

African Journal of Law and Justice System (AJLJS)

ISSN 2753-3115 (Print) ISSN 2753-3123 (Online)

Indexed by SCOPUS, IBSS, EBSCO and SABINET

Volume 4, Number 1, April 2025

Pp 67-88

Conflict, Legal Displacement and National Identity Crises in Africa: Focus on the people of Bakassi

DOI: <https://doi.org/10.31920/2753-3123/2025/v4n1a4>

Ezechi, Kingsley Chukwuka

*Department of Political Science and International Relations,
Godfrey Okoye University, Thinkers Corner, Enugu
kezzechi@gouni.edu.ng*

Umeh, Lucy Chinwe

*Department of Political Science and International Relations,
Godfrey Okoye University, Thinkers Corner, Enugu*

Okonkwo, Wilfred Onyekwelu

*Department of Political Science and International Relations,
Godfrey Okoye University, Thinkers Corner, Enugu*



Ugwoegbu, Edmund Ugochukwu

Department of Humanities, School of Arts & Sciences, Merrimack College

Abstract

Displacements arising from conflict in Africa have been a recurring issue, some of which have led to national identity crises. The case of the Bakassians, stemming from the boundary dispute between Nigeria and Cameroon, presents a socio-political and cultural dilemma reflective of Lubkermann's concept of "displacement in place," as well as national identity crises caused by legal frameworks. In this context, the study hypothesized that unless the genuine

wishes of the people are sought through a plebiscite, the gross human rights abuses faced by the people of Bakassi and other inhabitants of Southern Cameroon will persist. Utilizing the documentary method of data collection alongside Primordial and Instrumentalist theories, the study found that the national identity crisis experienced by the people of Bakassi was precipitated by the cession of Bakassi to Cameroon following the International Court of Justice (ICJ) ruling in 2002. The study thus concludes and recommends that laws or sources of law, such as ICJ rulings and the resultant Green Tree Agreement (GTA), should not be the sole determinants of nationality and identity. Rather, these should also be based on the indigenous decisions of the people involved.

Keywords: *Conflict, Legal Displacement, National Identity, Crises, Bakassi Peninsula.*

Introduction/problematique

Conflicts and displacements in Africa and around the world can now be likened to Siamese twins, due to their inseparability, until a political, economic, and sociological intervention is employed to address the escalating challenge. In many instances, this has created a humanitarian crisis of vast and unimaginable proportions, as approximately 120.3 million individuals have been forcibly displaced globally from the beginning of 2023 to May 2024, with most cases stemming from conflict and violence²¹⁴. Although not all displacements occur as a result of conflicts and violence, their contribution remains worrisome and alarming. The global figure of individuals living in displacement due to conflict and violence in 2023 was estimated at 68.3 million (with 20.9 million being new displacements across 45 countries and territories). Disasters, on the other hand, were responsible for the displacement of 7.7 million individuals globally²¹⁵. The earlier record from 2022 indicated that conflict and violence caused 60.9 million displacements, with the war in Ukraine accounting for a record high of 16.9 million individuals displaced from a single country²¹⁶. While the aforementioned forms of displacement have garnered scholarly and intellectual attention in academic literature, the displacement of individuals on legal grounds has

²¹⁴ United Nations High Commission on Refugee, 'UNHCR Global Trend' [6 January 2025] <<https://www.unhcr.org/global-trends>> accessed 10 March 2025

²¹⁵ GRID, *Global report on internal displacement*. (Internal Displacement Monitoring Centre 2024).

²¹⁶ GRID, *Global report on internal displacement* (Internal Displacement Monitoring Centre 2023).

yet to be examined. For context, some are forced to migrate or are displaced due to violent conflict and disasters, while others are legally displaced in the aftermath of non-violent conflicts. The case of the people of Bakassi is emblematic of this form of displacement, accompanied by a national identity crisis. The Nigeria-Cameroon border dispute and its resolution through the International Court of Justice (ICJ) ruling in October 2002 highlighted displacement from a legal perspective.

Although the Bakassi territorial dispute between Nigeria and Cameroon has led to the displacement of Bakassians due to the 2002 ICJ ruling²¹⁷, existing literature on displacement seems to have overlooked this unique form of legal displacement affecting the people of Bakassi, whose national identity psychologically oscillates between Nigeria and Bakassi (Cameroon). Interestingly while the Nigerian government's resettlement program has failed to integrate the people into their new environment, despite the provision of approximately N9bn (\$25.3m) from 2006 to 2015²¹⁸, efforts made to seek self-determination based on their national identity have not yielded significant results either²¹⁹.

Literature on displacement has primarily focused on two broad categories. First, internal displacement, which is based on the forced or voluntary movement of people from their habitual homes or residences due to disaster, conflict, or economic pursuits, as the individuals involved have not crossed an international border²²⁰. Second, external displacement, which also involves the forced or voluntary movement of people from their habitual homes or residences due to disaster, conflict, economic, educational, or adventurous pursuits. This type of displacement is termed external because the individuals involved have crossed internationally recognized borders and can be referred to as

²¹⁷ Usman R A, and Adebayo K O, 'Materiality of place-making in exilic and protracted displacement: the context of displaced Bakassi people in South-South Nigeria' [2025] *Journal of Immigrant and Refugee Studies*

<https://www.tandfonline.com/doi/full/10.1080/15562948.2024.2448106>

²¹⁸ Unah L, 'The lifelong consequences of a little known Nigeria-Cameroon land dispute' (22 August 2019) *TRT World* <https://www.trtworld.com/magazine/the-lifelong-consequences-of-a-little-known-nigeria-cameroon-land-dispute-26701> accessed 20 February 2025

²¹⁹ Ngalim A N, 'Post-conflict experiences of resettled Bakassi peninsula people, 2006 – 2016' [2019] 7 *Asian Journal of Peacebuilding* 105

²²⁰ Schewel K, 'Understanding immobility: Moving beyond the mobility bias in migration studies' [2019] *International Migration Review*.
<https://doi.org/10.1177/0197918319831952>.

refugees or international migrants²²¹. However, the situation of the people of Bakassi does not neatly fit into either of these two categories of displacement.

Lubkermann's concept of "involuntary immobility" or "displacement in place" closely describes the situation of the people of Bakassi, as he asserts that this form of displacement is caused by "*the riskiness of journeys across contested territory, exposed to political and criminal violence en route...*"²²² Given that the Bakassi Peninsula is no longer contested following the ICJ's verdict, this study expands the argument of "involuntary immobility" and "displacement in place" to include legal displacement, resulting in a national identity crisis. Essentially, the national identity crises in Bakassi, coupled with calls for external self-determination, have manifested in various parts of the continent. For instance, Sudan was Balkanized due to resource conflicts and the dilemma of Afro-Arab identity crises, leading to the eventual independence of South Sudan, a predominantly Christian nation, in 2011²²³. Even after gaining independence, national crises and resource capture continue to plague the newly formed country²²⁴. Furthermore, while the theoretical frameworks of primordialism and instrumentalism effectively capture this phenomenon, they also examine why such crises endure with adverse consequences. This study aims to address these issues while probing the following questions:

- a) What are the laws responsible for the displacement in place of the people of Bakassi or their involuntary immobility?
- b) How have these laws created situations and conditions that contribute to the national identity crisis?

Methodology

The study employed a qualitative ex post facto research design, as the events analyzed had already transpired. Data collection were documentary from primary and secondary sources. Documents such as the Memorial, Oral Submissions, and Applications from Cameroon and

²²¹ Preece J, 'Immobility and Insecure Labour Markets: An Active Response to Precarious Employment' [2018] 55 Urban Studies 1783

²²² Lubkermann S, *Culture in Chaos: An Anthropology of the Social Condition of War* (University of Chicago Press 2008a) 454

²²³ Abubakr M, 'The history behind Sudan's identity crises' Wilson Centre (18 February 2021) <https://www.wilsoncenter.org/blog-post/the-history-behind-sudans-identity-crisis>. Accessed 3 April 2025

²²⁴ *ibid*

Nigeria's Counter Memorial and Oral Submissions presented at the ICJ were qualitatively analyzed through content analysis. Additionally, local newspapers, online materials, and literature from both Nigerian and Cameroonian scholars in international law, boundary disputes, conflict and displacement, as well as national identity were examined. Finally, the primordialist and instrumentalist theories were utilized as the analytical framework.

Theoretical Framework

The study is grounded in a primordialist-instrumentalist framework. The rationale for employing two theories in the analysis of this study on national identity, which has its roots in nationalism, is that no single theory can adequately explain the phenomenon²²⁵. Likewise, Calhoun notes that:

Nationalism is too diverse to allow a single theory to explain it all. Much of the contents and specific orientation of various nationalisms is determined by historically distinct cultural traditions, the creative actions of leaders, and contingent situations within the international world order²²⁶

According to Jaffrelot²²⁷, the term "nation" is more state-oriented, while "nationalism," on the other hand, is primarily identity-based. First, it is important to note that ethnicity is the hallmark of nationalism, which symbolizes and accentuates identity. Second, ethnicity and nationalism, with their strong affinity to individual and group identity, underscore the principles and assumptions enshrined in both Primordialist and Instrumentalist thought. The disagreements and contradictions in the goals and aspirations of a cultural, economic, legal, political, social, or religious perspective of one national or ethnic group inevitably lead to conflict²²⁸.

Llobera asserts that primordialism has as one of its assumptions that "group identity is a given."²²⁹ He further avers that in some societies,

²²⁵ Williams Dodeye, 'How Useful are the Main Existing Theories of Ethnic Conflict?' [2015] 4 Academic Journal of Interdisciplinary Studies 147

²²⁶ Calhoun C, *Nationalism* (University of Minnesota Press 1997) 2

²²⁷ Jaffrelot C, *For a theory of nationalism*. (Centre for Education Research and Innovation.2003

²²⁸ *ibid*

²²⁹ Llobera J R, *Recent theories on nationalism*. (A.bis 1999) 1

irrational and primordial attachments are based on race, religion, language, blood, region, etc. Geertz²³⁰ believes that the bonds binding a group are coercive. This reality is often found in Third World countries, frequently in alarming proportions. Primordialists also believe that ethnic or national identity is deeply rooted in the historical experiences of the individuals making up the group²³¹. Geertz²³² further notes that primordialists have identities that are natural and deal primarily with sentiments or affection. With these submissions, primordialism has come under intense criticism due to its lack of explanation regarding inter-ethnic, interracial, or inter-tribal bonds and affinities that characterize contemporary relations and interactions²³³.

Instrumentalists, on the other hand, address the shortcomings of primordialists by positing that group and ethnic identities matter less when individuals benefit from their affiliation within a multinational or multi-ethnic community. Under the instrumentalist view, individuals' engagement with society is based on rational awareness rather than closeness, with the understanding that the community serves as an instrument through which individuals can achieve their aspirations and goals²³⁴. The enjoyment of economic, political, legal, social, or cultural dimensions is of paramount importance to individuals in society, more so than any particular ethnic affiliation or national identity²³⁵.

Regarding the Bakassians, both theories apply at different periods of their existence and history. Before the discovery of oil in the Peninsula, the instrumentalist approach vividly described relations in the region. The people of Bakassi and their neighbors – local Ambazonians in Cameroon – intermarried, engaged in various thriving businesses, and generally interacted fluidly²³⁶. During this time, both Nigeria and especially Cameroon paid little or no attention to the welfare of the peoples of the Peninsula. However, the primordialist sentiment emerged following the discovery of oil in the region, as both countries excavated historical and legal ties concerning the area²³⁷. To be sure, the primordial

²³⁰ Geertz C, *The Interpretation of Cultures* (Free Press 1973)

²³¹ Llobera (n16)

²³² Geertz (n17)

²³³ *ibid*

²³⁴²³⁴ Bacova V, *The construction of national identity-On primordialism and instrumentalism*. (Institute of Social Sciences Slovak Academy of Sciences 1998)

²³⁵ *ibid*

²³⁶ Akinyemi, O, 'Borders in Nigeria's Relations with Cameroon' [2014] 3 Journal of Arts and Humanities 13

²³⁷ *ibid*

attachment to the region manifested on two occasions regarding the people of Bakassi. First, was when oil was discovered in the region, which led to a keen contestation of the territory based on cultural, historical, and socio-economic grounds. The second instance relates to when both countries effectively disregarded and neglected the people of the region following the ICJ's verdict, ceding the territory to Cameroon²³⁸.

The ICJ verdict, along with the Green Tree Agreement (GTA), imposed certain welfare obligations on both countries towards the people of Bakassi. However, these demands have been ignored and pushed to the background due to primordial sentiments, as both states are now engaged in a zero-sum game. For the local ethnic groups, particularly the Ambazonians, a sense of nationalistic pride has emerged, leading them to describe the Bakassians as the “other” following the ICJ ruling. Cameroon, on its part, has continued to violate the legal rights of those in the region who wish to remain on the Peninsula and integrate into Cameroonian society, as per the ICJ ruling. Discrimination, deprivation, and ethnic marginalization have characterized the relations between local Ambazonians and Bakassians, which have not always been the case²³⁹. Conversely, Nigeria's efforts to properly resettle those who chose to return have failed²⁴⁰, thus displacing people and rendering them destitute in their own land—either in Cameroon (for those who opted to come under its administration) or in Nigeria (for those who accepted the resettlement policy).

Literature Review

Conflict and Legal Displacement

Conflict as a concept is inherently conflictual due to definitional complexity and pluralism. Some of these definitions differ in ideas and perspectives. Scholars such as Morgenthau²⁴¹, Nicholson²⁴², Nnoli^{243 244},

²³⁸ Ngalim (n6)

²³⁹ Okon P E, and Abu P E, ‘Public relations implications of the challenges facing the Bakassi Internally Displaced Persons (IDPs) in Nigeria's Cross River State’ [2019] 6 International Journal of Emerging Trends in Social Sciences 1

²⁴⁰ Unah (n5)

²⁴¹ Morgenthau H J, *Power and Ideology in International Politics* (Alfred A.Knopf 1948)

²⁴² Nicholson M, *Rationality and the Analysis of International Conflict* (Cambridge University Press 1992)

²⁴³ Nnoli O, *Ethnic politics in Nigeria* (Fourth Dimension 1981).

Galtung²⁴⁵, Diez²⁴⁶, and Gurr²⁴⁷ have defined the term from various angles. These include ethnic, religious, social, economic, political, organizational, and cultural dimensions. However, the main underlying issue in conflicts of any kind is the incompatibility or disagreement in beliefs, goals, interests, and needs. Among nations, this can be concretized and properly situated as a disagreement or incompatibility of interests in resources and territories²⁴⁸. The Nigerian-Cameroon territorial dispute is indeed a *locus classicus*, as the conflict revolves around territory and resources²⁴⁹, with utter neglect of the native population. Prior to the discovery of oil in the region, Akinyemi²⁵⁰ notes that Nigerians and Cameroonians in Bakassi went about their economic activities routinely, albeit with infrequent skirmishes; the two countries disregarded the inhabitants because they held little or no importance to them. Sango²⁵¹ avers that the two countries failed to formulate policies and implement programs that would address the poverty, squalor, and destitution of the people of Bakassi. The territory only became a subject of contention when the black gold was discovered in the Peninsula²⁵². Thus, conflicts between nations rest, among other things, on territories and resources. When such conflict escalates, as in the case under review, there is usually a high possibility of displacement—internally or externally—or what this article expands upon as legal displacement or legal displacement in place.

Displacement, on the other hand, refers to either forced or voluntary migration of people due to violence, disaster, or poverty. Another aspect of displacement is Lubkermann's concept of involuntary immobility or displacement in place. By definition, displacement in place or involuntary immobility is a psychological condition and dilemma in which a potential migrant is caught between returning to their homeland, integrating

²⁴⁴ Nnoli O, *Ethnic conflict in Africa* (CODESRIA 1998)

²⁴⁵ Galtung J, *Peace by Peaceful Means* (Sage 1996)

²⁴⁶ Diez T, Stetter S, and Albert M, "The European Union and Border Conflicts: The Transformative Power of Integration [2006] 60 International Organization 563

²⁴⁷ Gurr R., *Peoples Versus States: Minorities at Risk in the New Century* (United States Institute of Peace Press 2000)

²⁴⁸ Ibid; Nnoli (n31)

²⁴⁹ Akinyemi, (n23)

²⁵⁰ ibid

²⁵¹ Sango S, 'No to war over oil: for a democratic referendum among the Bakassi people' (21 April 2002) *Committee for a Workers' International* www.worldsocialist-cwi.org/contents.html accessed 21 November 2024

²⁵² ibid

locally, or moving to a third country to settle²⁵³. In the case of the people of Bakassi, the dilemma involves either staying in their ancestral homeland, resettling and integrating in Nigeria, or relocating to another territory like Cameroon.

The literature on legal displacement is quite limited, particularly regarding its conceptualization. Most existing literature have focused on the legal regulation of displaced persons and the enforcement of their rights through existing laws—whether domestic or international^{254 255 256 257}. While these works address the challenges faced by displaced persons by highlighting relevant laws that do or should apply, they do not conceptualize displacement as a phenomenon arising from legal agreements and conditions. Stevens²⁵⁸, on the other hand, examines the law only as a contributory factor in the displacement of urban refugees in Bangkok. However, the roots of displacement of Bangkok refugees primarily lie in war and violent conflict, rather than strictly in law or legal agreements. Stevens²⁵⁹ also remains silent on what legal displacement actually entails, as the main focus of his work is on the absence of administrative laws in Thailand to support already displaced persons, such as refugees in the city, which exacerbates the horrific conditions of their displacement. In this regard, literature on legal displacement has focused on effects rather than causes, which is essentially the case for the people of Bakassi. Legal displacement is therefore the forced or (in)voluntary movement of people primarily engineered through policies, regulations, or laws from statutory authorities—whether domestic or international—strictly serving as the main cause of displacement rather than other factors.

This study assesses the legal mechanisms that have effectively rendered the people of Bakassi involuntarily immobile or displaced in place, and how these laws have fostered conditions of national identity crisis for the people. The next section examines how ancestral

²⁵³ Lubkemann (n9)

²⁵⁴ United Nations High Commission on Refugees, *Global report on law and policy on internal displacement: implementing national responsibility* (UNHCR 2025)

²⁵⁵ International Organization for Migration, Legal aspects of protecting migrants' rights in the context of disasters, climate change and environmental degradation (IOM 2024)

²⁵⁶ Tivane Nelson, 'Displacement and legal response in Mozambique: mapping gaps to explore existing beyond solution' [2024] 9 International Journal of Research in Sociology and Anthropology 1

²⁵⁷ Walter K, *Internal displacement and the law* (IDMC 2024)

²⁵⁸ Stevens B, *The Involuntary Immobility of Bangkok's Urban Refugees* (United Nations University Institute on Globalization, Culture and Mobility (UNU-GCM 2018)

²⁵⁹ *ibid*

authenticity has been overshadowed by legal superiority, leading to a national identity crisis for Bakassians.

Bakassi Peninsula Conflict: Historical/Ancestral Authenticity versus Legal Superiority

Historical and Ancestral Authenticity

The Bakassi Peninsula is undeniably the ancestral territory of Nigeria. Prior to its cession, the territory was home to about 2,000 people, 90% of whom were Efiks, Oron, Ijaw, Ibibio, Efut, and Qua from the Niger Delta region of Nigeria²⁶⁰, whose population has now increased to over 300,000²⁶¹. According to Ngalim²⁶², the Bakassi kingdom was founded circa 1450, populated by the Efiks as part of the Old Calabar kingdom in present-day Nigeria. Alobo, Adams, and Obaji²⁶³ provided two explanations for the origin and meaning of the word Bakassi. Firstly, the Efik-speaking people of Calabar linguistically assert that the word Bakassi is derived from "Akai Abasi Eke," which loosely translates to "the forest of Abasi Eke." This name originated because a certain Abasi Eke from the Old Town of Calabar (Obutong) was the first to inhabit and settle in the area. The account reveals that it was foreigners who distorted the name from Akai Abasi Eke to Bakassi, in a vague attempt to describe the dwelling place of Abasi Eke. Additionally, the account indicates that the foreigners who encountered Akai Abasi Eke first anglicized Abasi to "Bassey," and subsequently distorted Akai Abasi Eke to "Bakassey"²⁶⁴. Then, this distortion ultimately evolved into the current spelling and pronunciation of "Bakassi".²⁶⁵

²⁶⁰ Bassey JR, 'How Nigeria lost Bakassi to Cameroon: A study in legal diplomatic history' in

Eminue O and Dickson M (eds), *Key Issues in International Relations* (University of Nigeria Press 2016)

²⁶¹ Ngalim (n6)

²⁶² Ngalim A N, African boundary conflicts and international mediation: The absence of inclusivity in mediating the Bakassi Peninsula conflict (2016). Working Paper Series 9/2016, African Peace Building Network

²⁶³ Alobo E E, Adams J A, and Obaji S P, 'The ICJ's decision on Bakassi Peninsula in retrospect: A true evaluation of the history, issues and critique of the judgement' [2016] 6 International Journal of Humanities and Social Sciences 34.

²⁶⁴ *ibid*

²⁶⁵ Aye E, *Bakassi in International Politics*, (EUA, 2003)

Secondly, the Mbo tribal population of Southern Nigeria often uses the expression *bakkasi*, which loosely translates to "go and return early."²⁶⁶ According to the Mbo people, this expression is typically directed at kinsmen and women who plan to go fishing, trade in fish, or even purchase fish. They regard such journeys as being quite far from their community (Mbo). Hence, the expression *bakkasi*, which has since been distorted to *Bakassi*, later became the official name of the area where fishing and fish trading occur²⁶⁷. The native population of the area comprises the Efik, Oron, and Ibibio ethnic groups, who effectively control fishing activities in the Peninsula. The people's allegiance was to the local chiefs, who, in turn, owed allegiance to the Obong of Calabar (the high chief or supreme ruler of the Old Calabar Kingdom) in precolonial times²⁶⁸.

The status of the Obong of Calabar granted him the *locus standi* to enter into a treaty for the protection of the Kingdom of Old Calabar with the British Crown on 10 September 1884. This treaty, signed with the active collaboration of Efik and Ibibio chiefs as co-signatories²⁶⁹, established the Bakassi Peninsula as a dependency of the Old Calabar Kingdom. In 1872, the *Journal of the Royal Geographical Society* published a note by Captain J. B. Walker on Old Calabar and Cross Rivers, which included the following: "*The Qua River has its rise in the Qua Mountains... the small tribes on either bank - Efiat (Tom Shots), Ushadet (Bakasi), Idna (Ekri Tobacco), Adon - are dependencies of Calabar.*" Thus, the treaty officially placed the Old Calabar Kingdom under the protectorate and colony of Southern Nigeria, solely administered by Her Majesty's government in London.

The 1884 Protectorate treaty between the Obong of Old Calabar and Britain did not transfer sovereignty from the Obong and chiefs of Calabar to Britain in any way. Instead, it conferred limited powers, but never an acquired sovereignty²⁷⁰. This implies that the alleged transfer of the Bakassi territory from Britain to Germany in 1913 is a misnomer, as the provisions of the treaty as a protectorate made any territorial transfer practically impossible. This is particularly emphasized by the ICJ in its

²⁶⁶ Odiong O, *Bakassi Peninsula: Growth, Conflict and Evolution*. (Odiong and Sons 2008)

²⁶⁷ *ibid*

²⁶⁸ Ngalim (n49)

²⁶⁹ Agba AM, Ogaboh J J, Akpanudoedehe, and Ushie E M, 'Socio-economic and cultural impacts of resettlement on Bakassi people of Cross River State, Nigeria' [2010] 1 *Studies in Sociology of Science* 50

²⁷⁰ Nigeria Counter Memorial, 'Case concerning land and maritime boundary between Cameroon and Nigeria' [1999] ICJ I & II, Chapters 1-

Advisory Opinion on Western Sahara, which established that when a territory has any form of political or social organization, it cannot be considered *terra nullius*, as such territories are regarded as belonging to the local kings and rulers²⁷¹. To establish territorial sovereignty, the Kings and chiefs of the Old Calabar Kingdom repudiated the provision of Article VI of the Draft Treaty of Protectorate, which stated: "*the subjects and citizens of all countries may freely carry on trade in every part of the territories of the Kings and Chiefs parties hereto and may have houses and factories therein.*"²⁷² Although the Kings and Chiefs signed the 1884 treaty, they did not agree to the above article, which referred to them as "subjects." Acknowledging the extent and sphere of influence of the Old Calabar Kingdom to include the Bakassi Peninsula, British Consul Hewett, who concluded the treaty between the Kings and Chiefs of Old Calabar and Britain in 1884, and Consul Johnston in 1890 both reported in a memorandum sent on 27 September 1884 to the Secretary of State for Foreign Affairs thus: "*Old Calabar, this country with its dependencies extends from Tom Shots (which lies immediately to the eastward of Qua Ibo) to the River Rumby (on the west of Cameroon Mountain), both inclusive.*"²⁷³

Similarly, Johnston commented in a letter to the Foreign Office on 23 October 1890:

Originally (i.e in 1884, when the Protectorate treaty were concluded), the rule of the Old Calabar Chiefs extended far beyond the Akpayafe River to the very base of the Cameroons, but the Calabar race (Efik people) and language only went as far east as the right bank of Ndian River... The left or eastern bank of the Akpayafe and the land between the river and the Ndian is under the rule of Asibon or Archibong Edem III, a big Chief of Old Calabar, who is the legitimate heir to the Throne of Old Calabar²⁷⁴

In light of the aforementioned precolonial account of Bakassi, it suffices to state that the Bakassi Peninsula was part of the City States of the Old Calabar Kingdom, which possessed both regional legitimacy and an internationally recognized legal personality.

The advanced Anglo-German treaty, upon which the ceding of the Bakassi Peninsula to Cameroon was based, lasted only 16 months before the outbreak of the First World War - 1914-1919. Germany's administration of Cameroon ended in 1916, following their defeat in the

²⁷¹ International Court of Justice, *ICJ Reports* [1975] 39, para. 80

²⁷² Odiong (n59) 13

²⁷³ Foreign Office, *Confidential Print* (Cmd 5033, 1884) para 79-80

²⁷⁴ Foreign Office, *Confidential Print* (Cmd 6146, 1890) para 122

war²⁷⁵. This was termed "ineffectivities" by the Nigerian Counter Memorial, due to the brief period of administration of its claimed title to Bakassi. The subsequent Treaty of Versailles of 1919 abrogated the Anglo-German treaty of 1913; and rather than reviving or strengthening it, Articles 118 and 119 of the Versailles Treaty effectively renounced Germany's titles and rights in West Africa²⁷⁶. Consequently, Cameroon became a mandate territory in 1922 under the joint control of Britain and France - the victors of the war. The mandate territory of Anglophone Cameroon was administered concurrently as part of British Nigeria's protectorate²⁷⁷. It is important to note that protectorates, mandates, or trusteeship authority of any nation over another does not confer rights of sovereignty on the authority holder to cede, annex, or transfer title of any portion of the territories under its authority.

By 1914, the amalgamation of both the northern and southern protectorates effectively created the entity known as Nigeria. At independence, this entity inherited the territories of both the northern and southern protectorates, including the Bakassi Peninsula, by virtue of long occupation and historical consolidation of title²⁷⁸. Following the establishment of a twelve-state structure for Nigeria in 1967, Bakassi fell under a South Eastern State, named Cross River State. In 1987, Akwa Ibom was carved out of Cross River State, creating the conflict regarding the territorial ownership of Bakassi.²⁷⁹ Cross River State won the dispute when, in 1992, a new local government—Bakassi—named after the area was created under the state²⁸⁰. Despite this development, the territory of Bakassi remained contested by the Efiks of Cross River State and the Mbo tribe of Akwa-Ibom State²⁸¹.

Beyond this, there has not been a significant claim by Nigeria and Cameroon over the peninsula since both countries gained independence in 1960. In fact, warm and friendly relations have existed between them²⁸², as fishing, grazing, marriage, and other economic activities were conducted by citizens on both sides and taxed for revenue by their

²⁷⁵ Nigeria Counter Memorial (n57)

²⁷⁶ *ibid*

²⁷⁷ Alogo (50)

²⁷⁸ Odiong (n53)

²⁷⁹ *ibid*

²⁸⁰ *ibid*

²⁸¹ Ngalim (n49)

²⁸² Ugbudian L I, 'The role of natural resources in Nigeria-Cameroon border dispute' [2018] *Global Journal of Human-Social Sciences*.

https://socialscienceresearch.org/index.php/GJHSS/article/view/2614/2-The-Role-of-Natural-Resources_html.

respective governments²⁸³. This is where the instrumentalist paradigm holds true, as both citizens and governments of the countries mutually benefited from relations within the Peninsula. However, tension and sudden hostility between the countries emerged following the discovery of oil in 1981²⁸⁴. From the 1980s to the early 1990s, the Peninsula was fraught with hostilities. According to Ngalim, the hostility began in 1981 when violent confrontations between the two countries occurred²⁸⁵. Coincidence? Perhaps not, but a clear manifestation of primordialist sentiment. This primordialist feeling intensified through the early 1990s, with fatalities recorded following the destruction of lives and property on both sides²⁸⁶. Decisively, in 1993, Nigeria's military was able to cross the Akwayafe River to take firm control of Bakassi. It was after this event that the government of Cameroon decided to approach the World Court in a bid to reclaim the territory through litigation in 1994²⁸⁷. At the ICJ, Nigeria unsuccessfully defended its right and title to the territory of Bakassi on the grounds of long occupation, historical consolidation, and effectivities—apparent features that Cameroon lacked throughout its existence from precolonial, colonial, and post-colonial times. Nigeria had anticipated winning the case based on these established international law doctrines, with its historical and legal precedents well recognized by the World Court²⁸⁸. This is why Judge Koroma expressed a dissenting opinion on the verdict, asserting the invalidity of the Anglo-German Agreement, criticizing the World Court's failure to uphold evidence of historical consolidation and effectivities as a basis for territorial title. The Justice comments that:

By failing to uphold the validity of the 1884 Treaty between the kings and chiefs of old Calabar and Great Britain, which expressly provided for the “gracious protection” of the people of old Calabar by Great Britain, but instead upholding the validity of the Anglo – German Agreement of 1913 which ceded the territory of the people of Old Calabar to Germany without their consent- it is regrettable for the Court to have made the

²⁸³ Shittu R, Oyekunle T S, Letswa A M, and Haruna A A, ‘Natural resources and border dispute between Nigeria and Cameroon’ [2018] 10 Lapi Journal of Humanities 1

²⁸⁴ Ngalim (n6)

²⁸⁵ *ibid*

²⁸⁶ *ibid*

²⁸⁷ *ibid*

²⁸⁸ Ngalim (n49)

1913 Anglo-German Agreement the main basis of its finding, since this Agreement, in my view, was patently unjust²⁸⁹

Notwithstanding Justice Koroma's position, the Court decided the case in favor of Cameroon based on legal and judicial reasoning they deemed superior to Nigeria's historical and ancestral claims.

Legal Superiority

On March 29, 1994, the Cameroonian government filed a case before the Registry of the Court "relating essentially to the question of sovereignty over the Bakassi Peninsula," with its corresponding Memorial presented to the Court on March 16, 1995²⁹⁰. In its application before the ICJ, Cameroon requested that the Court declare the Bakassi Peninsula as Cameroonian territory, asserting that Nigeria violated the principles enshrined in *uti possidetis juris*. This Latin American declaration, adopted by the then Organisation of African Unity (OAU, now AU), states that all newly independent African states must respect the inviolability of colonial boundaries and territories. The application also contended that Nigeria's military use of force and subsequent occupation of the Bakassi Peninsula violated its obligations under international and customary law²⁹¹. In light of these violations by Abuja, Yaoundé demanded the unconditional and immediate withdrawal of Nigeria's military troops from the Cameroonian territory of Bakassi. They added that the material and non-material damages inflicted on Cameroon should be compensated with appropriate reparations to be determined by the Court, to be paid by Nigeria following a thorough assessment of the damage²⁹².

Cameroon based its argument for rights and title to the territory of Bakassi on the Anglo-German Treaty and Protocol of March 11, 1913, and April 12, 1913, as well as the exchange of letters between both countries, first on July 6, 1914; second, on the Yaoundé Declaration of April 4, 1971; and third, on the Maroua Declaration of June 1, 1975²⁹³. Taken together, Cameroon's Memorial, Applications, Oral Submissions, and Rejoinder presented before the ICJ indicate that the Anglo-German

²⁸⁹ International Court of Justice, 'Dissenting opinion of Judge Koroma' (21 November 2003) *icj*. <https://www.icj-cj.org/files/case-related/94/094-20021010-JUD-01-04-EN.pdf> accessed 20 December 2024

²⁹⁰ Nigeria Counter Memorial, (n57)

²⁹¹ Alogo (n50)

²⁹² *ibid*

²⁹³ *ibid*

Treaty delineated the boundary in such a way that placed the Bakassi Peninsula within the German portion of the boundary, which both nations, as successor States, inherited upon independence, citing Articles 18 and 22 of the treaty as the essential clauses for the ICJ's consideration. Furthermore, Cameroon asserted that both States are bound by the Latin American Principle of *uti possidetis juris*, which was adopted by the then OAU following its founding in 1963²⁹⁴.

Cameroon also contended that the actions of members of the international community tacitly acknowledged that the territory of Bakassi was Cameroonian on the following grounds. First, under the Mandate and Trusteeship Systems of both the League of Nations and the United Nations, Cameroon argued that the territory was administered as British Cameroon throughout the period from 1913 to 1960. To support this view, it cited the British Orders in Council of 1923 and 1946,²⁹⁵ respectively. Second, in the years leading up to and following independence, the fate of the people of British Cameroon was determined through a plebiscite under the auspices of the United Nations, where the people of Southern Cameroon voted to join Cameroon, while those of Northern Cameroon voted to join Nigeria. This was acknowledged by UN General Assembly Resolution 1608 (XV), in which Nigeria voted in favor of the assertion that Southern Cameroon belonged to Cameroon^{296 297}. It also claimed that State actions by Nigeria had further endorsed Cameroonian title to the territory of Bakassi.

Finally, the Yaoundé, Maroua Declarations, and Kano Agreement signed by Nigeria's Heads of State validly endorsed the Anglo-German treaty and the boundary between both nations. And by Nigeria's note verbale No. 510, addressed to Cameroon on 27th March 1962, it reaffirmed Cameroonian ownership of the Peninsula, with the recognition of the boundary between Nigeria and Cameroon being placed at the Akwayafe River²⁹⁸.

Following the submissions made by Cameroon and Nigeria's Counter Memorial, some of which have been noted earlier in this article, the ICJ delivered its judgment by deciding that the right and title to the territory of Bakassi lay with Cameroon. The Court reached this decision in Suit ICJ/603 regarding the Maritime Boundary between Cameroon and

²⁹⁴ *ibid*

²⁹⁵ *ibid*

²⁹⁶ *ibid*

²⁹⁷ Akinyemi, (n23)

²⁹⁸ *ibid*

Nigeria, with Equatorial Guinea as an interpleader. The World Court declared that:

In Bakassi, the Court decides that the boundary is delimited by Articles XVIII to XX of the Anglo-German Agreement of 11 March 1913 ... and that sovereignty over the Bakassi Peninsula lies with Cameroon... [and] requests Nigeria to expeditiously and without condition withdraw its administration and military or police forces from the ... Bakassi Peninsula.... The Court takes note of Cameroon's undertaking, given at the hearings, to "continue to afford protection to Nigerians living in the [Bakassi] peninsula...."²⁹⁹

Other reasoning for giving judgment in favor of Cameroon includes the non-recognition of the Protectorate Treaty between the Obong of the Old Calabar Kingdom and the British Crown in 1884, as well as the plebiscite of 1961, during which the people of Southern Cameroon voted to join the Republic of Cameroon. All these, among other reasons cited by the Court, became the legal principles and superiority upon which the right and title to the territory of Bakassi were granted to Cameroon.

Findings

Legal Displacement and Displacement in Place by Law: The Plight of Bakassians

According to Schewel, displacement and "migration studies suffer from a mobility bias."³⁰⁰ Schewel and other scholars, including Preece³⁰¹, Gray³⁰², Mata-Cordesal³⁰³, Gaibazzi³⁰⁴, and Lubkermann³⁰⁵, have extensively explored the factors responsible for involuntary immobility or displacement in place of people worldwide. However, not much has been

²⁹⁹ Bassey (n47)

³⁰⁰ Schewel (n7).

³⁰¹ Preece (n8).

³⁰² Gray B, 'Becoming Non-Migrant: Lives Worth Waiting For' [2011] 18 Gender, Place & Culture 417

³⁰³ Mata-Cordesal D, 'Ways of Staying Put in Ecuador: Social and Embodied Experiences of Mobility-Immobility Interactions' [2015] 41 Journal of Ethnic and Migration Studies 2274

³⁰⁴ Gaibazzi P, *Migration, Soninke Young Men and the Dynamics of Staying Behind* (University of Milano-Bicocca 2010)

³⁰⁵ Lubkermann S C, 'Involuntary Immobility: On a Theoretical Invisibility in Forced Migration Studies' [2008b] 21 Journal of Refugee Studies 454

written on legal displacement, particularly concerning the unique condition of Bakassians. Building on the work of Lubkermann³⁰⁶ and particularly Stevens³⁰⁷, in his report titled "*Involuntary Immobility of Bangkok's Urban Refugees*," Stevens demonstrated that refugees in Thailand's capital, Bangkok, have been displaced in place or involuntarily immobile on the legal grounds that Thailand lacks the administrative and legal mechanisms to protect and support refugees in the city. This is due to their inability to ratify the 1951 United Nations Convention on Refugees. Thus, under Thailand's laws, refugees are classified as illegal migrants and are criminalized on that basis. Stevens³⁰⁸ asserts that these migrants face the dilemma of being unable to return home or settle in Thailand. It is important to note that these refugees were conventionally displaced due to war, disaster, or poverty, but were displaced in place by the host country's laws, not their local or domestic laws. The situation of Bangkok's urban refugees, who are involuntarily immobile, may bear certain similarities to that of Bakassians.

The first law that explicitly displaced Bakassians from their ancestral home was the October 2002 ruling of the ICJ, which conferred rights and title of the Bakassi Peninsula to Cameroon. The second was the Green Tree Agreement of June 2006, signed in New York between Cameroon and Nigeria under the guidance of the United Nations. In that agreement, the date for Nigeria's final withdrawal was set (14 August 2008), and Bakassi would no longer be under its territory³⁰⁹. Third was the Calabar Federal High Court order nullifying the creation of a new Bakassi Local Government Area (Dayspring I & II Settlement), established by former President Olusegun Obasanjo in 2008, who handed over the territory to Cameroon³¹⁰.

Following the ICJ ruling, Bakassians vehemently rejected and condemned the judgment in its entirety. Some in Nigeria referred to it as "colonial injustice." Others viewed it as a blatant theft of Bakassians' heritage. However, the ICJ verdict was clear: Nigeria was to withdraw from the territory unconditionally. Through the instrumentality of the GTA, Nigeria withdrew its army from the territory and handed it over

³⁰⁶ *ibid*

³⁰⁷ Stevens (n45)

³⁰⁸ *ibid*

³⁰⁹ Okon (n26)

³¹⁰ Eguzozie B, and Abang M, '15 years after relocation, poverty, neglect daw deeper Bakassi people' *Business Day*. (23 April 2017) <<https://businessday.ng/news/article/15-years-relocation-poverty-neglect-daw-deeper-bakassi-people/>>. Accessed 24 February 2025

accordingly³¹¹. The days following the handover created a dilemma and psychological condition regarding whether to move to Nigeria and get resettled as promised by the Nigerian government or to remain in the Peninsula under the administration of Cameroon, with whom they had no historical ties, connections, or allegiance. Eventually, decisions were made, and about 12,000 Bakassians chose to align with Nigeria, having been promised a robust resettlement plan. However, the Nigerian government failed to effectively and sufficiently fulfill that promise³¹². This marked the beginning of the effective legal displacement of Bakassians.

The few who were accommodated suffered a devastating loss of cultural life and their ancestral economic activity of fishing, having been resettled in a landlocked community. Commissions after commissions have been established to ensure the proper resettlement of the people, but nothing has come of it, as Bakassians live in some of the most deplorable conditions known to humanity³¹³. In 2013, the Presidential Committee on Proper Resettlement of Bakassi (PCPRB) under the administration of Goodluck Jonathan recommended the establishment of N100bn Special Fund for the rebuilding of a new Bakassi. Dayspring I & II were the areas designated for this rebuilding. It was a chosen site because it would allow Bakassians to practice their ancestral profession—fishing³¹⁴. However, no implementation of the Committee's report has occurred after 20 years. Furthermore, their cultural artifacts and heritage have been rendered immobile, permanently separated or displaced from their people³¹⁵.

With regard to Bakassians who have chosen to remain in Bakassi under the administration of Cameroon, their situation has not improved. The Republic of Cameroon has violated all provisions of the GTA concerning Bakassians. Cameroon pledged in Article 3 of the GTA that the rights and freedoms codified in most international laws would be guaranteed to Nigerians who decided to stay in Bakassi. Unfortunately, Cameroon has not fulfilled this promise, even though 95% of its oil

³¹¹ Ngalim (n49)

³¹² LeFebvre R K, 'Interests and Identities in Peace Negotiations: Nigeria, Cameroon, and the Bakassi Peninsula' [2013] 6 *African Social Science Review* 6

³¹³ Edem E, 'Bakassi refugees yet to settle 12 years after- Rep Essien Ayi' *Daily Post*. (29 October 2018) <https://dailypost.ng/2018/10/29/bakassi-refugees-yet-settle-12-years-rep-essien-ayi/> accessed 11 February 2025

³¹⁴ Eguzozie (n97)

³¹⁵ Usman (n4)

wealth comes from the peninsula³¹⁶. According to a Channels TV report, 20 Nigerians were killed and about 1,000 more displaced during a forceful eviction of Bakassians who chose to remain in Bakassi³¹⁷. In 2017, a similar incident of displacement was reported by the Guardian Newspaper: “About 97 Nigerians feared killed as Cameroon gendarmes allegedly attacked residents of Bakassi over failure to pay a N100, 000 boat levy.”³¹⁸ Actions of this kind from Cameroon further accentuate and perpetuate the displacement of the Bakassians.

Those who chose to move to Nigeria face inadequate resettlement and suffer from neglect, marginalization, and deprivation. Most lack means of livelihood³¹⁹. Thus, they find themselves caught between staying in Nigeria and returning to ceded Bakassi, where their kith and kin have been brutalized by Cameroonian gendarmes. None of the choices before them is desirable. This is a classic case of involuntary immobility or displacement in place. But this time, by law. Thus, they are willing to move, but to where?

Legal displacement in place and national identity crisis of Bakassians

In light of the distressing experience of Bakassians following the ICJ ruling and the resulting GTA, they are now effectively displaced in place, facing the consequences of a national identity crisis. In Nigeria, there exists a contradiction in having a Bakassi LGA, despite its territory being ceded to Cameroon in the amended 1999 constitution. The proposed new Bakassi LGA, which includes Dayspring I & II and Kwa Island, has not been legally recognized due to its failure to pass through the National Assembly³²⁰. This implies that there is no legal territory for Bakassians in Nigeria. On the Cameroonian Bakassi Peninsula, where some Bakassians have opted to remain, they have been persistently invaded and forcibly ejected, contrary to the provisions of the GTA. They have also faced

³¹⁶ Okon Edet, *Bakassi Peninsula: The Untold Story of a People Betrayed* (Partridge Publishing 2015)

³¹⁷ Channels Television, ‘Attacks on Nigerians in Bakassi’ *Channels* (7 June 2013) <www.channelstv.com> Accessed 12 January 2025

³¹⁸ The Guardian Newspaper, ‘97 Nigerians feared killed in Bakassi by gendarmes’ (23 May 2017) *Guardian News*. www.guardian.ng.com accessed 27 January 2025.

³¹⁹ Unah (n5)

³²⁰ Eguzozie (n97)

harassment from the Cameroonian military, with incidents of abuses such as violations of fundamental rights, neglect, and deprivation³²¹.

According to Article 3 of the GTA, Cameroon shall not compel Nigerians residing in the Peninsula to leave the territory or change their nationality; they will respect their belief systems, language, and culture; uphold their rights to engage in ancestral economic activities like fishing and agriculture; ensure the protection of their property and customary land rights; refrain from imposing discriminatory taxes and other dues on Nigerians living in the Peninsula; and take all necessary measures to safeguard Nigerians living in the Peninsula from any form of abuse. Regrettably, Cameroonian authorities have violated every aspect of these provisions, which effectively means rendering Bakassians “nationally destitute” without a legal territory or national identity that is recognized as either Nigerian or Cameroonian. This is a crisis, as their national identity tends to politically fluctuate between the two countries. The only national identity they can be certain of, as it stands, is the Bakassi Identity, which can only be achieved through the means of external self-determination or remedial secession. This contrasts with what they experienced in 1961 when 73% of Bakassians from the 21 polling stations located in the Bakassi Peninsula voted in the United Nations-organized plebiscite to join the Republic of Cameroon as part of Southern Cameroon³²², known as internal self-determination. By internal self-determination, groups seek to gain autonomy or self-governance in ways that do not threaten the territorial integrity of the host state, with the opposite being external self-determination³²³. Essentially, what Bakassians are requesting through proper resettlement and integration, either in Nigeria or Cameroon, is internal self-determination. However, this has been executed in ways that pose serious existential threats to them. Hence, their outright pursuit of external self-determination, or what the African Court on Human and Peoples’ Rights referred to as remedial secession, which it did not grant to the people of Katanga in the case of *Katangese Peoples’ Congress v Zaire* in 1995, on the grounds that there was no evidence of human rights abuses against the Katangese people nor an existential threat to justify such secession or external self-determination³²⁴. This is quite the opposite for Bakassians, who are

³²¹ *ibid*

³²² Bassey (n47)

³²³ Weldehaimanot S M, ‘The ACHPR in the case of Southern Cameroons’ [2012] 9 International Journal on Human Rights 84

³²⁴ African Commission on Human and Peoples’ Rights, *African Commission 8th Annual Activity Report on Katangese Peoples’ Congress v Zaire* (Cmd 75/92, 1995)

currently confronted with severe existential threats accompanied by various abuses, deprivations, and poverty.

Conclusion

The study analyzes the legal displacement of Bakassians resulting from the ICJ ruling and GTA, highlighting the ramifications of a national identity crisis. The ruling and peace negotiations lacked local inclusivity, leading to the unfortunate displacement of Bakassians. This displacement is purely legal, in contrast to conventional forms such as war, disaster, and poverty. The Bakassian displacement has created what Lubkermann termed an involuntary immobility, as any attempt to relocate would be futile. Consequently, there is a growing demand for a Bakassian national identity through external self-determination, potentially resulting in the establishment of a Bakassi Republic.

Recommendation

In light of the above, the study recommends that political leaders representing the Bakassi LGA prior to the cession should continue to pressure the Nigerian government to properly resettle Bakassians in their newly proposed LGA, thereby granting them internal self-determination. Additionally, Bakassians may seize the opportunity to collaborate with the Ambazonians in Cameroon, who are currently seeking remedial secession, given the contiguous nature of their territories, cultural similarities, and a shared lingua franca in the English language. To facilitate this, they will need to mend relations and negotiate terms that benefit both parties. Finally, both countries should allow Bakassians to make an indigenous decision regarding their future and destiny, either through external self-determination (remedial secession) via plebiscite or through a bi-national arrangement similar to that of Great Britain and China concerning Hong Kong, enabling them to choose which country they wish to belong to.