

Nr. 381E

09.05.2011

BOFAXE



## The Principle of Intangibility of Borders in Africa and the South Sudan's Referendum

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#### Key Words:

- Principle of Intangibility of African Borders;
- Referendum;
- Self-determination.

#### Documents:

- Constitutive Act of the African Union;
- UN Resolution 390 A (V), 2 December 1950.

#### Websites:

<http://www.au.int/en/>.  
<http://www.ssrc.sd/SSRC2/>.  
<http://www.un.org/documents/ga/res/5/ares5.htm>.  
<http://www.icj-cij.org/docket/index.php?p1=3&p2=3>.

The intangibility of borders of African countries (Article 4 lit. b) Constitutive Act of the African Union) – also known as the *uti possidetis juris* – is a sacrosanct principle that legitimates the respect of geographical borders of African countries as inherited from the former colonial powers. Africans therefore have never decided on their own national borders. This principle was established as a solution to prevent newly independent countries to get enmeshed into border disputes. Aptly, since independence, Africa has not had any significant borders conflicts. Main border disputes had occurred between Nigeria and Cameroon about the Bakassi peninsula; and Libya and Chad about the Aouzou strip. At present they concern Gabon and Equatorial Guinea about Corisco Island; and Western Sahara and Morocco.

Posing exception to the norm of intangibility of borders of African countries is the recent 9 to 15 January 2011 Referendum on Independence of South-Sudan. This referendum has voted for the separation of Sudan to north block (North Sudan) and south block (South Sudan). This *apparently* exceptional case to the principle of immutability of African borders is actually far from being one. This is because independence of South Sudan has not affected international border of any country and it remains limited to Sudanese own borders. The intangibility of African borders therefore is not called into question; it persists and survives. The creation of South Sudan, as an independent State, has very limited effect on this principle. South Sudan, however, is to be appreciated for being, to some extent, the first African country to have decided on geographical borders on its own. And this case is different from the separation of Eritrea and Ethiopia (Referendum of 23 to 25 April 1993). In fact, Eritrea was an autonomous territory, annexed by Ethiopia (in 1962) in violation of the UN Resolution 390 A (V) of 2 December 1950.

Despite of the consent of the Sudanese government, the partition of the country has revived the passionate debate on the relevance of the intangibility of African borders. Those against, criticise it for being un-imaginative and un-innovative rule in non reorganising African borders using *objective* criteria (e.g. ethnic and/or geographic borders) to reflect realities of the respective countries. But, African governments are extremely unwilling and sceptical of attempting to rearrange borders as this exercise would create examples and corridors for countries facing internal conflicts over the issue of secession (e.g. Angola and its Cabinda province; and Senegal and the Casamance region) to easily separate. In any case, beyond national borders considerations, the unity of the continent is paramount for effective development of Africa. The former Tanzanian President, Julius Nyerere, rightly said "without unity, there is no future for Africa". Such a future obviously relies on the effective protection of lives and dignity of populations regardless of their nationality and ethnic borders. Issues related to geographical borders, in Africa, can be justified only if they contribute in securing human rights, especially in structural and direct violence contexts.

### Verantwortung

Die BOFAXE werden vom Institut für Friedenssicherungsrecht und Humanitäres Völkerrecht der Ruhr-Universität Bochum unter der Leitung von Dr. habil. Hans-Joachim Heintze und Dr. Jana Hertwig, LL.M. (Eur. Integration) herausgegeben: IFHV, NA 02/33, Ruhr-Universität Bochum, 44780 Bochum, Tel.: +49 (0)234/32-27366, Fax: +49 (0)234/32-14208, Web: <http://www.ruhr-uni-bochum.de/ifhv/>. Die BOFAXE werden vom Deutschen Roten Kreuz unterstützt. Bei Interesse am Bezug der BOFAXE wenden Sie sich bitte an: [ifhv-publications@rub.de](mailto:ifhv-publications@rub.de).

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