

Nigerian – Cameroon Bakassi Peninsula Crisis: A Retrospect Of Nigerian Technocrats Views Prior To The Court Case At The Hague

Abiodun William Duyile

Department of History and International Studies, Faculty of Arts, Ekiti State University, Ado Ekiti, Ekiti State, Nigeria

Abstract: *This study looks at the views of some Nigerian elites prior to the Court Case at The Hague in 1994. This research will review historical facts in context with the interpretations of some Nigerian technocrat's on the Bakassi controversy. A recollection of the facts will be made, in order that we understand the controversies that have ensued since the verdict on the case was made in 2001. The research will focus majorly on historical events before 1994. It will also discuss issues that concern the various controversies on the Bakassi Peninsula, through the evidences of Nigerian members of committees set up by government or members of other Nigerian institutions. How did they interpret these historical facts? This is a key aspect to the posture (policy) later adopted by the Nigerian government.*

Key words: *Boundary, Nigeria security, Opinions and Maritime Borders*

I. PREAMBLE

The boundary between Nigeria and Cameroon has been the most problematic of the five Nigerian frontiers.¹ This can be attributed to several factors amongst which are the failure of both Britain and Germany to bequeath a “conflict free and properly demarcated boundary” to Nigeria and Cameroon.² The lacklustre approach to boundary negotiations by both Britain and Germany is due to their personal interests, simplistic approach and assumptions.³ This factor is also relevant to the Franco-British boundary negotiations.

As a result of Germany's defeat in the First World War, certain sections of Cameroon were administered as an integral part of Nigeria. When in 1961, the British Northern Cameroon voted to remain with Nigeria and the south to re-unite with French Cameroon, major boundary adjustment had to be made and this was not completely through between Nigeria and Cameroon before the court case began at The Hague. The Nigerian Cameroon border stretches from Lake Chad to the area around the Atlantic Ocean in the south. It covers a distance of about 1100km.⁴

II. HISTORICAL PURVIEW

This crisis can be traced back to a series of arrangements (or agreements) made between Germany-Britain-France, of which, the first among these series of meetings between Germany and Britain was the Anglo-German arrangement of 29 April to 16 June, 1885 which defined the boundary of Nigeria and Cameroon from the Gulf of Guinea to Rio del Rey.⁵ An extension to the 1885 arrangement was however made to the boundary already agreed upon in 1886, through an adjustment of the Nigerian border with Cameroon from Cross River State northwards to Yola, the capital of the present Adamawa state in Nigeria.⁶ A modification was later made on the 1885 arrangement on the 1st of July, 1890 culminating into what could stand as an agreement between Nigeria and Cameroon boundary within their inland territory, stating their border from the Gulf of Guinea to a point at the head of Rio del Rey.⁷ On the 14th of April, 1893 a further clarification was made on the head of Rio del Rey that was a part of the earlier agreement made between the colonial administrations in 1890.⁸ Nigeria-Cameroon boundary was in this same year readjusted in the northern region; from the Lake Chad through a new agreement made on the 15th of November, 1893, which states the boundary from the Gulf of Guinea to the shores of Lake Chad. From these series of treaties, the 1885 arrangement shifted the southern borders in the 1890 Agreement, from the rapids on the Cross River to the junction of Awa River in Cross River State.⁹ This agreement-- also shifted the alignment of the boundary between Nigeria and Cameroon from the head of Rio del Rey to Yola further westwards. Until 1895, the boundary was provisionally being straight lines that followed a general direction.

In line with the Anglo-German decision of 1900-1901, which was, the adoption of a new boundary in the south between Nigeria and Cameroon to a new margin at the River Akpayafe, the following survey was carried out in subsequent years by the British and Germans:

- a) Yola to Lake Chad including the Arc in 1903-04 and accepted by Agreement (No.284) between Great Britain and Germany of 19th March, 1906. The demarcation was jointly carried out by the British and the Germans.
- b) Yola to Cross River in 1907-09 carried out first by Britain and repeatedly by Germany in 1912-13
- c) Cross River to the line joining King Point to Bakassi Point at the mouth of Akpayafe River jointly carried out in 1905-06. Both (a) and (b) formed subject of the protocol signed by the British and German commissioners on October 6, 1909, which was incorporated into the Treaty of 11th of March, 1913. The protocol was accepted by German and British Government by an exchange of Notes dated July 6, 1914.¹⁰ This was the Anglo-German Agreement of 1913. Technically, because of the Anglo-German Agreement, Bakassi Peninsula became a German territory hence that of Cameroon.

The Anglo-French Declaration of 9 January, 1931. The declaration came to being as a result of the World War of 1914 when the forces of the United Kingdom and France conquered and occupied German Cameroon into two administrative parts in 1919.¹¹ The newly established boundary was eastwards of the Anglo-German boundary except for the segment of the Yola Arc.¹² This Anglo-French boundary was agreed upon by an exchange of Notes of the two nations on January 9, 1931.

In 1961, the British –Cameroon voted in a plebiscite for a union with Nigeria while its southern counterpart chose to unite with the Republic of Cameroon. The result is a new Nigeria-Cameroon boundary alignment consisting of three distinct sections thus:

- i) Nigeria- Cameroon – Chad Tri-point in Lake Chad to Hosere Gesume based on the Anglo- French Declaration of January 9, 1931.
- ii) Hosere Gesume and Gamena river based on the British Order in Council of 16th January, 1923 and proclamation of the Governor of Nigeria, 1954.
- iii) Gomena River to the Gulf of Guinea based on Anglo-German Agreement of 11 March, 1913.¹³

It should be added that the legal instruments for demarcating and surveying the Nigeria-Cameroon land boundary was based on this prevailing historical knowledge which brought with it an inherent boundary problem engendering controversies of proper boundary demarcation and alignment.

The Problem of Defining Nigeria Boundary with Cameroon

The relationship between the Nigerian and Cameroonian communities who live along the border areas has been relatively cordial. The inhabitants on both sides of the divide inter-marry, perform some social functions together and generally regard themselves as brothers and sisters. As a matter of fact, some of these communities have cultural link with one another and speak the same language. Even though skirmishes do occur from time to time, the traditional rulers have a way of resolving such disputes without any recourse of government machinery. Usually, they call a joint meeting and sometimes visit the disputed area in spite of the fact that they belong to different countries. They in some cases seem to recognise the boundary lines and jealously protect it. For the two authorities that govern these countries, the boundary of these countries has never been properly defined on the ground. In many parts, demarcation was carried out by the colonial European administrators, whose arrangement were often ad-hoc in nature.

This is so because the colonial powers were trying to reduce cost and time, demarcation and survey exercises followed natural features such as mountain peaks, hill tops, and rivers wherever these existed. In cases where Rivers like the ones who have branches were used, it is often difficult to say which of their branches were meant in the agreements. Naturally, each contending Authority chose the branch that is most favourable to it. In addition, some of the rivers and streams have been changing their course since the 1950s whilst in some cases the boundary alignment rely on vague directions like “South and South West” or on roads or marshy areas or guest houses or villages which are difficult to find or in most cases no longer existing.¹⁴ These lapses of the colonial government played a disharmonious, important part in the controversies that began what is today known as the Bakassi Crisis after 1961.

Nigerian Technocrats Views on the Bakassi Dispute: Contending Issues, Perception and Opinions

In a meeting with the Sub- committee, to the Nigerian-Cameroon Land and Maritime Border Committee, set up by the military government in 1992, the then deputy governor of Cross River State, Mrs Cecelia Ekpenyoung, “stressed the need for a clear cut boundary to be drawn between Nigeria and Cameroon to allow for lasting peace between the two countries”.¹⁵ Continuing she said, “that historically Bakassi and the fishing settlements there belong to the Obong of Calabar” and she urged the military government to ensure that the fishing settlements in Akpabuyo Local Government areas under treats of being taken away by the Cameroonian agitation, remain a Local Government in Cross River State.¹⁶ In the response of the Sub Committee leader, Rtd

Commander Duyile (hydrography department), said that “even though the Bakassi and the fishing settlements historically belong to the Obong of Calabar, Cameroon had taken over the area and invaded some of the villages in the Local Government Area.¹⁷ He cited an example “of Archibong town which was in the Local Government Area but which is now effectively occupied by the Cameroon Authority, who had demolished the primary school built there by the Local Government and had put up a bigger primary school, and also construct a health post there.¹⁸ From his response, it was clear as at the early 90s, there was no government provision of infrastructure around the Bakassi Peninsula and that the inhabitants who were mainly fishermen feel neglected by the Nigerian governments’ attitude.

Even that the Nigeria government was complacent in its governmental functions to the people of Bakassi. However, Nigerian technocrats knew that the utmost drawback to its quest to assert its sovereignty over Bakassi through the usage of a legal instrument, was the 1913 Anglo-German Agreement which arbitrarily shifted the boundary between Nigeria and Cameroon from Rio del Rey to Akwa Afe River which meant that the best legal option for Nigeria was reverting from the 1913 Agreement to the 1885 Arrangement. The 1885 Arrangement placed the Nigerian boundary at Rio del Rey while the 1913 Agreement technically made Bakassi a part of Cameroon. This is so because it made reference to the direction of flow of the Akpayafe River and the Rio del Rey. It states in paragraph 20 that: “If the Akpayafe’s lower course changes its mouth and transfers its waters into the Rio del Rey the area shall remain German territory.” It should be said that it is not the Akpayafe that flows into Rio del Rey but the layer that flows into the Akpayafe. Even though this agreement lacked proper delimitations, demarcation and also specific physical markings were absent from the agreement.

The directive from the Armed Forces Ruling Council (AFRC) of Nigeria to the National Boundary Commission was that the Bakassi Peninsula should once and for all be made a Nigerian territory.¹⁹ However, it should be noted that before the 1913 Treaty, Bakassi Peninsula had been part of the territory that later became Nigeria and that based on a letter from the United Nations (UN) to the National Boundary Commission in 1992, the UN claimed the Bakassi Peninsula was a part of Cameroon. Hence the National Boundary Commission was also directed by the government of Nigeria to produce a map showing the Peninsula as part of Nigerian territory, and that Cameroon should be properly informed that Nigeria was going to dispute Cameroon’s claim for the ownership of the Peninsula.²⁰

According to Mr V.O. Nyamse, the then Surveyor General, Cross River State, he said “that the country that controlled the Peninsula could have control over Cross River and Akwa Ibom states. The Surveyor General of Cross River state also revealed that although the majority of the inhabitants were Nigerians, teachers in schools that were built by Nigeria were constantly harassed by Cameroonian gendarmes.²¹ By this constant harassment and infiltration by the gendarmes, Cameroon was exercising an act of sovereignty since tax was paid to them by the affected people.

Professor Barkindo, who spoke in his capacity as the chairman of the Nigerian-Cameroon Land and Maritime Border Committee, in the year 1992, retorted his views on this matter as it relates to the intrusion of Cameroonian gendarmes to the Bakassi Peninsula, by remarking that, “for Cameroon, the border was well defined but that Nigeria was objecting to their claim, thus, the onus was on Nigeria to take necessary action to prove their ownership of the peninsula.”²² By this statement of Barkindo, the ball was on Nigeria’s court to prove that Bakassi really belong to it and not that of Cameroon. He warned that, for the sake of Nigeria’s security, Nigeria should substantiate its claims and hold on to Bakassi. Therefore, there is a need to resolve the matter very soon. Conversely, Barkindo stressed, the difficulty of controlling Bakassi in one of his speeches to members of the committee, when he said that “Nigeria had no legal base, only historical factors favoured it.”²³ From this standpoint, Mrs T Doherty, the then Principal State Counsel in the Ministry of Justice; reiterated her opinion by saying that “Nigeria now have the choice of negotiations rather than an all-out confrontation with Cameroon. She however, advised “that Nigeria should be prepared to lose at some point” some of its territory.²⁴ However, this view was contrasted by Mr T.A. Abiodun, the then Deputy Surveyor General of the Federation, Federal Ministry of Housing in Nigeria(1992), he pointed “out that Nigeria could reject the 1913 treaty (which ceded the Peninsula to Cameroon) on the ground that the place was occupied by Nigerians and the treaty was signed by a colonial government.”²⁵ Continuing, he said no colonial Government had the right to cede part of Nigeria’s land and that the 1884 Treaty between the Obong of Calabar and the British colonialist had stated that no part of the Obong’s territory would be ceded without consulting the Obong. Doherty responded by maintaining, that if there was really not much oil in the Peninsula, as presented in the report of Nigeria National Petroleum Corporation of Nigeria (1992); Nigeria should allow the Cameroonians to exploit the oil while Nigeria should control the security of the area. However, most of the Nigerian commentators who seem to have an inside knowledge of the problems with Cameroon are of the opinion that the whole of the Bakassi Peninsula should be totally demilitarised, the fishermen should not be harassed and that there should be easy access to the Naval Zone.

The documents released by the Cameroonians, in parity with that of the British and Germans, clearly places Bakassi under Cameroonian Territory as a consequence of the 1913 Treaty between the Germans and the British. Interestingly, even after Southern Cameroon voted in 1961 to leave Nigeria and “became a part of Cameroon, Bakassi remained under Calabar administration throughout this period of study”.²⁶ Bakassi people are mainly the people of Nigeria, their tribes include Efiks, Annang, and Ibibio. In 1981, the two countries almost went to war over Bakassi and another area around Lake Chad, and more armed clashes have also broken out in the early 1990s. In response, Cameroon took the matter to the International Court of Justice on 29 March 1994.

III. CONCLUSION

From the views of these technocrats and the documents available to this research, it was clear that before the Bakassi case began in 1994, Nigerians were already aware of the difficulty of acquiring Bakassi and knew that the legal instrument of winning the court case would be very tough. Nigeria and Cameroon are both regional powers in terms of economic potentials and output. Nigeria in the Economic Community of West African States (ECOWAS) and Cameroon in the Union douanière et économique de l’Afrique Centrale (UDMAC). Therefore, it was of interest to both nations to resolve the crisis through arbitration or other legal instruments. Otherwise the alternative for Nigeria would have been going to war, of which, Nigerians through their speeches don’t have any appetite for.

As the evidences have already proved before the International Court of Justice (ICJ), Bakassi Peninsular case began in 1994. Nigeria’s only hope of victory will be its reliance on the Anglo German correspondence dating from 1885 as well as treaties between the colonial powers and the indigenous rulers of Cross Rivers State, particularly the 1884 Treaty of Protection, the Obong of Calabar signed with the British. Whilst the Cameroonians will point to the Anglo-German Treaty of 1913, which defined spheres of control in the region, as well as the two agreements signed in the 1970s between Cameroon and Nigeria. These were the Yaounde II Declaration of 4 April 1971 and the Maroua Declaration of 1 June 1975, which were devised to outline maritime boundaries between the two countries following their independence. The line was drawn through the Cross River estuary to the west of the peninsula, thereby implying Cameroonian ownership over Bakassi. However, Nigeria never ratified the agreement while Cameroon regarded it as being in force.

Endnotes

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