

The Role of Political Influence in International Adjudication: A Study of the Cameroon V. Nigeria Case Before the International Court of Justice

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ABSTRACT

This paper examines the extent to which international politics affects decisions and ultimately compliance with judgments of the International Court of Justice (ICJ) with a focus on the case between Cameroon v. Nigeria: Equatorial Guinea Intervening. The ICJ is the principal judicial organ of the United Nations established under the UN Charter as an independent and impartial judicial institution responsible for resolving disputes according to international law, conventions, customs, judicial decisions and opinions of scholars on international law, yet it is often bogged down by political considerations as this paper highlights. This paper examines the legal foundation upon which the decision in the case of Cameroon v. Nigeria is anchored, particularly the reliance on the Anglo-German Treaty of 1913, the principle of *uti possidetis juris* and relevant provisions of the ICJ Statute. It further explores the role of colonial history, diplomacy, international political pressure, economic interests and regional stability in determining the outcome and implementation of the judgment. The study concludes that politics plays an important role in international adjudication.

KEYWORDS: International Court, Justice, Political Influence, Review, Intervening.

INTRODUCTION

The conflict between Nigeria and Cameroon was dispute centred on sovereignty over the oil-rich Bakassi Peninsula which is located in the gulf of Guinea between Nigeria and Cameroon. The conflict highlights the fact that disputes between sovereign states often takes political dimension because of the dynamics of domestic politics, international diplomacy, economics and geopolitical interest which determines the behaviour of states in conflicts involving other states. A number of territorial disputes like Chad v Libya amongst others were determined by the International Court of Justice as legal disputes although with very strong political undertones. While legal principles guided the final judgement delivered by the ICJ in 2002, very strong political undertones influenced the behaviour of the state parties during the proceedings and after judgement was delivered with respect to compliance with the decision of the court.

This article examines how politics influence shaped the outcome of the case by exploring the historical origin of the disputes, the socio economic dynamics of the case and international diplomacy.

THE ICJ AND PROBLEMS OF POLITICAL INFLUENCE

Every sovereign state is a political entity, and as such, disagreement between states is a political nature.¹ By comparison, civil cases determined by domestic courts do not have the kind of political high stakes in disputes between sovereign states who are sometimes prepared to go up in arms against one another. Such matters are always of political significance to the state parties. For example, on November 29, 1979, the United States instituted proceedings against the Islamic Republic of Iran in respect of the seizure, hostage taking and detentions of the United States diplomatic and consular staff in Tehran. The United States contended that the government of Iran had violated international legal obligations for tolerating, encouraging, failing to prevent and punish the hostage taking conduct. In this case, the government of Iran challenged the ICJ's jurisdiction on the ground that the dispute brought by the United States "only represents a marginal and secondary aspect of an overall problem, one such that it cannot be studied separately, and which involves, inter alia, more than 25 years of continental interference by the United States in the internal affairs of Iran."² Indeed, the origin of the Iran hostage crisis can be traced back to 1951 when Iran's newly elected Prime Minister Muhammed Mossadegh planned to nationalize Iran's oil industry, which would undoubtedly threaten the strategic interests of the United States over Iran's oil reserves. Anti-American sentiment had already been bubbling beneath the surface when the shah's government came to power in August 1953. When President Carter allowed the Shah of Iran, Mohammed Reza Pahlavi, to enter the US for the medical treatment of an advanced malignant lymphoma in 1979, long held Anti-American rage in Iran was triggered: a group of pro-Ayatollah student seized sixty-six US diplomats and embassy employees on November 4, 1979.

In the same way, in 1986, the government of Nicaragua brought a claim against the United States in respect of the threat or use of force against Nicaragua and the intervention in Nicaragua's internal affairs. However, this dispute also only forms one element of a broader political dispute between two states during the Nicaraguan revolution. Immediately following the overthrow of the Somoza dictatorship in 1979, the Regan administration began to allocate both financial and material aids to the Contras, and later secretly and illegally train and arm the Contras in order to destabilize the Sandinista regime.

As one can see from these cases brought to the Court by the member states in the past, the concept of 'legal disputes' is a crucial but unfortunately a poorly defined term. On the one hand, it describes the exact scope of Court's judicial function. On the other hand, since all disputes between sovereign states arise in political contexts, how does the ICJ decide whether a question is or is not legal? As Baron Marschall Von Biebersyein pointed out at The Hague Peace Conference.³ In 1907, the word *legal* is the nail on which we have hung on it will fail to the ground. Hence, among these contentious cases brought to the ICJ by the sovereign states, a sharp

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¹ Hersch Lauterpacht, *The Function of Law in the International Community* (Oxford: Oxford University Press 1933) 142

² Case Concerning United States Diplomatic and Consular Staff in Tehran (United States of America v Iran) [1980] ICJ 1.

³ Proceedings of The Hague Peace Conference, *Carnegie Endowment for International Peace*, Vol 2, 50

line between legal and political problems cannot be easily drawn based on the subject matter or the factual matrix of particular cases.

Land And Maritime Boundary Dispute Between Cameroon and Nigeria (Cameroon v Nigeria; Equatorial Guinea Intervening)

Fact: Cameroon and Nigeria are states situated on the West Coast of Africa. Their land boundaries extend from Lake Chad in the North to the Bakassi Peninsula in the South. Sovereignty over the Bakassi Peninsula and parts of the Lake Chad region had been a subject of long dispute between the two states. The dispute between the parties as regards their boundary falls within an historical framework marked initially in the 19th and 20th centuries by the action of the European powers. The delimitation of the parties' maritime boundary is an issue of more recent origin, the history of which likewise involves various international instruments.⁴

Assumption of jurisdiction by the ICJ: On 29th March 1994, Cameroon initiated proceedings by an application inviting the Court to determine the course of the maritime boundary between the two states beyond the line fixed in 1975. Both parties made declaration accepting the jurisdiction of the Court.

On 30th June 1999, Equatorial Guinea filed an application for permission to intervene in the dispute pursuant to Article 62 of the Statute of the ICJ. Neither Cameroon nor Nigeria objected to Equatorial Guinea intervening.

Judgement: On 10th October 2002, the ICJ entered judgement by 14 votes to two, (Judge Koroma and Judge Adhoc Ajibola dissenting). Awarding Cameroon, the Lake Chad boundary it sought.⁵ The Court also awarded Cameroon the Bakassi Peninsula. The Court obligated both parties to withdraw their police and military from the affected area without any precondition.⁶ In respect of Equatorial Guinea the Court drew the maritime boundary in the manner it sought.

Post Judgement Compliance: The judgement which was largely in favour of Cameroon initially met with a great deal of reluctance by Nigeria in terms of her unwillingness to comply. Because the judgement involved giving part of its territory i.e. the Bakassi Local Government Area of Nigeria through its president at the time, General Olusegun Obasanjo argued that the implementation of the judgement would require an amendment of the Constitution of the Federal Republic of Nigeria (CFRN) (1999).⁷

Cameroon contended that both countries previously agreed to fully comply with the ICJ judgement, Nigeria on her part denied the existence of any such agreement.⁸ The Government of Nigeria was under intense internal political pressure not to comply with the judgement. There was a corresponding intense pressure by the international community to get Nigeria to comply with the judgement.

Eventually Nigeria began to comply with the ICJ judgement and by January 2006 compliance with the judgement by the two states had reached a significant level. In June 2006, the then Secretary General of the United Nations, Kofi Annan brokered an agreement towards full

⁴ (2002), FWLR Pt. 132, Pg 1

⁵ Land and Maritime Boundary between Cameroon and Nigeria (Cameroon v Nigeria; Equatorial Guinea intervening) 97 AJIL (2003) 387

⁶ Land and Maritime Boundary between Cameroon and Nigeria (2002) ICJ Rep. 303, at para 325.

⁷ Nigeria, Cameroon and the Unending Conflict over Bakassi; Vanguard (Lagos), 27 Feb. 2003

⁸ Ibid

compliance with the ICJ judgement by both Nigeria and Cameroon. By the end of 2006, compliance had been largely achieved with the withdrawal of Nigerian troops from the disputed border region.⁹

Domestic politics influenced the approach of Nigeria and Cameroon to the dispute. Nigeria under the regime of Late. General Sanni Abacha adopted a military approach towards the conflict. This approach was largely supported by the military hierarchy at the time and even some domestic politicians at the time. There was intense pressure from political elites, local communities, military stakeholders and leaders of thoughts for Nigeria not to surrender Bakassi Peninsula even after judgement was entered against Nigeria.

The administration of President Olusegun Obasanjo came under heavy criticism for accepting the decision of the Court. The prevailing argument was that for any part of Nigeria to be conceded to Cameroon, an amendment of the Nigerian Constitution¹⁰ would be required. This process is usually long and complicated.

Cameroon on the other hand, adopted international law and diplomacy in approaching the conflict rather than military confrontation. In 1994, Cameroon brought the case before the ICJ thereby transforming a dispute that had resulted in military confrontation between the two nations and a lot of political manoeuvring into a legal contest before the ICJ. Political incentives encouraged Cameroon to pursue sustained legal and diplomatic efforts which eventually paid off.

The ICJ lacks enforcement mechanism as such it relies on other organs of the United Nations like the Security Council to give effects to its judgements. Substantially however, compliance depends on political decisions by state parties to a dispute. It is important to note at this juncture that compliance among richer and more powerful nations is lower than the rate of compliance among other nations of the world who are more susceptible to international pressure to comply with the decisions of the court.

In 2006, in line with the Green Tree agreement gained by Nigeria and Cameroon compliance with the judgement of the ICJ in the Nigerian v Cameroon dispute began to be implemented in phases.

CONCLUSION

The ICJ is structured to deal with legal disputes like the Nigeria v Cameroon boundary dispute but politics, economics and other extraneous factors play some role in determining the outcome of disputes brought before the court. The Nigeria Cameroon dispute shows that political commitment to diplomacy, international co-operation and peaceful conflict resolution remains essential for sustaining stability and regional integration.

⁹ Cameroon, Nigeria sign agreement decades old border dispute, UN Press Release AFR/1397, 12 June 2006.s

¹⁰ Section 9 Constitution of the Federal Republic of Nigeria 1999 as amended.