakassi Peninsula from any harassment or harm; Art. 3 (2).

There are two annexures to the Greentree Agreement of 12th June, 2006. Annex I contains the guidelines for the withdrawal while Annex II is the map of Bakassi showing the stages of withdrawal. By Article 4 of the Agreement, both annexures are to be treated as integral parts of the Agreement. The major guidelines for the withdrawal as contained in Annex I are as follows:

1. Nigeria was to withdraw its armed forces within sixty days of signature, but may keep its civil administration and police force for the purpose of maintaining law and order for a non-renewable period of two years from the date of withdrawal of the armed forces.
2. Upon the expiration of the said period of two years, Nigeria shall withdraw its civil administration and police force from the area while Cameroon shall take over administration of the area.

3. During the said period of two years Nigeria was not to do anything that will threaten the peace and security of Cameroon or that will prejudice its title such as exploitation of natural resources, granting of new land titles, etc.
4. Notwithstanding the transfer of authority, Cameroon shall not apply its customs and immigration laws fully in the area, but shall allow a period of five years within which time Nigerian civil authorities and police may visit the area.
5. And that at the end of this five year period, this special status shall cease and Cameroon shall have the right to exercise its full sovereignty over Bakassi Peninsula.

From the terms of the Greentree Agreement, it would appear that what were considered the legitimate concerns of Nigeria are those that relate to the rights and welfare of the affected population. Thus, the Agreement concentrated on nationality, fundamental rights, culture, language, belief, occupation, property rights, taxation, etc. These having been addressed, the parties were persuaded to sign. The Heads of State signed for Cameroon and Nigeria respectively.

A follow-up committee comprising representatives of Cameroon, Nigeria, United Nations, Britain, France, Germany and USA was set up to monitor the implementation of the Agreement in conjunction with the civilian observers of the CNMC under Art. 6(1). The Follow-up Committee was also to settle any dispute regarding the interpretation and manner of implementation of the Agreement. It was to stand disbanded once Cameroon assumed full sovereignty over the Bakassi Peninsula; that is to say, at the end of the five years special status period granted to Nigerians resident in Bakassi.

Soon after the consummation of the Greentree Agreement of 12th June, 2006, the Nigerian Senate denounced it, citing a violation of section 12(1) of the 1999 constitution of Nigeria. The said section provides:

“No treaty between the Federation and any other country shall have the force of law except to the extent to which any such treaty has been enacted into law by the National Assembly.”

It was the contention of the Nigerian Senate (which is the upper house of the National Assembly) that based on the said section, the Nigerian President ought to have sought the approval of the National Assembly before signing the Greentree Agreement or in the alternative forward the Agreement for its ratification before implementation (Egede, 2008). The House of Representatives (the lower house of the National Assembly) took a similar view and condemned the act of the Nigerian President in signing the Agreement without reference to the National Assembly. Nevertheless, the parties, through the instrumentality of the Cameroon-Nigeria Mixed Commission and the Follow-up Committee of the Greentree Agreement, fudged ahead with the implementation of the Greentree Agreement.

With all due respect to the Nigerian National Assembly, it would appear that there was a misconception of the proper character of the Greentree Agreement. The Greentree Agreement was not intended to, and indeed did not, cede territory to Cameroon. The Greentree Agreement merely contained modalities for the implementation of an aspect of the ICJ judgment, namely: the handing over of the Bakassi Peninsula which is a turbulent part of the judgment. It is to be recalled that prior to the Greentree Agreement, Nigeria had complied with other aspects of the judgment by pulling out of about 33 villages along the land boundary including the Lake Chad area. Nigeria hesitated to hand over the Bakassi Peninsula based on some concerns already expressed. The Greentree Agreement addressed some of these concerns. The Agreement must therefore be taken in the perspective of compliance with the ICJ judgment rather than a cession of territory (Sumner, 2003; Simmons, 2002).

Up to the conclusion of this research, the Senate of the Federal Republic of Nigeria had yet to ratify the Greentree Agreement. Nevertheless, the Federal Government (mainly the Executive arm) went ahead to hand over the Bakassi Peninsula to Cameroon in two phases;

the first on the 14th day of August, 2006 and the second on the 14th day of August, 2008 (Kolb, 2013).

Handover of the Bakassi Peninsula

By the ICJ judgment of 10th October, 2002, Nigeria was “*under an obligation, expeditiously and without condition to withdraw its administration and its military and police forces from the territories which fall within the sovereignty of the Republic of Cameroon*”. But as has been noted already, that urgency was not to be. As a matter of fact, had Cameroon insisted on strict and immediate compliance with the letters of the judgment, the story is most likely to have been different from what it is today. Thus, time, patience, understanding and diplomacy, among other things, have been vital indices in the implementation of the judgment (Hamza & Todorovic 2017).

For the purpose of the handover, the Bakassi Peninsula was divided into two: north and south. Whereas, the south comprised about 80% of the entire Bakassi territory, the north was only about 20% (Kamto, 2008). The importance of this division is not manifest on the face of the Greentree Agreement. Again, the Greentree Agreement made reference to the “*zone*” in Article 3 and Annex I without indicating whether it was the north, the south or the whole of the Bakassi Peninsula. It would however appear from the pattern of handover that the “*zone*” referred to the northern half of Bakassi. If this be the case, it means that all the guarantees for protection given by Cameroon under the Agreement will be limited to Nigerians resident in the northern half of Bakassi; while those residents in the south will be subject to full application of Cameroonian law.

By Article 2 of the Greentree Agreement, Nigeria agreed to withdraw all its armed forces from the Bakassi Peninsula within sixty days from the 12th day of June, 2006. About forty-nine days from that day, precisely on the 1st day of August, 2006, Nigeria commenced the gradual withdrawal of its armed forces from the Bakassi Peninsula (Ogaboh et al., 2010). On the 14th day of August, 2006, a formal handover ceremony was conducted and witnessed by representative of the United Nations and members of the CNMC. It turned out that the ceremony was not only the official handing over of military command in Bakassi to Cameroon, but also the handover of full sovereignty over the southern part of the Bakassi Peninsula to Cameroon. This aspect was not manifest on the face of the Green tree Agreement. It became obvious at this point to observers that the “*zone*” referred to in the Green tree Agreement was actually the northern half of Bakassi which was about 20% of the territory. This is so because by Article 2 of the Green tree Agreement, Nigeria was to withdraw only its armed forces within sixty days, leaving in place the police force and civil administration. But on the 14th day of August, 2006, it became known that Nigeria was also withdrawing its civil administration and police force from the southern half of the Bakassi Peninsula. Further, paragraph 2(a) of Annex I of the Green tree Agreement provides as follows:

“Cameroon shall allow Nigeria to keep its civil administration and police force necessary for the maintenance of law and order in the Zone for a non-renewable period of two years from the time of the withdrawal of the Nigeria forces. At the end of this period, Nigeria shall withdraw its administration and its police force and Cameroon shall take over the administration of the zone. (Emphasis added).”

Therefore, since Nigerian civil administration and police force were also withdrawn from the south on 14th August, 2006, it means that the “*zone*” refers to the northern half of the Bakassi Peninsula where Nigeria still retained its civil administration and police force. Nevertheless, the handover ceremony of 14th August, 2006 signified the end of the first phase

of withdrawal of Nigeria from the Bakassi Peninsula and a major leap in the implementation process.

As was expected, the handover renewed intense disapproval from the Nigerian public and institutions. Significantly, the National Assembly of the Federal Republic of Nigeria rejected the action of the President in consummating the handover in spite of their earlier opposition to the Greentree Agreement based on non-compliance with the provisions of the Constitution of Nigeria. On the 22nd day of November, 2007, over a year after the first handover, the Senate which is the upper chamber of the National Assembly adopted a motion declaring the handover “illegal” and “unconstitutional”. It added that “*the signing of the [Greentree] Agreement and cession of the Peninsula on August 14, 2006 to Cameroon was unilateral and against the provisions of section 12(1) of our Constitution... up till date, the so called Greentree Agreement is yet to be placed before the National Assembly for scrutiny as required by the Constitution*” The Senate therefore requested the Federal Government to forthwith stop any further transfer of territory in the Peninsula unless and until the Agreement was ratified by the National Assembly. The House of Representatives on other hand maintained that they will not ratify the Agreement even if presented since they were not carried along at the negotiation level. “*We are not a rubber-stamp legislature. This has to do with the integrity of Nigeria. The Agreement will be thrown out on the floor of the House*”.

The indigenes also went to court to seek to stop the Federal Government of Nigeria from handing over the Bakassi Peninsula until the sum of N456 billion (four hundred and fifty-six billion Naira), that is about \$3.87 billion was paid in compensation to them and the returnees fully resettled in places of their choice. The court did award an interim injunction, but the order was speedily vacated by the Federal Government thereby setting the stage for the final handover.

Notwithstanding this formidable opposition, the Federal Government did not seem ready to renege on the Greentree Agreement. Since the first phase of the handover was concluded on 14th August, 2006, Nigeria had two years under the Agreement to conclude the handing over of Bakassi. So on the 14th day of August, 2008, exactly two years after the first hand over Nigeria formally handed over the northern and remaining half of the Bakassi Peninsula to Cameroon. With this development, it can be said that the most sensitive aspect of the ICJ judgment had been resolved. The action of Nigeria was saluted internationally, but condemned locally; understandably so. The people could not understand the functionality and dynamics of international law, so they pondered: how could the territory of one nation be taken away from it and given to another in the name of international law; how could a people be removed from their ancestral home and placed in a “strange” land in the name of international law; how could a people be caused to lose their means of livelihood in the name of international law; how could a people be placed under the rule of a country that has been so brutal to them? These and more, are the questions to which ordinary Nigerians, particularly the people of Bakassi, cannot find answers (Eweka & Olusegun, 2016).

No sooner had the handover been done, than report started reaching the Nigerian authorities of Cameroon’s use of brutal force to try to assert its authority over the people of Bakassi. There were allegations of intimidation, harassment, brutality, indiscriminate arrests and detention based on flimsy excuses. The leader of the Nigerian representatives to the CNMC consistently brought this development to the notice of the Commission. At the 26th Ordinary meeting of the Commission held in Abuja on the 23rd and 24th of September, 2010, he had observed that “*though the Mixed Commission was established to avert and resolve any crisis between the two countries, we in Nigeria have continued to receive reports of brutality, harassment and killing of Nigerians*”. He thereupon proposed a joint border patrol to checkmate the incidences. At the 27th Ordinary meeting which held in Yaoundé, the same

report of the mistreatment of Nigerians in Bakassi was made. In reaction, the leader of Cameroon's representatives to the Commission made the following remarks:

"It is important to avoid using for purposes contrary to peace keeping, certain unfortunate and isolated incidents that may occur such as attacks by pirates or scuffles between fishermen and forces of law and order, which incidents should not jeopardize the entire peace building process... the government of Cameroon started sensitization campaigns for fishermen in the zone on the regulations related to the preservation of the environment in fishing activities."

It appears from this statement that Cameroon was using its law enforcement agents ("*forces of law and order*") to seek to compel Nigerian fishermen to immediately comply with strict environmental law ("*regulations related to the preservation of the environment*") to which they were not hitherto familiar. The observance of the law is good and recommended, but the Bakassi situation requires a careful and gradual approach. A relapse into crisis will do Cameroon no good; even a victory at war with its allies will not leave it any better. Even the UN did not see any wisdom in seeking an immediate and strict compliance with the ICJ judgment; instead it chose a more result-oriented approach. Cameroon now wants an immediate and strict compliance with its laws by Nigerians living in Bakassi. It would be better if Cameroon emulates the UN. To do otherwise would be counterproductive.

The continued intimidation, harassment, brutal treatment and killing of Nigerians in Bakassi is a clear violation or breach of the Greentree Agreement under which Cameroon has undertaken to guarantee to Nigerians living in Bakassi "*the exercise of the fundamental rights and freedoms enshrined in international human rights law and in other relevant provisions of international law*". Nigeria owes its nationals, wherever they are located, the obligation to protect their fundamental rights under the international law. Unless Cameroon adopts a different approach towards the Bakassi issue, it may not even enjoy internal peace in the area.

CONCLUSION

This paper has explored the application of administrative, bilateral and negotiated procedures that ultimately and finally resolved the Nigeria and Cameroon dispute over Bakassi Peninsula. As noted in the abstract, the ICJ's ruling in itself could not have occasioned immediate resolution of the dispute. It took six years of diplomatic efforts before final settlement could be achieved in 2008. The use of Good Offices, the Mixed Commission and the Greentree Agreement of 2006 ensured the attainment of settlement, enduring peace and ultimate resolution within the contemplation of the ICJ's ruling of 2002. This is more so apposite in view of the fact that the judgment provoked rebelliousness and uncertainty from Nigeria which made it clear that crisis was inevitable. The subsequent intervention of international stakeholders, especially Western countries, and particularly the UN and its then Secretary-General, Kofi Annan, who galvanized the UN machinery to institute direct bilateral talks between Nigeria and Cameroon to thrash out their differences, was the magic ward.

Since its inception in November 2002, the CNMC has made significant progress. As of August 2013, the commission completed the demarcation of the entire Lake Chad border, from Lake Chad to the sea, and the entire maritime boundary, in accordance with the ICJ judgment. To date, experts from Cameroon and Nigeria, assisted by the United Nations, have mapped 1,913 km of the 2,000 km border, or 95 percent. About 467 pillars have been constructed and fitted on the border, and work to delimit the maritime boundary was completed in 2008. During the thirty-first session of the CNMC in April 2013, both countries agreed to resume the pillar placement and the process has been completed.

These measures proved efficacious in bringing together the parties under a bilateral umbrella brokered by a third party, and making them to agree to mutually acceptable terms of final resolution. The handover of Bakassi Peninsula by Nigeria to Cameroon was thus a prodigious example to the world that peace could be attained through the combine application of adjudication and diplomatic negotiation. It also a testimony to the effect that the UN is still a potent institution for world unification and advocate of peace in armed conflict occasioned by territorial dispute.

We therefore conclude by positing that the potential and process leading to the formal resolution of the territorial dispute between Nigeria and Cameroon was made possible by the adoption of strategic dispute resolution mechanism without which the ICJ's ruling would have elicited more and further catastrophes thereby defeating the primary objective of the judgment. While the mediation of the dispute between Cameroon and Nigeria by the UN secretary-general led to its termination, enabled the demilitarization of the conflict zone, delineated the border, guaranteed obedience to the ICJ ruling, and stimulated cross-border collaboration, post-settlement peace building efforts should be reinvigorated and sustained to deal with the vestiges of distraught disposition and reactions.

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