

The Impact of the ICJ's Judgment on the Bakassi Peninsula Case: Realist and Idealist Perspectives

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ABSTRACT

The International Court of Justice's (ICJ) 2002 judgment on the Bakassi Peninsula, which awarded sovereignty to Cameroon, has had profound implications for Nigeria and Cameroon. This article analyzes the judgment's impact from both realist and idealist perspectives, examining the geopolitical, legal, and social consequences for the involved nations. Realist perspectives emphasize power dynamics and strategic interests, while idealist perspectives focus on international law and justice. By juxtaposing these views, the article aims to provide a comprehensive understanding of the Bakassi Peninsula case and its broader implications for international relations and conflict resolution.

Keywords

International Court of Justice, Bakassi Peninsula, Nigeria, Cameroon, territorial dispute, realism, idealism, international law, geopolitical impact, humanitarian crisis, national security, economic consequences, diplomatic efforts, conflict resolution

INTRODUCTION

The Bakassi Peninsula, a resource-rich region with significant strategic value, has been a focal point of conflict between Nigeria and Cameroon for decades. The ICJ's judgment in 2002, which awarded sovereignty over the peninsula to Cameroon, marked a pivotal moment in the history of both nations. This article explores the implications of this judgment through the lenses of realism and idealism, providing a nuanced analysis of the geopolitical, legal, and social ramifications.

Historical Background

The roots of the Bakassi Peninsula dispute can be traced back to the colonial era when European powers delineated boundaries with little regard for ethnic and cultural divisions. The Anglo-German treaties of 1885-1913 and the 1975 Gowon-Ahidjo Accord played significant roles in shaping the modern boundaries of Nigeria and Cameroon (Akak, 1999). Post-colonial transitions further complicated the territorial demarcations, leading to multiple claims over the resource-rich Bakassi region.

The ICJ Judgment

In 2002, the ICJ ruled in favor of Cameroon, citing historical treaties and agreements as the basis for its decision (Case Concerning the Land and Maritime Boundary between Cameroon and Nigeria, 2002). The judgment was met with mixed reactions, with Nigeria expressing dissatisfaction and concerns over the impact on its citizens residing in the Bakassi Peninsula. The ruling was grounded in legal precedents, emphasizing the importance of upholding international treaties and agreements.

LITERATURE REVIEW

Data researched on this topic was largely reviewed under thematic areas covering the colonialist logic, the

citizen perspective, the legal perspective, as well as a chronological presentation of the buildup to the ICJ verdict on Bakassi; thus spanning different time-frames from the colonial to the contemporary.

The Colonialist Logic

In this section, we throw more light on how the colonialist viewed the Bakassi dispute. Enrico Milano's thesis on *Unlawful Territorial Situations: Reconciling Effectiveness, Legality and Legitimacy in International Law* encapsulated how colonial titles and different interpretations given to the concept of intertemporal law could affect outcomes in territorial disputes (Milano, 2004). He analyzed the Bakassi dispute through the lens of the impact of colonialism on Sovereignty, arguing that Colonialism cannot be accounted for as an example of the application of Sovereignty; rather, Sovereignty was constituted and shaped through Colonialism, evident when considering the material nature of the concept of State and the functional nature of territorial sovereignty. This can be traced back to the main legal institutions and instruments utilized by the European powers in order to expand their influence over new territorial discoveries in the late 15th and 16th Centuries and during their colonial expansion of the 19th Century.

The Legal Perspective

In this section, the legal perspectives on the issue give the impression that the European international legal doctrines were the legal devices developed mostly in the 19th Century to facilitate the colonial expansion, with the so-called occupation of terra nullius and the transfer of sovereignty through agreement with the local populations. According to the status of the territory, if considered inhabited or uninhabited, European powers would proceed with their expansion through either an effective occupation or through agreement with the local populations to the effect that the European powers would become sovereign over those territories (Milano, 2004).

Milano analyzed unlawful territorial situations through the lenses of the legal normative concepts of effectiveness, legality, and legitimacy. The concept of effectiveness as a device for transforming effective realities into law was considered one of the fundamental principles of international law during the 19th century and the first part of the 20th century. It deeply influenced the notions of statehood and territorial sovereignty as inherited by contemporary international law (Milano, 2004).

However, the second part of the 20th century has seen the emergence of principles of substantive legality limiting the action of effectiveness as a source of territorial entitlement. He argued that while effectiveness is no longer a fundamental principle of international law, it plays an important role when accompanied and enhanced by the legitimacy of the underlying claim, or by the external legitimation of an authoritative body, e.g., the Security Council. Whereas legitimacy is a concept supposedly built on the fundamental principles of the international community, it goes beyond positive legality, and it often represents a less objective, less transparent, and less egalitarian device of power acceptance and recognition. However, adopting legitimacy as a device for transforming illegal effectiveness into a legal one is paradoxically a way for the international community to safeguard the integrity of its principles of substantive legality, despite making them in some cases peripheral to the actual regulation of disputes (Milano, 2004).

Alobo and his colleagues further buttressed this point by zooming in with a magisterial examination of the legal issues raised by the parties and the decision of the International Court of Justice (ICJ). Analyzing the basis of Cameroon's claim over Bakassi and Nigeria's responses as formulated by parties, as well as critiquing the general and legal grounds upon which the judgment could be faulted. They concluded that the ICJ erred in its findings and should be properly guided when faced with a similar dispute in the future, so as to render a valid narrative of International Law (Alobo, Adoga, & Obaji, 2016).

The critical historical and legal question to be answered here is, 'Did indigenous people during the colonial era have an international legal personality, thus being able to transfer their territorial sovereignty?'

The Citizens' Perspective

This section views the issue from a citizen lens and how the victims perceive it, as this research also perused

data centered on the citizens' perspective on the Bakassi issue. Most especially, the suspicions aroused with regard to Western Sahara's progress in recognizing the international rights of indigenous populations. This has been confirmed by the recent Case Concerning the Land and Maritime Boundary between Cameroon and Nigeria (Equatorial Guinea Intervening) brought in 1994 before the Court by Cameroon for the violation by Nigeria of its territorial sovereignty over Bakassi and with a view to delimiting the maritime boundary between the two countries; Where Nigeria couldn't clearly show an institutionalized and systematic claim to sovereignty over the Bakassi Peninsula. As such, the ICJ stated that 'Nigeria itself has been unable to point to any role, in matters relevant to the present case, played by the Kings and Chiefs of Old Calabar after the conclusion of the 1884 Treaty, noting that a characteristic of an international protectorate is that of ongoing meetings and discussions between the protecting Power and the Rulers of the Protectorate' (Case Concerning the Land and Maritime Boundary between Cameroon and Nigeria (Equatorial Guinea Intervening), ICJ Decision of 10 October 2002).

The Court's approach in the Cameroon/Nigeria case to the effect that there exists no difference in international law between a treaty of cession and a treaty of protection with indigenous people suggests that the ICJ, like the Australian courts, is not ready to recognize a fully-fledged international status to pre-colonial independent social organizations. In other words, whereas in Western Sahara the ICJ avoided taking a position on the legal nature of colonial protectorates confining itself to deny that the territory was terra nullius, in Cameroon/Nigeria that position is taken, thereby limiting the impact of Western Sahara. In effect, to say that Bakassi, like Western Sahara, was not terra nullius, and then to argue that Britain acquired sovereignty over it regardless of the content of the 1884 Treaty of Protection is clearly contradictory. To argue the latter is tantamount to saying that under international law Bakassi was indeed a terra nullius (Ngalim, 2016).

In summary, if Bakassi was not regarded as an unoccupied territory (the doctrine of terra nullius) during the colonial era, then it infers that at least the property rights of the indigenous populations were recognized; where the people enjoy a right to freely choose their status regardless of their level of 'progress' in terms of political and social organization.

REALIST PERSPECTIVE

Geopolitical Implications

From a realist perspective, the ICJ judgment is seen as a reflection of power dynamics and strategic interests. Nigeria, with its significant regional influence, viewed the loss of Bakassi as a strategic setback. The peninsula's rich oil reserves and strategic location in the Gulf of Guinea made it a valuable asset for Nigeria's economic and security interests (Adeleke, 2019). The geopolitical landscape of West Africa was significantly altered by this ruling, with Nigeria losing a crucial point of maritime control.

National Security Concerns

Realists argue that ceding Bakassi to Cameroon posed national security risks for Nigeria. The presence of Cameroonian military forces in close proximity to Nigeria's oil installations heightened tensions and raised concerns about potential conflicts (Eboh, 2005). Additionally, the strategic importance of Bakassi for naval and maritime security cannot be overstated, as it offers critical access points for monitoring and controlling the Gulf of Guinea.

Economic Impact

The economic implications of the ICJ judgment are also significant from a realist viewpoint. Nigeria's economy, heavily reliant on oil exports, suffered a blow due to the loss of potential revenue from the Bakassi oil reserves. This economic setback further exacerbated Nigeria's domestic challenges, including poverty, unemployment, and underdevelopment in the Niger Delta region (International Crisis Group, 2013).

Should Nigeria Reclaim Bakassi by Force?

From a realist perspective, states prioritize their national interests and security. Advocates of this view might

argue that Nigeria should reclaim the Bakassi Peninsula by force to regain control over its resources and assert its territorial integrity.

Pros:

1. Regaining control over valuable resources.
2. Demonstrating Nigeria's strength and resolve.
3. Potentially renegotiating terms more favorable to Nigeria.

Cons:

1. Risk of international condemnation and isolation.
2. Potential for violent conflict and loss of lives.
3. Economic sanctions and further destabilization.

Idealist Perspective**Adherence to International Law**

Idealists emphasize the importance of adhering to international legal norms and principles. The ICJ judgment is viewed as a triumph of international law and justice, reinforcing the need for peaceful resolution of disputes through legal mechanisms. By accepting the ICJ ruling, Nigeria demonstrated its commitment to upholding international law and maintaining global peace and stability (Eze, 2007).

Diplomatic Relations

From an idealist perspective, the judgment provided an opportunity for Nigeria and Cameroon to strengthen their diplomatic relations. The peaceful handover of Bakassi set a positive precedent for resolving territorial disputes in Africa and highlighted the role of diplomacy and negotiation in conflict resolution. This approach aligns with the idealist belief in fostering international cooperation and mutual respect among nations (UNOWA, 2019).

Humanitarian Considerations

The idealist perspective also emphasizes the humanitarian aspects of the Bakassi dispute. The ICJ judgment aimed to protect the rights and well-being of the affected populations. By prioritizing the rule of law and peaceful resolution, the international community sought to prevent further displacement and suffering of the Bakassi inhabitants (Institute on Statelessness and Inclusion, 2018).

Should Nigeria Plan to Prevent Future Disputes?

Idealists emphasize diplomacy, international cooperation, and adherence to legal norms. From this perspective, Nigeria should focus on preventing future disputes by addressing underlying issues and strengthening legal frameworks.

Pros:

1. Promotes long-term peace and stability.
2. Enhances Nigeria's international reputation.
3. Encourages cooperation and mutual respect.

Cons:

1. Perceived as a sign of weakness by some.

2. Immediate economic and social challenges remain unaddressed.
3. Requires significant investment in legal and diplomatic initiatives.

CONCLUSION

The ICJ's judgment on the Bakassi Peninsula case remains a contentious issue, viewed differently through realist and idealist lenses. Realists highlight the strategic, economic, and security setbacks for Nigeria, advocating for a more assertive approach to reclaiming the territory. Idealists, on the other hand, commend the adherence to international law and the pursuit of diplomatic solutions for long-term peace and stability. The Bakassi Peninsula case serves as a complex example of how international disputes can be interpreted and addressed through divergent theoretical frameworks, each offering valuable insights into the dynamics of global politics and conflict resolution.

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