

THE GREEN TREE AGREEMENT: NIGERIA CEDES BAKASSI TO CAMEROUN – REVISITING THE ISSUES

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ABSTRACT

The conduct of international relations is carried out through agreements, conventions, pacts, general acts, charters, declarations and treaties. These spell out the conditions and arrangements through which the parties oblige themselves in the conduct of their relationship. Thus, they have such tremendous impact on the society as they lay down the necessary, recognized conditions of operation. This research will essentially explain the agreement made between Nigeria and Cameroon at Green Tree, New York where Nigeria ceded its territory of Bakassi peninsula to the Republic of Cameroon in accordance with the judgment of the International Court of Justice of 10th October, 2002, in the matter of land and maritime boundary between Cameroon and Nigeria. The discussion here bothers on the nationality of the people of Bakassi as it has brought to fore Nigeria's influence and interactions with her immediate neighbours on the African continent as well as her efforts towards building an enduring peaceful co-existence in the African sub-region. This paper shall use the theory of cooperation and integration in its analysis.

Introduction

The choices, agreements and laws we make in our daily lives ultimately affect the world we live. International relations concerns the relationships among the world's governments, which are the members of the United Nations...sometimes International Relations is portrayed as a distant and abstract ritual conducted by a small group of people such as presidents, generals and diplomats (Goldstein, 1999:3).

On the 10th October, 2002, the International Court of Justice in the Hague ruled on findings based on the Anglo-German agreement that sovereignty over Bakassi rest with Cameroun. The implication of this ruling was that Nigeria should cede the said territory to Cameroun. The main problems that arose from this judgement for Nigeria were not only loosing an oil rich territory but also the fate of many of her nationals who by all standards would be faced with a hard choice of naturalization having being accustomed to Nigeria and indeed the many other unforeseen losses they were to experience especially within the period and beyond. It is on this basis that we try to critically analyse the Green Tree Agreement and also weigh Nigeria's position principally as enunciated in her foreign policy towards her immediate neighbours and general African policy among others to;

- i. Respect for independence, sovereignty, and territorial integrity of every African states;
- ii. Commitment to functional cooperation as a means of promoting African unity;
- iii. The sovereign equality of all African states[Aluko, 1977].

Even though Nigeria was going to lose an oil rich territory, this issue became a very thorny circumstance for Nigeria based on her earlier stand in her foreign policy initiative.

This research shall comprise of the following sub-themes, the first which is on-going is the Introduction. The second section is the conceptual clarifications; the third is theoretical underpinning, the fourth is the Green Tree Agreement, the fifth is the critical analysis of the issues therein while the final segment sums the work with a concluding remark and some suggestions on how this agreement will promote co-existence and world peace.

1. The Green Tree Agreement

This paper attempt to evaluate and analyze the Green Tree Agreement where Nigeria agreed to cede Bakassi to Cameroon based on the judgment of the International Court of Justice at The Hague as it is related to the

problem of rights and responsibilities of states to each other. The major problem here being whether Nigeria will respect bilateral or multilateral treaties and agreement in international law. This paper essentially explained the agreement made between Nigeria and Cameroon at Green Tree, New York where Nigeria ceded her territory of Bakassi peninsula to the Republic of Cameroon in accordance with the judgment of the International Court of Justice of 10th October 2002.

Conceptual Clarifications

In a research of this nature, it is worthwhile to first understand what agreements are and how they are reached. Treaties are known by a variety of differing names, ranging from conventions, international agreements, pacts, general acts, charters, declarations and conventions. We shall restrict ourselves to treaties, conventions and agreements. The creation of written agreements whereby the states participating bind themselves legally to act in a particular way or set up particular relations between themselves. A series of conditions and arrangements are laid out which the parties oblige themselves to carry out (Shaw, 1977:80; Roskin, 1997:328).

Treaties are the primary source of international law. A primary advantage of treaties is that they codify, or write down, the law. Agreements between states are binding according to the doctrine of *pacta sunt servanda* ["treaties are to be served/carried out."] This principle of international law stipulates that treaties once signed and ratified must be observed (Rourke, 1978:312; Goldstein 1999:315).

Shaw (1977) further asserts that, treaties are express agreements and are a form of substitute legislation undertaken by states. They bear a close resemblance to contracts in a superficial sense in that the parties create binding obligations for themselves, but they have a nature of their own which reflects the character of the international system. They fulfil a vital role in international relations.

It is only necessary to mention a couple of international conventions for us to realize the tremendous impact upon society of such forms of law creation. There are many kinds of agreements ranging from the charter of the United Nations, the Geneva Conventions on the treatment of prisoners and the protection of civilians and the Vienna Conventions on Diplomatic Relations to the regulation of outer space exploration, the control of drugs and the creation of international financial and development institutions. It would be impossible to telephone abroad or post a letter overseas, or take an aeroplane across to other countries without the various international agreements that have laid down the necessary, recognized conditions of operation, especially where other matters that have had to be covered include how title to territory is acquired (a matter that retains some importance because of continuing frontier disputes), ceded, and recognized. (Shaw, 1977:81; Spanier and Wendzel, 1996:463 - 464).

Theoretical Underpinning

As international relations talk about norms, rules and agreements so too does international law which is viewed as a system of agreements between international actors, usually states, that define how relations between and among them will be conducted. Hugo Grotius, a Dutchman, is commonly considered the father of modern international law because of his 1628 publication on the law of war and peace, Grotius' work laid the intellectual foundation for the rights and responsibilities of states to each other. It is on Grotius' work that the entire contemporary system of international treaties, tribunals and codes of conduct is built (Papp, 1997:430-431).

Article 38 of the statute of the International Court of Justice lists four separate sources of law but we will be dealing with only one here, that is, international conventions as it deals directly with our discussion in this research. International conventions are either bilateral or multilateral treaties and agreements that specifically commit a signatory actor to a particular type of conduct or to a particular set of standards. Of the four Article 38 sources of international law, it is the most explicit type and is valid only when two or more actors agree to abide by treaty or agreement provisions [Papp, 1997:432; Roskin and Berry, 1997:328-330].

The theoretical discussion of international co-operation and integration has determined focus to the resolution of conflicts in order to secure a peaceful world for all to live and also to work towards a form of a political community whereby actors in several distinct national settings are persuaded to shift their loyalties (e.g. to the United Nations), expectations, and political activities towards a new centre. It must also be understood therefore that this theory depends on practical reciprocity where states follow certain norms simply because they want other states to do so. In the case of the Green Tree Agreement, we can infer that even though the judgment of the International Court of Justice [ICJ] is a bitter pill for Nigeria to swallow it

had little or no option because Nigeria has to show compliance with the international legal system of which it is a signatory through the United Nations Charter. Nigerian has accepted the authority of the institution that made the rule.

The Green Tree Agreement

According to Ezea, 2008, for years not much was heard or known about Bakassi Peninsula, an area that covers a total area of 826.07 sq. km. sharing border with Akpabuyo in Cross River State, Mbo in Akwa Ibom State and international boundary with Republic of Cameroun. A natural haven for fishing as it is highly blessed with fishery, fishing products like shrimps, prawns, timers and other forestry products are found there in abundance. The dispute over the ownership of oil rich area had dragged on between Nigeria and Cameroun for decades but it caught international attention on May 29, 1994 when Cameroun took the matter to International Court of Justice in Hague, Netherlands.

At that point, oil had been discovered in that area and Late General Sani Abacha was the President of Nigeria then. After reviewing the pros and cons in the crisis, Abacha being hunted by international hostilities because of his dictatorial disposition refused to allow Nigeria to appear before the international Court of Justice. Nigeria continued to occupy the territory until Obasanjo came into power as President of Nigeria in 1999. In a bid to curry international recognition and favour coupled with the fulfilment of the United Nations treaty of which Nigeria is a signatory, Obasanjo's administration went to ICJ Hague to defend Nigeria's position on the matter. Nigeria raised a legal team made up of Chief Richard Akinjide, Prince Bola Ajibola and others.

The ICJ delivered its judgment on 10^m October, 2002, finding based principally on the Anglo-German agreement that sovereignty over Bakassi did indeed rest with Cameroun. It instructed Nigeria to transfer possession of the Peninsula but did not require the inhabitants to move or to change their nationality. Cameroun was thus given a substantial Nigerian population and was required to protect their rights, infrastructure and welfare.

Chief Richard Akinjide, a former Nigerian Attorney General and Minister of Justice described the decision as 50 percent international law and 50 percent international politics; blatantly biased and unfair, total disaster and complete fraud (Thisday, 2008:9).

This shows that Nigeria has a protective policy towards Africa. Put differently, Nigeria's foreign policy has, since independence, been characterized by national role conceptions, which capture Africa's economic and socio-political burdens of leadership for the continent (Folarin, 2012). It is noteworthy to mention that the policy has come under very critical review by scholars and practitioners of foreign policy for its huge cost on national development. To finally seal the deal and fate of the indigenes of Bakassi, Obasanjo on 12 June, 2006 at Green Tree, New York signed an agreement with his Camerounian counterpart, Paul Biya on the implementation of the judgment. Witnesses to the signing of the agreement were Germany, America, France, Britain and Northern Ireland. It was concluded in English and French (Ezea,2008:3). This case also underlined Nigeria's foreign policy towards Africa and for which has earned her the international label of having an afrocentric attitude as it continues to use her resources, influence, and power to reach out bargains and assume leadership positions and also assist needy nations of the entire black world. It is through these means that Nigeria's efforts have been geared towards engendering an enduring peace, security, unity, brotherhood and brotherliness towards Africa and the entire black race with the Africa-centrepiece underlining its foreign policy (Folarin, 2012)

When President Umaru Musa Yar'Adua came into office, he continued from where his predecessor stopped by going ahead with final handover of the area. On August 14, 2008, the controversial Bakassi Peninsula was formally handed over to the Republic of Cameroun at a ceremony in Calabar. The Nigerian delegation was led by the Attorney-General and Minister of Justice, Michael Aondoakaa. In his speech at the historic occasion, Aondoakaa said the handing over was a painful exercise. "We are saddled with the painful task of completing the implementation of the ICJ judgment", he said that there are arrangements for the resettlement of those who have chosen to leave the Peninsula, promising the Nigerian indigenes that would remain in the area that their fundamental human rights would be maintained. The United Nations Secretary General, who was represented, promised that the world body will support the displaced people and the governments of the two countries. The hand over process started two years ago, at exactly noon on Monday, 14 August, 2006, when the Nigerian Flag and that of the Nigerian Army were lowered at one of the Islands, Archibong Town in Bakassi, while the Cameronian Flag was hoisted. Indeed it was then the Bakassi people were first hit by the realization of a possible hand over of their land to Cameroun. The line

was drawn through the Cross River estuary to the west of the Peninsula, thereby confirming Cameronian ownership over Bakassi (Una and Ebhomele, 2008:1-3; Thisday, 2008:8-9).

Critical Analysis of the Agreement

As Nigeria Cedes Bakassi to Cameroun, this action has placed her as recognizing the importance of the ICJ ruling and the need for it to be implemented. According to Justice Minister and Attorney General of the Federation, Michael Aondoakaa, "From the point of law, submitting ourselves to the jurisdiction of the court was voluntary and having done that and participated throughout the trial and judgment, it will not augur well for us as a member of the United Nations (UN) to say we are not obeying the court's Judgment" [Obiagwu, 2008:1].

As can be inferred, Nigeria, being a member of the comity of nations and regarding the role she has played to bring and maintain peace in and across Africa, coupled with its leadership role, will not flagrantly disobey the ICJ judgment. Nonetheless, we must not lose sight of the fact that because of the anarchical nature of the international system, international law has its shortcomings, unlike a national or municipal legal system, the international legal system exists without a supranational legislature, so there is a general impression that international law is weak. It also limits the impact of moral norms on the competition and rivalry of states [Spanier and Wendzel, 1996:468]. This general impression amongst Nigerians is that, it will be possible to set aside the ICJ judgment because of the fact that the Nigerian National Assembly has not ratified the process. This case of impunity relates to the scenario in Republic of Paraguay V. United States, the Republic of Paraguay brought an application before the ICJ, asking for provisional measures to stay the execution of Mr. Bread, her national who was sentenced to death by the state of Virginia pending the final determination of the appeal. The ICJ granted the provisional measures but Mr. Bread was executed in Violation of the ICJ order [Elemuo, 2008:3].

It is also pertinent to infer from the above legal argument but to also highlight Article 3 of the UN declaration on the rights of indigenous peoples which states that "indigenous people have the right of self-determination. By virtue of that right, they freely determine their political status and freely pursue their economic, social and cultural development". Article 5 states that "every indigenous individual has the right to a nationality" [Elemuo, 2008:2; Ola 1999:120]. The indigenous people of Bakassi have the right to either remain in Bakassi as citizens of Cameroun or freely choose to remain as Nigerians in a different settlement. This is part of the reason for the establishment of the 15 – member observer team, which comprised five representatives from both Nigerian and Cameroun and five from the United Nations to find solutions to the problems of Nigerians in Bakassi (guardiannewsngr, 2008).

Article 7 states that "Indigenous people have the collective and individual right not to be subjected to ethnocide and cultural genocide, including prevention of and redress for:

1. Any action which has the aim or effect of dispossessing them of their lands, territories or resources;
2. Any form of population transfer which has the aim or effect of violating or undermining any of their right;

Article 10 of the same declaration states that "indigenous people shall not be forcibly removed from their lands or territories. No relocation shall take place without the free and informed consent of the indigenous people concerned and after agreement on just and fair compensation and where possible, with the option of return" [Elemuo, 2008:2].

Another major score for Nigeria particularly is her afrocentric foreign policy thrust which has helped as a major step towards a peaceful resolution of the crisis. Based on this, Nigeria has consistently pursued or worked towards functional cooperation in Africa, this was done to avoid frightening its neighbours into the arms of some powerful extra-African countries. Nigeria's action led the British foreign and commonwealth minister for Africa, Lord David Triesman to say that "The resolution of this long-running dispute is very important... This agreement represents significant progress. It also demonstrates to Africa and the world that territorial disputes can be resolved according to International law and by peaceful means." [Akpan and Obayuwana, 2008: 1-2].

Despite the legal and diplomatic arguments as presented, it is worthwhile to analyze that indeed Nigeria recognized the sovereignty of Cameroun over Bakassi peninsula in accordance with the Judgment of the ICJ on October 10, 2002 in land and maritime boundary as delineated by the court however Nigerians living in the area were continually experiencing intimidation, maiming and killing of Nigerians. According to the President of the Nigerian community in Cameroun, Mr. Emeka Orazuleme, "Nigerians going home had been forced to pay between \$100 or 50,000 Francs, I have to pay for Visa to get back to my country to

escape harassment on my way”. He said that the Cameroonian officials presumed that Nigerians have money and the only way to extort the money was to harass and intimidate them [guardiannewsngr, 2008:1-2]

Conclusion and Recommendation

The Nigeria – Cameroun dispute over Bakassi is traced to the July 23 and September 10 1884 treaty which Queen Victoria of Great Britain entered with the King and Chiefs of old Calabar province with King Honesty Vii and Edward Hyde Hewett representing Bakassi and Britain respectively. In 1885, Britain entered in another treaty in which she ceded all the regions she had earlier recognized as the jurisdiction of Obong (King of Calabar) to Germany. This resulted in controversy as the chiefs of the territory totally rejected and committed themselves to the new treaty still binding them – July – August 1886 Treaty (Quiwiki, 2008). This dispute continued until July 1998 when hearing on the dispute at the International Court of Justice commenced and in October 2002, the International Court of Justice gave its infamous ruling in favour of Cameroun (Quiwiki, 2008).

The Green Tree Agreement represent the process emanating from the judgment on 10th October, 2002 of the International Court of Justice (ICJ) that sovereignty over Bakassi did indeed rest with Cameroun through the handover of the peninsula to Cameroun by Nigeria authorities. The signing of the deal took place on 12th June, 2006 at Green Tree, New York between Presidents Olusegun Obasanjo of Nigeria and Paul Biya of Cameroun. This agreement became the concluding part of the handover of the area to the Republic of Cameroun by Nigerian authorities.

Even though this agreement and its implementation is an excruciatingly painful experience for Nigeria in many ways and there has been hues and cries within and among the citizenry, it became a necessary evil that the Nigerian authorities had to contend with for the basic reasons of obeying the ruling of the International Court of Justice on one hand and also creating a peaceful co-existence between Nigeria and Cameroun on the other. This Nigeria had to do in line with her afrocentric foreign policy which captured Africa’s economic and socio-political burdens as its concern.

The study therefore recommended for the conduct of a plebiscite to decide which nationality the Bakassi people would wish to belong to.

It will be instructive to recommend that since these issues have been found elsewhere and the law is aware, issues inherent in the Bakassi should be handled the same way as had been treated before especially as it concerns the nationality and customs of the people. Indeed, it is worthwhile to state with particular concern for the people living within Bakassi area for over 200 years and have taken the Bakassi Island as their ancestral home. For people who have never known any other place as their home, it will be fair for the ICJ to conduct a plebiscite to decide which nationality the Bakassi people wish to belong to. This will be in consonance with article 2 of the UN Declaration on the Rights of Indigenous peoples which states that “Indigenous people have the right of self-determination”. [Elemuo, 2008:2; Ola 1999:120]. Thus, preventing people from becoming objects of ethnocentrism and cultural genocide

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