UTI POSSIDETIS AND STATE SECESSION IN INTERNATIONAL LAW: AN EXAMINATION OF THE EVOLVING LEGAL PRACTICE IN AFRICA

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“… just as the protection of the home is the vital care of the private citizen, so integrity of its borders is the condition of existence of the State.”

1. Introduction

Since the 1960s when the majority of African countries earned their independence from the colonial powers, one of their biggest challenges has been how to peacefully co-exist within their territorial frontiers bequeathed to them by their departing masters. This challenge was significant precisely because colonialists had arbitrarily drawn up these borders without taking into account the

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1 Lord Curzon of Kedleston, Frontiers, the Romanes Lectures, Oxford, 1907, 7.
interests of the colonized. As noted earlier, “the most irrelevant factor in deciding the fate of the continent [during the Berlin Conference] was the Africans themselves, who were neither consulted nor appraised of the Conference”. In other words, these boundaries were determined and agreed upon between the European powers, not in the interests of African people, but so as to ensure peace and stability in the international relations of 19th Century Europe. It is this reality where closely related societies were torn apart, while distantly related societies were brought together, that provided a compelling need for the newly independent African states to address this challenge of peaceful coexistence within the existing boundaries. Despite this reality of injustice of colonial borders, any decision to “re-draw” the boundaries was considered impracticable because it would have required states to give up part of what they already considered as their lawful territories.

African leaders, hesitating to embrace this “nuclear option”, opted to maintain the status quo of their territorial boundaries. Not only was this decision contested by select Pan Africanist voices, but it was seen as another way of legitimizing the colonial rule which had drawn up these borders without taking into account the history and traditions of the African people. Indeed, some prominent African scholars have argued that the colonial boundaries imposed by colonialists have been responsible for civil wars and misery, which continue to define the


6 Garth, supra note 4, 62.