International Justice and the Southern Cameroons Exceptionalism.

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ABSTRACT

This paper examines the legality of the claims of title over the Southern Cameroons and bordering territories of the Federal Republic of Nigeria by the Republic of Cameroon based on the Judgment of the International Court of Justice (ICJ) dated 10 December 2002. The judgment was based on a flawed application of the principle of Uti Possidetis Juris and Effectivité; that is, historic consolidation of title, acquiescence, and recognition. The paper will demonstrate further that the decision of the ICJ that the UK trusteeship administration over the Southern Cameroons was terminated by General Assembly Resolution 1608(XV) was factually and legally fundamentally flawed. The paper will demonstrate that the unresolved residual Nigeria nationality issue acknowledged in the ICJ Judgment implements the judgment impossible as a matter of law and as a matter of fact.

Article 59 of the Statute of the ICJ states that *"The decision of the Court has no binding force except between the parties and in respect of that particular case."* The paper will demonstrate that as a matter of law and fact, the ICJ judgment therefore has no binding effect on the Southern Cameroons and does not have any binding impact even on Cameroon and Nigeria, as a result of which they have both renounced it for being unenforceable in the contentious territory

Keywords: Act, Bakassi, Border, Boundary, Cairo, Effectivité, Independence, Title, Reunification, Union.

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Introduction

On 29 March 1994, Cameroon filed an application instituting proceedings against Nigeria for delimiting its land and maritime borders with Nigeria and claiming sovereignty over land and maritime border areas. Bakassi Peninsula and adjoining lands within the territory of the Southern Cameroons is the focus of this article. Cameroon requested the Court to determine the course of the maritime boundary and its alleged frontier with Nigeria in so far as the alleged frontier had not been established in 1975. Cameroon accused Nigeria of aggression due to the occupation of the Peninsula by Nigerian forces of alleged Cameroon localities and urged the Court to declare its sovereignty over the area by international law which it alleged, Nigeria had violated, in particular, the fundamental principle of respect for frontiers inherited from colonization (utis possidetis juris) and the rules of conventional and customary international law. Cameroon urged the ICJ to prolong the course of its maritime boundary with Nigeria up to the limit of the Maritime zone which international law placed under their respective jurisdictions.

This paper demonstrates that although against Nigeria, this case was a veiled attempt by Cameroon to legitimize the annexation and colonization of the Southern Cameroons through the judgment of the International Court of Justice.

The ICJ delivered its judgment on the merits dated 10 December 2002[1] In its judgment, the Court determined the course of the boundary between Cameroon and Nigeria from north to south deciding in respect of the Bakassi Peninsula that '*the boundary was delimited by the Anglo-German Agreement of 11 March 1913 (Arts. XVIII-XX) and that sovereignty over the Bakassi Peninsula lay with Cameroon. It decided that in that area the boundary followed the thalweg of the River Akpakorum (Akwayafe), dividing the Mangrove Islands near Ikang in the way shown on map TSGS 2240, as far as a straight line joining Bakassi Point and King Point'*.

The Court requested Nigeria to expeditiously and without condition, withdraw its administration and military or police forces from the area of Lake Chad falling within Cameroonian sovereignty and from the Bakassi Peninsula. The Court also requested Cameroon to expeditiously and without condition withdraw any administration or military or police forces which might be present along the land boundary from Lake Chad to the Bakassi Peninsula on

[1] icj-cij.org · case · 94Land and Maritime Boundary between Cameroon and Nigeria

territories which, pursuant to the Judgment, fell within the sovereignty of Nigeria. The latter had the same obligation regarding territories in that area which fell within the sovereignty of Cameroon.

The Court took note of Cameroon's undertaking, given at the hearings, to continue to afford protection to Nigerians living in the [Bakassi] peninsula and in the Lake Chad area. Finally, the Court rejected Cameroon's submissions regarding the State responsibility of Nigeria, as well as Nigeria's counterclaims. [2]

This paper examines the legality of the ICJ judgment, its consistency with international law, its established jurisprudence and its implication on the rights to self-determination of the Southern Cameroons and neighboring Nigerian citizens. The ICJ judgment expressly mentioned the protection of Nigerian nationals who are residing on the territory of Bakassi Peninsula which was claimed by Cameroon but left the measures of protection at the discretion of the Republic of Cameroon. The protective measures proposed and accepted by the ICJ are tantamount to a violation of international law. The violation has wider implications for the validity and legitimacy of the entire judgment.

Roadblocks To the Implementation of The Judgment

On 27 June 2024, the Republic of Cameroon and Nigeria issued a joint Communiqué after the Cameroon-Nigeria Mixed Commission charged with implementing the ICJ judgment which took place in Yaoundé, Cameroon. The meeting was chaired by the Special Representative of the UN Secretary-General for West Africa and Sahel Leonardo Santos Simão. Cameroon and Nigeria acknowledged 'three outstanding disagreement areas taking into cognizance the parameters in the ICJ judgment, the maps and other records of the areas', after twenty-two years of trying to implement the judgment with international support. The Mixed Commission decided Pledging 'not to refer to the International Court of Justice (ICJ) for interpretation of the text about the resolution of the three outstanding areas of disagreement'. The Mix Commission pledged to resolve these three areas in a pragmatic way and in the interest of the

[2] Ibid

two countries and further pledged to jointly explore the hydrocarbons and carry joint military exercises and operations in the areas.[3]

In a swift reaction , the Interim Government of the Southern Cameroons, fighting for the independence of the Southern Cameroons, issued a press statement dated 5 July 2024 highlighting the fact that difficulties encountered by the Cameroon-Nigeria Mixed Commission in implementing the ICJ judgment arose from the fact that the ICJ found that the contested territory belongs to the Southern Cameroons under UN British Trust administration; nevertheless issued a legally and factually flawed decision handing it to the Republic of Cameroon without a treaty basis on which the sovereignty of the Republic of Cameroon over the Southern Cameroons and the contested area was founded.

The Southern Cameroons Press Statement alleged that the '*communiqué underscored that the case was always about the reckless exploitation of hydrocarbons from the Southern Cameroons-Ambazonia*; Akonye and Nwapi, drew the same conclusion reasoning, 'this could be as a result of the natural resources therein hence; both Countries strived to retain ownership'.[4]

Indeed, it called for a final framework agreement for the joint exploitation of hydrocarbons straddling or along the maritime boundaries.' And that 'the joint exploitation of hydrocarbons in the affected lands will devastate the environment, obliterate the maritime and subsistence economies, destroy natural ancestral habitats, and harm the civilian population of Bakassi.' Warning that the 'planned joint exploitation of hydrocarbons by LRC and Nigeria' and the joint security operations would be robustly countered.[5]

The admitted inability of the Mix Commission to implement the ICJ judgment and the pledged joint hydrocarbon exploitation and security operations in the area are triggers for the exacerbation of tension, armed conflict, and environmental devastation in the highly volatile

[3] Communiqué Adopted At The Sixth Extraordinary Meeting Of The Cameroon-Nigeria Mixed Commission Established Pursuant To The Geneva Joint Communiqué Of 15 November 2002, Unowas.Unmissions.Org · Communiqué-Adopted-Sixth

July 05th, 2024 Press Statement of The Ig: Ref: The Criminality of The Abandonment of ICJ Judicial Process by Lrc and Nigeria And Their Intended Joint Exploitation Of Hydrocarbons In Bakassi Peninsula.

[4] Akony Enyioma and Nwapi,Raymond Ogedi p 2

[5] July 05th, 2024 Press Statement of the IG: REF: The Criminality of the Abandonment of ICJ Judicial Process by LRC and Nigeria and their Intended Joint Exploitation of Hydrocarbons in Bakassi Peninsula.

maritime and echo system in the Gulf of Guinea with significant international peace and security consequences.

The Nationality Question

The nationality issue, concerning a population of about 3,000,000 Nigerian citizens residing in the Bakassi Peninsula and border territory which the Court decided was part of the Southern Cameroons, came up before the Court and the ICJ decided by a vote of fifteen to one in paragraph 317 of the Judgment and in the disposition of the Judgment in paragraph (C) as follows {the Court}:

'Takes note of the commitment undertaken by the Republic of Cameroon at the hearings that, "faithful to its traditional policy of hospitality and tolerance", it "will continue to afford protection to Nigerians living in the [Bakassi] Peninsula and the Lake Chad area'

The evidence that Nigeria provided about the origins of the Indigenous people of the Bakassi Peninsula about their Bakassi ancestry and ancestral land rights spanning over several centuries, established their distinctive cultural heritage and way of life.[6] This was enough to qualify them as indigenous people subject to the protection of international human rights laws. The decision by the ICJ which placed their protection under an alleged *'faithfulness'* of Cameroun to its alleged *'traditional policy of hospitality and tolerance'* was a blatant violation of the Declaration on the Rights of Indigenous Persons guaranteed by United Nations Resolution 61/295 of 29 June 2006[7] which states inter alia

> *Article 9: Indigenous peoples and individuals have the right to belong to an indigenous community or nation, in accordance with the traditions and customs of the community or nation concerned. No discrimination of any kind may arise from the exercise of such a right.*
>
> *Article 10: Indigenous peoples shall not be forcibly removed from their lands or territories. No relocation shall take place without the free, prior and informed consent*

[6] ICJ judgment paragraph p 37, 200=209. See also Akony Enyioma and Nwapi,Raymond Ogedi Bakassi Peninsula Debacle,: A Critical Analysis Of The ICJ Judgment On The Issue ,And Why Nigeria Lost Bakassi Peninsula To Cameroon, INISET-International Journal of Innovative Science ,Engineering And Technology ,Vol.6 Issue 11, 11 November 2019 ISSN Online www.ijiset.com

[7] Article 9 Indigenous peoples and individuals have the right to belong to an indigenous community or nation, in accordance with the traditions and customs of the community or nation concerned. No discrimination of any kind may arise from the exercise of such a right. www.ohchr.org › en › indigenous-peoples UN Declaration on the Rights of Indigenous Peoples | OHCHR

of the Indigenous peoples concerned and after agreement on just and fair compensation and, where possible, with the option of return.

Article 18: Indigenous peoples have the right to participate in decision-making in matters which would affect their rights, through representatives chosen by themselves in accordance with their own procedures, as well as to maintain and develop their own indigenous decision-making institutions.

Article 19: States shall consult and cooperate in good faith with the Indigenous peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them'

An attack by the Cameroon Military which killed five Nigerian Soldiers and civilians was a key factor in the deployment of Nigerian forces to the Peninsula allegedly to provide protection to its people and its territory[8].

The judgment tacitly imposed Cameroonian nationality on about 3000,000 indigenous people whom Cameroon declined citizenship before the Court. The right to self-determination of the affected population was violated by the ICJ judgment. The affected population was not provided with an opportunity to determine their own nationality. It is not comprehensively clear from the judgment as a matter of law whether they are Nigerian citizens under alleged Cameroon benevolent control, stateless people within the territory which the ICJ awarded to Cameroon, or they are Cameroonians by the implication of the court decision or Nigerian citizens as Cameroon conceded. It was conceded by Cameroon and decided by the ICJ that the territory was part of the British Cameroon Trust territory. The ICJ judgments make them persons who were born in Cameroon and therefore, by virtue of Articles 1 and 10 of the Cameroun nationality code, Law No. 1968-LF-3 of the 11th June 1968 to set up the Cameroon Nationality Code, they are automatically Camerou**u**n nationals, although they were characterized as Nigerian citizens and placed at the pleasure of Cameroun based on Cameroun's alleged faithfulness to its 'traditional policy of hospitality and tolerance'. (My emphasis)

[8] Henry Kam Kah, The Bakassi Crisis: The Role Of The Nigerian And Cameroonian Military, 1981-2013,University of Buea, Conflicts Studies Quarterly Issue 6, January 2024 p9

Law no. 1968-LF-3 of 11 June 1968 states,

> Section 1.
>
> *Cameroon nationality attaches at birth, as the nationality of origin, by operation of law.*
>
> Section 10.
>
> *A newborn child found in Cameroon will be presumed prima facie to have been born in* Cameroon.

The evidence of the alleged policy of faithfulness to Cameroun's 'traditional policy of hospitality and tolerance' was not presented to the Court to support or justify its decision to place the protection of 3000, 000 persons living in their ancestral homes in the hands of a foreign sovereign. No mechanism was put in place for the enforcement of the decision or pledge. It was a political decision that placed the lives of millions in potential harm. The ICJ did not put the interests of Bakassi indigenes and Southern Cameroons nationals at the center of its judgment. It placed economic interests at the center of the judgment.

The decision implies that, under the Cameroon Nationality Code and pursuant to the ICJ Judgment, the 3,000,000 people in the ICJ-attributed territory, would automatically be classified as citizens of the Southern Cameroons because the contested land which was given to Cameroon as part of the territory of the Southern Cameroons is also the ancestral lands of the affected population. In consequence of the ICJ judgment and the provision of articles 1 and 10 of the nationality code of Cameroun, they are deemed Southern Cameroonians by birth within the national territory of the UN Trust Territory of the Southern Cameroons.

Cameroon declined the nationality of the Southern Cameroons by alleging before the ICJ that they are Nigerian citizens whom it pledged to protect pursuant to its alleged faithfulness to its traditional policy of hospitality and tolerance. The ICJ did not decide on the issue of nationality which arose as a consequence of its judgment. The ICJ did not consider the question of nationality of the indigenous peoples living on their ancestral lands. The ICJ identified the issue but failed to make a determination and merely noted the pledge by Cameroon, leaving the indigenous owners at the mercy of the unspecified 'traditional policy of hospitality and tolerance' of Cameroon, negating the violence and hostility in the area which was significantly discussed in the case. This was not a criterion for the determination of nationality. The nationality of the indigenous population should have been considered in the judgment and

their rights under international law ascertained. This includes their right to choose their nationality. This was not done.

The only factor by which Cameroon alleged that they are of Nigerian nationality was their historical and cultural affinity with bordering communities in Nigeria. But then the affected population has the same historical and cultural affinity with the population of the UN Trust territory of the Southern Cameroons which is the ancestral land. In this case, the indigenous people of Bakassi and the Southern Cameroons are protected by international law as such. The continuing violence in the Bakassi Peninsula against indigenes asserting their rights to self-determination and in the Southern Cameroons territory is due to the failure of the ICJ to determine the sovereign rights of the people and the nationality question, making the affected populations potentially stateless persons.

Territorial Claim by Cameroon

On 29 March 1994, the Republic of Cameroon initiated proceedings at the International Court of Justice against Nigeria claiming sovereignty over the Bakassi Peninsula and requested the delimitation of its land and maritime borders with Nigeria. Equatorial Guinea intervened in the case.[9]

Upon ascertaining that the procedural requirement for compulsory jurisdiction under Article 36 of the ICJ statute was met, the ICJ accepted compulsory jurisdiction over the case.

Laying out its case before the ICJ, Cameroon based its claim over the Bakassi Peninsula on the owner the fact that Bakassi formed part of the trust territory of British Cameroon, that Nigeria voted for Resolution 1608 (XV) allegedly terminating the trusteeship over Southern Cameroons without objections and recalled *'that the United Nations plebiscites, held on 11 and 12 February 1961, resulted in a clear majority in the Northern Cameroons voting to join Nigeria, and a clear majority in the Southern Cameroons voting to join Cameroon. It maintains that the process of holding the plebiscite meant that the areas that fell within the Northern and Southern Cameroons had to be ascertained. Cameroon points out that the map attached to the Report of the United Nations Plebiscite Commissioner shows that the Bakassi Peninsula formed part of the Victoria Southwest plebiscite district in the southeast corner of Cameroon. This*

[9] ICJ Judgment Ibid

would show that the peninsula was recognized by the United Nations [p408] as being a part of the Southern Cameroons. Cameroon also emphasizes the absence of protest by Nigeria to the proposed boundary during the independence process, and the fact that Nigeria voted in favor of General Assembly resolution 1608 (XV) by which the British trusteeship was formally terminated.'[10]

The claim by Cameroon that General Assembly resolution 1608 (XV) formally terminated the British trusteeship over the Southern Cameroons was not proved.

United Nations General Assembly Resolution 1608 (XV) of 21 April 1961 required the United Nations Trust Administering Authority, Great Britain, the Republic of Cameroon, and Southern Cameroons to organize talks for the purpose of elaborating the terms by which independence by joining the Republic of Cameroon would occur on 1 October 1961. This was not synonymous with reunification.

The UN Charter framework on self-determination and independence for colonial peoples and peoples under the mandate system clearly defined and required the fulfillment of the following legal predicates which were not applied in the case of the Southern Cameroons to be consistent and compliant with the UN Charter.

Resolution 1608(XV) of 21 APRIL 1961 which the Republic of Cameroon inaccurately alleged, formally terminated the trusteeship agreement, as submitted by the Fourth Committee, A/4737, to the General Assembly on 21 April 1961, at the 994 meeting, was adopted by a roll-call vote of 64 for, 23 against and 10 abstentions.

The primary purpose of the resolution was to endorse the Plebiscite results, set a date for the termination of the Trusteeship Agreement, and lay down procedures for the concretization of the intended joining between the Southern Cameroons and Republique du Cameroun on the one hand, and the Northern Cameroons and Nigeria on the other hand.

In a drastic turn of events, one of the countries that voted against the Resolution was La Republique du Cameroun, the very country the Southern Cameroons had just voted to achieve independence by joining! How would the UN endorse the intended joining when the country

[10] ICJ Judgment para 210

to which the Southern Cameroons were being joined was objecting to the Resolution endorsing the joining?

Article 2 of the resolution:

Endorses the results of the plebiscite that:

> (a) The people of Northern Cameroons have by a majority, decided to achieve independence by joining the independent Federation of Nigeria;
>
> (b) The people of the Southern Cameroons have similarly decided to achieve independence by joining the independent Republic of Cameroon;

Article 3

Considers that the people of the two parts of the Trust Territory having freely and secretly expressed their wishes with regards to their respective futures in accordance with General Assembly resolutions 1352 (XIV) and 1473 (XIV), the decisions made by them through democratic processes should be immediately implemented.

Article 4

Decides that the plebiscites having been taken separately with differing results, the Trusteeship Agreement of 13 December 1946 concerning the Cameroons under United Kingdom Administration shall be terminated, in accordance with Article 76b of the Charter of the United Nations and in agreement with the Administering Authority, in the following manner:

> (a) With respect to the Northern Cameroons, on I June 1961, upon its joining the Federation of Nigeria as a separate province of the Northern Region of Nigeria;
>
> (b) With respect to the Southern Cameroons, on 1 October 1961, upon its joining the Republic of Cameroon;

Article 5.

Invites the Administering Authority, the Government of the Southern Cameroons, and the Republic of Cameroun to initiate urgent discussions with a view to finalizing, before October 1, the arrangements by which the agreed and declared policies of the parties concerned will be implemented. (my emphasis)

a. This resolution was crucial to the joining process and therefore to the self-determination process. If it were not implemented, the whole result of the Plebiscite would be put in jeopardy: and it was never implemented!
b. In this Resolution also, the UN fully recognized the fact that the Plebiscite was not the act of joining or achievement of independence and called for the implementation of the intentions expressed, with *immediate* effect. Notice the underlined portions of the Resolution: (My emphasis)

Paragraph 3 states: Considers that, the people of the two parts of the Trust Territory having freely and secretly expressed their wishes with regards to their respective futures in accordance with General Assembly resolution 1352 (XIV) and 1473 (XIV), the decisions made by them through democratic processes should be immediately implemented. (My emphasis)

Paragraph 5: Invites the Administering Authority, the Government of the Southern Cameroons, and the Republic of Cameroun to initiate urgent discussions with a view to finalizing, before October 1, the arrangements by which the agreed and declared policies of the parties concerned will be implemented. (My emphasis)

C. Neither the UN nor the Administering Authority followed through to ensure that these pertinent recommendations that were to lead to the union for which the people of the Trust Territory had voted in the Plebiscite were carried out. Following the adoption of Resolution 1608(XV) and the Republic of Cameroon's "No" vote in that Resolution, the Administering Authority, which represented UN interests in the Southern Cameroons, abandoned the whole process! It did not call the post-plebiscite conference demanded in paragraph 5 of the resolution; the intentions expressed in the Plebiscite were not implemented as required in recommendation 3; it did not take any measures to guard against the possible annexation of the Southern Cameroons.
D. There is therefore no evidence anywhere asserting that the UN granted the territory and its people independence by joining. The UN is not an informal body. If the UN did such a thing, it must then be in possession of the legal instruments by which it granted independence by joining, in pursuance in particular of Article 102(1) of the UN Charter. Can the UN produce the instruments of the alleged joining?

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Compliance with Resolution 1608(XV) had to satisfy the threshold for self-determination for trust administered territories and non-self-governing territories established by the following UNGA Resolution:

UNGA Resolution 1514 (XV)

'Recognizing the passionate yearning for freedom in all dependent peoples and the decisive role of such peoples in the attainment of their independence

Aware of the increasing conflicts resulting from the denial of or impediments in the way of the freedom of such peoples, which constitute a serious threat to world peace,

Considering the important role of the United Nations in assisting the movement for independence in Trust and Non-Self-Governing Territories

Recognizing that the peoples of the world ardently desire the end of colonialism in all its manifestations,

Believing that the process of liberation is irresistible and irreversible and that, in order to avoid. serious crises, an end must be put to colonialism and all practices of segregation and discrimination associated therewith,

Convinced that all peoples have an inalienable right to complete freedom, the exercise of their sovereignty and the integrity of their national territory

Solemnly proclaims the necessity of bringing to a speedy and unconditional end colonialism in all its forms and manifestations

And to this end

Declares that:

1. The subjection of peoples to alien subjugation, domination and exploitation constitutes a denial of fundamental human rights, is contrary to the Charter of the United Nations and is an impediment to the promotion of world peace and co-operation.

2. All peoples have the right to self-determination; by virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.

4. All armed action or repressive measures of all kinds directed against dependent peoples shall cease in order to enable them to exercise peacefully and freely their right to complete independence, and the integrity of their national territory shall be respected.

5. Immediate steps shall be taken, in Trust and Non-Self-Governing Territories or all other territories which have not yet attained independence, to transfer all powers to the peoples of those territories, without any conditions or reservations, in accordance with their freely expressed will

and desire, without any distinction as to race, creed or colour, in order to enable them to enjoy complete independence and freedom.'[11]

UNGA 1541(XV)

Principles which should guide Members in determining whether or not an obligation exists to transmit the information called for under Article 73e of the Charter

Principle VI

A Non-Self-Governing Territory can be said to have reached a full measure of self-government by:

(a) Emergence as a sovereign independent State;
(b) Free association with an independent State; or
(c) Integration with an independent State

Principle VII

(a) Free association should be the result of a free and voluntary choice by the peoples of the territory concerned expressed through informed and democratic processes. It should be one which respects the individuality and the cultural characteristics of the territory and its peoples and retains for the peoples of the territory which is associated with an independent State the freedom to modify the status of that territory through the expression of their will by democratic means and through constitutional processes.

(b) The associated territory should have the right to determine its internal constitution without outside interference, in accordance with due constitutional processes and the freely expressed wishes of the people. This does not preclude consultations as appropriate or necessary under the terms of the free association agreed upon.

Principle VIII

Integration with an independent State should be on the basis of complete equality between the peoples of the erstwhile Non-Self-Governing Territory and those of the independent country with which it is integrated. The peoples of both territories should have equal status and rights of citizenship and equal guarantees of fundamental rights and freedoms without any distinction or discrimination; both should have equal rights and opportunities for representation and effective participation at all levels in the executive, legislative and judicial organs of government.

Principle IX

Integration should have come about in the following circumstances:

[11] UNGA Res. 1514 (XV). Declaration on the granting of independence to colonial countries and peoples

(a) The integrating territory should have attained an advanced stage of self-government with free political institutions, so that its peoples would have the capacity to make a responsible choice through informed and democratic processes;

(b) The integration should be the result of the freely expressed wishes of the territory's peoples acting with full knowledge of the change in their status, their wishes having been expressed through informed and democratic processes, impartially conducted and based on universal adult suffrage. The United Nations could, when it deems it necessary, supervise these processes.[12]

By Resolution 1608(XV), the UN General Assembly defined and established the conditions precedent for the fulfilment of the rights of Southern Cameroons to self-determination. These predicates which were clearly defined in the Charter of UN Chapters XI, XII and stated in UN Resolution 1514(XV) and 1541(XV) set out above. The fulfilment of Article 1608(XV) had to comply with the rights to self-determination threshold or principles established in the UN Charter Chapters XI, XII and UNGA Resolutions 1514 (XV), 1541(XV) requirements which were established to protect the rights of mandates and trust territories as well as non-self-governing states.[13]

Bayefsky submitted that special status of colonies and other self-governing territories are states in embryo and that initially, the development of the right of self-determination of peoples focused on issues of decolonisation, building on the provisions of Chapters XI and XII of the UN Charter which deals with no self -governing territories.[14] It is only in the context of decolonisation that self-determination has been applied as a legal basis for achieving independence and has been recognized as such by the ICJ. [15]

The Supreme Court of Canada held that while international law regulates the conduct of nation states, it does in specific circumstances also recognise the rights of entities other than nation states-such as a right of a people to self-determination. The right of a people to self-determination is now so widely recognised in international conventions that the principle has

[12] United Nations General Assembly - Fifteenth Session
Extract from UNGA Res. 1541(XV)

[13] James Crawford, The Creation of States In International Law, Second Edition Oxford University Press (2006) p116, 122

[14] Anne Bayefsky, Self-determination in International Law: Quebec and Lessons Learnt
Legal Opinions and Selected and Introduced, Kluver International, P.O Box 85889. 2508 LN
The Hague Netherlands

[15] Legal consequences for states of the continued presence of South Africa in Namibia9South West Africa) Notwithstanding Security Council Resolution 276 (1970) , Advisory Opinion (1971) I.C.J Reports 16.at 31-32,paras.52-53,East Timor (Portugal and Australia) (1995), I.C.J Reports , 12 90. At 102, para.29.

acquired a status beyond 'convention' and is considered a general principle of international law.[16]

Claim of title based on historical consolidation and, acquiescence and recognition

Lawyers for the Republic of Cameroon, in particular, Professor Peter Ntarmark and Professor Malcom Shaw on 18 February 2002, submitted that the claim of the Republic of Cameroon for title over the contested territory was based on '*historic consolidation of title, acquiescence, recognition and the principle of Uti Possidetis Juris'*.

Professor Peter Ntamark submitted that the principle Uti Possidetis Juris was endorsed by African Heads of State and Governments during the OAU Conference on 21 July 1964, and applicable to colonial boundaries which were inherited at independence, crystallised or were frozen on the critical date of the independence of each state.

Counsel submitted that the critical date on which the borders of the Republic of Cameroon were frozen at independence which "the parties stated is 1 October 1961, the date of the reunification between the Southern Cameroons and the Republic of Cameroon", emphasizing that "whatever were the rights of the parties then, these are still their rights now.'' He further relied on the principle of Effectivité by which the Republic of Cameroon allegedly exercised its right of title resulting from ownership of its territory from the critical date of 1 October 1961 to the time of the conflict.

Professor Malcolm Shaw analyzed the period before the plebiscite and the independence with Nigeria in 1960 and after independence. He submitted that Nigeria was aware of the constitutional developments affecting British Cameroon and, as a result, recognized the international boundaries of the Republic of Cameroon.

In its Judgment, the ICJ reasoned:

> Paragraph. 210, that, "Bakassi is said to have formed part of the area of the British Cameroons termed Southern Cameroons. This territorial definition is said to have been repeated in the trusteeship agreements that succeeded the mandates system after the Second World War….. Cameroon produces documentary evidence, British Orders-in-

[16] Supreme Court of Canada ,Reference re secession of Quebec(1998) 2.S.C.CR 217 , See Olivier De Schutter, International Human Rights Law, Cambridge University Press (2010) p688-689

> Council, and maps which, it claims, evidence that Bakassi is consistently placed within the British Cameroons throughout this period….Cameroon points out that the map attached to the Report of the United Nations Plebiscite Commissioner shows that the Bakassi Peninsula formed part of the Victoria South-West plebiscite district…. This would show that the peninsula was recognized by the United Nations as being a part of the Southern Cameroons." (my emphasis)
>
> Paragraph 213 that, "The Southern Cameroons Plebiscite Order-in-Council, 1960 indeed makes no mention of any polling station bearing the name of a Bakassi village. Nor, however, does the Order-in-Council specifically exclude Bakassi from its scope. The Order simply refers to the Southern Cameroons as a whole. But at that time, it was already clearly established that Bakassi formed part of the Southern Cameroons under British trusteeship."

It is obvious from the evidence presented and the submissions of the parties that the alleged date of the reunification of Southern Cameroons and the Republic of Cameroon was not proved. It was obvious that the said reunification, even if it occurred, did not and could not fulfill the requirements of the critical date and the terminal crystallization of the frozen borders of the Republic of Cameroon.

The submission of the Republic of Cameroon about the alleged *"reunification"* of the Southern Cameroons and the Republic of Cameroon had no legal or factual basis. The claim of "reunification" was not based on facts and the law arising from United Nations General Assembly Resolutions and on international law. The outcome of the United Nations Plebiscite which was organized on 11 February 1961 in the Southern Cameroons was *"independence by joining"* the independent Republic of Cameroon and not reunification which was not an option.

Self-determination and the Consequences of Colonization

Self-determination has also been used in conjunction with the principle of territorial integrity to protect the territorial framework of the colonial period in the decolonization process and to prevent permitting secession from independent states.

A distinguished international law expert and scholar Malcolm Shaw in an opinion juris states that the respect of boundaries, territorial integrity and frontiers inherited at independence is

an underlying linchpin of the international system and that transnational concerns like human rights and self-determination have affected the principle of non-exclusivity in international law although territorial sovereignty remains a key concept in international law.[17]

The illegality of the cessation of sovereignty over Southern Cameroons to Republique du Cameroun renders any claim of title over the Southern Cameroons untenable in international law; in particular, as at the time of the cessation, Southern Cameroons was under the internationally supervised administration of the United Nations.

Republique du Cameroun being a former Trust territory herself cannot trace the source of her claim or title over the Southern Cameroons to support the promulgation of her internal law amending her constitution to subsume, annex, and colonize the Southern Cameroons under the fallacious claim of "reunification" which were inconsistent with the expressed will of the Southern Cameroons, the Trusteeship Agreement, UN Resolutions and values protected by the UN Charter.

As the ICJ stated in a number of cases, the essence of territorial sovereignty has legal consequences of a change in the juridical status of a particular territory. Significantly, in this regard, the ICJ noted in the case of Burkina Faso/ Mali, ICJ Reports 1986, 99 554,564; 8 ILR, pp 440, 459, that the word 'title' comprehends both any evidence which may establish the existence of a right and the actual source of that right rooted in title. (Reaffirmed in the land, island, maritime frontier

(El Salvador/ Honduras) ICJ Reports 1992, pp 351, 388).[18] Thus the notion is rooted in the factual and legal premise on which a right to territory is asserted or claimed. In other words, it refers to the existence of those facts required and accepted as legal proof in international law.

UN practice has established that the UN and its ancillary organs have actively concerned themselves with conditions in non-independent countries and it has been accepted, that territorial sovereignty in the ordinary sense of the word does not exist over mandate or trust territories. This has encouraged a critical examination or re-examination of the procedures of acquiring a title. See, for example, International Status of SW Africa, ICJ Reports 1950 p.

[17] Malcom. M. Shaw, International Law, Cambridge University Press 5th Edition (2007) p 183-184)
[18] Ibid p 201, 203-4,208.

128. 17 IL, p 47, The SW Africa cases, 1966, p 6, 37, ILR p 243, The Namibia case, ICJ, Reports 1971, p. 16; 49 ILR p, 2. And the Western Sahara Case, ICJ Reports 1975, p, 12; 59, ILR p. 14.

At the end of WW1, Professor Malcolm Shaw KC explains, the Allies established a system of dealing with the colonies of the defeated powers that did not involve annexation. Thus, the mandate system and thereafter the Trust system ruled out annexation. The rationale of the mandate system was premised on the principle that "the well-being and development of such peoples formed a sacred trust of civilization".[19] The effective implementation was to entrust these peoples to the tutelage of "advanced nations who by reason of their resources, their experience or their geographic positions" could undertake the responsibility. The mandatories were to exercise the arrangement under Art. 22 of the League of Nations. See also the Status of SW Africa ICJ 1950.

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[19] Ibid

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In the case at bar, contrary to established jurisprudence, Great Britain modified a fundamental clause of the Trusteeship Agreement by handing over the sovereignty of the southern Cameroons directly to a third party, La Republique du Cameroon, and without guarantees of the existence of a treaty of union agreed upon, signed and deposited at the Secretariat of the UN before the termination of the trust. By introducing a third party into the administration of the territory in a manner that jeopardized the exercise by Southern Cameroons of her fundamental right of external self-determination, Great Britain violated her UN Charter obligations and the Trusteeship Agreement rendering the intrusion by the third-party state and the acts that accompanied the intrusion null and void.

At the end of WWII and upon the demise of the League of Nations, the Mandate System transmuted to the UN Trusteeship system under Chapters XII and XIII of the UN Charter. In a Separate Opinion at the ICJ (See ICJ reports 1992, pp 258, 97 ILR p, 25) which the ICJ reaffirmed in Cameroun V. Nigeria ICJ Reports 2002, para.212, arrangements whereby Nauru was to be administered under the trusteeship agreement by the government of the UK, Australia, and New Zealand together as the "administering authority" did not constitute that authority of an international legal person separate from the three states so designated.

Similarly, South Africa was to administer SW Africa under the mandate system. On the demise of the League and with it the mandate system, S. Africa refused to submit or place the administration of SW Africa to the Trusteeship system of the UN. In its advisory opinion in 1950 the ICJ held that while there was no obligation under the UN Charter on the UN to transfer a territory from the Mandate system under the League of Nations to the Trust territory under the UN, SA was still bound by the terms of the Mandate agreement and Covenant of the League of Nations and the obligations it had assumed at that time.

The Court held that SA alone did not have the capacity to modify the international status of the territory. This competence rested with SA acting with the consent of the UN as successor of the League. *According to the ICJ, logically flowing from this decision was the ability of the UN to hear petitioners from the territories in consequence of SA's denial to heed UN decisions in pursuance of League of Nations practices*. (ICJ Reports 1955, p 68, 22 ILR p651, and ICJ Reports 1956 p. 23, 23, ILR p. 38).

According to Professor Malcom Shaw, this decision generated a considerable amount of interest in the third world and occasioned a shift in dealing with the problem. The Gen. Assembly resolved in Oct. 1966 to terminate the mandate since South Africa failed to fulfill its obligations under the mandate and placed the territory under direct UN administration. The Security Council proceeded to uphold several General Assembly Resolutions on the matter.[20]

The Security Council thereafter submitted the matter to the ICJ for an advisory opinion on the legal consequences for states on the continued presence of SA in Namibia. In its ICJ Advisory Judgment, the ICJ concluded that the illegal continued presence in Namibia must attract consequences pointing to the series of events that led to UN Resolutions and the material breach of the Mandate treaty.

In the case of the Southern Cameroons, there was a material breach of the Trusteeship agreement by Great Britain, the UN itself, and a material breach by La Republique du Cameroun of international law in annexing and colonizing Southern Cameroons.

In any circumstance, pursuant to the advisory opinion on Namibia or SW Africa, although the Trusteeship Council may have been disbanded, the UN General Assembly or Secretary-General

[20] Ibid p203

has the residual authority to receive petitions and take resolutions from people in the affected territory and provide appropriate remedies.

In this regard and for this purpose, Professor Malcom Shaw stated that, the UN is able to assume the administration of territories in specific circumstances. The Trusteeship system was founded upon the supervisory role of the UN. In the SW Africa case, the UN Gen Assembly supported by the Security Council terminated the Mandate and asserted its administrative authority over the territory pending independence. The UN and the Security Council have become assertive in intervening in particular situations to address egregious violations and the exercise of all power to ensure the maintenance of international peace and security.

In conclusion, Professor Malcom Shaw states that "whether or not the entities concerned constitute international persons or indeed states or mere parts of some other international person is a matter of careful consideration in the light of circumstances of the case, in particular the claims made by the entity in question, the facts on the ground.

Principle of Uti Possidetis Juris

Judgment in the matter was given on 10 October 2002. Cameroon prevailed on the Bakassi territorial claim by successfully invoking the principle of Uti Possidetis Juris, the Cairo resolution by the Heads of State and Governments of the Organization of African Unity (17-21 July 1964), and the AU Constitutive ACT Article 4(b).

The principle of Uti Possidetis Juris was endorsed at the Conference of Heads of State and Governments of the Organization of African Unity (OAU) in Cairo Egypt from 17 to 21 July 1964 (the Cairo Resolution) as the principle by which border conflicts between member states would be settled. African leaders pledged by that resolution to respect colonial borders inherited at independence as the crystallized and frozen international borders of OAU member states. The Cairo Resolution was subsequently incorporated into Article 4 (b) African Union (AU) Constitutive Act.

In its pleadings and submissions before the International Court of Justice (ICJ), the Republic of Cameroon alleged that by occupying the Bakassi Peninsula, Nigeria was in violation of its obligations under international law, particularly, the principle of Uti Possidetis Juris which was enshrined in the OAU Cairo Resolution (1964) and Article 4(b) of the AU Constitutive ACT.

During the hearing of the case, the Republic of Cameroon which achieved independence on January 1, 1960, presented conclusive evidence that the contested Bakassi Peninsula was part of the territory of the Southern Cameroons but went on to submit that the critical date on which its borders crystallized and were frozen was 1 October 1961 a date it alleged to have attained re-unification with the Southern Cameroons.

The Southern Cameroons was a UN trust territory that was administered under Article 76 (b) of the Charter of the United Nations. The UN Fourth Committee of the UNGA on 9 March 1959 recommended that the fate of the Southern Cameroons would be decided by a UN-supervised plebiscite in which the people of the territory would express a choice of independence by joining either the independent Republic of Cameroon or independent Federal Republic of Nigeria. This recommendation was adopted by the General Assembly of the UN at its 829th meeting on 16 October 1959. On 11 February 1961 the Southern Cameroons voted to achieve independence by joining the independent Republic of Cameroon.

The Republic of Cameroon alleged but did not prove that its alleged reunification with the Southern Cameroons on 1 October 1961, fulfilled the critical date requirement on which its borders crystallized and were frozen.

The Independence of a country and the date on which it was achieved with its inherited colonial borders are requirements for compliance with the principle of Uti Possidetis Juris, the Organization of African Unity (OAU) Cairo Resolution (1964) and the African Union (AU) Constitutive ACT Article 4(b). Alleged reunification or annexation are not requirements under the principle and the African Union Constitutive Act.

Alleged reunification and the date it allegedly occurred, cannot displace and replace the requirement of the date of achieving independence, as the critical date for the crystallization and freezing of colonial borders under OAU Cairo Resolution (1964), the AU Constitutive ACT Article 4(b) and the principle of Utis Possidetis Juris.

The Republic of Cameroon achieved independence on 1 January 1960. As a matter of fact and law, January 1, 1960, is the terminal and exclusionary critical date on which the inherited colonial borders of the Republic of Cameroon crystallized and were frozen pursuant to the principle of Uti Possidetis Juris, the Cairo Resolution (July 1964) and Article 4(b) of the AU Constitutive ACT. The Republic of Cameroon did not produce a valid enforceable treaty that

extended its internationally recognized borders beyond those which crystalized and were frozen at independence on January 1, 1960, to include Southern Cameroon.

For the above reason, the mandatory requirements of the OUA Cairo Resolution (1964), Article 4(b) of the AU Constitutive ACT, and the Principle of Uti Possidetis Juris requiring the date of independence as the critical date for the establishment of the international borders of African states were not established in the case. As a result, the decision of the ICJ in which it awarded title over the Southern Cameroons territory of Bakassi to the Republic of Cameroon based on an alleged reunification on 1 October 1961 was impermissibly flawed and was not legally justified.

Crystallization of Boundaries at Independence

The Cairo Resolution (17-21 July 1964) and the AU Constitutive ACT Article 4(b).

Organization of African Unity (OAU) Cairo Resolution (1964)

> The assembly of Heads of State and Government meeting in the First Ordinary Session in Cairo, UAR, from 17 to 21 July 1964.
>
> AHG/RES.16(1): Recalling further that all member states have pledged, under Article IV of the Charter of African Unity, to respect scrupulously all principles laid down in paragraph 3 of Article III of the Charter of the Organization of African Unity:
>
> SOLEMNLY REAFFIRMS the strict respect by members of the Organisation for the principles laid down in paragraph 3 of Article III of the Charter of the Organisation of African Unity,
>
> SOLEMNLY DECLARES that all Member States pledge themselves to respect the borders existing on their achievement of national independence.

Constitutive Act of The African Union

> Article 4
>
> Principles
>
> The Union shall function with the following principles:
>
> 4(b) respect of borders existing on achievement of independence.

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The colonial boundary of the Republic of Cameroon was crystalized on 1 January 1960 the day on which it achieved independence from France and subsequently became a member of the UN on 20 September 1960. On May 25, 1963, the Republic of Cameroon became a founding member of the OAU.

The Republic of Cameroon participated in the Conference of Heads of State and Governments of the OAU in Cairo from 17-21 July 1964. The Republic of Cameroon voted for the Cairo OAU Resolution which endorsed the principle of Uti Possidetis Juris by which all Member States pledged themselves to respect the borders existing on their achievement of national independence. Subsequently, the African Union (AU) Constitutive ACT required state members of the AU to pledge the respect of borders existing on achieving independence. Article 4(b) of the AU Constituent ACT is binding on the Republic of Cameroon and Nigeria who are state members of the AU.

The date of the independence of the Republic of Cameroon on January 1, 1960, is an essential factor in the crystallization and the freezing of its colonial borders, transforming and giving it an international character in international law. It is the critical date required for the fulfillment of the principles enunciated by the OAU Cairo Resolution (July 1964) and Article 4(b) of the AU Constitutive ACT. It transformed the territory within the colonial borders from an object to a subject of international law.

The Republic of Cameroon endorsed and pledged to respect the resolutions and provisions of the UN OAU and AU multilateral treaties. These multilateral treaties defined, endorsed, and froze its borders on the critical date of 1 January 1960, the date on which it achieved independence. The internationally recognized borders of the Republic of Cameroon crystallized and were frozen on 1 January 1960 prior to 1 October 1961 when the United Nations set aside as the date on which the Southern Cameroons was to achieve its independence by joining the already independent Republic of Cameroon under conditions established by United Nations General Assembly (UNGA) Resolution 1608 (XV).

The conditions established in UNGA Resolution 1608 (XV) were not fulfilled as explained in this paper, therefore independence by joining did not occur as a matter of fact and law on 1 October 1961. The date of 1 October 1961, therefore, could not legally and factually constitute the date on which the independence of the Republic of Cameroon occurred. It could not, under

international law, be said to be the critical date on which the borders of the Republic of Cameroon were frozen. It could therefore not have been relied on to make a finding of the fulfillment of the treaty requirements of the OAU Cairo Resolution (1964), Article 4(b) of the AU Constitutive ACT, and the principle of Uti Possidetis Juris. There was no legal basis on which the ICJ interpreted the OAU Cairo Resolution, the AU Constitutive ACT Article 4(b), and the principle of Uti Possidetis Juris to find 1 October 1961 or any other date than 1 January 1960, to be the date on which the Republic of Cameroon achieved independence.

Reunification was not on the ballot. It was not contemplated because it had no legal basis under the UN Charter, in particular, the UN trusteeship treaty system. The legal basis of reunification was irredeemably eviscerated by the extinction of German colonial possessions and territories after the First World War, by the Treaty of Versailles in Article 119. By the operation of the said treaty, Germany was dispossessed of German Kamerun which were divided and administered by France and Great Britain as League of Nations Mandated territories.

French Cameroun and British Cameroons were transformed into United Nations Trust Territories and administered under Article 76 (b) of the UN Charter for their… *"progressive development towards self-government or independence as may be appropriate to the particular circumstances of each territory and its peoples and the freely expressed wishes of the peoples concerned, and as may be provided by the terms of each trusteeship agreement".*

Reunification which was alleged by the Republic of Cameroon and relied on by the ICJ did not derive its legality and legitimacy from international law, the UN multilateral treaty regime; in particular, United Nations General Assembly (UNGA) Resolutions, the UN Charter and the option of independence by joining which was voted for by the people of the Southern Cameroons in the UN Supervised plebiscite

By virtue of Article 31(1) of the Vienna Convention on the Law of Treaties, "*a treaty shall be interpreted in good faith in accordance with the ordinary meaning to be given to the terms of the treaty in their context and in the light and context of its object and purpose"*. The OAU Cairo Resolution and the AU Constitutive ACT on which the Republic of Cameroon based its claim to title over part of the territory of the Southern Cameroons, and which it alleged established the international character of its border was supposed to be interpreted in good faith and in

accordance with the ordinary meaning of the wording of the treaties. If the provision of Article 31(1) of the Vienna Convention was complied with by the ICJ, there would have been no misinterpretation and misapplication of the OAU Cairo Resolution, the AU Constitutive ACT, and the principles of international law in the determination of the colonial borders of the Republic of Cameroon.

The date of independence of the Republic of Cameroon is a fact of international public notoriety within the international multilateral treaty regime of the United Nations, OAU, and the AU from which the critical date on which its borders were frozen and given an international character is conspicuously available. The date of the alleged reunification by Southern Cameroon was not envisaged by the OAU and the AU multilateral treaty.

The UK: Secret Deals, Diplomatic Manipulations, And Serious Prejudice

It is necessary to verify the international instruments on which the claim by the Republic of Cameroun to the territory of the Southern Cameroons was alleged or based.

On 2 March 1962, the UN Secretariat circulated a note verbale from the Permanent Representative of Great Britain and Northern Ireland titled 'The Future of the Trust Territory of the Cameroons under UK Administration'.

The Note Verbale which was dated 27 February 1962, communicated an exchange of notes between the Ambassador of Great Britain in Yaoundé Cameroon dated 27 September 1961, and the President of Cameroun Ahmadou Ahidjo. The note verbale and the exchange of notes are set out hereunder.

a. Note verbale dated 27 February 1962 from the Permanent Representative of Great Britain and Northern Ireland to the United Nations, addressed to the Secretary-General to inform him that in accordance with General Assembly resolution 1608 (XV) OF 21 April 1961, the trusteeship exercised in the Southern Cameroons by the Government of the United Kingdom of Great Britain and Northern Ireland under the Trusteeship of 13 December 1946 terminated at midnight on 30 September 1961. A copy of the Exchange of Notes between Her Majesty's Ambassador at Yaoundé and the President of the Cameroun Republic recording the time and date of the termination of the UK trusteeship in the Southern Cameroons is attached. In accordance with the above

resolution of the General Assembly the trusteeship exercised in the Northern Cameroons by the Government of the United. Kingdom of Great Britain and Northern Ireland, terminated on 1 June196l upon the Northern Cameroon's Joining the Federation of Nigeria as a separate province of the Northern Region of Nigeria. A copy of Command Paper No. 1567 containing the text of the Exchange of Letters between the high Commissioner for the United Kingdom in the Federation of Nigeria to the Prine Minister of the Federation of Nigeria concerning the incorporation of the Northern Cameroons into the Federation is also attached" hereto for information.:/

b. Exchange of notes between Her Majesty's Ambassador and His Excellency, Mr. Ahmadou Ahidjo, President of the Republic of Cameroun at Yaoundé on the termination of the trusteeship over the Southern Cameroons.

British Embassy, YAOUNDE. 27

September 1961

Sir, On the instructions of my Government and In compliance with resolution 1608 (XV) of the General Assembly of the United Nations, dated 21 April 1961]., providing that the trusteeship exercised by the United Kingdom in the Southern Cameroons under the Trusteeship Agreement of 1, December 1946 shall be terminated on 1 October 196I upon the Southern Cameroons Joining the Republic of Cameroun, I have the honor to inform you that this trusteeship will cease to be exercised in the Southern Cameroons at midnight on 30 September 196L, as this Territory will Join the Republic of Cameroun at 00.00 hours on 1 October I95I. I have the honor to be,

Signed) C.E. KING Her Majesty's Ambassador

The exchange notes between the Ambassador of Great Britain and the President of Cameroon on 27 September 1961 did not associate or involve the Southern Cameroons over which the trusteeship was being terminated. Res 1608(XV) which Great Britain purported to have fulfilled stated in its article 5:

Article 5. "Invites the Administering Authority, the Government of the Southern Cameroons, and the Republic of Cameroun to initiate urgent discussions with a view to finalizing, before 1 October 1961, the arrangements by which the agreed and declared policies of the parties concerned will be implemented".[21]

[21] UNGA Res 1608 (XV). The future of the Trust Territory of the Cameroons under United Kingdom administration, digitallibrary.un.org › record › 206162The future of the Trust Territory of the Cameroons under ..

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Great Britain failed in its Note Verbale to the United Nations Secretary-General to provide information about the General Assembly's crucial requirement that:

"the arrangements by which the agreed and declared policies of the parties concerned will be implemented' and which the UNGA Resolution requested *'the Administering Authority, the Government of the Southern Cameroons and the Republic of Cameroon'* were mandated to *'initiate urgent discussions with a view to finalizing before 1 October 1961'.*

Great Britain did not cite *"the arrangements by which the agreed and declared policies of the parties concerned will be implemented'* in the exchange of notes with the President of the Republic of Cameroun on 27 September 1961. Great Britain did not notify the Southern Cameroons of its surreptitious conspiratorial facilitation of the annexation and colonialization of the Southern Cameroons in violation of UNGA Resolution 1608 (XV)-(5) and the UN Charter. It took Great Britain until 27 February 1962 to notify the Secretary-General of the United Nations about the unlawful actions it undertook since 27 September 1961 and 30 September 1961 to end the trusteeship and illegally hand over the Southern Cameroons to the Republic of Cameroon and by so doing, endorsing the annexation of the territory by the Republic of Cameroon.

A Royal Proclamation was gazetted in the London Gazette on 28 September 1961 in which the end to the United Kingdom administration of the Southern Cameroons was to become effective on 1 October 1961. The Royal Proclamation did not specifically mention United Nations General Assembly Resolution 1608 (XV) and did not contain a clause or statement on the status of the Southern Cameroons. It did not mention reunification or independence by joining and did not allege a handover of sovereignty of the Southern Cameroons to the Republic of Cameroon. The deliberately vague Royal Proclamation was carefully drafted to conceal the actions that Great Britain undertook to facilitate and then endorse the annexation of the Southern Cameroons by the Republic of Cameroon which had occurred on 1 September 1961. The purported termination of the trusteeship administration at midnight on 30 September 1961 when the territory was already annexed with the support of Her Majesty's government on 1 September 1961 establishes the central role which Great Britain played in the annexation and colonization of the Southern Cameroons.

Great Britain in its note verbale on the Southern Cameroons to the Secretary-General of the United Nations on 27 February 1962, stated the following about the Northern British Cameroons,

> In accordance with the above resolution of the General Assembly the trusteeship exercised in the Northern Cameroons by the Government of the United. Kingdom of Great Britain and Northern Ireland, terminated on 1 June196l upon the Northern Cameroon's Joining the Federation of Nigeria as a separate province of the Northern Region of Nigeria. A copy of Command Paper No. 1567 containing the text of the Exchange of Letters between the High Commissioner for the United Kingdom in the Federation of Nigeria to the Prime Minister of the Federation of Nigeria concerning the incorporation of the Northern Cameroons into the Federation is also attached" hereto for information.

The notification about the Northern Cameroons provided essential information about the implementation of the UNGA Res.1608 (XV) suggesting effective compliance with the UN resolution. This detail is missing the situation of the Southern Cameroons.

The registration was made during the pendency of case No. 48, concerning the Northern Cameroons (Cameroon v. United Kingdom) which was instituted on May 30, 1961. Judgment in the case was delivered on 2 December 1963. The Republic of Cameroon initiated the case on 29 May 1961, a day after the Exchange of Notes between the UK and Nigeria incorporating British Northern Cameroons into the Federal Republic of Nigeria.

Not only did Great Britain not provide any information from an urgent meeting that the UN General Assembly requested between Great Britain, the Government of the Southern Cameroons, and the Republic of Cameroon on "*the arrangements by which the agreed and declared policies of the parties concerned will be implemented" none is registered in the UN Secretariat Records pursuant to* Article 103 of the UN Charter. Consequently, there is no record of "the arrangements by which the agreed and declared policies of the parties concerned will be implemented" to justify the fulfillment of Resolution 1608 9XV) -(5) for it to be cited as the legal and legitimate basis of a union between the Southern Cameroons and the Republic of Cameroon pursuant to Article 102 of the UN charter.

The "Exchange of letters constituting an agreement about the incorporation of the Northern Cameroons into the Federation of Nigeria, signed in Lagos on 29 May 1961" contained

specified terms on which the incorporation and the status of the territory within the Federal Republic of Nigeria were agreed upon pursuant to UNGA Resolution 1608 (XV). That concerning the Southern Cameroons contain nothing despite the mandated orders of the General Assembly in Resolution 1608 (XV)-(5).

Compliance with UNGA Resolution 1608 (XV)-(5) was a predicate for the realization of the external self-determination of the Southern Cameroons under Article 76 (b) of the UN Charter. It was impermissible for alleged reunification, annexation, an alleged Exchange of Notes between the UK and the Republic of Cameroon, and/or a Royal Proclamation to alter or change the internationally recognized status of Southern Cameroons by any other means whatsoever. The implementation of UNGA Resolution 1608(XV)-(5) did not take place, therefore the achievement of independence by joining the Republic of Cameroon did not occur on 1 October 1961.

In view of the actions of Great Britain, its contributory responsibility for the genocidal war which the Republic of Cameroun declared and is ongoing in the Southern is firmly established. Writing on the Southern Cameroons question, Maria Kertzmerick in Jan Ludert et al. writes:

> "In terms of the relevance of the Trusteeship Council, the Cameroonian example demonstrates that since administering countries which were colonial powers elsewhere, owed accountability and transparency to the body, the Trusteeship Council broke with the tradition of colonial administration at least in a technical perspective. However, the colonial habitus still was very present as the analysis showed. Thus, simultaneously the Trusteeship Council's institutional design manifested existing global power symmetries, and despite progressive elements, could not accompany complete decolonization for Cameroon as shown in the legacies of violent conflicts today. With regard to conflict management and violence, it became clear that the Trusteeship Council did not have the resources to deal with and avoid the escalation of conflicts and even contributed to the deteriorated situation for local actors. The Cameroonian case shows that violence in internationalized situations needs to be understood in social dynamics to finally gets why 'A colonial war in a UN Trusteeship" could happen. This quote not only

> exemplifies the irritation raised by the local population it also shows the material consequences clearly'. [22]

The foregoing explains - why the decolonization of the Southern Cameroons was aborted and the seeds of armed conflict and the ongoing genocidal war which was declared by the Republic of Cameroun were planted.

Bad Faith of The Republic of Cameroon

Two weeks after the plebiscite on 11 February 1961, President Ahmadou Ahidjo of the Republic of Cameroon granted an interview on 24 February 1961 at the Tiko Airport in the Southern Cameroons to the official newspaper of the Republic of Cameroon *L'unité*, in which he misrepresented the purpose of the conference which was mandated by UNGA Resolution 1606 (XV) with the Administering Authority, Great Britain, the Southern Cameroons and the Republic of Cameroon to work out the terms by which independence by joining was to be achieved by stating that the conference was to discuss the terms of reunification. Again, not only was reunification not an option in the plebiscite, it had no legal basis. The Republic of Cameroon one year before, achieved independence as a United Nations Trust Territory.

In L'Unité no. 32 of 24/2/1961, the President was asked:

QUESTION: Mr. President, Southern Cameroons under British tutelage have just decided, as you have just declared, as you have just said, in favor of reunification. Can you tell us how and within what time frame this reunification will become effective?

> ANSWER: Regarding the reunification, as you know, even before the plebiscite, several contacts were taken between Prime Minister Mr. Foncha and his collaborators and the collaborators of the Republic of Cameroon. We have agreed to make *contacts after the plebiscite*…….After these contacts we also agreed to organize a conference that would bring together the representatives of the Republic of Cameroon, those of Southern Cameroons, the Administrative authorities, that is England, to examine together several issues, in particular the lifting of the trusteeship, and the modalities of the transfer of the sovereignty by the trust administering authority on the Southern Cameroon to the authorities of the Republic of Cameroon.

[22] Jan Ludert, Maria Ketzmerick, Julius Heise (2023) The United Nations Trusteeship System, Legacies, Continuities, and Change, P 108, Global Institutions Routledge Taylor & Francis Group 4 Park Square, Milton Park, Abingdon Oxon OX 14 4 RN and Routledge 605 Third Avenue, New York, NY 10158

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The reunification conference envisaged by President Ahmadou Ahidjo was illegal. It would have violated international law and the United Nations Charter. Reunification on a fallacious basis of a *German Kamerun* colony would have been a repudiation of the legality of the very existence of the Republic of Cameroon and its independence as a UN trust territory on January 1, 1960. Reunification was therefore impossible as a matter of international treaty law, German colonies were outlawed by the Treaty of Versailles (1918) Article 119.

Despite the bad faith and misrepresentation about reunification being the purpose and objective of the conference which was decided by UNGA Resolution 1608(XV) to work out the terms and conditions of independence by joining, Ahidjo in his interview with the press on 24 February 1961, nevertheless, expressed the necessity and significance of a conference with the participation of the UK, Southern Cameroons and the Republic of Cameroon. By proposing a conference for the parties to determine the terms and conditions of "reunification", Ahmadou Ahidjo attested to the fact that the Republic of Cameroon did not consider the result of the plebiscite per se terminal and conclusive for the realization of "reunification".

The UN General Assembly did not consider the plebiscite vote in favor of independence by joining the independent Republic of Cameroon conclusive; the reason for UNGA Resolution 1608(XV) with a mandate for the Trust Administering Authority, The Republic of Cameroon and the Southern Cameroons to work out the conditions, terms, and mechanism for its implementation. The outcome of the plebiscite vote was an expression of an intent to achieve independence by joining pursuant to Article 76(b) of the UN Charter.

The erga omnes obligations of the international community towards the fulfillment by the Southern Cameroons of its external rights of self-determination were aborted by the non-compliance with UNGA Resolution 1608(XV) and the annexation of the territory prior to 1 October 1961. President Ahmadou Ahidjo amended the Constitution of the Republic of Cameroon to annex and incorporate the Southern Cameroons as a reunified part of the Republic of Cameroon.

The imposition of reunification through the adjustments of the Constitution of the Republic of Cameroon to annex and colonize the Southern Cameroons amounted to a repudiation of independence by joining, which was the option chosen by the Southern Cameroons during the

plebiscite. It was an evisceration of Resolution 1608 (XV) which was a predicate to the implementation of independence by joining.

Compliance with UNGA Resolution 1608 (XV) had the significance of an obligation and condition subsequent to any measure taken to terminate the trust by virtue of Article 102 of the UN Charter re-emphasized by the UN General Assembly on 14 December 1946 [Resolution 97 (I)] as modified by resolutions 364 B (IV), 482 (V) and 33/141 A, adopted by the General Assembly on 1 December 1949, 12 December 1950 and 18 December 1978, to establish the rules for the application of Article 102 of the Charter.

In an unprecedented violation of the UN Charter, the Trusteeship Agreement, UNGA Resolutions, International Law, and Customary International Law, no treaty of Union was negotiated and entered into by the parties mandated by the UNGA Resolution.

The UN Resolution calling on Southern Cameroons, the Republic of Cameroon, and Great Britain, - to jointly organize a meeting to discuss and agree on the terms of the "independence by joining" before 1st October 1961, was never complied with. Thus, the perspective and opinion of the stakeholders as well as a significant procedural mandate on the terms of "independence by joining" was never available for the General Assembly to make an informed decision concerning the termination of the trust.

In the result, no treaty of union was produced and registered at the UN with the Secretary-General of the UN pursuant to article 102 of the UN Charter to which reference could validly be made concerning compliance with the specific terms of the Trusteeship Agreement then and now pursuant to the UN Charter.

There was therefore no legal instrument available to the General Assembly to legally sustain a motion for the termination of the trust over the Southern Cameroons in conformity with article 76 (b) of the UN Charter. The UN General Assembly resolution terminating the UN Trust over Southern Cameroons proceeded therefore on the basis of misrepresentations made by the Administering Authority.

These misrepresentations were not a substitute in international law for a specific procedure, condition subsequent, and legal instrument requested by the UN General Assembly which was

the sole legal basis on which a proper legally acceptable, and valid decision terminating the trust would have been founded.

In relying on the misrepresentations of the administering power only, without ascertaining whether the mission assigned to all the parties concerned was carried out and its outcome to terminate the trust, the UN General Assembly acted in fundamental breach of its Charter responsibility under Art.76 (b) of the UN Charter, as well as its own Resolution.

Treaties, according to Martin Dixon and Robert McCorquodale, offer states a deliberate method by which to create binding international law and the United Nations and the International Law Commission have created significant multilateral treaties.[23] Being a multilateral treaty, the provisions of the UN Charter are binding on states parties. The case of the Southern Cameroons is one of the breaches of international obligations. For this purpose, under the mandatory provision of Articles 102 and 103 of the UN Charter, the purported union of the Republic of Cameroon with Southern Cameroons cannot be invoked before any UN Organ. It should never have been invoked before the Trusteeship Council as the basis for the termination of the Trust over the Southern Cameroons and before the ICJ in deciding the case over Bakassi Peninsula and the international borders of the Republic of Cameroon.

Alleged Re-unification Proxy of Colonisation

At the root of Cameroon's success in the Bakassi case was its reliance on a certain idea of "re-unification" to deceive the ICJ about the date on which its boundaries crystalized under the principle of utis possidetis juris. The Bakassi peninsula, the subject of the ICJ dispute, is an integral part of the former British Southern Cameroons, as the evidence produced in the Court showed. The Republic of Cameroon had no evidence whatsoever and had to rely on Southern Cameroons documents. The Republic of Cameroon laid claim to the Bakassi peninsula on the allegation without proof, that it had re-unified with the British Southern Cameroons on 1 October 1961 and thereby extended its territory to cover Bakassi.

It is important to expose the fraud on which the ICJ was deceived by exploring the concept of Cameroon's "re-unification" and to see if "re-unification" is at all a concept related to the

[23] Martin Dixon & Robert McCorquodale, Cases and Materials on International Law, Blackstone Press Ltd 3rd Edition p 24

principle of utis possidetis juris. It has already been sufficiently shown that re-unification is alien to the concept of uti possidetis juris; it has no basis in international law.

The Southern Cameroons and French Cameroon (the two countries alleged by the Republic of Cameroon to have re-unified) were two United Nations Trust Territories, each with a distinct and separate mandate. From the moment they emerged as two separate entities from the dismemberment of German Kamerun, they acquired international personalities and went their separate ways. Each had its own international boundaries and was governed under separate mandates under the League of Nations and subsequently the UN system. As *separate territories*, with their own representatives and administering authorities, they had never at any time in their past been governed as one entity. Under German Kamerun, they did not exist at all. In fact, they emerged only from the dismemberment of German Kamerun, which incidentally extended to parts of Chad, the Central African Republic, Congo, etc.

The ICJ decided:

> '*On 1 January 1960, the French Cameroons acceded to independence on the basis of the boundaries inherited from the previous period. Nigeria did likewise on 1 October 1960.*
>
> *In accordance with United Nations directives, the British Government organized separate plebiscites in the Northern and Southern Cameroons, "in order to ascertain the wishes of the inhabitants . . . concerning their future" (General Assembly resolution 1350 (XIII) of 13 March 1959). In those plebiscites, held on 11 and 12 February 1961, the population of the Northern Cameroons "decided to achieve independence by joining the independent Federation of Nigeria", whereas the population of the Southern Cameroons "decided to achieve independence by joining the independent Republic of Cameroon" (General Assembly resolution 1608 (XV) of 21 April 1961).'*[24]

As already stated, the Republic of Cameroon did not produce proof of independence by joining on 21 April 1961 even before October 1, 1961, the date fixed by the UN for independence by joining on conditions which were to be negotiated by the parties following the threshold of self-determination established by the UN Charter and UNGA Resolutions 1514(XV) AND 1541(XV). The legal and factual basis for this decision was fundamentally flawed.

[24] ICJ Judgment para.36

French Cameroon, the UN Trust Territory under the French Administration, gained its independence from France on 1 January 1960 and inherited no other territory but the territory of French Cameroon. British Southern Cameroons, the southern part of the Cameroons under UK Administration, was supposed to achieve its own independence on 1 October 1961 as voted by the UNGA in Res. 1608(XV) of 21 April 1961. Unfortunately, independence never materialized due to its annexation by French Cameroon through the conspiracy of the Administering Authority.

Given that these two territories had never enjoyed any common life together, had mutually exclusive boundaries, spoke different languages, had different Administering Authorities, had different colonial heritages; had different legal systems, different educational systems, different political systems, different cultures and mentalities, the question arises to understand what was meant by the Republic of Cameroon when it invoked "re-unification" as the basis for the crystallization of its boundaries. Can there be a re-unification of entities that had never been unified before? And we cannot talk of the "reunification" of the people of German Kamerun, because this was business between two countries, not of their citizens. Unifying a people is different from unifying two countries. The latter case is strictly governed by international law, while the unification of peoples is not so governed. And who assigned that mission of "re-unifying" the people under the dismembered German Kamerun to French Cameroon? There was simply nothing nostalgic about German Kamerun. The citizens of the two countries hardly saw or knew German Kamerun. Under German Kamerun, there was hardly anything that brought the citizens together to have some memory of a common life together. They did not even consider Germany as their colonial master! What was there to remember about having been colonized by Germany that could give rise to a desire for the people under that colonial rule to wish to "re-unify"?

German Kamerun had ceased to exist under international law as an entity. It was formally dismembered by Article 119 of the Versailles Treaty. New countries were created from it and assigned to new masters and different destinies. These countries inherited new systems and cultures under France and Britain. "Re-unification" was simply an impossibility by any stretch of the imagination. How could anyone be trying to "re-unify" Southern Cameroons with its British heritage and French Cameroon with its French heritage which had absolutely nothing in common?

There could be no question of trying to re-unify German Kamerun or parts of it. Such an attempt would amount to an affront to the international system and international law under which German Kamerun had been extinguished.

The only possible sense in which Cameroon's concept of "re-unification" can be understood is in the sense that French Cameroon was posing as the illegal successor state to a dismembered and unlawful German Kamerun. Even though the Republic of Cameroon emerged from the formal dismemberment of German Kamerun by the Versailles Treaty, it was purporting to give itself the powers and mission to revive German Kamerun! Only on this basis could it invoke the non-legal concept of "Re-unification", an affront to the international system which gave birth to French Cameroon itself! The effrontery was so brazen that it was able to deceive the International Court of Justice with it. Curiously, French Cameroon's fraud ended with the Southern Cameroons. It did not attempt to lay claim to other parts of German Kamerun that were in Chad, the Central African Republic, the Congo, etc.

If French Cameroon alleged re-unification, what instruments did it produce to prove it? Was there any evidence of a treaty of union between French Cameroon and the Southern Cameroons it purported to have "re-unified" with? Under which treaty or international instruments was this "re-unification" found? What did Cameroon present to the court to prove that the Cameroon before the court was the product of "re-unification" between the Southern Cameroons and French Cameroon? In fact, absolutely no evidence was produced. The ICJ began consideration of the case on the fallacious presumption that there was only one Cameroon and that the Bakassi peninsular must either belong to Nigeria or to that Cameroon. The facts reveal that this presumption was completely wrong and if the court had only interpreted the principle of Uti possidetis juris correctly, it would have found out that Cameroon had no boundary with Nigeria at Bakassi.

Supposing that a re-unification occurred but could not be proven, how then could it be distinguished from covert annexation? Was there any instrument showing the adjustment of boundaries under Article 102(1) of the UN Charter between the countries allegedly "re-unified"? In other words, what was the legal proof that Cameroon's territory acquired at its independence on 1 January 1960 had changed?

To all intents and purposes, this was a deceitful scheme not only to fool the ICJ but also to illegally annex the Southern Cameroons. Cameroon's re-unification claim is a fraudulent claim on the territory of the Southern Cameroons. Re-unification is simply another word for French Cameroon imperialism and expansionism, a crime in international law; it was an attempt to impose its French-inherited systems on English Cameroon, but not to "re-unify" anything because there was nothing to re-unify.

The international legal system demonstrated its limitations in the Bakassi case by rejecting the interpleader of the Southern Cameroons to intervene in the case. The Southern Cameroons, in pursuance of its rejection of French Cameroon annexation and imperialism, had petitioned the ICJ to intervene in the case, but it was denied! This was not a case that could be rightfully decided without also hearing from the Southern Cameroons with which Cameroon claimed to have "re-unified". It claimed re-unification but could not tender the smallest proof for it to the court. The colonial masters, posing as makers of international law, had effectively conspired to refuse access to the ICJ to former Trust Territories, a terrible injustice as evidenced in this case. The unfortunate result is that annexed territories like the Southern Cameroons are securely excluded from the fraud occurring over their own territories before the ICJ!

In addition to the above, it should be noted that French Cameroon categorically rejected "independence by joining" the Southern Cameroons when it voted against Southern Cameroon's independence in UNGA Res. 1608(XV). Prior to the Plebiscite vote, the Southern Cameroons had entered into an understanding that should the vote go in favor of achieving independence by joining the Republic of Cameroon, a federation of two states equal in status would be formed. But even after entering into this understanding with the Southern Cameroons, French Cameroon went ahead to vote against Southern Cameroons' independence, thus rejecting any union with the Southern Cameroons. It could not then talk of re-unification with a territory whose independence it had rejected. Its intention was that of annexation.

Further, in violation of the UN Charter and international law, the Republic of Cameroon annexed the Southern Cameroons as far back as September 1961. The Constitution of the Federal Republic of Cameroon was promulgated into law on September 1, 1961 (Law no.24/61) by Ahmadou Ahidjo President of the Republique du Cameroun. This constitution was never ratified by the Southern Cameroons National Assembly or endorsed by its people through a

referendum. It was a unilateral law of the Republic of Cameroon, an amendment of its domestic law. Presenting the constitution bill before the Parliament of the Republique du Cameroun on August 11, 1961, shortly before its adoption on August 14, 1961, President Ahmadou Ahidjo of the Republique du Cameroun informed the assembled Deputies that It was not a new constitution but an amendment of the constitution of Republique du Cameroun to accommodate a part of its territory which was returning to the motherland. He stated that a treaty of union was not needed nor necessary for the purpose but an amendment of the existing constitution.

The Republic of Cameroon achieved independence on 1 January 1960. On what date did the Southern Cameroons become a part of its territory for its president to state in August 1961 that its constitution was being amended to accommodate a part of its territory which was returning to the motherland? The trusteeship over the Southern Cameroons was due to be terminated only on 1 October 1961, but earlier in August of the same year, the French Cameroon president was declaring it to be a part of its territory returning to the motherland! The Republic of Cameroon was therefore making a mockery of the whole international system and order through which it came into being and which also gave birth to the Southern Cameroons!

It should be further noted that the Republique du Cameroun joined the United Nations on 20 September 1960, at a time when the Southern Cameroons were still under the Trusteeship system. Consequently, the seat of the Republique du Cameroun at the UN does not represent the two countries!

The question must therefore be posed how the ICJ concluded that the boundaries of the Republic of Cameroon had changed from what they were at its independence on 1 January 1960 to something else without seeing the required proof under Article 102(1) of the UN Charter. Such proof could only have come from the records of the Secretariat General of the UN. In the absence of such proof, the ICJ could simply, under Article 102(2), not have entertained any claim of re-unification!

The veil of annexation has finally been lifted with the genocidal war that was declared on the Southern Cameroons in 2017 by the Republic of Cameroon when the people of the Southern Cameroons came out en masse to denounce the annexation of their country. In 2019, the

President of French Cameroon openly admitted at the Paris Peace Conference that throughout, the policy of French Cameroon has been to assimilate the Southern Cameroons. This proves that it has never been union but annexation. Even the federation which was touted as proof of union had long been scrapped by French Cameroon at the time of the Bakassi case. There was no trace even of a pretense of union at the time of the war.

As it turns out, there is not a single document signed between the two countries the Republic of Cameroon claimed to have been "re-unified" which proves that re-unification! The ICJ was just being led in its sleep as it were.

It is manifestly clear therefore that there was never any "re-unification" between the Republic of Cameroon and the Southern Cameroons; that "re-unification" is an impossibility between those two countries given that their paths had never crossed prior to the alleged re-unification in 1961; that it was impossible to talk of the re-unification of one country with a British heritage and another with a French heritage which had no previous past together; that the Republic of Cameroon simply annexed the Southern Cameroons and covered its annexation through the fact that the Southern Cameroons is denied access to international justice by the UN international legal system.

These facts leave no doubt about the extent to which the ICJ was misled in this case. How did the ICJ so mislead itself in the Bakassi case to fundamentally alter the interpretation of the principle of utis possidetis juris without any evidence whatsoever? The danger of the ICJ position in the case is that countries that have annexed neighboring territories would change their independence dates to that of the annexation and still claim to be complying with the doctrine of Uti possidetis juris! Cameroon's supposed victory at the ICJ in the Bakassi case cannot be said to have been based on the true principle of Uti possidetis juris. It was a massive fraud. It simply not be understood how the ICJ could reach this decision, claiming it to be based on that principle.

Disregard of Established Principles and Jurisprudence

The Cairo Resolution which the Republic of Cameroon relied on to substantiate its claim of title is OAU/AU Resolution AHG /Res 16(1) which was passed at the first session of African Heads of State and Governments. This resolution was later enshrined in Article 4 (b) of the Constitutive Act of the African Union.

Article 4(b) of the AU Constitutive Act states: 4. The Union shall function with the following principles:

Article 4 (b). Respect of borders existing on achievement of independence.

It is significant to state that the connection that the Republic of Cameroon sought to make between the OAU/AU Cairo Resolution, Article 4(b) of the AU Constitutive ACT, and title Effectivité does not arise from the Cairo resolution or the AU Constitutive Act.

Uti Possidetis Juris is a principle of customary international law that serves to preserve the boundaries of colonies emerging as states. In his book on International Law, Professor Malcom Shaw states that the application of the principle has the effect of freezing the territorial title existing at the time of independence to produce what the ICJ Chamber described in the Burkina Faso v Mali case as the "photographs of the territory" at the critical date.[25]

He posits that the concept of a critical date is of special relevance with regard to the doctrine of Uti Possidetis Juris which posits that a new state has the borders of the predecessor entity, so the moment of independence itself is a critical date. [26]

Pursuant to the Cairo resolution and Article 4 of the AU Constitutive Act, the borders which the Republic of Cameroon inherited at independence ought to be the borders it inherited on the critical date on which it attained independence on January 1, 1960.

In the Land and Maritime Border case, the Republic of Cameroon v Nigeria- Equatorial Guinea Intervening, the Republic of Cameroon urged the ICJ to apply the Cairo Resolution 17-21 July 1964 and the AU Constitutive Act 4 (b) to find that its boundaries crystalized and were frozen on the date of independence which it alleged is the date of its reunification with the Southern Cameroons on 1 October 1961.

The Cairo Resolution and AU Constitutive Act Article 4 (b) established that international borders of African countries were colonial borders which were inherited and frozen on the critical dates on which the territories attained independence.

[25] Case concerning Military and Paramilitary Activities Against Nicaragua (Nicaragua v United States) Merits Judgment , ICJ Reports 1986, p 568, 80 ILR , www.icj-cij.org , See also Malcom, N. Shaw p448".
[26] Malcom N. Shaw p.431

In attempts to prove that its international borders complied with this principle, the Republic of Cameroon pecked its case on an alleged reunification with the Southern Cameroons on 1 October 1961.

The alleged reunification was a fraudulent scheme that the Republic of Cameroon invented to repudiate the clear choice of independence by joining which the Southern Cameroons voted for, on 11 February 1961.

The option of independence by joining was not realized on 1 October 1961. The reason for this was that the predicate conditions which were established by UNGA Resolution 1608 (XV) for its realization were not met.

The Republic of Cameroon proceeded to repudiate the independence by joining which the Southern Cameroons voted for on 11 February 1961 by imposing reunification which it construed as annexation and enforced through absorption and colonization through a unilateral adjustment and amendment of its Constitution on September 1, 1961, and militarily occupying the territory on 30 September 1961.

The link or nexus between the supposed reunification of the Republic of Cameroon and the Southern Cameroons and the principle of Effectivité and title does not flow from the AU Constitutive Act and the OAU Cairo Resolution. In this context, it was not established as a matter of law.

Apart from alleging without opposition from Nigeria, the Republic of Cameroon did not present factual, testamentary, and legal proof of the alleged reunification on which its claim of title was based. Proof of independence by joining was not an issue in the case. It was not raised at all. An alleged claim of reunification on 1 October 1961 was not challenged or subjected to evidentiary and legal scrutiny by Nigeria. These central issues in the case were therefore not discussed and therefore not resolved by the ICJ.

Martin Dixon & Robert McQorquodale, citing the ICJ Arbitration decision in the Island of Palmas Case (The Netherlands v United States) 2 RLAA (1928) 828 stated that “contemporary approaches to international law consider three primary matters with respect to sovereignty over territory: Effective occupation, consent, and right of self-determination” with the basis of

sovereignty over territory today by effective occupation, "being the continuous and peaceful display of sovereignty".[27]

The principle of self-determination, which is a consideration for the determination of sovereignty applies to the Southern Cameroons Case. Ian Browlie states that the present position of international law is that self-determination is a legal principle, and that United Nations Organs do not permit Article 2 paragraph 7 to impede discussion and decision when the principle is in issue.[28]

The United Nations Resolution 1608 (XV) was intended to enable the Southern Cameroons to exercise their right to self-determination in fulfillment of Article 76 (b) of the UN Charter. The non-compliance with UNGA Resolution 1608 (XV) in the termination of the trust by UK and the annexation of the Southern by the Republic of Cameroon, the right of self-determination of the Southern Cameroons was subverted.

Professor Malcom Shaw KC writes that although the exercise of effective authority is a crucial element, …. what acts of sovereignty are necessary to find title will depend in each instance upon all the relevant circumstances of the case including the nature of the territory involved, the amount of opposition (if any) that such acts on the part of the claimant state, have aroused, and the international reaction.[29]

Effectivité and title claims of the Republic of Cameroon over Southern Cameroons derived from territorial rights and status which were extinct under Article 119 of the Treaty of Versailles and became League of Nations mandate territories under Article 22 of the League of Nations Charter under allied powers. The Republic of Cameroon became a mandated territory under France and therefore a trust territory under Article 76 (b) of the United Nations Charter. British Cameroons acquired the same status under the United Kingdom of Great Britain and Ireland. The Republic of Cameroon achieved its independence on 1, January 1960 as a trust territory of the United Nations under French administration. The Southern Cameroons had a right to exercise their right to self-determination and independence under Article 76(b). UNGA Resolution 1608(XV) was an avenue through which that right was to be exercised. Annexation for the purpose of reunification did not confer a valid title in international law based on the

[27] Martin Dixon & Robert McCorquodale Ibid p 258
[28] Ian Brownlie, Principles of Public International Law, Oxford University Press, Fifth Edition p 601
[29] Malcom N. Shaw, p 432

facts and the law in this case. The ongoing war in the Southern Cameroons is evidence of the resistance and non-acquiescence to the annexation and colonial status imposed on the Southern Cameroons.

The war which the Republic of Cameroon declared on the Southern Cameroons has claimed the lives of thousands of armless civilians, blighted the territory with terror, extermination, deportation of victims to neighboring countries, rape as a weapon of war, sexual slavery, torching of over 600 civilian settlements, mass looting and plunder of the existential subsistence economy of the Southern Cameroons.

Based on the foregoing, the Republic of Cameroon cannot validly rely on the ICJ judgment against Nigeria as the basis of its title over the Southern Cameroons or part of the Southern Cameroons. Neither the Republic of Cameroon nor Nigeria has a better claim of title over the Southern Cameroons or any part of its territory.

Article 59 of the ICJ Statute states that: The Decision of the Court has no binding force except between the parties and in respect of that particular case. For this reason, this case is not binding on the Southern Cameroons.

Annexation and The Infamy of Colonial Rule

The Republic of Cameroon relied on a violation of international law to justify its claim over the internationally established borders of the Southern Cameroons and part of its territory. The alleged root of the title of the Republic of Cameroon over Southern Cameroons-Ambazonia is based on a falsification of history, a misrepresentation, and a misapplication of the principles of international law on the status of the Southern Cameroons.

The Republic of Cameroon manipulated, amended, and adjusted its constitution on September 1, 1961, to annex and colonize the Southern Cameroons. In so doing, it ignored independence by joining which the Southern Cameroons opted for in a UN-supervised plebiscite on February 11, 1961.

The amended Constitution of the Republic of Cameroon, which was promulgated into law on September 1, 1961, as the Constitution of the Federal Republic of Cameroon by Ahmadou Ahidjo President of La Republique du Cameroun) (Law no.24/61) provided:

Article 1. With effect from the 1st of October 1961, the Federal Republic of Cameroon shall be constituted from the territory of the Republic of Cameroon, hereafter to be styled East Cameroon, and the territory of the Southern Cameroons, formerly under British trusteeship, hereafter to be styled West Cameroon.

Article 2. (1) National sovereignty shall be vested in the people of Cameroon who shall exercise it either through the members returned by it to the Federal Assembly or by way of referendum; nor may any section of the people or any individual arrogate to itself or himself the exercise thereof.

Article 47. (1) No bill to amend the Constitution may be introduced if it tends to impair the unity and integrity of the Federation.

Article 50. Notwithstanding anything in this Constitution, the President of the Federal Republic shall have power, within the six months beginning from the 1st October 1961 to legislate by way of Ordinance having the force of law for the setting up of constitutional organs, and, pending their setting up, for governmental procedure and the carrying on of the federal government.

YAOUNDE, the 1st of September 1961 AHMADOU AHIDJO

Legitimization Of Criminal Conduct

The Constitution of the Federal Republic of Cameroon was promulgated into law on September 1, 1961 (Law no.24/61) by Ahmadou Ahidjo President of the Republique du Cameroun who signed it in his capacity as President of the Republique du Cameroun.

Prior to the promulgation of the said Constitution on September 1, 1961, it was adopted by the Parliament of La Republique du Cameroun on August 14, 1961, by a vote of 88 and 6 abstentions.

Presenting the constitution bill before the Parliament of the Republique du Cameroun on August 11, 1961, shortly before its adoption on August 14, 1961, President Ahmadou Ahidjo of the Republique du Cameroun informed the assembled Deputies that It was not a new constitution but an amendment of the constitution of Republique du Cameroun to accommodate a part of its territory which was returning to the motherland. He stated that a treaty of union was not needed nor necessary for the purpose but an amendment of the existing constitution.

The said Constitution was not submitted to the House of Assembly of the Southern Cameroons to obtain the sovereign will of the Southern Cameroons and for adoption. It was imposed after obtaining the unilateral adoption and promulgation into law by the Republique du Cameroun. This process was a complete evisceration and repudiation of the independence by joining option which the Southern Cameroons voted on February 11, 1961.

Left without protection and with the complicity of the Administering Power, Great Britain, the Southern Cameroons were annexed and colonized by the Republic of Cameroon in violation of international law, and Ahidjo's commitment before the 49th meeting of the Fourth Committee of the UN in 1959 that "*French Cameroun is not annexationist, if our brothers of the British zone wish to unite with independent Cameroun, we are ready to discuss the matter with them, but we will do so on a footing of equality".*

It was a subversion and betrayal of the Sacred Trust between the Southern Cameroons and the United Nations. This explains why Her Majesty, the Queen's representative, Governor-General J.O Fields was not in Buea on October 1, 1961, which was fixed for the realization of the independence by joining.

In the evening of 30 September 1961, some twenty-five kilometers away from Buea, the capital of the Southern Cameroons, the representative of Her Majesty the Queen of England, the Trusteeship Administering Power, shamefully surrendered sovereignty over the Southern Cameroons to Ahmadou Ahidjo, the President of Republic of Cameroon.

The event was marked by a low-keyed military ceremony organized by the British Army which lowered the Union Jack for a modified flag of the Republic of Cameroon to be raised in its place. That marked the calamitous, treacherous, and shameful exit of Great Britain. The event sowed the brutal seeds of an ongoing genocidal war and atrocity crimes in Africa. The bloodletting and the impunity with which it is caused by the Republic of Cameroon has not sheered into the conscience of the international community, particularly, the United Nations and the African Union, perhaps, because it is African blood that is flowing.

The next morning on October 1, 1961, there was no United Nations and no Administering Authority on its behalf present to hand over the instruments of sovereignty to the elected leaders of the Southern Cameroons. The people of the Southern Cameroons were betrayed and sacrificed. The UN and it's administering authority the United Kingdom, as well as the

Republic of Cameroon, violated their ergo Omnes obligations to recognize, respect, and enforce the rights of the Southern Cameroons to self-determination guaranteed by Article 76 (b) of the UN Charter, UNGA Res. 1514(XV), UNGA Res. 1541(XV) and UNGA Res.1608(XV) to attain independence by joining the Republic of Cameroon on terms freely negotiated and agreed to between parties of equal status.

Circus On the Floor of The House of Assembly

On 14 September 1961, PM Foncha tabled a motion in his name before the Southern Cameroons House of Assembly urging the House to consider the following motion titled, The future of the Federal Republic of Cameroon:

> "Approve the action of the leaders of the Southern Cameroons in the negotiations with the government of the Republic of Cameroon concerning the form of the future Federation and thank the President and government of the Republic of Cameroon for the co-operative and brotherly manner in which they conducted negotiations".

The motion was deferred after a lengthy rebuke from Hon Motomby Woleta CPNC opposition MP, then brought back by Mr Salomon T. Muna and adopted on September 18, 1961.

Prior to the adoption of this motion of thanks on September 18, 1961, Hon Motomby Woleta, again took to the floor and placed on record that no member of the opposition party had seen the text of the purported constitution about which a vote of thanks was sought on the form of the future Federation. Although the supposed vote of thanks was voted, without any other MP taking the floor, the representations by Hon Motomby Woleta suggested that the so-called Federal Constitution was not discussed and/or submitted for debate and adoption by the Southern Cameroons House of Assembly.

The motion tabled by Prime Minister John Ngu Foncha in his name and not that of the government of the Southern Cameroons concerned solely the form of the future federation in the already promulgated amended Constitution of the Republic of Cameroon, which was renamed Constitution of the Federal Republic of Cameroon without the sanction or adoption by the Southern Cameroons House of Assembly.

Coming as it did on 18 September 1961, the motion was a belated attempt to retroactively endorse and validate the annexation, absorption, and colonialization of the Southern

Cameroons which had occurred on September 1, 1961. It was a circus to mask the annexation and slave status which the Southern Cameroons were to endure henceforth.

As specified in the said Federal Constitution, Ahmadou Ahidjo promulgated it in his capacity as President of the Republic of Cameroon. The Southern Cameroons House of Assembly did not adopt it. The Prime Minister of the Southern Cameroons did not co-sign it on behalf of the Southern Cameroons. The British Administering Authority did not sign it.

The operating Southern Cameroons (Constitution Order in Council 1960) was applicable in the Southern Cameroons prior to September 1, 1961, on that date and until October 1, 1961. As a matter of law, its validity was unaffected by the amendment of the Constitution of the Republic of Cameroun. The Southern Cameroons Constitution in Council did not empower any person(s), or institutions, other than the Southern Cameroons House of Assembly and the Governor-General on behalf of the Trust Administering Authority to sign binding treaties on behalf of the Southern Cameroons.

The so-called Federal Constitution was purely an internal Constitutional arrangement of the Republic of Cameroon. There was absolutely no doubt that the supposed Federal Constitution lasted only eleven years and was abolished in the manner it was established. The change of nomenclature to the United Republic of Cameroon and then back to the name of the Republic of Cameroon at independence lasted twelve years.

The said Constitution could not legally be construed as fulfilling or implementing UNGA Resolution 1608 (XV). There was no provision in the said Constitution purporting to have that effect. Besides, the Republic of Cameroon at the date of the promulgation of the impugned Constitution did not exercise sovereignty over the Southern Cameroons. The Republic of Cameroon was not the Trust Administering Authority over the Southern Cameroons. It was not a party to the Trusteeship Agreement over the Southern Cameroons.

Constitutional Noose of Impunity

Article 59 of the said Federal Constitution stated that: *This Constitution shall replace the Constitution of the Republic of Cameroun approved on the 21 February 1960 by the people of Cameroon; shall come into force on the 1st of October 1961; and shall be published in its new form in French and in English, the French text being authentic*. There was no provision regarding

the Southern Cameroons Constitution (Order in Council 1960) and no statement about the government of the Southern Cameroons which was recognized in UNGA Res. 1608 as the duly recognized party to the negotiation of implementable terms of the union after the independence on 1 October 1961.

The Constitution of the Republic of Cameroon which the Federal Constitution replaced was adopted by the people of the Republic of Cameroon on 21 February 1960 and promulgated into law by Ahmadou Ahidjo, then Prime Minister pursuant to law no.59-56-of 31 October 1959 on March 4, 1960. The said Constitution in the following essential provisions stated:

The prime minister head of government has promulgated this constitutional law whose provisions stated:

Title One: Sovereignty

Article 1, The Republic of Cameroon is a one, united, and indivisible, lay, democratic, and social republic.

> Article 50, No constitutional amendment to change the republican nature of the state, territorial integrity of the state, or the democratic principles of the state shall be admissible. The provision of Article 1 above (Constitution of 21 February 1960) of the Republic of Cameroun being one, united, and indivisible state was not retained in the version, which was modified and promulgated by Ahidjo on September 1, 1961, as the Federal Constitution.

Article 50 of the Constitution of the Republic of Cameroon expressly outlawed any Constitutional amendment to change the territorial integrity of the state. Therefore, by Article 50 of its own Constitution, an amendment to change the territorial integrity of the Republic of Cameroun, which was frozen on the critical date of January 1, 1960, was illegal, thus void.

This provision may be the rationale for the Republic of Cameroon promulgating Law no.24/61) of *Se*ptember 1, 1961, purely to annex the Southern Cameroons rather than negotiate a treaty for the actualization of independence by joining through the implementation of UNGA Resolution 1608 (XV). This must be the reason why, by law no 84-1 of February 1984 the Republic of Cameroun reverted to its constitutional legality at independence which was ordained and protected by Article 50 of its founding constitution of February 21, 1960.

PART I: The state and sovereignty.

> Article 1 1. The United Republic of Cameroon shall, with effect from the date of entry into force of this law, be known as the Republic of Cameroon (Law No 84-1 of February 4, 1984).
>
> 2. The Republic of Cameroon shall be a decentralized unitary State. It shall be one and indivisible, secular, democratic, and dedicated to social service. It shall recognize and protect traditional values that conform to democratic principles, human rights, and the law. It shall ensure the equality of all citizens before the law.

This constitutional arrangement was repeated by Law No. 96/06 of 18 January 1996 amending the Constitution of 2 June 1972, amended and supplemented by Law No. 2008/001 of 14 April 2008, thus:

The National Assembly has deliberated and adopted; the President of the Republic promulgates the law whose content follows Law No.96 /06 of 19 Jan. 1996:

Title I: State and Sovereignty

> Article I: (1) The United Republic of Cameroon takes from the entry into force of this Law the name of the Republic of Cameroon (Law No. 84-1 of 4 February 1984). (2) The Republic of Cameroon is a decentralized unitary State. It is one and indivisible, secular, democratic, and social.

Yaoundé, 18 January 1996 The President of the Republic Paul BIYA

Conclusion

The Judgment of the ICJ in the Land and Maritime Boundary between the Republic of Cameroon and Nigeria is another piece of the legal puzzle of legal exceptionalism in the quixotic and capricious playbook of international law, international justice, international politics, and neo-colonialism driven by neocolonial interests in the International Justice. The Southern Cameroons Exceptionalism demonstrates why without the decolonization of international law, it will continue to legitimize the annexation, colonization, and neo-colonial interests in the Southern Cameroons and other battlegrounds of colonial economic interests. Cameroon and Nigeria relied on the ICJ and this case to advance neocolonial economic interests. Once the judgment was obtained, the two countries publicly issued a public statement twenty-two years after, in which they made a tacit admission that their primordial interest was to lay down a scheme on the exploitation of hydrocarbons on the ancestral lands of people whom the ICJ without any legal authority placed at the alleged

"legendary hospitality" fiat of Cameroon which is engaged in a genocidal war against the Southern Cameroons with impunity and on the watch of the international community. It has been established that the UK (the Trusteeship Administering Authority) failed to enforce the right of self-determination of the Southern Cameroons which was mandated by international law and UNGA Res.1608(XV)(5) pursuant to the threshold defined and mandated by UN Declaration 1514 (XV) of 12 December 1950 on granting independence to colonial peoples and UN Res 1541(XV) of 16 December 1960 establishing the 'principles which should guide members in determining whether or not an obligation exists to transmit the information called for under Article 73 e of the Charter which determined that that to ensure decolonization, complete compliance with the principles of self-determination is required'. The UK conspired and facilitated the annexation and colonization of the territory by the Republic of Cameroon. This was a calculated subterfuge for a proxy preservation of colonial status over the resource rich territory of Southern Cameroons.

The claim of title over the disputed Southern Cameroons territory of Bakassi and indeed the territory of the Southern Cameroons was based on falsehoods and without the ICJ holding the Republic of Cameroon to any standard of proof whatsoever. The ICJ jettisoned its established jurisprudence, misapplied established principles of international law and ignored conventional guardrails of international justice; the international rule of law, and fundamental fairness to establish its jurisprudence of Southern Cameroons Exceptionalism which is a slur on the integrity of the Court and International Justice. The judgment served colonial and neocolonial economic interests and did not free, fair, and credible international justice.

Cameroon alleged that its claim of title over the Southern Cameroons was premised on the 'formal termination of the UN trusteeship over the Southern Cameroons by the UN General Assembly Resolution 1608 (XV). The ICJ did not ask for proof and so did not scrutinize Resolution 1608 (XV) which fixed the date for the termination of the trust and independence by joining Cameroon on 1, October 1961. Resolution 1608 (XV) was made in April 1961 and the Republic of Cameroon modified its undemocratic constitution which was imposed by France before it attained independence to annex the Southern Cameroons before 1 October 1961.

Cameroon conceded that it achieved its independence on 1 January 1960 by which date the Southern Cameroons was not part of the Republic of Cameroon. This paper has demonstrated that the claim of reunification in October 1961 by the Republic of Cameroon as a fulfillment of

the requirements of Article 4(b) of the AU Constituent ACT and the Utis Possidetis Juris principle which was endorsed by a resolution of the African Heads of State and Governments in Cairo in their conference from 17-21 July 1964 was without merit and legal basis. It was a fraud. The ICJ did not provide a clear reason why its departed from its established jurisprudence in applying this principle outside the critical date on which the territorial borders of the Republic of Cameroon were frozen and recognized as such in international law.

The allegation that the reunification of the Southern Cameroons and the Republic of Cameroon occurred on 1 October 1961 is without legal merit. It was therefore inaccurate to allege that 1 October 1961 was the critical date on which the Republic of Cameroon acquired title over the Southern Cameroons and its borders crystalized and were frozen. The Republic of Cameroon has since changed the date of its alleged reunification to 20 May 1972, a date it celebrates as its national day.

After laying fanciful claims of title over the Southern Cameroons based on an alleged critical date of 1 October 1961, the Republic of Cameroon produced no legal instrument recognized in international law to justify that a reunification was possible under the circumstances and that it indeed occurred and that of independence by joining after compliance with conditions discussed and agreed pursuant to UNGA Resolution 1608 (XV). Consequently, no valid legal instrument or treaty was duly submitted and registered in the Secretariat of the UN pursuant to Article 102 of the UN Charter for it to have the validity and enforcement value under Article 103 of the UN Charter.

A review of the Republic of Cameroon's constitutional history establishes that its constitution has consistently been manipulated to attempt to mask the annexation and colonial status to which it annexed and subjected the Southern Cameroons. There was no provision in the purported federal constitution about Cameroon being one and indivisible. The said provision existed only in the constitution of the Republic of Cameroon at independence in 1960 and its subsequent adjustments in 1972, 1984, and 1996.

The Republic of Cameroon pledged in its various constitutions to respect international law and the UN Charter. The annexation and imposition of colonial status on the Southern Cameroons were violations of international law and the Republic of Cameroon's UN Charter obligations.

These violations individually or in aggregate merit a robust intervention by the United Nations and the International Community to end impunity, annexation, colonization and war which threatens peace and security in the Gulf of Guinea. Perpetrators of atrocity crimes must be held accountable, and the root causes of the Southern Cameroons conflict must be addressed for the supremacy of the international rule of reign.

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Article I: (1) The United Republic of Cameroon takes from the entry into force of this Law the name of Republic of Cameroon (Law No. 84-1 of 4 February 1984). (2) The Republic of Cameroon is a decentralized unitary State. It is one and indivisible, secular, democratic and social.

September 1, 1961 as the Constitution of the Federal Republic of Cameroon by Ahmadou Ahidjo President of La Republique du Cameroun) (Law no.24/61

The Constitution of the Republic of Cameroon which the Federal Constitution replaced was adopted by the people of the Republic of Cameroon on 21 February 1960 and promulgated into law by Ahmadou Ahidjo, then Prime Minister pursuant to law no.59-56-of 31 October 1959 on March 4, 1960

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