

THE CONFLICT BETWEEN NIGERIA AND CAMEROUN OVER LAND AND SEA BORDERS AND TERRITORIES: THE POLITICAL CONTEXT AND THE CONTENDING PRINCIPLES

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ABSTRACT

This article is the product of a study of the international conflict between two neighbouring, under-developed African states, Nigeria and Cameroun. It is an analysis of the principles and norms thrown up by a conflict situation, and of the domestic political and economic contexts of international conflicts, placed in a historical perspective. Four general points of theoretical and practical policy interest emerge from the study. First, it is clear that there is a link between authoritative repressive regimes in conflict and high proclivity to resolve international disputes by the use of violence. It was under the highly repressive regimes of Babangida and Abacha in Nigeria and Paul Biya in Cameroun that the conflict between the two countries arising from the dispute over boundaries and territories almost degenerated to violent confrontations. Democracy, or at least relatively non-authoritarian civilian rule, is, therefore, a better domestic political foundation for international peace than military rule. Second, economic interests, especially stakes in some valuable natural resources, rather than concern for human lives and consideration for human welfare, underlie most international conflicts. In the case under reference, it was the discovery of crude oil in the disputed territory in 1967 that heightened the interests of the governments of Nigeria and Cameroun in the disputed territories, especially the Bakassi peninsula. The livelihood opportunities of the people in the area, specifically, their fishing rights and their rights to farm lands have been, and remain, of little interest to

successive governments in Nigeria and Cameroun. Third, strong contending parties with weak cases avoid arbitration, judicial settlements, and collective security, and go for bilateral negotiations, conciliation and self-enforcement. But, weak contending parties with strong cases tend to adopt the reverse system of preferences as conflict resolution strategies and mechanisms. Cameroon is unlikely to go to war on the matter; and the probability of resorting to the use of force by Nigeria is not high. Fourth, pressure from the real victims of conflicts, that is, those whose livelihood chances are directly threatened by the conflict is often critical in bringing about a resolution of the conflict. Conversely, those who indirectly benefit materially from such conflicts, for example, oil-prospecting companies operating on both sides of the divide and potential suppliers of arms and ammunitions, local and international, constitute obstacles to peaceful conflict resolution. By the same token, democratic consultation with the real, actual or potential victims of conflicts, the majority of the people in the disputed territories, is more efficacious than reliance on the views of the indirect beneficiaries of the continuation of the conflicts or of conflict situations.

INTRODUCTION

Following the judgment by the International Court of Justice at The Hague concerning the boundary dispute between Nigeria and Cameroun, there were calls on the Nigerian government by some Nigerians to go to war over the matter. The responses and reactions of some Nigerians, including some of those who represented our country on the case, at The Hague, did not reflect a thorough understanding of the issues involved in the case. In particular, even now, the political context of the dispute is not fully appreciated by many Nigerians. This intervention is meant to place, in its political context, the Nigeria-Cameroun boundary and territorial dispute, including the conflict over the Bakassi peninsula.

The purpose of this contribution is to sensitize people to, and engage scholars in a debate on, the nature and dynamics of the international conflict currently under national discussion in Nigeria and Cameroun. We are interested especially in its political context, placed in historical perspective; the principles and norms at issue; and the conflict management strategies and

mechanisms that had, earlier been, and could still be employed to resolve the matter without resort to war.

We shall proceed as follows. First, we shall discuss the nature and complexity of the boundary and territorial disputes between Nigeria and Cameroun. Then, we shall explore the dynamics of the conflict, placing the conflict in its global and domestic political and economic contexts. Next, we shall specify the principles thrown up by the conflict. Finally, we shall discuss the conflict management mechanisms and strategies that have been employed and that could be used in resolving the conflict.

The Nature and Dynamics of International Conflicts - A Conceptual Framework: International conflicts are contests or clashes between or across nation-states. The struggle might be between one or more governments to monopolize the exploitation of resources in disputed territory. It might occur when one state tries to prevent another from obtaining some resources that are vital to its survival. It could arise when one or more governments intervene in domestic disputes of another state. Occasionally, a conflict may ensue where the nationals of one state are attacked, dehumanized, killed or maimed by the agents of another state. Often conflicts are presented as occurring between governments. Thus, concretely, most international conflicts are either conducted or perceived as inter-governmental contests or struggles. And the bone of contention is usually territory or some other economic resource. It is seldom the welfare of the citizens of one or more of the states concerned that is perceived to be at stake. .

On deeper reflection, however, it can be seen that in reality, international conflicts are struggles between or among social groups or more precisely, social classes, clashing across state boundaries. The real actors in international conflicts are social classes, which, in their struggles, mobilize and use the various apparatuses of the state – coercive and non-coercive – to achieve their ends. And the contests are, invariably, for the control of some productive forces: objects of labour (land, raw materials); instruments of labour (technology, finance capital); or labour power (trained or specialized human resource). In brief, international conflicts occur when contending social classes, operating from distinct national societies or relatively autonomous territorial entities, struggle to establish monopolistic control over some global productive forces. Hiding behind governments, in most international conflicts are usually the monopolistic capitalists operating transnationally and with multinational tentacles. And the victims of such conflicts are, usually, the working peoples – peasant farmers, fishermen, and petty traders, workers. Often, when violent conflicts erupt between two contending ruling classes of two distinct national societies or states, they are extensions of violent intra-state conflicts. As Raymond Aaron has argued, one cannot imagine a non-violent diplomacy as long as one has not eliminated violence

from intra-state politics [Hoffman, 1985:17]. There are, therefore, three critical factors that shape the dynamics of most international conflicts. First, there is the nature of the prize that would accrue from the conflict. This refers to the relative utility and size of the productive forces or social product that the victor might gain in the wake of the struggle. Second, there is the nature of the relationship between the social classes, which constitute the real actors in the conflict. Once monopolistic capitalists either on one side or on both sides of the state territorial boundaries have high stakes in the outcome of the conflict, the spiral of international conflicts will be almost unending. Third, is the state of domestic politics in the nation states, which form the bases for the contending parties. This includes, especially, the nature of the regime in office. Authoritarian regimes or dictatorial governments, by their *modus operandi*, provoke the emergence of violent intra-state politics. And, as already indicated, such violence easily becomes translated into coercive international diplomacy, resulting in violent international clashes.

BACKGROUND TO THE CONFLICT

The conflict between Nigeria and Cameroun, under reference, is a boundary and territorial dispute. One of the territories in dispute is the Bakassi peninsula. We shall focus on this aspect of the conflict because of the public interest, which it has generated in Nigeria. Attempts were made in the past to resolve the dispute through bilateral negotiations, and other peaceful conflict management strategies. But, in 1981, and then again, in 1993 and 1994, the dispute nearly degenerated to a war between Nigeria and Cameroun. Since 1994, the matter has been before the International Court at The Hague. A judgment was passed, by the ICJ on the matter in October, 2002, and the Nigerian government issued a statement rejecting the verdict of the international court. The issue therefore still remains alive.

The Historical Background: The dispute over the Bakassi peninsula is the product of a number of contradictions. First, there is a clash between tradition and modernity. The pre-colonial history of the ancient kingdom of Calabar is haunting the post-colonial reality of contemporary Nigeria and Cameroun. Second, there is the tension between cartographical fact and cultural reality: the map is in conflict with the people. Third, there is conflict between the dictates of abstruse international law and the existential imperatives of struggling humanity. Fourth, there is a gap between the demands of *raison d'etat* and the needs and concerns of citizens.

In pre-colonial times, Bakassi was under the ancient kingdom of Calabar which, in 1914, became part of Nigeria, under British rule. The people of the main settlements in the Bakassi peninsula owed allegiance to the Obong of Calabar. It was, therefore, the Obong of Calabar that placed not only the Kingdom of Calabar itself, but also Efiat and Idombi (in the

peninsula) under British protectorate via a treaty of September 10, 1884. The Chiefs of Efiat and Idombi were co-signatories to the treaty. However, subsequently, through a series of bilateral treaties and other legal instruments, the British ceded the territory, first to Germany, and then placed it under the mandate of the League of Nations and the trusteeship of the United Nations. Meanwhile, the British protectorates in Nigeria, including the kingdom of Calabar, were merged with its colonies in the area, as one integrated British colony. Later, largely due to the political errors and indifference of Nigerian politicians, the Republic of Cameroun obtained the Bakassi peninsula in the process of a plebiscite conducted by the United Nations in 1959 and 1961. By the same process, Nigeria also obtained some territories which formerly belonged to Cameroun. In particular, the critical legal instruments that changed the status of the peninsula and its inhabitants were the following: the Agreement between the United Kingdom and Germany signed in London on March 11, 1913; the Anglo-German Protocol signed in Obokun, on April 12, 1913; the Exchange of Letters between the British and German governments on July 6, 1914; the endorsement, in 1961, by both the United Nations General Assembly and the International Court of Justice, of the results of the plebiscites conducted in Northern and Southern Cameroun on February 11 and 12, 1961; and the diplomatic note, accompanied by a map, dispatched to the government of Cameroun by Nigeria, in 1962, accepting the results of the plebiscites. Before 1913, the southerly part of Nigeria's eastern boundary, which abuts to the sea, had been located at the right bank of the Rio-Del-Rey estuary. But, by the Anglo-German Agreement and Protocol of 1913, confirmed by the Exchange of Letters between the British and German governments on July 6, 1914, the international maritime boundary between British Nigeria and German "Kamerun" was drawn through the thalweg of River Akpayafe. In consequence, Bakassi fell on the Camerounian side of the boundary. Not only did the Anglo-German agreements of 1913 attempt to solve, definitively, the international boundary problem between Nigeria and Cameroun, but also it essayed to put to rest any questions concerning the international frontiers between the two countries from Yola to the sea. [See letter by Dr. Taslim Olawale Elias to Nigeria's Federal Ministry of Foreign Affairs on the subject, a facsimile of which was published in The News, on 21/3/94. p.25] Those agreements also regulated the navigation on, and the use of, the Cross River, placing on the shoulders of the British government (rather than the Germans) the responsibility for "the marking, dredging or buoying of the navigable channels of the Cross and Calabar Rivers from 3-mile limit downward..." [Cited in Ate and Akinterinwa, 1992:144].

The Anglo-German Agreement and Protocol of 1913 formed the basis, subsequently, of the delimitation or definition of Nigeria's eastern boundary with Cameroun, to the point of even being reflected in Nigeria's laws. Thus, as Hon. Justice Elias pointed out in 1972, "the Northern Region,

Western Region and Eastern Region (Definition of Boundaries) Proclamation (L. N. 126 of 1954) showed the Bakassi Peninsula as forming part of the then Southern Cameroun." [Elias, op. cit.] Besides, on independence, the Nigerian federal government undertook, and declared itself, to be bound by a number of pre-independence treaties and other international agreements inherited from Britain. This solemn undertaking was made by virtue of the Exchange of Notes, on October 1, 1960, between Nigeria and Britain on treaty obligations. The 1913 Anglo-German agreement and protocol were among those treaty obligations. The United Nations was also involved in the process of the transfer of Bakassi to Cameroun. It should be recalled that, until 1916, the territory, which later became known as Cameroun, was a German protectorate. But, in that year, the Allied Forces occupied the Kamerun protectorate. At the end of the First World War, Germany renounced its right to the territory under the Treaty of Versailles. And in 1922, it was split into two and placed under the League of Nations' Mandate system, with France and Britain, respectively, as the administering power of each part. Britain, in turn, divided its mandate into two: Northern Cameroun which was administered as part of Northern Nigeria, and Southern Cameroun which was administered as part of Eastern Nigeria. When the United Nations was established as a successor organization to the League of Nations, both mandated territories (French Cameroun and British Camerouns) were placed under the Trusteeship system of the UN. This was effected by the Trusteeship Agreements approved by the UN General Assembly on 10th December, 1946. [Report on Cameroun under U.K. to the UN, 1958:1-14] In 1954, Southern Cameroun, under British supervision, was made a quasi-federal territory, in the Nigerian federation; it attained full regional status, in 1958.

A serious and open struggle for the British-administered territories of Northern and Southern Camerouns started as soon as it became clear that the territory administered by the French would become independent on 1st January 1960, and that Nigeria would also attain independence later in the same year. Some Nigerians wished to retain the whole of British-administered Camerouns as part of the independent Federation of Nigeria, on the ground that the two territories had been governed together with Nigeria, by the British, and had associated politically since 1922. On the other hand, some political leaders in French-administered Cameroun wished to re-unify the British and French Camerouns within the boundaries of the pre-1916 German Kamerun protectorate [Akinyemi, 1974:123-148].

The Initial Involvement of the UN and the ICJ in Resolving the Dispute: To settle the matter, the United Nations sent Visiting Missions to both Southern and Northern Cameroun in 1958. In Southern Cameroun, the Mission found that opinion was sharply divided concerning its future political association. In Northern Cameroun, its finding was that "it was the manifest opinion of the Northern Camerounian population as a whole that Northern

Cameroun should become a permanent part of the Northern region of Nigeria" [House of Representatives Debates, 7/4/60, col. 16]. The UN Visiting Mission, therefore, recommended that a plebiscite be held in Southern Cameroun in 1959 to ascertain the people's wish. For Northern Cameroun, it recommended that, if the UN General Assembly accepted such union (between Nigeria and Northern Cameroun) as a basis for the termination of the Trusteeship arrangement, no further consultation need be held [Yearbook of the United Nations, 1959, p. 361]. But, this opinion was challenged by some petitioners from the territory, among whom were representatives of the One Kamerun Party (OKP), the Kamerun Students' Association of America (KSAA.), and the National Union of Kamerun Students (NUKS) [General Assembly Official Records, 2/3/59, p.663].

The proposed plebiscite did not take place in Southern Cameroun in 1959. But, in Northern Cameroun, a plebiscite ordered by the UN General Assembly, took place on November 14, 1959. The result showed that, by 70,546 to 42,788 votes, a majority of 27,758 votes, the people of Northern Cameroun resolved to postpone the decision on their future political association. In the plebiscite, they had been asked whether they wished to remain part of Northern Nigeria, or whether they wished to postpone the decision on their future political association to a later date [Reports to the UN, 1959, p. 24; and Yearbook of the United Nations, 1959, p. 364]. Given this development, the UN General Assembly ordered a second plebiscite to be held in Northern Cameroun; this took place on February 11 and 12, 1961. On February 11, 1961, too, a UN-ordered plebiscite was held in Southern Cameroun. The people of Northern Cameroun were, in the second plebiscite, asked pointedly, whether they wished to join the Federation of Nigeria or the Republic of Cameroun. The same question was posed to the people of Southern Cameroun. In Northern Cameroun, 146,296 votes were cast for union with Nigeria, while 97,659 votes were cast for union with the Republic of Cameroun [Akinyemi, 1974: 139]. In one area, Chamba, however, the people voted 3:1 to join the Republic of Cameroun [Ibid: 140]. In Southern Cameroun, the result of the plebiscite was the reverse: 233,571 votes were cast for union with the Republic of Cameroun and 97,741 votes for union with Nigeria [Ibid" 41]. However, in the Bakassi Peninsula, majority of the people voted for union with Nigeria [The News, 21/3/94, p.18]. The results of the plebiscites in the two territories were accepted and confirmed by the UN General Assembly on April 21, 1961, by 61 votes to 23 and 10 abstentions, the General Assembly passed a resolution fixing June 1, 1961 as the date for the transfer of Northern Cameroun to Nigeria, and October 1, 1961, as the date for the transfer of Southern Cameroun to the Republic of Cameroun. The Nigerian government accepted the results of the plebiscite in the two territories. Dr. Jaja Wachuku, then Minister of Economic Development, as well as Head of the Nigerian

delegation to the UN, in a conciliatory speech, urged the government of the Republic of Cameroun to join the Nigerian government in accepting the results of the plebiscites in both territories in good spirit. His argument was that, since each country had gained one of the territories in contention, the gains and losses had cancelled themselves out. Furthermore, he hoped that the former British Camerouns (Northern and Southern) would serve as a bridge, rather than a gulf, between the two neighbouring states [GAOR, 21/4/61]. Indeed, to demonstrate Nigeria's whole-hearted and unqualified acceptance of the verdict of the peoples of the territories, as expressed in the plebiscites and endorsed by the United Nations, Nigeria's Ministry of Foreign Affairs, by a Diplomatic Note No. 570 of 1962, addressed to the Embassy of the Republic of Cameroun in Lagos, recognized Bakassi peninsula as forming part of the Republic of Cameroun. The Diplomatic Note had attached to it a map, prepared by the Federal Surveys Directorate of Nigeria. The map showed that the Bakassi peninsula was not part of Nigeria.

In October, 1960, about three months before the plebiscites of February 1961, the Federal Government of Nigeria had issued an important policy statement committing itself to the principle of *uti possidetis juris*, which anticipated its acceptance of the results of the plebiscites in Northern and Southern Cameroun. The Nigerian government had then declared that existing boundaries as drawn however "artificially" by the European colonial powers should be respected and must remain the recognized boundaries until such a time as the people concerned would decide, of their own free will, to merge as one unit. It also pledged to "discourage any attempts to influence such communities by force or through undue pressure to change since such interference could only result in unrest" [West Africa, 22/10/60: p.1190].

In contrast, the Republic of Cameroun, accepted only the result of the plebiscite in Southern Cameroun. It rejected the result of the one conducted in Northern Cameroun. And it did not give up the struggle for Northern Cameroun even after the UN General Assembly's confirmation of the results of the plebiscites. The government of the Republic of Cameroun declared June 1, every year, a national day of mourning and pledged to do everything in its power to end the "cruel separation" of Northern Cameroun from the Republic of Cameroun. Furthermore, it took the matter to the International Court of Justice, at The Hague, charging Britain with administering the territory in such a way, and preparing for the plebiscite in a manner that both altered and retarded its political development and impeded the normal course of consultations. At the time, the ICJ ruled that the dispute was about the interpretation of a treaty that no longer was in force, for the General Assembly resolution of 22nd April, 1961 that terminated the Trusteeship Agreements had had a definitive legal effect. It therefore refused to give any judgments on the case [Yearbook of the United Nations, 1963, p.495-497].

THE STRUGGLE OVER THE BAKASSI PENINSULA

Initially, the Nigeria - Cameroun territorial dispute did not really focus on the Bakassi peninsula. Indeed, in the 1950s and 1960s, that territory and its people were peripheral and marginal in official thinking and calculation, both in British Nigeria and French Cameroun. It was from the 1970s, that the conflict between Nigeria and Cameroun on borders and territories became essentially a dispute over the Bakassi. From then on, the bone of contention became, and today remains, the issue of sovereignty over the peninsula.

At, first, especially during the colonial days, the peninsula was regarded as a "worthless zone of contention ... a strip of dismal swamp peopled by a few miserable folks" [The News, 21/3/94. p. 14]. Not surprisingly, the British quite readily ceded it to the Germans, citing administrative convenience [Ibid]. Similarly, at independence, the Nigerian political leaders were largely indifferent on whether the peninsula fell under Nigerian or Camerounian sovereignty [Akinyemi, 1974:142-143]. Later, however, valuable natural resources were discovered in the territory. From then on, the struggle over the territory intensified, manifesting from time to time in violent clashes between Nigeria and Cameroun.

The Nature and Dimensions of the Conflict: Essentially, the struggle over the Bakassi is neither for a people, nor for an empty or barren territory. It is primarily for some natural resources, for some object of labour. And the roots of the dispute lie in the nature of colonial frontiers in Africa, in general, and the Nigeria - Cameroun international frontiers, in particular.

From the beginning, the delineation of Nigeria's international frontiers was beset by uncertainty. The eastern boundary, for instance, was delineated in bits over a long period and involved several colonial powers: the United Kingdom and Germany; the United Kingdom and France, at different times. And the British that inherited the Nigerian side of the boundaries never seemed in a hurry to properly demarcate them on the ground. Apart from the problem of uncertainty, the sheer length of the boundaries posed its own difficulty. With a total land border of 4, 234 kilometers, the task of organizing border posts and patrolling the border was a Herculean one. However, the basic and most critical problems arose from the classical dilemma between satisfying the demands of people whose lives were, and are still, most affected by the existence of these colonially imposed barriers and the imperative of the sovereignty and security of the colonial and post-colonial, or more appropriately, neo-colonial state. On the one hand, the indigenous population (the peasant farmers and workers) living on both sides of the borders, some of who belong to the same ethnic stock, wish to operate as if the artificial barriers, known as boundaries, never existed. On the other, for security and economic reasons, the ruling class controlling the

government on each side of the border insists on strict application of state functions at the borders. Several problems arise from this conflict. It is the nature of these contradictions and the dynamics of their intensification and possible resolution that should occupy the attention of both the analyst and the patriot.

The eastern part of Nigeria's international frontier was particularly problematic. It consisted of a long stretch on land and a shorter maritime section. Extending for a distance of about 1,500 miles (or 1,696 kilometers) between Lake Chad and the Bight of Biafra, much of the land border was undemarcated. The entire length was never properly marked on land, or even clearly delineated, throughout colonial rule. The process of demarcation was begun on the stretch from Lake Chad to the Kombon Mountains in the 1932 - 1940 period, but was not completed. On land, the few border posts that existed before the interaction of Nigeria with the former Southern Cameroun (later known as Western Cameroun), had disappeared during the long period (1922 to 1960), when the British administered the territory as part of Nigeria. With respect to the maritime side, the uncertainty regarding what was the boundary was even greater. The Anglo-German Agreement, which formed the basis of the boundary line, was based on speculation about the nature of the territory. For instance, in one of the Agreements concerning the southernmost section of the eastern border (dealing with the Bakassi peninsula), the Rio-Del-Rey was assumed to be a river 80 miles (129 kilometers) long and flowing into the sea. But subsequent explorations revealed that it was rather a maze of creeks, a network of rivulets, linking two larger streams, namely, the Akpayafe and the Ndian. But, then, instead of now using the Ndian river, which fairly neatly separates two ethnic groups on either side, as the boundary, the Akpayafe was used, thus splitting the Efiks into two - some in Nigeria, the rest of their kith and kin in Cameroun [Ede, 1981: 294;298].

It was not the Efiks alone that were divided by the eastern boundary. The Ekoi and the Boki ethnic groups were also split by the south-eastern boundary [Anene, 1970:285]. Furthermore, many Eastern Nigerians remained in Western Cameroun after its separation from Nigeria in 1961. Yet, the Western provincial government of Cameroun, fearful that if the boundary did not operate as a 'human divide', the Igbo of south-eastern Nigeria would flood Cameroun and dominate the economic life of the country, insisted on strict application of state functions at the border [Ibid].

Thus, the occasional clashes, which occurred along the Nigeria - Cameroun border arose from two main sources. These were: one, the competitive exploitation of material resources in disputed areas; and two, attempts by the national governments, on both sides, to apply state functions at the border.

Economic considerations formed the main motivation, on both sides, for wanting to enforce control of people's movements and other restrictive laws at the border. For instance, the governments of Nigeria and Cameroun

were anxious to stop illegal trading across the border. This was because both countries lost revenue from a thriving black market which involved the smuggling of Nigerian goods to Cameroun and illegal transfer of Camerounian currency and CFA francs to Nigeria by Nigerian businessmen, traders and smugglers [West Africa, 9/6/75, p. 670]. Sometime, too, Nigeria lost revenue when her nationals were forced to pay taxes to the treasury of the Republic of Cameroun on the ground that they lived on Camerounian territory [Daily Telegraph, Lagos, 4/4/66; West Africa, 14/3/64, p. 294]. Violent clashes, sometimes, resulting in death occasionally followed these governmental activities at the border. For instance, in 1970, 30 Nigerians were said to have been killed by Cameroun's customs officials who mistook them for smugglers; in the affray, two Camerounians were wounded [Africa Research Bulletin, July 1970, p. 18058].

Boundary clashes also occurred whenever the nationals of one country tried to exploit the resources in areas considered by the other as being within its territory, or when the government of one country took an action that extended the area in dispute such as extending the country's territorial waters. For instance, in 1967, the Federal Military Government (FMG) announced the extension of Nigerian territorial waters from 12 to 30 nautical miles [West Africa, 23/4/74, p. 1176]. In 1968, there was a border incident involving the capture of a Camerounian trawler in what was regarded as Nigerian territorial waters. This led to the detention of the trawler's ten-man crew in Nigeria and the alleged shooting of its French captain. Also, in 1970, a member of the Camerounian Naval Forces was reportedly killed by Nigerian troops while operating within an area regarded as part of Nigeria's territorial waters. On the other side, in the same year, some Nigerians were, reportedly, killed by Camerounians at the maritime frontier [West Africa, 1/8/70, p. 885]. Meanwhile, Nigeria delayed legally formalizing the announced extension of its territorial sea as discussions and consultations were held by the two sides. But, in January 1972, a decree was promulgated by the FMG enforcing the extension. Consequently, the business (especially, fishing) community in Cameroun protested strongly against the Nigerian government's action to their government and urged it to take steps to save Cameroun's fishing industry. In February of the same year, Camerounian troops seized a Nigerian fishing boat and arrested one of its crew members. In 1973, a large number of Nigerians, estimated by one source as numbering 10,000, were expelled by the Camerounian government from contested fishing villages, along the maritime border. In 1974, Nigeria further extended her territorial waters to 50 nautical miles. The same year, Nigerian fishermen were attacked by some Camerounians [West Africa, 11/3/74, p.285. 23/4/74.p.1176].

These and similar incidents along the maritime and land border incensed local feelings in both countries. In Nigeria, demands grew for a

proper definition and demarcation of the international boundary. The Nigerian press became hostile to Cameroun and critical of Federal Government's handling of the conflict. Pressure came from the governments of the adjoining constituent states of Nigeria, especially the South-Eastern state (later, split into Akwa Ibom and Cross River states), Rivers state (later, split into Rivers and Bayelsa states), and East-Central state (later, split into Abia, Anambra, Ebonyi, Enugu, and Imo states), whose citizens' livelihood was often threatened by the dispute.

The urgent need to settle the dispute arose from the direct pressure mounted by the affected citizens themselves. For example, in Nigeria, the fishermen of Akwa Ibom and Cross River states protested strongly against the "relentless acts of molestation" from Camerounian *gendarmes* and asked their state governments to intervene to prevent them from being pushed out of their traditional business [West Africa, 11.3.74, p.285]. On their part, the State and Federal Governments of Nigeria were eager to have the approach channel to the Calabar port dredged to facilitate the inflow of goods to, and evacuation of produce from, the country. The boundary problem was delaying the dredging of the channel [Nigeria's Second National Development Plan, 1970-1974: First Progress Report, p.83]. Besides, the discovery of crude oil at the maritime portion of the boundary enhanced, for both countries, the economic value of the area. By 1974, on the Nigerian side, three oil companies - Shell/BP, Mobil, and Ashland Oil - in collaboration with the Nigerian National Oil Corporation, already held exploration rights both on-shore and off-shore in the area. And, on the Camerounian side, Gulf Oil, Shell/BP, and *Societe Elf-de Recherches et d'Exploitation du Cameroun des Petroles* held concessions [West Africa, 9/4/74, p. 1117]. Non-settlement of the border dispute was holding up extensive oil exploration and exploitation in the area.

On its part, the government of Cameroun was also under domestic and foreign political and economic pressure to secure effective control over the disputed territory. In 1967, oil was discovered in the swamps of the Calabar River and Cross River channels. A number of multinational oil companies then undertook explorations in the disputed area on behalf of the Republic of Cameroun, and these yielded positive results, thereby reinforcing the desire of the Camerounian government to consolidate its claim to the territory. Therefore, between 1969 and 1972, the government of Cameroun renamed twenty-five villages and towns in the Enong and Bakassi peninsulas, and positioned patrol *gendarmes* to secure effective occupation of the disputed territory [Nweke, 1990, p.403-404].

The Government of Cameroun also came under pressure from both the business community and its political opponents. Some opposition political parties, in Cameroun, for instance, accused the government in Yaounde of weakness in protecting the economic interests of Cameroun and Camerounians. Then, there was the pressure of economic crisis, which, in

later years, reached a point where the government of Cameroun depended heavily on the French Government for financial aid to be able to pay Camerounian civil servants. At one point, Cameroun even stood in danger of being blacklisted by the International Monetary Fund for a default in servicing its external debts. It had to be bailed out by France, which paid 30 billion CFA francs to the IMF [*The African Guardian*, 14/3/94]. In contrast; Nigeria was experiencing a boom in proceeds from the sale of crude oil. In the circumstance, Cameroun became desperate to secure an oil-rich territory, albeit in a disputed border area.

Domestic Influences on Nigeria and Cameroun: The abjuring of the policy of irredentism by the Nigerian government and its embrace of the principle of *uti possidetis juris*, as early as 1960, was informed largely by its domestic political circumstances. Right from the 1950s and the 1960s, it was clear that Nigerian political leaders were not averse to playing partisan politics with the question of Nigerian Federal Government's bid to secure any territory that was in dispute in its eastern border. From the beginning, the disunity among the Nigerian ruling (political) class in pursuit of the territorial disputes with French Cameroun was evident.

In the struggle for Northern Cameroun, already discussed, for instance, Nigerian political parties were not on one side. With respect to the first plebiscite in the territory, on November 14, 1959, all the Nigerian political parties campaigned to influence the results. However, significantly, only the Northern People's Congress (NPC) campaigned for the first option, which was that Northern Camerounians should vote to be integrated with Nigeria, as part and parcel of the Northern Region of Nigeria. The other parties, such as the Bornu Youth Movement/United Middle Belt Congress/Action Group alliance, and the Northern Elements Progressive Union (which was in alliance with the National Convention of Nigerian Citizens, formerly known as National Council of Nigeria and the Camerouns), campaigned for the second option. The second option was that the Camerounians should vote to postpone a decision on their political association and status to a future date. More telling, the BYM/UMBC/AG coalition formed an alliance with the Northern Kamerun Democratic Party (NKDP), which, in fact, advocated secession from Nigeria. Thus, at least, by association or implication, the three Nigerian political parties were opposed to the integration of Northern Cameroun with Nigeria. Not surprisingly, therefore, when the verdict of the plebiscite was announced, indicating that the Northern Camerounians had voted, by majority, to postpone the decision on their political association to a future date, only the Northern Peoples Congress and the Northern regional government, which it controlled, were shocked. The Action Group and its allies were evidently delighted: they described the results as a vote of no confidence in the Northern Nigerian

leadership. The NCNC was indifferent. Again, when the UN Trusteeship Committee and the General Assembly re-visited the matter and recommended that a second plebiscite be held in the territory, sometime between September 1960 and March 1961, opposition came from some Nigerian political parties. The UN bodies had decided that, this time, the questions should be whether the people of Northern Cameroun wished to join the Federation of (British) Nigeria or (French) Cameroun when the two countries became independent. The Action Group and its allies in Northern Cameroun proposed that the Camerounians should be given a third choice: they should also be asked whether they wished to unite the two British-administered territories of Cameroun into a sovereign, independent state [Akinyemi, op. cit., p. 134]. When this failed, and despite the fact that the Federal Government of Nigeria forged an all-party consortium, under the leadership of the NPC-dominated Northern regional government, all the Nigerian political parties did not speak with one voice on the matter. The brunt of the struggle was borne by the NPC-led Federal Government and Northern Nigerian Government. Between them, they provided a substantial sum of money, estimated by unofficial sources as amounting to \$60,000, to prosecute the struggle. The Action Group and its Northern Nigerian allies, Bornu Youth Movement and United Middle-Belt Congress, attacked the Northern People's Congress for spending too much money on the campaign to achieve a favourable result in the plebiscite, a charge taken up by the political groups in Northern Cameroun that were opposed to its integration with Nigeria. And even though, by this time, the NCNC/NEPU alliance was now in a coalition government, at the federal level with the NPC, the campaign was left largely to the NPC and the Northern Nigerian Government.

Conversely, the NPC political leaders and the Northern Nigerian Government saw the fight to secure favourable results in the plebiscite on Southern Cameroun as primarily an NCNC affair. However, the NCNC itself, together with the Eastern Nigerian Government, which it controlled, was indifferent on the matter. It was the Action Group, which controlled the Government in distant Western Nigeria, which showed the greatest interest in the retention of Southern Cameroun (including the Bakassi peninsula) as part of Nigeria. The reason for this was not the rational consideration of national interest. Rather, it was the calculus of the differential benefits of partisan politics. During the 1959 Regional elections in the territory, the AG strongly supported its allies, the Kamerun National Congress/Kamerun People's Party coalition, through press comments in newspapers owned by the AG. Reportedly, the AG also rendered some financial assistance to its Southern Camerounian allies during the 1961 plebiscite. It even sent delegates to the UN to help its allies canvas the delegates from other countries for support. Within Eastern Nigeria, the strongest advocates of the retention of Southern Cameroun as part of Nigeria were the leaders of the Calabar-Ogoja-Rivers State movement (who were allied to the AG), not the leaders of the NCNC.

The reason was that, by the time the struggle for Southern Cameroun was waged openly between Nigeria and Cameroun, the NCNC and the Eastern Nigerian Government had lost hope of ever politically controlling the territory due to the history of unhappy relationship between the NCNC leaders and some of the Southern Camerounian political leaders.

Until 1953, the trust territory of Southern Cameroun was administered as a part of Eastern Nigeria. But, in that year, a political crisis occurred in the ruling NCNC, involving an unsuccessful revolt against Dr. Nnamdi Azikiwe's leadership. The Southern Camerounians used the opportunity to declare 'benevolent neutrality' in NCNC's internal squabbles, in particular, and Nigerian domestic partisan politics, in general. Later, in the same year, and following an All-Cameroun Conference, the Southern Camerounian representatives, under the leadership of E. M. Endeley, went to London to demand separation of Southern Cameroun from Eastern Nigeria. They got a conditional promise that their demand would be met if the Kamerun National Congress of Dr. Endeley won the 1954 elections on the issue of separation from Eastern Nigeria. Following a strong anti-Eastern Nigeria campaign, the KNC won all the thirteen seats and Southern Cameroun was separated from Eastern Nigeria. It first became a separate province and then a full region in 1958.

In the same year, (that is in 1958) a UN Visiting Mission went to the territory and found that opinion was sharply divided concerning the political future association of Southern Cameroun. While one group, led by Dr. Endeley, felt that the territory and its people should remain a self-governing region within independent Nigeria, another group, led by M. John Foncha, felt that the territory and its people should be separated from Nigeria, with a view to union with Northern Cameroun and the French Cameroun. The UN Visiting Mission, therefore, recommended that a plebiscite be held on the territory in 1959 to ascertain the people's wish on their future political association. The plebiscite did not, however, take place in 1959. But, an election to the Southern Cameroun's Regional Assembly was held early in the same year, and was fought partly on that issue. M. Foncha's Kamerun National Democratic Party won 14 seats, and Dr. Endeley's KNC won 12 seats. Shortly after the election, the Southern Cameroun's House of Assembly passed a resolution calling for the separation of the territory and the people from Nigeria [Yearbook of the United Nations, 1959, p.361]

Partly because the separation of Southern Cameroun from the Eastern Nigerian region in 1954 was preceded by an anti-Eastern Nigeria campaign, and partly because, subsequently, Dr. Endeley's KNC chose the Action Group as its ally, instead of the NCNC, the Eastern Nigerian Government became indifferent to the future political association of Southern Cameroun. Thus, during the 1959 regional elections, one of the leaders of the NCNC, Dr. Jaja Wachuku, said that if Southern Cameroun wanted to secede,

it should not be stopped. Another leading NCNC member was even more negative in his attitude. He argued that an attempt to fight to retain Southern Cameroun, as part of Nigeria, would amount to imperialism, and that there was no question of losing Southern Cameroun because, although it was administered as part of Nigeria, it never belonged to Nigeria [Akinyemi, p.142-143]. When the UN plebiscite was eventually held in the territory, in 1961, the NCNC and the Eastern Nigerian Government maintained their indifference concerning its outcome. The organ of the Government, the Eastern Outlook, stated that whichever way the Camerounians voted, Nigeria had nothing to lose or gain. After the plebiscite, the Premier of Eastern Nigeria, Dr. Michael Okpara, claimed that the loss of Southern Cameroun was "largely as a result of the campaign mounted against Eastern Nigeria by some Cameroun leaders in 1953 and 1954". As for the Federal Government, under Balewa, it did only the minimum to support the cause of the pro-Nigerian Southern Camerounians. In 1959, Balewa issued a statement promising the Southern Camerounians that they would retain their own separate region in independent Nigeria. In 1961, too, he issued another statement outlining the benefits that the Southern Camerounians would derive by joining Nigeria, and warning them of the uncertainty and insecurity they would face if they rejected continued association with Nigeria. In addition, the Federal Government of Nigeria, dispatched Nigerian troops to the Cameroun-Nigeria border, partly to check the possible infiltration of Unions des Populations de Cameroun, and partly to instill confidence in persons living in the border areas, thereby demonstrating how secure it would be to live in Nigeria. Beyond these steps, the Federal Government did not wish to go. When the results of the plebiscite in the territory were known, and it became obvious that Nigeria had lost to French Cameroun, the Nigerian Prime Minister refused to pursue the matter any further.

In the 1970s, with Nigeria under military rule, the politics was different. The Federal Government commanded and the regions or states obeyed. And the Federal Military Government in Nigeria, under General Yakubu Gowon, was determined to maintain peaceful relations with the Government of Cameroun, under Amadou Ahidjo. Indeed, there was pressure on the Nigerian Federal Military Government from the South-Eastern and East-Central state governments to protect the lives of Nigerians living in the disputed territory and secure their livelihood chances. But the Federal Military Government of Nigeria, under Yakubu Gowon, was highly disposed to settle the matter peacefully for several reasons. The most important reason was that Nigeria had just gone through a civil war; therefore the post-civil war Nigerian governments were unwilling to get Nigerians involved in fresh confrontations, this time with a neighbouring state whose strong and firm support for the Federal side was crucial in helping it emerge victorious against the Biafrans. The FMG, rather resolved to settle the matter through friendly, bilateral consultations and negotiations with the Government of

Cameroun. Consultations between Nigeria and Cameroun had started before the civil war in Nigeria; they were continued during and after the war. By April, 1971, a joint (Nigeria-Cameroun) Permanent Consultative Committee had been set up to delineate the boundary and work out the detail of other agreements for friendship and co-operation between them. By 1972, agreement had been reached on four important areas: cooperation in judicial matters; co-operation in police matters; cultural, social and technical cooperation; and protocol on the right of establishment; The fourth aspect of the agreement was particularly important since it gave the nationals of each country the right to settle, acquire property and engage in industrial, commercial, and agricultural undertakings in each other's territory without discrimination.

Specifically, agreement was reached on the reciprocal granting of fishing privileges in the territorial waters of each other until formal agreement was concluded. But, unfortunately, only the first three agreements were ratified; so the dispute over fishing rights and the right to oil prospecting continued. Then, in 1974, to prevent further disputes arising from competitive exploitation of petroleum resources in the maritime boundary, a four-kilometer corridor was created with two kilometers on either side of a tentative boundary.

By the end of 1974, General Yakubu Gowon was facing a lot of criticisms over his domestic policies. Domestic opposition was growing. His administration was being charged with corruption, incompetence, and lack of action on a number of fronts. He was under pressure at home to show more decisiveness in governance. External relations became for his regime a convenient point of diversion. In June 1975 Gowon, Nigeria's leader and Amadou Ahidjo, President of Cameroun, met in Maroua, and reached an agreement on the border and territorial disputes. Part of the agreement was that much of the disputed territory in the South, including the Bakassi peninsula, belonged to Cameroun; that the occupation of some fishing ports in the disputed territory by Nigerians did not amount to proof of ownership over the territory by Nigeria; but that Nigerians in the territory were, however, free to pursue their occupation without molestation from any quarters, provided they were law-abiding [SWB Part 4, ME/492, 7/6/75, p. B/8].

Succeeding regimes in Nigeria, including those of Murtala Mohammed (1975 - 1976); Olusegun Obasanjo (1976-1979); and Shehu Shagari (1979-1983), either threatened or were put under severe domestic political pressure to go to war with Cameroun to regain the disputed territory, including the Bakassi peninsula. Each regime, however, pulled back from the brink, in the end. The main reason was that each realized that it was on rather weak legal grounds in respect of the maritime border. Let us illustrate this point with one civilian administration and one military regime - namely

Shagari's coalition government formed by the National Party of Nigeria and the Nigeria People's Party, and the military junta of General Muhammadu Buhari. The government of Shehu Shagari was brought under severe domestic political pressure, in 1981, to go to war with Cameroun over the disputed south-eastern maritime border and territory. It was to launch a counter-offensive against Cameroun, following the killing of five Nigerian soldiers in the disputed territory by Camerounian gendarmes on May 16, 1981. At the time, the Nigeria House of Representatives passed a resolution urging the government of Shagari to launch a retaliatory attack on Cameroun. Also, after a meeting of Senate in which the Minister of Defence, the Chief of Defence Staff, and the three Service Chiefs were in attendance, the Minister of Defence announced that, in the circumstance, the most probable option for Nigeria was military action against Cameroun. Furthermore, two of the three political parties in opposition at the Federal level, the Unity Party of Nigeria and the People's Redemption Party also called for military action by Nigeria against Cameroun. Shagari's government resisted all the pressure and chose to resolve the dispute through bilateral negotiations. The reason was the discovery that several regimes before his had conceded the territory in dispute to Cameroun a long time ago.

Under the military regime of Muhammadu Buhari, the position that the territory in dispute had been conceded to Cameroun was reiterated. Thus, in a letter of 24th May, 1984, to the military governor of Cross River State, Lt. Col. Dan P. Archibong, who apparently wanted the matter reopened, Rear Admiral V. L. Oduwaiye, stated categorically:

"I should emphasize that the Bakassi peninsula and the Rio-del-Rey estuary are definitely in Cameroun territory. Although the border is yet to be demarcated, it would be indefensible to lay claim to any areas eastward from the thalweg of the Akwayafe Rivers" [Cited in Nweke, 1990:415; emphasis added].

Significantly, earlier in 1981, General Buhari had been one of those who favoured military action by Shagari's regime as a means of settling some of the border and territorial disputes between Nigeria and her neighbours. When in power, he became less aggressive on the matter. Only one major reason can be adduced for this: he had access to superior facts on the matter.

However, working in the direction of escalating the conflict between Nigeria and Cameroun over the disputed frontiers and territories was domestic political instability. Exacerbated by economic crisis, domestic political instability made certain regimes in Nigeria and Cameroun feel insecure at home and to seek external diversions abroad. This was the situation in Cameroun, under President Paul Biya, in the late 1980s and early 1990s. It was the case in Nigeria, too, in the same period, under Generals Ibrahim Babangida and Sani Abacha. In both countries, the regimes became blatantly repressive, employing instruments of violence massively to silence political opponents. The corollary, in the sphere of external affairs, was the

readiness to resort to violence as an instrument of state policy. No wonder, it was under Babangida that Nigerian officials, in 1992, brought out a new map, showing the Bakassi peninsula as part of Nigeria. And it was under Abacha that troops were massively deployed in the peninsula, ostensibly to separate the rival claimants to the territory from the states of Akwa Ibom and Cross River in Nigeria. And it was under Paul Biya, that Camerounian gendarmes went virtually berserk, unleashing violence against Nigerian fishermen and traders in Bakassi, and at the same time killing hundreds of Nigerians in the Camerounian mainland [The African Guardian, 14/3/94].

THE PRINCIPLES, PRACTICE AND PROCEDURE OF CONFLICT RESOLUTION

The experience of the attempts made to resolve the Camerounian-Nigerian boundary or territorial disputes in general, and the conflict over the Bakassi peninsula in particular, shows that a wide range of strategies and an assortment of mechanisms exist for the resolution of international conflicts. It also shows that there are a number of principles implicated in the process.

The Practice and Procedure: In the early days of the conflict, that is in the 1950s and 1960s, up until 1975, resort was had to the orthodox international strategies of peaceful resolution of conflicts. One of these is the use of the conventional methods of inquiry, mediation, and conciliation. The United Nations Visiting Missions referred to earlier, the plebiscites in the two disputed territories of Northern and Southern Camerouns, and the deliberations on the reports of the Missions and the plebiscite at the UN General Assembly represented attempts by the international community to resolve the conflict, using orthodox diplomatic strategies and employing conventional conflict-resolution mechanisms. When, at that stage, one party in the dispute, namely the Republic of Cameroun, was not satisfied with the outcome of these efforts, it employed yet another peaceful means, resort to the International Court of Justice. As already indicated, when the Republic of Cameroun took the matter, in respect of the plebiscite in Northern Cameroun to the ICJ in 1961, the World Court declined to pass judgment on the case, arguing that the dispute was about the interpretation of a treaty that was no longer in force, since the UN General Assembly resolution of 22nd April, 1961, which approved the results of the plebiscites in the two disputed territories, had had a definitive legal effect of terminating the Trusteeship Agreements under which the territories were administered [*Yearbook of the United Nations*, 1963, p. 495-497].

The use of plebiscites in the Cameroun-Nigeria boundary /territorial conflict needs to be highlighted as a cross between the old and new mechanisms of conflict resolution. It is quite similar to the modern methods

of verification missions, supervision of democratic/transition elections, etc. which now go by the name of 'democratization'. The question being raised today is whether or not the people of the Bakassi peninsula actually participated in those elections; and if they did, how they voted. The fact is that they indeed participated and voted overwhelmingly in favour of the integration of Southern Cameroun with Nigeria. But, so did many others in Southern Cameroun. As a matter of fact, those who voted, in Southern Cameroun in support of remaining as an integral part of Nigeria numbered 97,741. At the time, Dr. Endeley had suggested that the Federal Government of Nigeria should support his efforts to partition Southern Cameroun between pro-Nigerians and pro-French Camerounians. But, the Nigerian Prime Minister, Sir Abubakar Tafawa Balewa, rejected the proposal [Akinyemi, op. cit., p.146; and *West Africa*, 7/1/61, p.19].

Another orthodox strategy which featured in the resolution of the Nigeria-Cameroun conflict was bilateral negotiation. It became the major instrument for dealing with the problem in the first half of the 1970s. The instruments or mechanisms employed along with this strategy were: Heads of State bilateral summits; Joint Consultative Committees; and Joint Boundary Commissions.

Bilateral summits were held between Ahmadou Ahidjo (Cameroun) and Yakubu Gowon (Nigeria) in 1970 in Nigeria, in 1971 in Cameroun, and in 1974 and 1975 in Cameroun. The Joint Consultative Committee met in 1971, 1972, 1974 and 1975. Through such meetings, important agreements were reached by both sides. In 1971, an agreement was reached, at the level of experts between Cameroun, represented by Mr. Ngoh, and Nigeria, represented by Mr. Coker, leading to the establishment of what became known as the Ngoh/Coker line. By this agreement, ownership and control of the Calabar River channel was placed under Camerounian authority. The agreement reaffirmed earlier ones, which had put the Bakassi peninsula in the territory of Cameroun. However, in a subsequent meeting between Gowon and Ahidjo, in August, 1972, the Nigerian government declared that the Agreement creating the Ngoh/Coker line was unacceptable to it. On the other hand, Ahidjo stated that the delineation was acceptable to the Government of the Republic of Cameroun [Ate and Akinterinwa, ed., 1992, p.156].

Another important agreement was concluded between the two countries in 1974. To prevent any conflict arising from competitive exploitation of petroleum resources in the vicinity of the disputed maritime boundary, a four-kilometer corridor was created with two kilometers on either side of a tentative maritime border. This corridor was declared an oil-exploration-free zone [*West Africa*, 9/9/94, p. 1117]. In 1974 also, at a meeting in Kano between Gowon and Ahidjo, it was agreed that the United Nations be contacted to interpret the Anglo-German Treaty of 1913, and the 1958 Geneva Convention of the Law of the Sea as they pertained to the contiguous maritime zone of Nigeria and Cameroun. It was also agreed that a

corridor extending to two kilometers from either side of an established line of buoys be created as a free zone for navigation. Both parties were to ensure that this was respected, through patrols [Ate and Akinterinwa, op. cit., p. 158 - 159].

Then, in 1975, Gowon and Ahidjo signed a declaration spelling out the line, which they had agreed to earlier as the maritime boundary between their two countries. The new line of maritime frontier demarcation "proceeded from point 12 at the terminal of the line agreed to in 1971 and terminated at point G, at the extreme southerly point on Chart 3433 accepted by both countries" [Ibid, p. 160]. This declaration was made in Maroua, Cameroun, significantly, on June 1, 1975 and subsequently became known as the "Maroua Declaration". It amounted, in fact, to an endorsement of the Ngoh/Coker technical proclamation; nonetheless, the new line specified in 1975 resulted in a shift of the maritime frontier slightly east of the Ngoh/Coker line [Ibid, p. 146-147]. The Maroua settlement also represented, in a way, a compensation to Cameroun over the loss of some territory in the northern part of the border, hence the date - June 1 - which, as we saw earlier, had been marked annually by the Republic of Cameroun in commemoration of the loss of northern Cameroun to Nigeria in 1961. By the Maroua declaration, Nigeria's claim to the Bakassi peninsula became further weakened. By 1975, it had become clear that bilateral negotiations resulting in declarations and treaties were not entirely efficacious as international conflict resolution strategies. For, in that year, Gowon's (immediate past, but one) successor as Head of State, General Olusegun Obasanjo, threatened that, "rather than accept the outrageous 1975 award [that is, the Maroua agreement of June 1, 1975], Nigeria would go to war if the Republic of Cameroun refused to negotiate" [T. A. Isa, 1987, p. 15]. Subsequently, Cameroun refused to enter into further bilateral negotiations, on the matter, with Nigeria. The argument of the Government of Cameroun was that Nigeria's past behaviour of not respecting agreements, accords, and declarations made further bilateral talks meaningless. However, between 1976 and 1979, Nigeria did not go to war on the matter. Cameroun's preference has since the 1980s and 1990s been for extra-African multilateral political intervention and judicial arbitration. Thus, when troops from the two countries clashed over the control of the Bakassi peninsula, in 1993 and 1994, Cameroun had the matter placed before the United Nations and the International Court of Justice. As for Nigeria, with the exception of 1981, when the Federal Government, under Shagari, proposed the setting up of an international arbitration commission to resolve the perennial conflict, her preference has been to place the matter before African continental or regional organizations like the Organisation of African Unity and the Economic Community of West African States. Nigeria would rather have these two organizations, in which it commands immense influence, resolve the conflict. She has been

generally reluctant to have the matter settled by extra-African, multilateral agencies with enforcement powers. Whenever the matter was placed before the ICJ by Cameroun, however, Nigeria has had no choice but to appear before the World Court, having endorsed, without any reservations or qualification, the Optional Clause of the Statute of the ICJ barely five years after becoming a member of the United Nations. In 1965, Nigeria became the forty-first state in the world to declare her acceptance of the compulsory jurisdiction of the ICJ. And it did so without the sort of reservations made by such countries as the United States of America, that virtually negate such acceptance. The only condition which Nigeria attached to her acceptance of the compulsory jurisdiction of the ICJ was reciprocity. As the government of Nigeria explained at the time, Nigeria did not accept the compulsory jurisdiction of the World Court because she believed that every thing was right with the Court or with the state of international law itself. Nigeria's action was based on the conviction that unless many states gave the Court "their trust and confidence", it would be no more than a mere symbol of "man's belief in a world of law and order" [Balewa's Address to the United Nations; reproduced in Obiozor, 1985, p. 190-197].

As for the Republic of Cameroun, it declared its acceptance of the compulsory jurisdiction of the International Court of Justice much later. This was on 10th May, 1992 [Odoemena, 2002; p.60].

The question that now arises is whether Nigeria's apprehension as reflected in her reluctance to use the ICJ has been borne out by recent events or whether her initial and early support for, and faith in, the Court was right. When the dispute under discussion was first taken to the ICJ by Cameroun in 1961, the ruling of the world court pleased Nigeria. In the more recent resort to the ICJ, it would appear, on first sight, that the rulings of the ICJ went against Nigeria. But did they?

The matter was placed before the ICJ again by Cameroun in 1994. In 1998, the ICJ ruled in favour of Cameroun, against Nigeria's argument that the World Court had no jurisdiction to entertain Cameroun's suit on the conflict over the maritime boundaries (the outer sea) between the two countries. On October 10, 2002, the International Court of Justice then gave a comprehensive ruling on the substance of the boundary and territorial disputes between the Republic of Cameroun and Nigeria, which we summarize briefly below.

The Recent (2002) Ruling of the ICJ on the Dispute: The verdict has several dimensions. The first is the Court's ruling on the colonial treaties and post-colonial agreements pertaining to the disputed boundaries and territories. The second component has to do with the determination by the Court of the precise land and maritime frontiers between the Nigeria and Cameroun. The third dimension relates to the issue of State responsibility and the associated matter of compensation or reparation. The fourth part deals

with the request made to the Court by Equatorial Guinea, urging the Court to take the interest of Equatorial Guinea into account in giving its ruling on the case before it. The fifth aspect concerns the recommended manner of effectuation of the Court's verdict, and the Courts proposals on how to deal with the effects of its ruling on the peoples affected by the determination of ownership of the disputed territories. The first and second dimensions of the verdict have raised considerable debate in Nigeria, and therefore deserve our comments. The last aspect has received little or no attention and thus needs to be highlighted. The other aspects need not detain us.

In respect of the first part, the Court's verdict is that the colonial treaties (between Britain and Germany, 1913; and between Britain and France, 1931, pertaining to the southern and northern borders, respectively, were valid legal instruments. Similarly, the Court ruled that the Agreements between Nigeria and Cameroun in 1971 and 1975 are also valid legal instruments. These treaties or agreements, according to the Court, established legal right of sovereignty, for each of the parties, over some of the territories in dispute and formed a sound basis for defining and demarcating the contentious international boundaries between the two countries.

The World Court could not give a ruling different from this considering the evidence before it much of which emanated from the Nigerian side, and given the nature of Nigeria's defence which was rather weak and apologetic. Nigeria's position was weakened from the start by her earlier position, often publicly stated, on the matter, For instance, as earlier indicated, by a policy statement issued by Abubakar Tafawa Balewa's government, in October, 1960, the Nigerian government had explicitly and unequivocally endorsed the doctrine of *uti possidetis juris*, declaring that it is a cardinal principle of Nigeria's foreign policy in relation to colonial boundaries. Once before the Court, the legal team that represented Nigeria operated on the premise that this principle was sacrosanct. As Auwalu Hamisu Yadudu, a member of the team, and once legal adviser to the late Nigerian military leader, General Sani Abacha (1993-1998) saw it, "there is no way we can escape relying on pre-independent instruments that shaped African countries. And these instruments do not exactly show the borders as we would want it [sic] to be in Nigeria" [*The Guardian*, Lagos, October 27, 2002; p.10]. More important, Nigeria's own maps about the disputed territories and borders were drawn in a manner that reflected an acceptance of the validity of these colonial treaties. This point was clearly made by Titilayo Abiodun, a Surveyor, who had worked in Nigeria's Survey Department with the late Chief Coker in delineating and demarcating the borders, and who spent "most of 1983-1995, dealing with Nigeria's international and inter-state boundary surveys". Abiodun revealed that the Nigerian government had earlier "adopted" the Anglo-German Treaty of 11th March, 1913, treating it as valid, and as a sound basis for the delineation and demarcation of the

boundary between Nigeria and Cameroun. In the words of Titilayo Abiodun, a fellow of the Nigerian Institute of Surveyors,

"In 1970-1975, Bakassi was NOT the issue as the Anglo-German Treaty of 11th March, 1913 was adopted...It is on record that before Nigeria accepted the 1913 [Agreement] for the demarcation, legal opinion was sought and given, searches and inquiries were made at the UN headquarters, through our Mission in New York. UN records showed Bakassi as part of the Trust Territory [of Southern Camerouns] and was also included in reports sent to the UN by Britain that was [the] administering colonial power" [Ibid: p45].

Above all, before 1994, when Cameroun went to the World Court on the matter, several officials of the Nigerian government had issued statements and/or distributed maps produced by the Nigerian government itself, declaring and indicating that the Bakassi peninsula belonged to Cameroun, and not to Nigeria. This was done in 1962 (by Balewa's government by way of a diplomatic note, accompanied by a map produced by Nigeria's Department of Survey); in 1972 (through a letter written to Nigeria's Ministry of External Affairs by Nigeria's Commissioner for Justice and Attorney-General of the Federation, Dr. Taslim O. Elias); and in 1984 (via a letter written to the military governor of Cross River State, Lt. Col. Dan P. Archibong, by Rear Admiral V. L. Oduwaiye declaring that "the Bakassi peninsula and the Rio-del-Rey estuary are definitely in Cameroun territory"). The latest of such self-denying acts was done in 1993, under the self-same Abacha regime that resumed the struggle for the recovery of the Bakassi peninsula. According to Etubom Bassey Ekpo Bassey, a prominent member of the court of the current Obong of Calabar, in 1993, "Nigeria's Foreign Minister, Baba Gana Kingibe, at the point when Nigeria sent troops to Bakassi, distributed maps to journalists which indicated that Bakassi was lock, stock and barrel, in Cameroun". Asked why then Nigerian troops were in Bakassi, Kingibe stated, contradictorily, "that the troops were sent to maintain peace between Cross River and Akwa Ibom indigenes" in the area [*The Guardian*, Sunday, October 13, 2002; p.1&2].

In the light of these facts, the Nigerian legal representatives at the Court placed the burden of the Nigerian case on the principle of effective occupation and historical consolidation, *aka* effectivities. The Nigerian position sounded like that of a robber insisting that some property rightfully and legally belonged to him because he was in effective possession of it, and had, in fact, had custody of it for more than forty years. In the circumstance, the presentation of Nigeria's case was rather apologetic. In a bid to avoid paying compensation to Cameroun for Nigeria's alleged illegal occupation of Camerounian territory, the Nigerian team at the Court pleaded: "even if the Court should find that Cameroun has sovereignty over these areas [that is, the Lake Chad area and the Bakassi region], the Nigerian presence there was the result of a 'reasonable mistake' or 'honest belief'. Accordingly, "Nigeria

cannot be held internationally responsible for conduct which, at the time it took place, Nigeria has every reason to believe, was lawful" [*The Guardian*, November 4, 2002; p.8].

Not surprisingly, the World Court rejected the argument advanced by Nigeria, which was predicated principally on the claim of effective occupation. As Gilbert Guillaume, the presiding judge, later explained, "It [i.e. the Court] moreover rejected the theory of historical consolidation put forward by Nigeria and accordingly refused to take into account the *effectivites* relied upon by Nigeria. It ruled that, in the absence of acquiescence by Cameroun, these *effectivites* could not prevail over Cameroun's conventional titles" [*The Guardian*, Friday, October 11, 2002; p. 3].

As for the principle of self-determination, it featured more in the debates in Nigeria following the publication of the ruling of the World Court on the matter, than during the actual proceedings of the Court. The truth is that the Nigerian legal representatives at the Court did not hinge their case principally on this principle because they were concerned less with the welfare of the citizens of the Bakassi Peninsula than they were with retaining oil concessions in the disputed territory. Indeed, a study of the proceedings will show that, with respect to the maritime boundary, Nigeria was preoccupied with sustaining the right to explore and exploit crude oil in the area. An excerpt of the proceedings reads:

"Thus, Nigeria contends that State practice with regard to oil concessions is a decisive factor in the establishment of maritime boundaries. In particular, it takes the view that the Court cannot, through maritime delimitation, redistribute such oil concessions between the States party to the delimitation" [*The Guardian*, November 1, 2002; p.49].

The Court expressed the view that the oil practice of the parties is not a factor to be taken into account in the maritime delimitation "in the present case", because there is no agreement between the parties regarding oil concessions; and it is only if the concessions were based on express or tacit agreement between the parties that they may be taken into account. Nevertheless, in respect of the maritime boundary further out to the sea, the Court essentially endorsed the delimitation method advanced by Nigeria, and gave a ruling on the delimitation of the boundary, which respects existing oil installations in that area.

Perhaps, if Nigeria had elected to predicate her case primarily on the principle of self-determination, the actions of previous Nigerian governments would still have damaged her case. After all, it should be recalled that in February 1961, the United Nations afforded the Efiks, the Ekois and the Bokis (regarded as Nigerians), as well as other ethnic groups in Southern Cameroun the opportunity, through a plebiscite, to vote on whether they

wished to be integrated with the Federation of Nigeria or with the Republic of Cameroun. At the time, the Bakassi Peninsula was administered by the British as part of Southern Cameroun. Out of a total population of about 1,500,000, only 354,163 adults of 21 years and above (or 23.6 % of the population) registered to vote. And those who voted for union with the Republic of Cameroun numbered 233,571, that is 65.95 % of the registered voters. Those who voted for integration with Nigeria numbered 97,741 or 27.6 % of the registered voters. According to some sources, the people of Bakassi voted overwhelmingly for union with Nigeria; others have asserted that they did not take part in the plebiscite. Whichever is the case, they had the opportunity to exercise their right of self-determination. But partly due to the indifference of Nigerian political leaders, and partly because of the way in which the principle is normally tested, the result did not favour them. Once a majority of the people in Southern Cameroun voted for union with the Republic of Cameroun, the results of the plebiscite were endorsed by the UN General Assembly. Nigeria actually canvassed other states to vote, and herself voted, for the resolution endorsing the results.

Although the welfare of Nigerians in the Bakassi Peninsula did not command priority attention in Nigeria's presentation at the World Court, the latter reflected a concern for the people in its ruling. After determining the land and maritime borders between Nigeria and Cameroun, the Court addressed the implications of its ruling for people that might be affected by the change of sovereignty over each territory. It directed both Nigeria and Cameroun to withdraw, expeditiously and without condition, their administrative personnel and/or their forces from the territories that had now changed hands, in law, as a result of the Court's ruling. For Nigeria, this meant withdrawing from the Bakassi Peninsula and the Lake Chad area falling within the sovereignty of Cameroun. And for Cameroun, it meant withdrawing from Nigerian territory along the land boundary between Lake Chad and Bakassi.

The Court then urged the two countries to co-operate in the interests of the people affected "in order notably to enable them to continue to have access to educational and health services comparable to those they currently enjoy." It also took judicial note of, and held Cameroun to it (the) commitment that it "would continue to afford protection to Nigerians living in the Bakassi Peninsula and in the Lake Chad area". Thus, Nigerians in these areas need not move, nor do they need to change their nationality; but those who choose to stay in the affected territories should realize that they now live in foreign land. However, as one of the judges suggested, Nigeria's withdrawal from the disputed territories "should be conducted in accordance with arrangements to be agreed upon by the Parties, due consideration also being given to the orderly repatriation of those Nigerian nationals wishing to leave the area" [*The Guardian*, November 4, 2002: p. 9]. This makes a

meeting between Nigeria and Cameroun and a working out of a political solution imperative.

The Principles Involved in the Dispute: There are two sets of principles at issue in the conflict between Cameroun and Nigeria over Bakassi. The first set of principles consists of international legal principles. These are principles pertaining to the reason of state (*raison d'etat*). They deal with matters of territorial integrity and the mode of interaction between sovereign entities. In the Bakassi case, these are, basically, three, namely: *uti possidetis juris*; *pacta sunt servanda*; and *rebus sic stantibus*. The other set comprises human rights principles or norms. They pertain to the dignity and worth of human persons. This set of principles is predicated on the assumption that "the foundation of freedom, justice and peace in the world" can only be laid with "recognition of the dignity of the equal and inalienable rights of all members of the human family" [Universal Declaration of Human Rights, 1948: Preamble]. Linking these two sets of principles is the doctrine of self-determination. It is a legal principle as well as a human right doctrine.

The principle of sanctity of boundaries inherited from the colonial powers is a status-quo-promoting norm. It is meant to ensure stability in a changing world. Similarly, the principle which states that agreements or treaties are binding serves the same purpose. The idea is to maintain order and secure a measure of stability in a potentially revolutionary era and environment. The principle is qualified and, by that qualification, strengthened by the related principle that, when conditions change, agreements remain binding unless and until the conditions under which they were made change. All three – *uti possidetis juris*; *sancta sunt servanda*; and *rebus sic stantibus* – are anti-revolutionary principles. They reflect an acceptance of the state as the key actor in international conflicts. They also assume that the reason of state, the preservation of the institutional mechanism of class domination, is the supreme value of contemporary international system. These principles which promote the reason of state as the motive force of international behaviour were, and are still, subscribed to, by both Nigeria and Cameroun, and indeed most members of the Organisation of African Unity/African Union. To question the verdict of the ICJ is to challenge these principles.

The human rights norms highlighted by the Bakassi peninsula case are those embodied in article 3, 5, 9, 12, and 17 of the Universal Declaration of Human Rights. Article 3 states that every one has the right to life, liberty and security of person. Article 9 complements this. It states that no one shall be subjected to arbitrary arrest, detention or exile. And article 17.2 declares that no one shall be arbitrarily deprived of his property. These rights have been violated, with impunity, by soldiers of both Cameroun and Nigeria, operating in the Bakassi peninsula and its environs. Equally violated are

articles 5 and 12. Article 5 stipulates that no one shall be subjected to torture or to cruel, inhuman or degrading treatment. And article 12 states that no one shall be subjected to arbitrary interference with his property, home, or correspondence, nor attacks on his honour and reputation [Ibid]: Even though Nigerian and Camerounian newspapers and newsmagazines contain accounts of frequent violation of these rights, yet the governments of Cameroun and Nigeria have given very little attention to the gross violation of the dignity and worth of human persons so reported. On a rare occasion, when this matter featured in the discussions between President Amadou Ahidjo of Cameroun and Yakubu Gowon of Nigeria, Ahidjo promised to look into Nigeria's complaint, while Gowon promised to caution the Nigerian media that carry such embarrassing reports on human rights violations [Ate and Akinterinwa, op. cit., p. 159].

The right to self-determination is a critical democratic principle. The principle of self-determination is a legal right. It is now generally recognized in international law. The constituent-elements of the right of peoples to self-determination are: the right of all peoples to determine democratically their own socio-economic system and political system; the right of all peoples, nations, nationalities, national groups (including minorities) to freely pursue and develop and preserve their culture, traditions and language; and the right of the oppressed nations to self-determination, up to and including their right to secession [Shivji, 1989, p. 72, 73, and 80]. These rights represent the internal dimension of the principle of self-determination.

The external dimension of the principle of self-determination embraces the following primary components: the right of colonial peoples to independence and formation of their own sovereign states; and the freedom of all peoples from alien domination, subjugation and exploitation. The principle also has certain derivative components, namely: the principles of state sovereignty, state responsibility, territorial integrity and non-intervention in the internal affairs of another state.

With regard to the Bakassi peninsula dispute, the internal primary dimension of the principle of self-determination was in conflict with the derivative or secondary dimension. The UN-sponsored plebiscite was an attempt to resolve the conflict. But the matter could not be resolved to the satisfaction of the inhabitants of Chamba in Northern Cameroun and the inhabitants of the Bakassi peninsula in Southern Cameroun. But that the attempt was made by the United Nations is noteworthy. In the post-independence period, the ordinary peoples of Cameroun and Nigeria have been consistently denied this crucial human right. Millions of Nigerians and Camerounians are denied the right to determine their own socio-economic system, including their own political system. Even within the imposed political systems, they are also denied a related fundamental human right, which the 1948 Universal Declaration of Human Rights describes as the "right to take part in the government of his country directly" and the "right of

equal access to public service in his country". These are the real issues thrown up by the dispute between Nigeria and Cameroun, not just a body of resource-rich water and crude oil.

CONCLUSION

The general points which emerge from an analysis of the boundary and territorial disputes between Nigeria and Cameroun may be briefly highlighted. First, it is clear that there is a link between authoritarian, repressive regimes and a high proclivity to resolve international disputes by the use of violent means. Regimes that use violence to repress political opponents at the domestic level tend to reproduce themselves externally through violent diplomacy. It was under the highly repressive regimes of Babangida and Abacha in Nigeria and Paul Biya in Cameroun that the conflict between the two countries arising from the dispute over boundaries and territories almost degenerated to violent confrontations. Democracy, or at least relatively non-authoritarian civilian rule, is, therefore, a better domestic political foundation for international peace than military rule.

Second, economic interests, especially stakes in some valuable natural resources, rather than concern for human lives and consideration for human welfare, underlie most international conflicts. Even when other interests or motives are presented as issues in dispute, often, but not always, the hidden and real motivating factors are economic, in particular, contention over some natural resources. In the case under study, it was the discovery of crude oil in the disputed territory in 1967 that heightened the interests of the governments of Nigeria and Cameroun in the disputed territories, especially the Bakassi peninsula. The livelihood opportunities of the people in the area, specifically, their fishing rights and their general welfare have been, and remain, of little interest to successive governments in Nigeria and Cameroun. Even the question of whether the people in the area wish to be Nigerians or Camerounians does not bother the governments of the two countries much. This explains why the Nigerian government readily accepted the results of the plebiscite in Southern Cameroun in 1961, but rejected the verdict of the ICJ in 2002 even when it secured a substantial territory and gained some people from the ruling. The Bakassi peninsula overshadows all the other territories in value because it is an oil-bearing territory.

Third, the choice of conflict-resolution strategies by the contending parties is usually predicated on both their relative strengths and the perceived justness (or lack of merit) of their causes. Strong contending parties with weak cases avoid arbitration, judicial settlements, and collective security, and go for bilateral negotiations, conciliation and self-enforcement. But, weak contending parties with strong cases tend to adopt the reverse system of preferences as conflict resolution strategies and mechanisms. It is to be

expected therefore that it is Cameroun, and not Nigeria, that will, in future, resort more frequently and readily to the United Nations organs and agencies, while Nigeria will choose to settle the matter by bilateral talks. Cameroun is unlikely to go to war on the matter; and the probability of resorting to the use of force by Nigeria is not high.

Fourth, pressure from the real victims of conflicts, that is, those whose livelihood chances are directly threatened by the conflict is often critical in bringing about a resolution of the conflict. Conversely, those who indirectly benefit materially from such conflicts, for example, oil-prospecting companies operating on both sides of the divide and potential suppliers of arms and ammunitions, local and international, constitute obstacles to peaceful conflict resolution. It is, therefore important to scrutinize closely the real interests of all actors now urging Nigeria not to accept the verdict of the ICJ on the matter, and those putting pressure on the Republic of Cameroun to seize the territory, by force, from Nigeria.

Fifth, enduring conflict resolution must be based on clear, generally accepted principles, which serve, promote and improve human welfare, not those which merely satisfy the interests of abstract entities, such as states. In this respect, the superiority of human rights norms over the principle of *raison d'etat* is to be stressed. By that token, democratic consultation with the real, actual or potential victims of conflicts, the majority of the people in the disputed territories, is more efficacious than reliance on the views of the indirect beneficiaries of the continuation of the conflicts or conflict situations.

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