



Commentary

Southern Cameroons: The Politics of United Nations Trusteeship Colonial Diplomacy

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Abstract

The Southern Cameroons was administered by Great Britain under the United Nations Trusteeship for preparation towards the achievement of self-government or independence. The people of Southern Cameroons voted in a UN supervised plebiscite on February 11, 1961, to achieve independence by joining the independent Republic of Cameroon. The United Nations General Assembly (UNGA) by Resolution 1608(XV)-5 dated April 21, 1961 fixed the date of independence of Southern Cameroons and termination of the trusteeship on October 1, 1961. UNGA invited Great Britain the Administering Authority, the Government of the Southern Cameroons and the Republic of Cameroon to initiate urgent discussions with a view to finalising, before October 1, 1961, the arrangements by which the agreed and declared policies of the parties concerned will be implemented. The resolution was not implemented because the agreed and declared policies of the parties concerned were never worked out. This paper argues that the independence of the Southern Cameroons, which was guaranteed by international law to occur on the critical date of October 1, 1961, was achieved nevertheless; but the union with Cameroon on agreed declared policies by the parties did not take place. The failure by the UN to ensure compliance with the resolution frustrated the purported union. This paper addresses the status of Southern Cameroons in international law on the critical date of October 1, 1961, and establishes that Southern Cameroons attained the status of a decolonized independent state, pending formal UN recognition. The paper recognises that, although decolonised and independent, the freedom of Southern Cameroons was hampered by the cession of the territory by Great Britain to Cameroon through United Nations trusteeship colonial diplomacy and mismanagement of the trust, in violation of peremptory norms of international law, erga omnes obligations and the UN Charter. The paper has demonstrated that the UN bears the greatest responsibility for the cession of the Southern Cameroons by Great Britain and its annexation and colonization by Cameroon and the violent armed conflict which has arisen from these violations. The paper has highlighted the uncontrolled organisational failures and mismanagement of the trusteeship over Southern Cameroons which led to the cession of the territory and the harmful effects on the universal rule of law and UN Charter obligations and recommends UN action to redress the violations.

Keywords

Colony, Charter, Customary, Diplomacy, Independence, International, Norm, Self-determination, Trusteeship, Universal

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1. Introduction

The German colony of Cameroon was made up of packaged autonomous kingdoms and indigenous peoples attributed to Germany during the Berlin conference in 1884 which partitioned Africa among European powers. The Treaty of Versailles which ended the First World War dispossessed Germany of its colonial possessions which were distributed to victorious allied powers. German Kamerun was divided between France and Great Britain to administer as League of Nations mandated territories. The end of Second World War (WWII) heralded the demise of the League of Nations and the advent of the United Nations. The League of Nations Mandate System transmuted to the United Nations (UN) Trusteeship system under Chapters XII and XIII of the United Nations Charter.

The Southern Cameroons became a UN trust territory administered by Great Britain under Article 76 (b) of the Charter of the United Nations. The UN Fourth Committee of the United Nations General Assembly (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 implementation of the outcome of the plebiscite was subjected to a predicate in UNGA Resolution 1608 (XV)-5 which the Cameroon voted against. Nevertheless, the UN General Assembly endorsed the Resolution notwithstanding the vote of the Republic of Cameroon in opposition.

The UN General Assembly in Article 2 of its Resolution 1608(XV) endorsed the results of the plebiscite [28] 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. Considering that, the people of the two parts of the Trust Territory 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. 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 1 June 1961,

upon it 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 it joining the Republic of Cameroon. Article 5. Invites the Administering Authority, the Government of the Southern Cameroons and the Republic of Cameroon 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”.

This resolution was crucial to the joining process and therefore to the self-determination process without which the result of the Plebiscite would be put in jeopardy.

The UN and the United Kingdom of Great Britain and Ireland the Administering Authority failed to ensure that Resolution 1608(XV)-5 was complied with for independence by joining which the Southern Cameroons voted in the Plebiscite to occur. Because the post-plebiscite conference demanded in paragraph 5 of the resolution; was not enforced, the intentions expressed in the Plebiscite were not implemented as required in recommendation 3. Rather than work towards the enforcement of an international obligation, the administering authority conspired in the annexation of the Southern Cameroon by the Republic of Cameroon in violations of international law. This was a fundamental violation of the UN Charter obligations and fundamental principles of international law. These violations put peace and stability in the territory of the Southern Cameroons in jeopardy.

On October 1, every year, thousands of Southern Cameroonians celebrate a date which in history President Paul Biya declared war against the Southern Cameroons on November 30, 2017, during which atrocity crimes are committed. President Paul Biya declared the war which is in its tenth year to punish Southern Cameroonians for celebrating the independence which Southern Cameroons achieved on October 1, 1961. The war and atrocity crimes which are committed take place within a national and international historical context. This historical context requires a reasoned analysis to suggest an enduring solution which will bring justice and peace in Southern Cameroons.

1.1. The Root Cause of the South Conflict

The root cause of the Southern Cameroons conflict may be attributed to the politics of the United Nations trusteeship colonial diplomacy. Jan Ludert, Maria Ketzmerick and Julius Heise [8] posited that “in terms of the relevance of the Trusteeship Council, the Cameroonian example demonstrates that since administering countries which were colonial powers elsewhere, owe accountability and transparency to the body, the Trusteeship Council broke with the tradition of colonial administration at least in 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 decolonisation for Cameroon as shown in the legacies of violent conflicts today. About 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 conflict in Cameroon is rooted in the mishandling of the decolonisation process, and the colonial politics case shows that violence in internationalized situations need to be understood and social dynamic to finally get why "A colonial war in a UN Trusteeship" could happen", Ludeert et al., found that the UN mismanagement and violations of the trusteeship "only exemplifies the irritation raised by the local population" and "it also shows the material consequences clearly". [Jan Ludert [2023] 112, *The United Nations Trusteeship System: Legacies, Continuities, and Change* Global Institutions series, Routledge 108,11.

Joseph Modeste Sweeney, Modeste, Covey T Oliver, Noyes E. Leech [11] state at page 893 of 'The International Legal System: Cases and Materials, 3rd Edition, that "the trusteeship system which was set up under Articles 75-91 of the Charter of the United Nations presents obvious analogies to the institution of the trust in common law system.... It does not follow however that a state holding a territory in trusteeship is vested with title to it because a trustee is usually vested with title to the trust in common law. The common core of the concept which underlies the system of trusteeship under the Charter of the United Nations and the preceding systems of mandates under the League of nations which vests the power of control in the mandatory and the trustee for the benefit of the people in the territory under the mandate or trusteeship. The most absolute power of control available, i. e title to, or sovereignty over the territory, is not given, however, to the mandatory or the trustee state, though of course, the scope of the power is broad. [Joseph Modeste Sweeney, Modeste, Covey T Oliver, Noyes E. Leech (ed), [2000] *Self-Determination in International Law: Quebec and Lessons Learned* (Kluwer International Law 2000) Reference re Secession of Quebec [1998] 2 SCR 217, *International Legal System: Cases and Materials -Third Edition*, University Casebook Series, The Foundation Press, Inc 615 Merrick, Ave. Westbury New York, NY 11590.

Following from this, sovereignty over the Southern Cameroons under the UN trusteeship was with the people of the Southern Cameroons. Great Britain did not possess a right under international law and the UN Charter to transfer sovereignty over the Southern Cameroons to the Republic of Cameroon, in a manner which was inconsistent with the rights of Southern Cameroons to self-determination under United Nations General Assembly Resolution 1608 (XV) -5 and the UN Charter Article 76 (b). Despite being decolonised and granted independence through the UN trusteeship system, Southern Cameroons was ceded to Cameroon by Great Britain in violation of international law and the UN Charter and subjected to

colonial rule, racism and exploitation through FranceAfrique colonial treaties. The UN failed to take action to formally recognise the independence of the Southern Cameroons and took no action to prevent the cession of the territory by the trust administering authority, Great Britain to Cameroon in violation of the UN Charter and the UN trusteeship framework, The UN bears the greatest responsibility for the annexation of the Southern Cameroons in violation of UN Charter obligations and binding fundamental principles of international law. The UN therefore bears the responsibility for the prejudice which the people of the Southern Cameroons have suffered and the consequences of its indifference towards rectifying the errors and violations which it encouraged or disregarded which have led to armed conflict and atrocity crimes which are taking place in the territory of the Southern Cameroons.

1.2. UN Trusteeship Over Southern Cameroons

The Southern Cameroons was a UN trust territory administered under Article 76 (b) of the Charter of the United Nations [26]. 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 implementation of the outcome of the plebiscite was subjected to a predicate in UNGA Resolution 1608 (XV)-5. The Republic of Cameroon voted against the resolution. Nevertheless, the UN General Assembly endorsed the Resolution notwithstanding the vote of the Republic of Cameroon in opposition. The UN General Assembly in Article 2 of its Resolution 1608 endorsed the results of the plebiscite thus:

- 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

Considering that, the people of the two parts of the Trust Territory 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;

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 1 June 1961, upon it 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 it joining the Republic of Cameroon;
- Article 5. Invites the Administering Authority, the Government of the Southern Cameroons and the Republic of Cameroon 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.

This resolution was crucial to the joining process and therefore to the self-determination process. If it was not implemented, the whole result of the Plebiscite would be put in jeopardy: It was never implemented.

The UN and the United Kingdom of Great Britain and Ireland the Administering Authority failed to ensure that Resolution 1608(XV)-5 was complied with for independence by joining which the Southern Cameroons voted in the Plebiscite occurred. Because the post-plebiscite conference demanded in paragraph 5 of the resolution; was not enforced, the intentions expressed in the Plebiscite were not implemented as required in recommendation 3. Rather than work towards the enforcement of an international obligation, the administering authority conspired in the annexation of the Southern Cameroon by the Republic of Cameroon in violations of international law. This was a fundamental violation of fundamental principles of international law, Jus Cogen norms and erga omnes obligations from which there was no derogation.

The union was not formalized and sealed by a freely negotiated agreement establishing agreed terms by which the union was to establish. None was

Jeremy Hill [10] explains that “there is no difference in legal effect between a treaty contained in a single instrument and a treaty constituted by a more informal method of exchange of notes, provided it satisfies the other elements of the definition. In 1945, there was still uncertainty whether international agreements drafted in a less formal way could properly be called treaties, and this was reflected in Article 102 of the UN Charter, which requires the registration of ‘every treaty and every international agreement’.” Jeremy Hill, *Aust’s Modern Treaty Law and Practice* Fourth Edition, Cambridge University Press 8

A critical factual and legal investigation and analysis of the historical and legal record of the UN, United Nations of Great Britain and Ireland, Cameroon and the Southern Cameroons turnout with no treaty or international agreement to establish that UNGA Resolution 1608(V) -5 was implemented and duly registered in the UN Secretariat pursuant to Article 102(1) of the UN Charter to support the allegation later made by United Kingdom of Great Britain and Ireland to the Trusteeship Council four months after the annexation of the Southern

Cameroons by the Republic of Cameroon that independence by joining occurred pursuant to Resolution 1608(V)-5.

Southern Cameroon like South West Africa (Namibia) was a League of Nations Mandated territory which came under the United Nations after the Second World War. Great Britain was the League of Nations Mandate Administering Authority and continued as the trusteeship administering authority under the United Nations. The transfer of sovereignty by Great Britain, the UN trust administering authority over Southern Cameroon outside the trusteeship agreement framework is attributed to the failure of by the UN to exercise reasonable oversight over the trusteeship administration to prevent the mismanagement and violation of the peremptory norms of international law and erga omnes obligations by Great Britain the UN trusteeship administration authority and Cameroon, a UN member state and former trusteeship territory. The ICJ held in the case of Southwest Africa Admissibility of Hearings of Petitioners by the Committee on South West Africa (Advisory Opinion) in supervisory administration of former League of Nations Mandated territory to the United Nations [19] that the “obligations of the Mandatory under the Mandate continued unimpaired, and that the supervisory functions in respect of the Mandate were exercisable by the United Nations, the General Assembly replacing in this respect the Council of the League. It followed that the General Assembly in carrying out its supervisory functions had the same authority as the Council. The scope of that authority could not be narrowed by the fact that the Assembly had replaced the Council as the supervisory organ.”

Southwest Africa [1958] Admissibility of Hearings of Petitioners by the Committee on South West Africa (Advisory Opinion) ICJ [1956] ICJ Rep 23; (1958) p10, para.29

Following on this decision, non-compliance by Great Britain and Cameroon of UNGA Resolution 1608(XV)-5 and Article 102 of the UN Charter and the Note Verbale from the British Ambassador to Cameroon four months after the cession of the territory with no agreed and declared policies on which the union was to be implemented was a sufficient alarm of egregious violations for the UN to take remedial measures to restore the international legality and safeguard the independent and freedom of Southern Cameroon under international law and the UN Charter

The UN General Assembly Special Committee for the transmission of Information under Article 73 e of the UN Charter [29] established a special committee to ensure that information was transmitted to UNGA to enable it ensure that the following principles of decolonisation were achieved: “Principle IX Integration should have come about in the following circumstances:

- (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".

And that "Recognizing that the desire for independence is the rightful aspiration of peoples under colonial subjugation and that the denial of their right to self-determination constitutes a threat to the well-being of humanity and to international peace". General Assembly, by resolution 1467 (XIV) of 12 December 1959, appointed the Special Committee of Six on the Transmission of Information under Article 73 e of the Charter to study the principles which should guide Members in determining whether or not an obligation exists to transmit the information called for in Article 73 e,

The Note exchange of Note Verbale between the Ambassador of Great Britain in Yaoundé Cameroon, during the pendency of the trusteeship over Southern Cameroons was not transmitted to the Special Committee and the Government of the Southern Cameroon. They were not transmitted to the Secretary General of the UN or the Trusteeship Council. Their existence was disclosed four months after the termination of the trusteeship, and the annexation of the ceded territory in total disregard with the principles IX of Resolution 1467(XIV) of 12 December 1959, peremptory norms of international law and erga omnes obligations of Great Britain, Cameroon and the UN.

1.3. UNGA Resolution 1608(XV)-5 Were Erga Omnes Obligation and a Peremptory Norm of International Law

The right to self-determination of Southern Cameroons was rooted under the UN Charter Article 76 (b). Jan et al., [8, 17] Citing the jurisprudence of the International Court of Justice in Barcelona Traction posited that "Under the influence of the decolonisation process, the right to self-determination became enshrined in conventions of 1966 and was confirmed in a Declaration of Principles adopted by the UNGA in 1970. Barcelona Traction Light and Power Company Limited (Belgium v Spain) Judgment [1970], [ICJ Reports, 1970, pp, 332,46 ILR, PP. 349, 471. Crawford [7] writes at page 116 that, there exists an essential obligation between a state, the international community, and a state vis a vis another state in the field of diplomatic protection and that by their very nature, the former concerned all 'states and all states can be held to have legal interest in their protection; they are obligations erga omnes'. James Crawford [2006] *The Creation of States in International Law* (2nd edition, Oxford University Press 116

It follows from this statement of the law, that UNGA Resolution 1608(XV)-5 was a self-determination predicate which was established pursuant to UN Charter Chapters XI, XII and UNGA Resolutions 1514 (XV), 1541(XV) for the protection

of the rights of mandates and trust territories as well as non-self-governing states. It was a jus cogens norm and an erga omnes obligation owed by the international community to the Southern Cameroons.

2. The Right to Self-Determination Under the UN System

Under this Declaration, self-determination can take the form of independent statehood, association, or integration with another state, or some other political status. UN General Assembly Resolution 2625 (XXV), Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States [30] in accordance with the Charter of the United Nations adopted 24 October 1970. Self-determination is generally considered a rule of customary international law. The ICJ has referred to self-determination as an erga omnes principle and peremptory norm of international law which is recognised in the UN Charter and enforceable throughout UN Practice from which there is no derogation. An erga omnes obligation is owed to the international community, therefore the enforcement of the right for self-determination under UNGA Resolution 1608(V) was an international obligation owed by UK of Great Britain and Ireland and the Republic of Cameroon which they breached.

The ICJ held in the case of East Timor (Portugal v. Australia) [18, 22] that "In the Court's view, Portugal's assertion that the right of peoples to self-determination, as it evolved from the Charter and from United Nations practice, has an erga omnes character, is irreproachable" and that "it is one of the essential principles of contemporary international law" The principle of self-determination of peoples has been recognized by the United Nations Charter and in the jurisprudence of the Court (see Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) notwithstanding Security Council Resolution 276 (1970), Advisory Opinion, I. C. J. Reports 1971, pp. 31- 32, paras. 52-53; Western Sahara, Advisory Opinion, I. C. J. Reports 1975, pp. 31-33, paras. 54-59). Case Concerning East Timor (Portugal V Australia) ICJ Reports of [30 June 1955] 16.

2.1. Threshold for Self-Determination

The UN by UNGA Resolution 1514 (XV) established the threshold for self-determination for trust administered territories and non-self-governing territories. [27, 32]. UNGA Resolution 1514 9(XV) "Recognizing the passionate yearning for freedom in all dependent peoples and the decisive role of such peoples in the attainment of their independence" states:

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 people 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 people 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.
- 3) 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.
- 4) 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.”

[Resolution adopted by the General Assembly 1514 (XV). Declaration on the Granting of Independence to Colonial Countries and Peoples adopted 14 December 1960 UN Doc A/RES/1514(XV)]

2.2. Guiding Principles

United Nations General Assembly established guiding principles for determining whether an obligation exists for the transformation of information which was relevant to self-determination [33]. These principles were known as UNGA 1541(XV).

UNGA 1541 established the following principles to guide members in determining whether an obligation exists to transmit the information called for under Article 73 (e) of the UN Charter [34].

Principle VI stated that A Non-Self-Governing Territory can be said to have reached a full measure of self-government

by,

- Emergence as a sovereign independent State;
- Free association with an independent State; or
- Integration with an independent State.

Principle VII

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.

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,

- 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.

3.1 UN Resolution 1608(XV) was the ultimate legal predicate towards the fulfilment of the rights of Southern Cameroons to self-determination, which was clearly defined in UN Chapters XI, XII and stated in UN Resolution 1514(XV).

Ardi Imseis [3, 11] states that by 1945, the self-determination had developed sufficiently to be expressly included in the UN Charter as both a purpose of the Organisation and a principle guiding its action “the common core of the concept which

underlies the system of trusteeship under the UN Charter System and the preceding systems of the mandate under the League of Nations". This position is also articulated by Sweeney et al that self-determination is "the common core of the concept which underlies the system of trusteeship under the UN Charter System and the preceding systems of the mandate under the League of Nations".

Ardi Imseis [2023] *The United National and the Question of Palestine, Rule by law and the Structure of International Law Subalternity*, Cambridge University Press 54

Self-determination of people was focused on issues of decolonisation, built on the provisions of Chapters XI and XII of the UN Charter [31] which deals with non-self-governing territories. [UN General Assembly Resolution 1541 (XV) are 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 (adopted 15 December 1960)].

Olivier De Schutter, [16] has articulated the correct statement of law that in cases of decolonisation, self-determination is a legal basis for achieving independence, a position also held by the Supreme Court of Canada in an advisory opinion that 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. Reference re Secession of Quebec [1998] 2 SCR p217]. Olivier De Schutter, [2010] *International Human Rights Law* (Cambridge University Press 688–689).

The ICJ in the South West Africa Advisory Opinion [18] which was also articulated in the East Timor ICJ East Timor Judgment, decided that the right of a people to self-determination is now so widely established in international conventions that the principle has acquired a status beyond 'convention' and is considered a general principle of international law. Advisory Opinion 1970 [Legal Consequences for States of the Continued Presence of South Africa in Namibia (Southwest Africa) notwithstanding Security Council Resolution 276 (1970) (Advisory Opinion) [1971] p 47. [See also ICJ Rep 16, 31–32, paras 52–53. East Timor (Portugal v Australia) (Judgment) [1995] ICJ Rep 90, 102, para 29]

3. Conspiracy Against the Southern Cameroons

Prior to October 1, 1961, the Governor General of UK of Great Britain and Northern Ireland in the Southern Cameroons was Governor General of Nigeria R. M MacPherson who oversaw the administration, with local governance coordinated from Buea by John Osbaldiston Fields also called J. O Fields, a British colonial administrator and later James Wilson from 1959-1961. In 1960, Southern Cameroons under British Trusteeship, enacted Southern Cameroons Constitution Order in Council to facilitate Southern Cameroons transition to self-

governance. It had provisions for a legislative Council and executive powers. Southern Cameroons had a democratically elected government in 1961 with Dr J. N Foncha as Premier and Dr EML Endeley as Leader of the opposition. Southern Cameroons had an international personality under the trusteeship agreement with a cognisable right to self-determination under international law. This right was specifically recognised in UNGA Resolution 1608(XV)-5 which required the parties to discuss the agreed and declared policies which a union with the Republic of Cameroon was to be implemented prior to October 1, 1961, the critical date of the independence and termination of the trusteeship for the union to occur on the prior agreed and declared policies. Independence and termination of the trusteeship occurred on the critical date but the union did not occur. Great Britain had conspired and ceded the territory to Cameroon which promptly annexed the territory and embarked on obliterating its distinctive identity.

3.1. Role of Republic of Cameroon

The Republic of Cameroon achieved independence on January 1, 1960, Ahmadou Ahidjo was appointed Prime Minister by France.

Ahidjo organised a referendum on February 21, 1960, for the endorsement of a French imposed draft constitution which adopted the name of the country as Republic of Cameroon.

On February 1, 1960, The United Kingdom of Great Britain and Ireland established diplomatic relations with the Republic of Cameroon shortly after Cameroon gained independence from France. The UK ambassador to Cameroon during this period from 1961 to 1963 was Cecil King.

Southern Cameroons which was a UN trusteeship territory did not fall under UK diplomatic mission in the Republic of Cameroon. The Southern Cameroon was under the Governor General of the UK of Great Britain and Northern Ireland.

By not associating the Southern Cameroons with the decisions concerning its status and future, UK and the Republic of Cameroon conspired in the annexation of the Southern Cameroons by the Republic of Cameroon.

The exchange of Notes Verbale hereunder demonstrates the fundamental breach of international law and the process of the annexation of the Southern Cameroons.

The diplomatic relations between the UK and the Republic of Cameroon were governed by the Vienna Convention on Diplomatic Relations, which was adopted on April 14, 1961, and entered into force on April 24, 1964. Article 3 states that,

- 1) "The functions of a diplomatic mission consist, inter alia, in:
 - a) Representing the sending State in the receiving State;
 - b) Protecting in the receiving State the interests of the sending State and of its nationals, within the limits permitted

by international law;

- c) Negotiating with the Government of the receiving State;
 - d) Ascertaining by all lawful means conditions and developments in the receiving State, and reporting thereon to the Government of the sending State;
 - e) Promoting friendly relations between the sending State and the receiving State, and developing their economic, cultural and scientific relations.
- 2) Nothing in the present Convention shall be construed as preventing the performance of consular functions by a diplomatic mission.

Southern Cameroons was not a receiving state; the Republic of Cameroon was.

The République du Cameroun joined the United Nations on September 20, 1960, at a time when the Southern Cameroons was still under the trusteeship system. Consequently, the seat of the Republic of Cameroun at the UN did not represent the Southern Cameroons.

3.2. Conflicting Positions on Compliance with UNGA Resolution 1608 (XV)-5 by UK and Cameroon

The United Kingdom of Great Britain and Northern Ireland and the Republic of Cameroon have presented inconsistent positions on the implementation of Resolution 1608 XV -5. The UK stated in a Note Verbale to the Secretary General of the United Nations on February 27, 1962, that UN Resolution 1608 XV-5 was compiled and relied on this misrepresentation to seek the termination of the trusteeship.

The claim of title over Southern Cameroons by the Republic of Cameroon is stated in paragraph 210 of the ICJ Judgment of the Cameroon v Nigeria [20] where the ICJ stated,

“Cameroon also emphasizes the absence of protest by Nigeria to the proposed boundary during the independence process, and the fact that Nigeria voted in favour of General Assembly resolution 1608 (XV) by which the British trusteeship was formally terminated”. [Para 2010, Land and Maritime Boundary between Cameroon and Nigeria (Cameroon v Nigeria) (Judgment) [2002] ICJ Rep 303. Cameroon also laid its claim to title over Southern Cameroons on effectivité historic consolidation of title, acquiescence and recognition.

The UK and Cameroon did not file a treaty or an authenticated report of agreed terms between them and the Southern Cameroons which was required by UNGA Resolution 1608 XV-5 to the Secretary General of the UN as required by Article 102 of the UN Charter for the trusteeship over Southern Cameroons to be validly terminated. No terms of negotiated and agreed terms were submitted by the UK with its report it submitted four months after October 1, 1961. The Trusteeship over Southern Cameroons was illegally terminated on the basis of a mere assertion by the UK long after the annexation of the territory by the Republic of Cameroon as a cover up of colonial conspiracy to maintain colonial presence in the territory and in the mineral rich Gulf of Guinea through a neo-

colonial FranceAfrique proxy.

The termination of the trusteeship by diplomatic exchange of notes between the ambassador of United Kingdom of Great Britain and Northern Ireland in Yaounde Cameroon, and the President of Cameroon was inconsistent with the provision of UN Resolution 1608 XV-5. It violated a fundamental principle of international law and an erga omnes obligation of states. By relying on the exchange of notes between the UK and Cameroon to terminate the trusteeship without ascertaining that the agreed terms of independence by joining were filed with the Secretary General of the UN, the Trusteeship Council acted in breach of the UN Charter and a fundamental principle of international law from which there is no derogation.

The UK and the Republic of Cameroon acted *ultra vires* by violating the right of the Southern Cameroon to self-determination under Resolution 1608 XV-5 by exchange of diplomatic notes without negotiated and agreed terms of independence by joining the Republic of Cameroon.

The termination of the trusteeship and transfer of sovereignty did not take place in Buea the seat of government of the Southern Cameroons where the trusteeship was administered and was not made to the elected government and representatives of the Southern Cameroons to enable them to exercise their right of self-determination by freely joining the Republic of Cameroon on freely negotiated and agreed terms.

On 27 September 1961, Southern Cameroons was a UN trust territory and not a colony of UK or Cameroon. On September 1, 1961, Southern Cameroons was not colony of the Republic of Cameroon. The trusteeship administration over the Southern Cameroons was under UN and international law.

4. Diplomatic Horse Trading of the Right to Self-determination

The UK sent a Note Verbale dated February 27, 1962, to the Secretary General of the UN transmitting a Note Verbale which the UK Ambassador of Great Britain and Northern Ireland in Yaoundé Cameroon sent on September 27, 1961, to President Ahmadou Ahidjo on Cameroon. The UK Note Verbale “addressed to the Secretary-General to inform him that in accordance with General Assembly resolution 1608 (XV) of April 21, 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 December 13, 1946, terminated at midnight on September 30, 1961.”

The Note Verbale from the UK to the Secretary General of the UN came four months after the UK handed over the Southern Cameroons to the Republic of Cameroon which promptly annexed the territory. The four-month delay in alerting the Secretary General of the UN about the act which violated the fundamental terms of the trusteeship agreement was not explained or justified. It can be reasonably discerned that the delay was intended to allow the annexation to crystallise and be-

come an irreversible fait accompli before serving the Secretary General with a barefaced misrepresentation about ending the trusteeship pursuant to Resolution 1606 XV-5.

The four months late Note Verbale, fait accompli after the act stated, “Note verbale dated February 27, 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 April 21, 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 December 13 1946 terminated at midnight on September 30 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.”

Article 31 (1) of the Vienna Convention on the Law of Treaties states, “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”.

By its ordinary meaning, Resolution 1608 XV-5 urged Southern Cameroons, Republic of Cameroon to urgently negotiate and agree on terms by which Southern Cameroonians were to achieve independence by joining the Republic of Cameroon. The Republic of Cameroon and the UK understood this resolution but chose to ignore it.

The Southern Cameroons was not involved the bilateral deal with the Republic of Cameroon. Through the conspiracy of the UK, independence by joining which was supposed to crystalise after the terms of the joining were negotiated and agreed between Southern Cameroons, Republic of Cameroon and the UK was aborted and manifestly eviscerated by UK and the Republic of Cameroon.

Because the predate right of Southern Cameroon to self-determination under Resolution 1608 XV-5 was obliterated. The purported termination of the trusteeship on October 1, 1961, by UK pursuant to Resolution 1608 XV-5 was a deceitful fig leaf of misrepresentation to conceal a fundamental breach of an international obligation and a violation of fundamental principles of international law.

4.1. Colonial Diplomatic Deals Under UN Charter

It is necessary to verify the international instruments on which the Republic of Cameroon relies on to assert a claim of title over the territory of the Southern Cameroons.

On March 2, 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 February 27, 1962, communicated an exchange of notes between the Ambassador

of Great Britain in Yaoundé Cameroon dated September 27, 1961, and the President of Cameroun Ahmadou Ahidjo. The note verbale and the exchange of notes are set out hereunder.

The exchange of notes dated February 27, 1972, reads: “Note verbale dated February 27, 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 April 21 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 December 13, 1946, terminated at midnight on September 30, 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 terminated on June 1 1961 upon 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:

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

British Embassy, YAOUNDE. September 27, 1961.

Sir,

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

I have the honour to be,

Signed) C. E. KING Her Majesty’s Ambassador “.

The exchange of notes between the Ambassador of Great Britain and the President of Cameroon on September 27, 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 ordains; “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, 1961, the arrangements by which the agreed and declared policies of the parties concerned will be implemented”

Great Britain failed in its Note Verbale to the United Nations Secretary-General to provide information about, “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 finalising before 1 October 1961”.

Great Britain did not notify the Southern Cameroons of its surreptitious conspiratorial facilitation of the annexation and colonisation of the Southern Cameroons in violation of UNGA Resolution 1608 (XV)-(5) and the UN Charter.

4.2. Fuzzy Royal Proclamation

A Royal Proclamation was gazetted in the London Gazette on September 28, 1961, in which the end to United Kingdom administration of the Southern Cameroons was to become effective on October 1, 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 disclose that it handed over of sovereignty of the Southern Cameroons to the Republic of Cameroon rather than Southern Cameroons to enable the people to exercise their right of self-determination. There would have been no obligation at the negotiating table on agreed terms for Southern Cameroons to join the Republic of Cameroon if the terms of independence by joining were oppressive.

The deliberately vague Royal Proclamation was carefully drafted to conceal the actions which Great Britain undertook to facilitate and then endorse the annexation of the Southern Cameroons by the Republic of Cameroon on September 27, 1961.

The purported termination of the trusteeship administration at midnight on September 30, 1961, when the territory was already annexed with the conspiracy of her Majesty’s government on September 27, 1961, establishes the central role which Great Britain played in the annexation and colonisation of the Southern Cameroons.

4.3. Northern British Cameroons

Great Britain in its Note Verbale on the Southern Cameroons to the Secretary-General of the United Nations on February 27, 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 June 1961

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 from the situation of the Southern Cameroons.

The Republic of Cameroon initiated a case at the ICJ 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.

The Note Verbale to the Secretary General of the UN 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 “Exchange of letters constituting an agreement about the incorporation of the Northern Cameroons into the Federation of Nigeria, signed in Lagos on May 29, 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). There are no specific terms concerning Southern Cameroons 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 realisation of the external self-determination of the Southern Cameroons under Article 76 (b) of the UN Charter. It was impermissible for alleged re-unification, annexation, Exchange of Notes between the UK and the Republic of Cameroon, and/or a Royal Proclamation to alter or change the internationally recognised status of Southern Cameroons without the consent of the Southern Cameroons. therefore, mentation UNGA Resolution 1608(XV)-(V) did not take place, therefore the achievement of independence by joining the Republic of Cameroon did not occur on October 1, 1961.

5. Claim of Title Over Southern Cameroons

The claim of title over Southern Cameroon by the Republic of Cameroon has never been based on UN on rights flowing from UN Charter Article 76 (2), Chapters XI, XII UNGA Resolutions in UN, 1514(XV and Resolution 1352 of October 16, 1959, on Plebiscite in Southern Cameroons and UNGA Resolution 1608 XV-5. The Republic of Cameroon voted against UNGA Resolution 1608 XV and made no effort towards its implementation.

The Republic of Cameroon wanted reunification through international political and diplomatic machinations or through annexation. It found co-conspirators in UK of Great Britain and Northern Ireland and France with whom the implementation of Resolution 1608 (XV)-5 was subverted and aborted. Instead of independence by joining, the Southern Cameroons was annexed, colonized and forcefully submitted to the internal constitutional arrangement of the Republic of Cameroon through mere adjustments and amendments.

Achille Mbembe [2] reveals, recalls that attempts were made since 1954 at the United Nations and back in Cameroon to endorse an option of unification of the Southern Cameroons and French Cameroon, but the option was rejected at the UN, and it failed. Mbembe reveals that the Manifesto of the Cameroon Democratic Bloc of Dr. Aujoulat to whom France entrusted pseudo-independence, stated, "It will be up to France to guarantee their absolute conformity with the regime of supervision, economic, social and political developments.". [Achille Mbembe, J.-A. Ruben Um Nyobè *Écrits sur le maquis* (L'Harmattan, Racines du Présent Series 83-84

Daniel Tom Yagnye [5] recounts that this initiative received sympathetic attention from the United States and the Soviet Union but was seriously opposed by France which did not want to consider independence for its French Cameroon.

Daniel Tom Yagnye [2004] *UPC: Facing Paralysis of Cameroon*, Harmattan Press 41–44.

Nfamewih [14] characterises Cameroon as a colonial clap-trap dressed in colonial robes of republican independence. He explains that, "On June 5 1960, the National Assembly which was still controlling with general municipal councillors, selected Ahmadou Ahidjo as the first President of the Republic of Cameroon and Cameroon suddenly became a republic; a republic by a foreign imposed 'constitution' to serve the interests of its metropolitan backers and not a nation born out of the desires of the people to reshuffle their populations through a process of discussion and negotiation through which they could define their purpose and create their own cultural identity with its foundation in history resting on the terms of the negotiation and its ideological disposition supported by the world view of the people with the latter maintained and reproduced by the former. East Cameroon rather became an 'independent state' according to a plan on the French occupied West and Equatorial Africa in 1958 by Charles DeGualle". He recounts that "Ahmadou Ahidjo who was appointed Prime Minister and later President, did not have a mandate through popular sovereignty when the UK facilitated the annexation and colonisation of Southern Cameroons through him. Rather than hand over the sovereignty over Southern Cameroon to the constitutionally elected leaders of the Southern Cameroons who were nurtured through a transparent constitutional democratic process, the UK handed it to a colonial puppet of FranceAfrique who depended on violence, brutal oppression to retain political power".

[Njamwih Aseih [2011] *A Connotational Hold-Up in Cam-*

eroon: A Paradigm for Understanding the Dilemma Underdevelopment in Black Africa (Glov. DAL World Publishers 34

5.1. Colonial Imposed Constitution

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

The said Constitution in the following essential provisions stated inter alia: "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 Cameroon 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. Cameroon being one and indivisible therefore related solely to the Republic of Cameroon and did not include the annexed and colonised territory of Southern Cameroons.

Whereas the Government of the Southern Cameroons by October 1, 1961, was an elected government by universal suffrage, Ahidjo was an appointee of the French and legally lacked the mandate to dissolve a universally elected government and the structures of government of the Southern Cameroons.

The British lacked the mandate to hand over sovereignty of the Southern Cameroons without compliance with UN Resolution 1608 XV-5.

5.2. Capricious Dictator

President Ahidjo was aware that the outcome of the plebiscite on February 11, 1961, was not conclusive of the Southern Cameroons eventually joining the Republic of Cameroon. He was aware that if he got to the negotiating table with Southern Cameroons and the UK, and the Southern Cameroons discovered his intension of reunification which would its distinctive legal cultural identity, it was going to walk away and would have dashed his plans. He decided to take the risk and decided to elicit the support of his colonial masters UK and France.

His interview in the Official Newspaper *L'Unité* No. 32 of 24/2/1961 two weeks after the plebiscite in which he talked about reunification rather than negotiated and agreed terms is revealing:

"QUESTION:

Mr. President, Southern Cameroons under British tutelage has just decided, as you have just declared, as you have just

said, in favour 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 which 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.'

In this interview, Ahidjo promised to attend a post-plebiscite conference with the Southern Cameroons and UK to work out the terms of independence by joining which he mischaracterised as reunification which was a synonym for annexation and colonisation.

5.3. Constitutional Nose of Annexation and Colonisation

The Constitutional amendment transforming the Republic of Cameroon to Federal Republic of Cameroon was promulgated into law on September 1, 1961 (Law no. 24/61) by Ahmadou Ahidjo President of the Republic of Cameroon to accommodate the annexed Southern Cameroons.

The Federal Constitution which emerged from the adjustment of the Constitution of the Republic of Cameroon to accommodate the Southern Cameroons, 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 Republic of Cameroon informed assembled deputies that it was not a new constitution but an amendment of the constitution of Republic of Cameroon to accommodate a part of its territory which was returning to the motherland.

The amended Constitution of the Republic of Cameroon was promulgated into law on September 1, 1961, and named the Constitution of the Federal Republic of Cameroon by Ahmadou Ahidjo President of La Republique du Cameroun (Law no. 24/61) It 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 to 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 of 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 1st September 1961 AHMADOU AHIDJO

On September 1, 1961, while Southern Cameroons was still under trusteeship. Pursuant to Article 50 of the federal Constitution, beginning from October 1, 1961, the FranceAfrique appointed President Amadou Ahidjo would rule by Ordinances to "set up constitutional organs, and, pending their setting up, for governmental procedure and carrying on of the federal government". This was a tacit repudiation of the trusteeship and the obliteration of the government and constitutional structures of the Southern Cameroon. It was legal instrument of annexation and colonisation. Lawyers for the Republic of Cameroon, Professors Peter Ntarmark and Malcom Shaw on 18 February 2002, made submissions in support of Cameroon's claim of title based on Effectivité, that is, 'historic consolidation of title, acquiescence, recognition and the principle of *Uti Possidetis Juris*', and not on the UN decolonisation prerogatives pursuant to Article 76 (2) of the Charter. For the Republic of Cameroon, Southern Cameroons was an annexed and reunited colonial territory, over which it exercised historical consolidation, consolidation of title and acquiescence. The ICJ recalled in paragraph 210 of its judgment "Cameroon also emphasizes the absence of protest by Nigeria to the proposed boundary during the independence process, and the fact that Nigeria voted in favour of General Assembly resolution 1608 (XV) by which the British trusteeship was formally terminated". The vote by Nigeria in favour of the General Assembly resolution 1608(XV) which Cameroon voted against and by which trusteeship was formally terminated and the independence process.

The role of the UK in derailing and eviscerating the decolonisation process under the UN trusteeship mandate, came on September 27, 1961, "On the instructions of my Government and In compliance with resolution 1608 (XV) of the General Assembly of the United Nations, dated April 21 1961, providing that the trusteeship exercised by the United Kingdom in the Southern Cameroons under the Trusteeship Agreement of December 1 1946 shall be terminated on October 1 1961 upon the Southern Cameroons Joining the Republic of Cameroun, I have the honour to inform you that this trusteeship will cease to be exercised in the Southern Cameroons at midnight on September 30 1961, as this Territory will Join the Republic of Cameroun at 00.00 hours on October 1 1961".

The UK waited four months to send a Note Verbale dated February 27, 1962, to the Secretary General of the UN transmitting a Note Verbale which the UK Ambassador of Great Britain and Northern Ireland in Yaoundé Cameroon sent on September 27, 1961, to President Ahmadou Ahidjo on Cameroon. The UK Note Verbale “addressed to the Secretary-General to inform him that in accordance with General Assembly resolution 1608 (XV) of April 21, 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 December 13, 1946, terminated at midnight on September 30, 1961.”

The actions of the UK facilitated and aided the derailment and obliteration of the decolonisation process, enabled the annexation and colonisation of the Southern Cameroons and sowed the seeds of armed conflict in the territory.

The actions of the UK purposefully ensured colonial economic interests in the Southern Cameroons. The UK was acting as a proxy of France/Afrique colonial interests by delivering Southern Cameroons right back to colonial control through the Republic of Cameroon.

According to Pierre Ela, [15] when the French eventually fulfilled this predetermined colonial policy, Dr. Fonlon bitterly complained that the influence of the French, thanks to their colonial cultural policy, thanks to their vast economic interests and finally thanks to their physical presence, is very strong and is still increasing. This is the famous policy that is inscribed in the history of colonisation under the name of assimilation. Ela recounts Abel Eyinga disclosing that to safeguard the economic interests of France the President of the neocolonial Federal Republic of Cameroon, was summoned to Paris and instructed to dismantle the federal façade which was imposed on the Southern Cameroons and replace it with a centralised unitary state. The so-called federal constitution eviscerates the independence by joining on October 1, 1961, and the entire process of self-determination which was a fundamental principle of international law. It was an annexation and colonisation yoke of enslavement. The absolute power under Article 50 was a sledgehammer of impunity and terror with which the Southern Cameroons state architecture, legal and cultural identities were obliterated. Ela, recounts a catalogue of governmental systemic violations, policies and actions which were deployed to obliterate the Southern Cameroons cultural identity which triggered resentment, agitation and discontent by the affected population, including by Dr Benard Folon, a foremost Southern Cameroons intellectual who served as a junior minister in the federal government under Ahmadou Ahidjo. Pierre Ela [2000] *Dark Dossiers on Cameroon* Pyramide Papyrus Press 257, -273.

It was a dynamite by Ahidjo obliterated constitutional structures of the Southern Cameroon government; eviscerated its legal and cultural distinctive identity. Still during the trusteeship, the UK surrendered Southern Cameroons to complete colonisation and waited four months to notify the Secretary General of the UN that it had fulfilled its obligations under

Resolution 1608 XV -5. This was misleading.

Mongo Beti [13] recalled systemic violations which put *Anglophones* in a state of dissidence. He cited among these, an occasion in which a Southern Cameroons lawyer Gorgi Dinka openly confronted Paul Biya about the crimes and egregious violations which his government was committing against *Anglophones*. Before Gorgi Dinka, nobody took the risk to confront the dictator. Biya ordered his arrest and detention, from where he fled into exile. Mongo Beti, [1986] *Open Letter to Cameroonians Peoples* ‘Edition 121

Cardinal Tumi [4] decried the obliteration of the Southern Cameroons identity, regretting that for the assimilationist Francophone political authorities of Cameroon, the Anglophone cultural identity should disappear. Christian Tumi, [2011] *My Faith: Cameroon to be Renewed*, Religious Books, Collections, Veritas.33

Albert [1] recounts his arrest, systemic torture and detention in BMM, and Mantoum Concentration camp. While at the BMM, he was detained in the same cell with Ernest Ouandie whom he last met in Ghana in 1959 in the company of Dr. Moumie and Abel Kingue. [Albert Mukong, [1989] *Prisoner Without a Crime*, Edition Nubia Press 1989, 17 Rue Du Petit-Pont 75006 Paris 6,15-31.

From these authoritative sources and the armed conflict which is ongoing, there was wide resentment and protests to the assimilationist policy of annexation and therefore claims of acquiescence are inaccurate.

6. Claim of Title by the Republic of Cameroon

The arguments which were presented by Cameroon before the International Court of justice may provide some guidance on what Cameroon thinks about the status of the Southern Cameroon before an international court.

The International Court of Justice summarised the submissions of Cameroon in paragraph 210 of its Merits Decision as follows:

“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 south-east corner of Cameroon. This would show that the peninsula was recognized by the United Nations [p408] as being a part of 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 favour of General

Assembly resolution 1608 (XV) by which the British trusteeship was formally terminated. Land and Maritime Boundary between Cameroon and Nigeria (Cameroon v Nigeria) (Judgment) [2002] ICJ Rep 303, para 210

Roger Eba'a [6] a Cameroon Government Journalist who covered the proceedings at the ICJ, [2014] 66 summarised the claims of Cameroon as follows:

- 1) The territorial claim of Cameroon was based on the principle of *utis possiditis juris* which was adopted by the Organisation of African Unity in Cairo, Egypt on 21 July 1964 establishing that borders inherited at independence must be respected.
- 2) The critical date which Cameroon stated was October 1, 1961, the date of the reunification of the Southern Cameroons with the Republic of Cameroon and effectivite derived from its territorial title over the Southern Cameroons.

Guy Roger Eba'a [2014] 66, Bakassi Case, Genensis, Evolution and Evolution of the Case of Land, Maritime Border between Nigeria and Cameroon from 1993-2002 Catholic University of Central Africa Press

6.1. Factual and legal Claims Meriting Critical Analysis Stand Out from Paragraph 210 of the ICJ Judgment

- a) Cameroon recognised that Bakassi Peninsula was recognized by the United Nations [p408] as being a part of Southern Cameroons.
- b) Cameroon emphasised the absence of protest by Nigeria to the international boundary of Southern Cameroons during the independence process.
- c) Nigeria voted in favour of General Assembly resolution 1608 (XV) by which the British trusteeship was formally terminated.
- d) Cameroon by these assertions based its territorial claims on the fact the United Nations recognition of Southern Cameroons identity and its international boundaries during the independence process.
- e) Having asserted that Southern Cameroons territorial rights and international boundaries were recognised by the United Nations, Cameroon then asserted its claim of title over the Southern Cameroon by the fact that Nigeria voted in favour of General Assembly resolution 1608 (XV) by which the British trusteeship was formally terminated.
- f) The fact that the United Nations recognised the territorial identity and international boundaries of the Southern Cameroons are not disputed.
- g) Cameroon makes two other assertions which warrant the following commentary:

The emphasises by Cameroon on the absence of protest by Nigeria to the proposed boundary during the independence process and the fact that Nigeria voted in favour of General

Assembly resolution 1608 (XV) by which the British trusteeship was formally terminated.

The emphasises by Cameroon on the absence of protest by Nigeria to the proposed boundary during the independence process is a statement of fundamental importance to the Southern Cameroons international personality. This recognition by Cameroon supports the claims of Southern Cameroons to independence in exercise of its right to self-determination under international law.

This admission of independence of the Southern Cameroons and its international territorial and international boundaries by the United Nations and by the Republic of Cameroon carries significant symbolic legal and factual weights.

Based on these admissions, was it justified for Cameroon to lay territorial claims over Southern Cameroons by the fact that Nigeria voted in favour of General Assembly Resolution 1608 (XV) by which the British trusteeship was formally terminated.

The fact that Nigeria voted in favour of General Assembly Resolution 1608 (XV) and Cameroon voted against is not in dispute. What is contentious is the legality of Cameroon's territorial claim over the Southern Cameroons based on the alleged termination of the trusteeship by General Assembly Resolution 1608(XV) which Nigeria voted in favour, and the cession of the territory to Cameroon by the UK of Great Britain and Ireland and its annexation by Cameroon.

Cameroon voted against the UNGA Resolution 1608(5)-5 and worked in collusion with the UK to subvert and abort its implementation. Cameroon and the UK did not submit a treaty, agreement or report of negotiated and agreed terms by which Southern Cameroons was to attain independence by joining the Republic of Cameroon. Rather, by Article 50 of Cameroon's federal Constitution and Note Verbale by the ambassador of the UK in Yaoundé Cameroon, the decolonisation process was subverted and aborted, and the Southern Cameroons was ceded annexed and colonised by Cameroon.

The claim of territorial title over Southern Cameroons was not based on UNGA Resolution 1608(v)-5 which it voted against, but an alleged reunification which did not form the basis of the trusteeship agreement, the Charter of the UN and UNGA resolutions. The allegation by the UK Ambassador in Yaoundé Cameroon four months after the annexation of the Southern Cameroons that the trusteeship was terminated pursuant to UNGA Resolution 1608(V) was a colonial diplomatic misrepresentation intended to mask its conspiratorial role in the breach of international obligations and the annexation of and claim of territory by the use of force.

- h) The claim of Cameroon based on effectivite is not based on the sovereign will and exercise of self-determination but by the cession of the territory of Southern Cameroons by the UK of Great Britain and Ireland by Notes

Verbales by its Ambassador to Cameroon in Yaoundé over which Cameroon claims title by acquiescence of the ceded territory. In this case, title is not based on the implementation of UNGA Resolution 1608(V)-5 but by acquisition by cession of territory, effectiveness and acquiescence.

- i) The question then arises about the critical date on which this mode of acquisition of title over the territory acts constituting acquiescence occurred. The critical date cannot be October 1, 1961, because it was the date on which a negotiated and agreed terms of independence by joining UNGA Resolution 1608 (V)-5 were to be implemented. That did not occur and therefore independence by joining the Republic of Cameroon did not occur on that October 1, 1961. There was no independence by joining, rather, the territory was ceded and annexed. The claim of title by cession over territory under UN trusteeship by the trust administering authority was illegal under the Charter of the UN and international law.

6.2. This Claim by Cameroon Has no Basis in International Law

- a) Cameroon cannot validly claim title over the Southern Cameroons based on the cession of the territory by Great Britain in a manner inconsistent with UNGA Resolution 1608(V)-5 which was never implemented. The cession of the territory by Great Britain is void by the fact that Southern Cameroons was not part of its territory. Great Britain could not legally transfer sovereignty over a territory over which it exercised sovereignty. Cameroon did not possess title over Southern Cameroons by cession from Great Britain, by conquest, occupation, acquiescence and prescription. Jan Klabbbers [9] argues that “currently, occupation and prescription are no longer considered terribly relevant as methods of acquiring territory under international law because the use of force is strongly prohibited under international law. Jan Klabbbers [2024] 82, International Law, Fourth Edition, Cambridge University Press.
- b) The ICJ stated in a number of cases, that the essence of territorial sovereignty has legal consequences of a change in the juridical status of a particular territory, noting in the case of *Burkina Faso v Mali* [18, 24] 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. 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. *Frontier Dispute (Burkina Faso v Mali)* (Judgment) [1986] ICJ Rep 554, 564; (1987) 8 ILR 440, 459. *Land, Island and Maritime Frontier Dispute (El Salvador v Honduras: Nicaragua intervening)* (Judgment) [1992] ICJ Rep 351, 388, 401–404, 408].

- c) UN practice has established that the UN and its ancillary organs have actively concerned themselves with conditions in non-independent countries. It has been accepted that territorial sovereignty in the ordinary sense of words does not really exist over mandate or trust territories. This has encouraged a critical examination or re-examination of the procedures of acquiring title. [*Land, Island and Maritime Frontier Dispute (El Salvador v Honduras: Nicaragua intervening)* (Judgment) [1992] ICJ Rep 351, 388, 401–404, 408
- d) At the end of WW1, Malcom Shaw [12] 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”. 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 mandates were to exercise the arrangement under Art. 22 of the League of Nations.
- e) The Republic of Cameroon being a former trust territory herself could not through the use of force assert title over the Southern Cameroons and promulgating its internal law amending its constitution to colonise and incorporate the Southern Cameroons into its national territory under the fallacious claim of “reunification” which was inconsistent with the expressed will of the Southern Cameroons, the Trusteeship Agreement, UN Resolutions and values protected by the UN Charter.
- f) In the case of the Southern Cameroons, contrary to established jurisprudence, Great Britain illegally modified a fundamental clause of the Trusteeship Agreement by handing over the sovereignty of the southern Cameroons directly to a third party, the Republic of Cameroon, without guarantees of the existence of a treaty of union agreed upon, signed and deposited at the Secretariat of the UN prior to the termination of the trust.
- g) By introducing a third party into the administration of the territory in a manner that jeopardized the exercise by Southern Cameroons of its fundamental right of external self-determination, Great Britain violated its 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.

7. Trusteeship Precedents

- a) 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 which the ICJ para.

212, reaffirmed in *Cameroun V. Nigeria*, [20] 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. [(ICJ) [1992] ICJ Rep 258; (1994) 97 ILR 25], [Land and Maritime Boundary between Cameroon and Nigeria (*Cameroon v Nigeria*) (Judgment) [2002] ICJ Rep 303].

- b) The ICJ in *South West Africa Advisory Opinion* [23] South Africa (SA) was to administer SW Africa under the mandate system. On the demise of the League and with it the mandate system, SA 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. [ICJ [1955] ICJ Rep 68; (1957) 22 ILR 651; (ICJ) [1956] ICJ Rep 23; (1958) 23 ILR 38].
- c) 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 [1955] ICJ Rep 68; (1957) 22 ILR 651; (ICJ) [1956] ICJ Rep 23; (1958) 23 ILR 38].
- d) Malcom Shaw, [12] posited that 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 fulfil its obligations under the mandate and placed the territory under direct UN administration. The Security Council proceeded to uphold several Gen. Assembly Resolutions on the matter.
- e) 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.
- f) 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 the Republic of Cameroon of international law in annexing and colo-

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

- g) In this regard and for this purpose, Malcom Shaw stated that the UN can 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 General 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 situations to address egregious violations and the exercise of all power to ensure maintenance of international peace and security.
- h) In conclusion, 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.

8. Historic Consolidation of Title

The ICJ in its judgment at paragraph 210 awarded title to Cameroon based on the termination of the UN trusteeship over Southern Cameroons by UNGA Resolution 1608 (XV) and based on a claim by Cameroon of ‘historic consolidation of title, acquiescence, recognition and the principle of *Uti Possidetis Juris*’ reasoning in its judgment,

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 which succeeded the mandates system after the Second World War.... Cameroon produces documentary evidence, British Orders-in-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.

Paragraph 213 that, “It is true that the Southern Cameroons Plebiscite Order-in-Council, 1960 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.”

Lawyers for the Republic of Cameroon, Professors Peter Ntarmark and Malcom Shaw on 18 February 2002, made submissions in support of Cameroon's claim of title based on Effectivité, that is, 'historic consolidation of title, acquiescence, recognition and the principle of *Uti Possidetis Juris*'.

Professor Peter Ntarmark submitted that the principal *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.

He 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", and 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.

Submitting on effectivité historic consolidation of title, acquiescence, recognition, Professor Malcom Shaw analysed 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, as a result, recognised the international boundaries of the Republic of Cameroon.

Jeremy, writes that, for a claim of title to be established based on historic consolidation of title, acquiescence, recognition, the party relying on this claim must present evidence of the subsequent actions of the party, including evidence of acquiescence, or the absence of objection, which may constitute tacit agreement.

The ICJ decided in the case of *Nicaragua v Honduras* judgment [24] ICJ Rep [2007] 659, 753 that, "evidence of a tacit legal agreement must be compelling. The establishment of a permanent maritime boundary is a grave matter of importance, and an agreement is not easily presumed. Citing the Judgment of the ICJ in *Somalia v Kenya* (Judgment) [25] Rep, [2021] para 80; see also para 88. that the court rejected the Kenya's claim that, Somalia had acquiesced based on the conduct of Somalia between 1979 and 2014, in respect of the maritime boundary, in particular its alleged absence of protest, against Kenya's claim, Jeremy writes that, when weighing evidence of tacit agreement, clarity and consistency are also relevant. [Jeremy Hill [10] *Aust's Modern Treaty Law* Cambridge University Press, Fourth Edition.25

Writing on claim by effectivité Malcom Shaw [12] states that "the law on state activities or effectivité, will depend on the existence or not of a legal title to the territory. Where there is a legal title, effectivité is merely confirmatory. In the absence of a legal title, then effectivité must be taken into consideration.... But its importance is always contextual in that it

relates to the nature of the territory and the nature of the competing claims.....Recognition and acquiescence are also important in case of acquisition of control contrary to the will of the sovereign. Where the possession of the territory is accompanied by emphatic protests on the part of the former sovereign, no title by prescription can arise Malcom Shaw [2023], *International Law* 5th Edition Cambridge University Press, 436,438

Malcom Shaw of counsel for Cameroon alleged but did not present relevant clear and consistent evidence of effectivité historic consolidation of title, acquiescence and recognition, constituting a tacit agreement of the title of the Republic of Cameroon over the Southern Cameroons, and through it, Bakassi Peninsula, which he submitted, formed part of the Southern Cameroons, while occupied by Nigerian nationals.

This admission, and the armed conflict in Bakassi Peninsula between Cameroon and Nigeria and between Cameroon and Southern Cameroons militants which has been going on for several years defeat these claims. Furthermore, the emphatic opposition by Southern Cameroons to the annexation and colonisation of its territory by the Republic of Cameroons has led to armed conflict which is ongoing. The submission of Cameroon, therefore, fails to meet the threshold of relevance, clarity and consistency to support its claim of historic consolidation of title, acquiescence and recognition.

9. Conclusion

The claim of title based on alleged "reunification" of Southern Cameroons and the Republic of Cameroon was without merit and ought to have been rejected. UNGA Article 1608 (XV) which was supposed to establish a union between the Southern Cameroons did not materialise. It does not contain a 'reunification' clause or option. The plebiscite question did not contain a reunification option. Reunification in the context of the Southern Cameroons was annexation.

Unification was raised and defeated at the United Nations in 1954 by UM Nyobe, the leader of the UPC. It was opposed by France by proxy of the delegation of French Cameroon and was defeated. Albert Mukong explains that this position was conditioned on a plebiscite for the people to freely exercise their right to self-determination if they wanted to live together as one nation. Britain and the US opposed and of course France on their alleged fears of communism. Shortly after, the UPC was banned and proscribed in French Cameroon. Cameroon voted against UNGA Resolution 1608(XV)-5 in which Southern Cameroons was to express their right to self-determination by freely negotiating and agreeing on the terms by which the independence by joining the Republic of Cameroon was to be realised on October 1, 1961. The UK manifestly was against its implementation by conspiring in the annexation of and misleading the UN and then facilitating a coverup for four months after the annexation.

It is obvious from the evidence presented and the submissions of the parties in the Cameroon-Nigeria case at the ICJ

that the alleged 'reunification' of Southern Cameroons and the Republic of Cameroon was not proved, let alone, the date of the alleged 'reunification' which Cameroon alleged was the critical date of the crystallisation of its frozen border and its independence.

It is obvious that the alleged 'reunification', even if it occurred, did not and could not fulfil the requirements of 'critical date' and the terminal crystallisation of frozen borders of the Republic of Cameroon because it was not based on facts and the law and no evidence was presented from UN records in support of the allegation. The United Nations Plebiscite, which was organised on February 11, 1961, in the Southern Cameroons was on "independence by joining" the independent Republic of Cameroon and not 'reunification' which was not an option.

This option entitled Southern Cameroons to exercise its right to self-determination within its internationally established boundaries under the trusteeship agreement. Malcom Shaw, [2013] 18 wrote an *opinio juris* 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.

The assertion by the Republic of Cameroon of sovereignty over Southern Cameroon by any means other than by compliance with UNGA Resolution 1608(XV)-5 which it voted against and failed to comply with was a violation of international law; particularly as Southern Cameroons was under the internationally supervised administration of the United Nations.

The Republic of Cameroon being a former trust territory, could not as a matter of law, annex and colonise Southern Cameroons through a promulgation of her internal law amending her constitution to incorporate the Southern Cameroons as part of its national territory under the fallacious claim of "reunification" contrary to the expressed will of the Southern Cameroons, the Trusteeship Agreement, UN Resolutions and the right of Southern Cameroons to self-determination under international law and protected by the UN Charter.

Reunification was not on the ballot. It was not contemplated because it had no legal basis under the UN Charter, particularly 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 its Article 119. By the operation of the said treaty, Germany was dispossessed of

German Kamerun which was divided and administered by France and Great Britain as League of Nations Mandated territories.

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, in particular, United Nations General Assembly 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.

In conclusion, the legal basis for the celebration of the independence of the Southern Cameroons on October 1, 1961, is the irreversible independence which was the ultimate objective of trusteeship. Southern Cameroons was entitled to independence nevertheless after the Republic of Cameroon and the UK walked away from UNGA Resolution 1608(XV)-5.

The UN, United Kingdom of Great Britain and the Republic of Cameroon carried out a material breach of the trusteeship agreement over Southern Cameroons by subjecting Southern Cameroons to an annexation and colonial rule. The material breach vitiated the agreement leaving Southern Cameroon to assert its right of self-determination and independence. The ICJ in the Advisory Namibia Advisory Opinion [21] decided at paragraph 47 that a material breach of an international agreement by South Africa could be "viewed as the exercise of the right to terminate a relationship in case of a deliberate and persistent violation of obligations which destroys the very object and purpose of that relationship".¹ Southern Cameroon had a right to resist annexation and colonisation and it is this resistance which defeats the claim by Cameroon who upon voting against UNGA Resolution 1608(XV) proceeded with international colonial and neo-colonial conspiracy to annexed Southern Cameroons with the intention of legitimising its claims of title under effectiveness, historic acquisition and acquiescence which it raised at the ICJ in its case against Nigeria. In this context, October 1 has become a mythical date and occasion full of symbolic weight to celebrate its freedom and independence. The UN which bears primary responsibility for the violations against the Southern Cameroons must take urgent measures to abate the bloodletting and genocide in Southern Cameroons and recognise and formalise the independence whose roots are firmly established in the UN Charter and international law.

Abbreviations

ICC	International Criminal Court
UN	United Nations

¹ The ICJ in its Namibia Advisory opinion p 47 decided "Mandate "... in fact and in law, is an international agreement having the character of a treaty or convention" (I. C. J. Reports 1962, p. 330). The rules laid down by the Vienna Convention on the Law of Treaties concerning termination of a treaty relationship on account of breach (adopted without a dissenting vote) may in many respects be considered as a codification of existing customary law on the subject. In the light of these rules, only a material breach of a treaty justifies termination, such breach being defined as: "(a) a repudiation of the treaty not sanctioned by the present Convention; or (6)

the violation of a provision essential to the accomplishment of the object or purpose of the treaty" (Art. 60, para. 3). 95. General Assembly resolution 2145 (XXI) determines that both forms of material breach had occurred in this case. By stressing that south Africa "has, in fact, disavowed the Mandate", the General Assembly declared in fact that it had repudiated it. The resolution in question is therefore to be viewed as the exercise of the right to terminate a relationship in case of a deliberate and persistent violation of obligations which destroys the very object and purpose of that relationship".

ICJ International Court of Justice
 UNGA United Nations General Assembly

Author Contributions

Charles Achaleke Taku: Conceptualization, Resources

Conflicts of Interest

The author declares no conflicts of interest.

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- [27] UN Charter Article 76 (b). According to Jan et al., “Under the influence of the decolonisation process, the right to self-determination became enshrined in conventions of 1966 and was confirmed in a Declaration of Principles adopted by the UNGA in 1970.
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- [33] [Resolution adopted by the General Assembly 1514 (XV). Declaration on the Granting of Independence to Colonial Countries and Peoples adopted 14 December 1960 UN Doc A/RES/1514(XV)].
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