

AGITATIONS FOR SELF-DETERMINATION: BALANCING THE COMPETING PRINCIPLES OF HUMAN RIGHTS AND SOVEREIGNTY IN INTERNATIONAL LAW*

Abstract

The right to self-determination is recognized under international human rights law as the right of all peoples including indigenous peoples to freely determine their political status and freely pursue their economic, social and cultural development. Placing reliance on the right of self-determination, minorities and indigenous peoples /groups have raised and still raise claims towards either secession from an already sovereign State or independence and freedom from domination. The said claims have consistently culminated into agitations which have been argued to clash with certain fundamental principles of public international law such as sovereignty, territorial integrity, prohibition of force and the principle of non-intervention. The paper inquired into the right to self-determination and agitations thereof. The paper seeks to balance the competing principles of human rights and sovereignty in international law vis-à-vis the legality and viability of agitations for self-determination. The doctrinal method of legal research was adopted in this paper. It was found that the merger of the various indigenous peoples in Nigeria was actually in furtherance of the 1914 arbitrary amalgamation by the colonialist (Great Britain) and accordingly, has been one of the sources of fortification for agitations for self-determination. The constitutional provisions in Nigeria for dealing with the issue of heterogeneity in the population such as federal character and national integration are both insufficient and feeble in terms of contents and implementation; this also has created loss of sense of belonging, lack of national loyalty and absence of unity which have resulted to the spate of agitations for self-determination in Nigeria. Among other things, this paper recommended unequivocal resolutions and support by the United Nations and African Union in affirmation of the inalienable right to self-determination of all peoples including all indigenous peoples.

Keywords: Human rights, Self-determination, International law, Secession, Sovereign rights

1. Introduction

The history of the Federation of Nigeria is one laced with separatist agitations. This may not be surprising to keen observers of Nigeria's political development given the diversity of her people and the disparities in demography, land mass, natural resource endowment, educational, social and economic development. Arguably, these disparities have created and continue to sustain mutual mistrust, acrimony and fear of ethnic domination not only amongst Nigeria's 250 ethnic groups but also amongst the majority groups *inter se* and between them and the ethnic minorities.¹ Considerable thinking and debate have been devoted to the question of the definition of 'indigenous peoples', but no such definition has yet been adopted by the United Nations². According to the United Nations, the most fruitful approach is to identify, rather than define indigenous peoples. This is based on the fundamental criterion of self-identification as underlined in a number of human rights documents³. Considering the diversity of indigenous peoples, an official definition of 'indigenous' has not been adopted by any UN-system body.

One of the most cited descriptions of the concept of the indigenous peoples was given/ recommended by *Mr. Jose R. Martinez Cobo*,⁴ wherein [indigenous] peoples are defined as follows:

Indigenous communities, peoples and nations are those, which having a historical continuity with pre-invasion and pre-colonial societies that developed on their territories, consider themselves distinct from other sectors of the societies now prevailing in those territories, or parts of them. They form at present non-dominant sectors of society and are determined to preserve, develop and transmit to future generations their ancestral territories, and their ethnic identity, as the basis of their continued existence as peoples, in accordance with their own cultural patterns, social institutions and legal systems⁵.

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¹Z Adangor, 'Separatist Agitations and the Search for Political Stability in Nigeria' *Donnish Journal of Law and Conflict Resolution* (2017) Vol 3(1) pp. 001-017 <<http://www.donnishjournals.org/djlc>> accessed on 12 June 2023.

²United Nations, *Workshop on Data Collection and Disaggregation for Indigenous Peoples – The Concept of Indigenous Peoples* (New York, 19-21 January 2004) p. 1 <www.un.org/esa/socdev/unpfii/documents/workshop_data_background.doc> accessed on 27 May 2023.

³United Nations Permanent Forum on Indigenous Issues, 'Indigenous Peoples, Indigenous Voices' <https://www.un.org/esa/socdev/unpfii/documents/5session_factsheet1.pdf> accessed on 21 May 2023.

⁴Mr. Jose R. Martinez Cobo is the Special Rapporteur of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, in his famous Study on the Problem of Discrimination against Indigenous Populations. <https://www.un.org/esa/socdev/unpfii/documents/MCS_intro_1981_en.pdf> accessed on 12 June 2023.

⁵JRM Cobo, 'Study of the Problem of Discrimination Against Indigenous Populations Final report submitted by the Special Rapporteur, Mr. José Martínez Cobo', *Martinez Cobo Study (Study of the Problem of Discrimination Against Indigenous Populations)*

The paper adopts the foregoing definition of [indigenous] peoples and in the light thereof shall demonstrate that there are various indigenous peoples with separate identities in Nigeria including the respective peoples of the three major ethnic groups in Nigeria. In view of the above understanding of the concept of [indigenous] peoples, it is safe to think that the various ethnic groups in Nigeria especially the *Hausa*, *Fulani*, *Igbo*, and *Yoruba* tribes / ethnic groups respectively have the following main features to qualify each of them to be accorded the status of [indigenous] peoples with distinctive identities:

1. Each of the ethnic groups has a historical continuity with pre-colonial societies that developed on their respective regions/territories,
2. Each of the ethnic groups consider themselves distinct from other tribes or ethnic groups in Nigeria.
3. Each of the ethnic groups, from time to time, express and/or affirm their determination to preserve, develop and transmit to future generations their ancestral territories, and their ethnic identity, as the bases of their continued existence as peoples, in accordance with their own cultural patterns, social institutions and legal systems.

Colonialism being the maintenance of political, social, economic, and cultural domination over people by a foreign power for an extended period,⁶ affected indigenous peoples in several ways such as bringing about the involuntary (forced and arbitrary) union or amalgamation or fusion of different indigenous peoples who existed independently prior to the colonization/ colonialism and sometimes it has often made distinct or indigenous people[s], such as tribal/ethnic groups, to become [a] minority in an area they once were the majority (dominant) group⁷. According to Hart, colonialism has greatly impacted upon indigenous peoples as indigenous peoples are oppressed and the said oppression varies throughout the world, ranging from forms and/or political structures that marginalize indigenous voices and practices to outright violent persecution or oppression of indigenous peoples⁸. Zimmerer⁹ was reported to have submitted that:

The problem is that when European powers partitioned Africa, they split up families, relatives and communities that got along very well, whereas in some cases, communities that were enemies or competed against each other were bundled together into one territory.¹⁰

Murrey¹¹ captured one of the critical manifestations of colonialism/colonization when he submitted *inter alia* that colonialism/colonization brought about 'the forced and arbitrary amalgamation of previously distinct boundaries of African regions'¹². In this regard, he (Murrey) pointed out that 'the boundaries drawn by colonial authorities were indiscriminate and brought together diverse societies within the authority of a united colonial nation-state'¹³. Murrey's submission is corroborated by the historical fact that prior to the European occupation, balkanization, and colonization of Africa, the different African tribes and the indigenous peoples therein had, and lived in, well-organized empires.¹⁴

Agitations for the sovereign state of Biafra appear to have swallowed up other clamours for secession / independence from Nigeria, and this creates the wrong impression that clamour for Biafra is the only clamour for separate identity and/or secession in the country.¹⁵ According to Olalemi,¹⁶ the belief that the call for self-determination is only limited to Yoruba and Igbo lands is not true. The truth is that, in virtually every area/part of the Federal Republic of Nigeria, there is or there has been clamour/agitation for separation / secession and the clamours and/or agitations are in pursuance and in furtherance of the aforesaid heterogeneity of the population / people of Nigeria which population has been rightly

Final report submitted by the Special Rapporteur, Mr. José Martínez Cobo) UN. Doc.E/CN.4/Sub.2/1983/21/Add. 8 at Para 379 <https://www.un.org/esa/socdev/unpfii/documents/MCS_xxi_xxii_e.pdf> accessed on 12 June 2023.

⁶RT Schaefer, 'Minorities', *International Encyclopedia of Human Geography* (2nd Edn, 2015) p. 567 <<https://www.sciencedirect.com/science/article/pii/B9780080970868320918>> accessed on 5 June 2023.

⁷ *Ibid.*

⁸ MA Hart, 'Indigenous Social Work', *International Encyclopedia of Human Geography* (2nd Edn, 2015) p. 804 <<https://www.sciencedirect.com/science/article/pii/B9780080970868280410>> accessed on 5 June 2023.

⁹ Jürgen Zimmerer is a historian at the University of Hamburg.

¹⁰C Mwakideu, 'Will 'Ambazonia' become Africa's Newest Country?' (2017) <<https://www.dw.com/en/will-ambazonia-become-africas-newest-country/a-40780904>> accessed on 28 May 2023.

¹¹ A Murrey, *op. cit.*, p. 317.

¹² *Ibid.*

¹³ *Ibid.*

¹⁴ O Ikime, *Groundwork of Nigeria History* (Ibadan: Heinemann Educational Books, 1980) cited in AM Deji, 'Historical Background of Nigerian Politics, 1900-1960', *IOSR Journal Of Humanities And Social Science* (2013) 84 <<http://www.iosrjournals.org/iosr-jhss/papers/Vol16-issue2/K01628494.pdf?id=7790>> accessed on 5 June 2023.

¹⁵J Adibe, 'Separatist Agitations in Nigeria: Causes and Trajectories', *Africa in Focus* (2017) <<https://www.brookings.edu/blog/africa-in-focus/2017/07/12/separatist-agitations-in-nigeria-causes-and-trajectories/>> . Accessed on 16 June 2023.

¹⁶ OB Olalemi, 'Calls for Self-determination, to be or not to be, Time will tell', *Sahara Reporters*, 8 October (2021) <http://saharareporters.com/2021/10/08/calls-self-determination-be-or-not-be-time-will-tell-olaniyi-benjamin-olalemi>. Accessed on 12 June 2023.

noted to be made up of various indigenous peoples naturally divided along different ethnic lines, languages and religious orientations.¹⁷

Among the Yoruba, for instance, echoes of secession and/or separatism come in different forms – from a direct call for Oduduwa Republic to those championing a Sovereign National Conference to decide if the federating units of the country¹⁸ still want to continue to live together, and, if so, under what arrangements.¹⁹ Speaking extensively on the clamour/agitation by the indigenous people of *Yorubaland* for separation / secession from the Federal Republic of Nigeria, Oluwasanmi²⁰ heartily submitted *inter alia* that:

I believe there is a very strong case for Oduduwa Republic for the benefits for both the historic rivalry between east and west, north and south, oil states and non-oil states, Christian and Muslims communities, democrats and autocrats, soldiers and citizens that have bedeviled Nigeria since its founding are pulling us apart to the extreme. We're closer to the breaking point...I believe the best option is for the three major ethnic groups to go their separate ways...

In the north, there are intermittent demands for Arewa Republic, while some talk of the 'north' as if it is 'a country within a country.'²¹ In the Niger Delta, apart from the demand for Niger Delta Republic, shades of separatism are embedded in the demands for 'resource control' by regional activists.²² According to Amaize,²³ 'The Reformed Egbesu Fraternity (REF)²⁴ once reportedly advocated 'the peaceful dissolution of Nigeria into Arewa Islamic Republic, Biafra Republic, Oduduwa Republic, Republic of the Niger Delta (RONDEL) and the Republic of the Middle Belt to be collectively known and addressed as the United Republics of Nigeria'²⁵.

On the clamour for the sovereign state of Biafra, the root of the sustained clamour, agitation and struggle for Biafran independence and the conflict[s] and crises arising therefrom can be traced to the fear of domination, strong feelings and cases of marginalization, violations of human rights and unabated likelihood of further violations of human rights, lack of sense of belonging occasioned by the diversity in culture, religion, ethnicity among the various indigenous peoples in Nigeria.

Whatever be the case, the Constitution of the Federal Republic of Nigeria does not recognize the right of self-determination as a human right; it rather provides in its Section 2(1) for the indivisibility and indissolubility of the nation and accordingly forbids agitations for separate identities or separation.

2. Evolving Principles of Self Determination in International Law

The best-known historical instances of self-determination were probably the American and French revolution. However, the modern principle of self-determination was basically formulated by Woodrow Wilson, former US President in 1917. Despite this formulation by Wilson there was basically no-mention of it in the League of Nation Covenant. As a result, the principle could not find its way in the realm of international law until 1945, appearing in Articles 1(2) and 55 of the Charter. Wilson though not attempting to define what self-determination is profoundly stated that 'national aspirations must be respected; peoples may now be dominated and governed only by their own consent. Self-determination is not a mere phrase it is an imperative principle of action'²⁶. It is in the peoples' determination of their own affairs in all respects that *freedom* properly so-called may be found. Despite the exposition of self-determination by Wilson the Commission of Jurists appointed by the Council of the League in 1920 to give an opinion on certain objections raised by Finland stated thus: 'positive international law does not recognize the right of national groups, as such, to separate themselves from the state of which they form a part by the simple expression of a wish, any more than it recognizes the right of other states to claim such a separation'²⁷.

¹⁷ *Ibid.*

¹⁸ The Federal Republic of Nigeria

¹⁹ *Ibid.*

²⁰ B Oluwasanmi, 'Nigeria Break Up Imminent, Oduduwa Republic Inevitable', *Sahara Reporters* (2017) <<http://saharareporters.com/2017/02/22/nigeria-break-imminent-oduduwa-republic-inevitable-bayo-oluwasanmi>> accessed on 3 June 2023.

²¹ J Adibe, *op. cit.*

²² *Ibid.*

²³ E Amaize, 'Disband Nigeria into Arewa, Biafra, Oduduwa, N'Delta Republics – Militants', *Vanguard Online News of 3rd August* (2017) <<https://www.vanguardngr.com/2017/08/disband-nigeria-arewa-biafra-oduduwa-ndelta-republics-militants/>> accessed on 4 June 2023.

²⁴ The Reformed Egbesu Fraternity (REF) is a coalition of militant groups in the Niger Delta region. The coalition pulled out of the Niger Delta Peace Process See *Ibid.*

²⁵ *Ibid.*

²⁶ The Public Papers of W Wilson, War and Peace, 180, (Baker Dodd) Eds. 1927.

²⁷ The question of the Aaland Islands. Report of the Commission of Jurists, League of Nations Official, Journal, Oct 1920 Special Supplement N0.3 P. 5

Though the concept of self-determination had not found its way in the realm of international law when this declaration was made much has not really changed today. Territorial integrity of states has been a barrier to the imperativeness and realization of the benefits of right of self-determination. This position has long been maintained by countries of Central and Eastern Europe. They felt that self-determination emerged to threaten their multinational empires.²⁸ Self-determination though emphatically mooted by Wilson in 1917, has metamorphosed through three different stages. The first stage was when the concept was applied towards eradication of colonialism and granting of independence to colonized peoples. This was from the birth of UN in 1945 to about early 1970s when it could be said that greater number of colonized peoples have been granted independence. The second stage of the evolution of the concept was the time of rising agitations for self-determination which was characterized by demand for secession or disintegration arising from perceived or actual marginalization of some ethnic or racial groups within a sovereign state. In this second stage of the evolution of self-determination the thought of territorial integrity reigned supreme. It was the fear that such disintegration and emergence of new sovereign states will drastically affect world geography. Crawford particularly posited that self-determination as a legal right or principle would represent a significant erosion of the principle which, if constantly applied, could bring about significant changes in the political geography of the world²⁹. It was at this time that colonially inherited borders were declared sacrosanct by AU. This stage of evolution of concept of right of self-determination and several propositions of European authors to ensure maintenance of their robust empires soon was put to test right from the emergence of States of Bangladesh, Malaysia and many more. The disintegration of Yugoslavia dealt a heavy blow to elevation of territorial integrity. The very and what may appear to be the last stage of the evolution of the concept of self-determination is whether human rights will ultimately prevail over territorial integrity. Human rights elevation over territorial integrity appears to be gaining ground geometrically. Some countries have benefited immensely from this proposition. They are South Sudan, Eritrea, East Timor, etc.

What actually can we say that has given rise to concept of self-determination? It appears and reasonably too that peace is eluding the world arising from wars and belligerent actions. Though colonialism was already established, it was not the focus of self-determination at that time. From the time of League of Nations to the birth of United Nations thereto several other declarations and covenants, the world has been in search of one major issue which can be summed up in one word as 'Peace'. If peoples' fair and ordinary aspirations are fairly respected that singular search for peace would have been achieved to a certain extent today.

The UN declaration³⁰ on respect for equal rights and self-determination of peoples is geared towards the same direction. The same is with Helsinki Final Act of 1975, which refers to principles of equal rights and self-determination of peoples ... that all peoples have the right in full freedom to determine, when and as they wish, their internal and external political status, without external influence and to pursue as they wish their political, economic, social and cultural development.³¹

3. Human Rights as distinguished from Right to Self Determination

What could be said to be the United Nations purpose in the declaration on equal rights and self-determination? Lauterpacht is of view that the international legality of human rights is denied from the fact that they prominently figure in the statement of the purposes of the UN, and that members are under a legal obligation to act in accordance with the purpose³². There is also another view that human rights in the charter have no juridical character, and do not constitute legal norms under positive law³³. The postulation of Lauterpacht is a positive and progressive proposition considering the circumstances and historical development of self-determination. It should be borne in mind that self-determination is not inclusive of the items confined in the Universal Declaration of Human Rights. Mustafa rightly opined that [UN] charter does not bracket self-determination with the human rights but subordinated it to the development of friendly relations among nations.³⁴ Self-determination has an increasingly important role in justifying international actions to protect human rights for marginalized or persecuted groups and the perennial aim of supporting territorial integrity is to achieve stability and prevent conflict. Both these ends were pursued in the wake of Yugoslav war and both ends failed. The Yugoslav conflict had a massive impact on the international understanding and application of the right of self-determination, and the international responses to the situation greatly shaped the trajectory of the norm in the cold world period³⁵. There has been increased nationalism the world over. Many people now are more nationalistic than before. This

²⁸ MN Shaw; *International Law* 7th Edition Cambridge Unity press P.20

²⁹ James Crawford, *The Creation of States in International Law*. Clarendon Press 1979 P. 85, See also J G Starke; *Introduction to International Law*. 11th edition, by I A Shearer, Butterworth 1994 p.111.

³⁰ Article 1 (1) & 15 (1) UN Charter 1945.

³¹The African Charter and Human and Peoples Rights 1981 specifically declared that all peoples shall have the right to existence. They shall have the unquestionable and inalienable right to self-determination.

³²H Lauterpacht; *International law and Human Rights* London 1980 PP 145 – 148.

³³C de Vischer, *Theory and Practice in Public International Law*. Princeton, 1968 PP 129-133, Hans Kelson; *The Law of United Nations* London 1950pp 29-33

³⁴Z Mustafa; *The Principles of Self Determination in International Law*, available at [https://lscholar.smu.edu/tit/Vol 5/1553/7](https://lscholar.smu.edu/tit/Vol%205/1553/7)

³⁵J R Mills; *The Challenge of Self Determination and Emerging Nationalism: The Evolution of the International Community's Normative Responses to State Fragmentation*. Pp 183 to 184 Available at <https://www.google.com>

tendency has also added impetus to the drive for self-determination. This resonance of identity politics and the increased logic of secession influenced the path taken by the several Republics of Yugoslavia and self-determination has somewhat evolved to be elevated over and above territorial integrity. This scenario played out in Yugoslavia, East Timor, South Sudan and partially Eritrea.

Initially EU held strongly to territorial integrity of Yugoslavia without a consideration of how the Republic came into existence. As the war intensified the Badinter Committee which was set up in the course of the war was requested to give an opinion as follows: Whether Yugoslavia should continue to exist and on what basis the competing claim of 'Sovereignty', secession and independence should be judged.³⁶ The Committee stressed the right of peoples to self-determination and that fulfilling this right for all persons within a territory hinged on the robust protection of ethnic, religious and cultural minorities. That by virtue of that right every individual may choose to belong to whatever ethnic, religious, or language community he or she wishes³⁷. Following the continued hostilities and human carnage the EU had to make a sudden turn from this age long held view of territorial integrity and human rights was elevated over and above territorial integrity of the Republic. Upon this elevation of human rights above territorial integrity the Republic eventually disintegrated on ethnic and racial lines.

The extent of application of right of self-determination appears to be vague as there has not been any critical attempt to define the concept. However, a number of conventions and declarations have certain provisions or proclamations in common. The Declaration on Granting of Independence to Colonial Countries and Peoples proclaimed thus: 'All peoples have the right to self-determination and by virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development. However, Article 1 is specific to the extent of proclaiming that subjection of peoples to alien subjugation, dominion and exploitation constitutes denial of fundamental human rights. These declared intentions are merely in principles as there has always been such a great inertia to positively implement and actualize the imperatives of self-determination.

The right of self-determination appears to have been extremely politicized because of interest of the west towards their robust empire protection. This notwithstanding the very essence and meaning of self-determination can still be deciphered from various presentations of several UN members' representations at the San Francisco Conference of 1960. The representative of Cyprus in the plenary meeting of the UN General Assembly stated as follows: '... it includes all peoples, in whatever land and in whatever circumstance they are dominated and by whatever means they are deprived of their alienable right to self-determination and freedom.³⁸ Similarly the Venezuelan representative at the same conference held the view that principle of self-determination includes 'The right of every people to choose its own form of government, to enjoy its spiritual and material resources particularly without restriction, to live freely in accordance with its most cherished traditions, and to be exempted from any form of subjection to any other more powerful nation or people.³⁹ However the most simplified submissions of all the plenary sessions was that declared by Ceylon as follows:

After all, it does not require great intelligence or great wisdom to see that Article 73, 76 and, what is more, Article, 1, paragraph 2, of the Charter, or Article 55, are very simple matters, propositions which are accepted by the world community, and yet, in the implementation of these Articles we find that these authorities have not conformed to the obligation and that is, as I say, the justification for our draft resolution.'⁴⁰

The reason for this shift from what self-determination was initially understood to mean was not farfetched. The sponsoring powers of the San Francisco conference left no definition record of what they meant by self-determination.⁴¹ However the committee which discussed the concept had to this to say, 'Concerning the principle of self-determination, it was strongly emphasized on the one side that this principle corresponded closely to the will and desire of people anywhere and should be clearly enunciated in the chapter; on the other side, it was stated that the principle conformed to the purposes of the Charter only in so far as it implied the right of self-government of people are not the right to secession'⁴². Much as self-determination is not as a matter of course it ought to be maintained that the formation of an independent state or right choice between two existing states or where there is a representative government which does not fully represent the people, the right to choose the government under which the people wished that they be governed must be expressed. The right of indigenous to self-determination cannot be overemphasized. By the UN declaration

³⁶Alain Pellet: The Opinion of the Badinter Committee: A Second Breadth for Self Determination of Peoples. EJIL 3 (1992) Available at <https://www.ejil.org>.

³⁷ Badinter Committee, Opinion 2 and 3 (1992) Extract in Appendix H

³⁸UN GEN ASS. OFF REC 15th Sess. Plenary 1256 (A/pv.945) (1960)

³⁹ UN Gen Ass Off Rec. 15th Plenary 1200 (A/pv. 939) (1960)

⁴⁰UN GEN ASS OFF REC. 15th Plenary 1012 (A/pv. 927) (1960)

⁴¹M R Nawazi, 'The Meaning and Range of the Principle of Self Determination'. *Duke Law Journal* Vol. 1965 N0.1 (1965) pp 82 – 101 @ PP. 89

⁴²Z Mustafa, The Principle of Self Determination in International Law. 5 *INT'L.L* 479 (1971). Pp 479 – 487 p 483

indigenous people have a right to self-determination, autonomy or self-government. Of particular importance is Article 7 to the effect that indigenous peoples have collective right to freedom, peace and security and shall not be subjected to any act of genocide or violence or removing children of the group to another group. To what degree has this Article 7 been seen in operation in Nigeria? Though it has been contended that nations or ethnic groups within sovereign states that are represented will not be permitted to secede or the territory be impaired. This contention has amply been watered down by Resolution 2625 of UNGA to the effect that except where such a representation encompasses the people belonging to a particular territory without distinctions as to race, creed, or colour. In Nigeria today there is no such representation. The conflict of interest has been whether territorial integrity will continue to stand in the face of horrendous abuse of human rights in its defence? Territorial integrity defense and propositions did not prevent Yugoslav Republic, Angola, Malaysia, Sudan, East Timor from disintegration and there seem to be no stronger and more cogent reason while it will still maintain a foothold over human rights in more general demands like the Biafra.

4. Violations of Human Right in the Quest for Biafra and Other Flash Points

Since the dawn of Indigenous People of Biafra (*IPOB*) in 2012 the strategy of *IPOB* towards actualization of sovereign state of Biafra has been dynamic in tune with changing times. State and her agencies have been the harbinger in violation and abuse of human rights. The State has largely neglected the rule of law and resorted to flagrant abuse of human rights while resorting to conspiracy theory in accusing citizens or Biafra agitators as the source of human rights violations.⁴³ It has been argued vigorously that since the inception of the last administration of Nigeria armed herdsmen attack in Nigeria has been compared only to the conflict in the Western Sudanese region of Dafor where Sudanese government supported *Janjaweed* militia murdered, raped, mutilated, plundered and displaced local population. The former president's responses to coordinated attacks by armed herdsmen have been lackluster⁴⁴. The state has resorted to violence, through the police and the military to intimidate Biafra separatist agitation but this has been counter-productive. The more people are killed the more new persons are trooping out in opposition to the state repression. It was argued that state repression seeks to subject citizens and abolish their machinery of collective organization⁴⁵.

One of the tactics employed by the Nigerian state against Biafra is through a military exercise codenamed Operation Python Dance. There was operation python dance I & II. The operation subjected unarmed defenseless civilians and pro Biafra youths to extreme physical and mental torture. In the course of the military operations civilians were forced to slap each and forcing them to drink and eventually drown in muddy waters⁴⁶. The fact that *IPOB* is a non-violent group cannot be over emphasized. The violence of the police, the military and herdsmen attack that necessitated the creation of Eastern Security Network for the purpose of defending civilian population against State instruments of subjugation as well as herdsmen attackers. This statement made by a serving Nigerian police Chief patently highlighted the conclusion or mind set of the State towards Biafra and her separatist demands. This statement and similar ones have led to the arrest, torture, incarceration and extra judicial killings of many innocent civilians that had not a machete much less guns in anticipation of attack on any person.

Generally speaking, the international community does not easily welcome secession as an element of self-determination with an open arm. An instance of this can be seen in the attitude of the former United Nations' Secretary General, U Thant, while commenting on the unsuccessful Biafran secession attempt in Nigeria at a press conference in Dakar in 1970, thus: 'As far as the question of secession of a particular section of a state is concerned, the United Nations attitude is unequivocal. As an international organization, the United Nations has never accepted and does not accept and I do not believe it will ever accept the principle of secession as part of its member state'⁴⁷.

5. Conclusion and Recommendations

Although the current international and regional legal regime on the right to self-determination is quite elaborate especially within the context of colonial or foreign rule as well as with respect to the internal aspect of the right to self-determination, the law is rather not comprehensive or adequate with regard to the external aspect of that right in the context of postcolonial and independent territory as to guarantee its exercise in deserving circumstances. The above situation has been made worse by the failure of the international tribunals to courageously, precisely and consistently interpret the legal provisions on the right to self-determination in such manner as to give rise to a clear understanding of the right in its external context. On the other hand, as noted by G. Welhengama and N. Pillay, the fear being expressed by the UN scribe is that, 'further divisions and a proliferation of micro-states would give rise to chaos, anarchy and instability', and therefore, a 'concern about the dangers of a possible balkanization effect if even the slightest hint of encouragement were

⁴³O Nwajah; A Tale of Military Massacres: From Ogoni Land to Odi Town. Available at www.waado.org, Femi Falana; Fundamental Rights Enforcement, (Legal Text Publishing Co. Ltd Lagos, 2004) P.6

⁴⁴ C Nwangwu; Neo-Biafra Separatist Agitations, State Repression and Insecurity in South-East, Nigeria.

⁴⁵ See FN 19

⁴⁶ See FN 19

⁴⁷UN Monthly Chronicle, February 1970, p. 40.

to be given to the secessionist groups⁴⁸. In the face of the above concluding observations, the following recommendations:

- a. That by way of dousing the agitations for self-determination in Nigeria, especially by pro-Biafrans, the government of Nigeria should give listening ears to the monumental voices crying out for justice, fairness and equal treatment of the citizenry. To this effect, the current agitation for restructuring and the entrenchment of true federalism in the country is a call that needs to be heeded by the government if peace and progress is to be ensured in the country.
- b. That if the federal government is not ready or willing to allow for the restructuring of the country, that a referendum to be conducted by the United Nations be carried out in Nigeria with regard to the Biafran agitation for self-determination arising from the injustice, oppression and discrimination being meted out to the people of the region in order to enable them to freely determine their political and economic future.
- c. That the current use of violence to suppress the voices crying out for marginalization in Nigeria be stopped forthwith as it will never bring about a lasting peace in the country.
- d. That the international community should pay more and better attention to the issues of claims to self-determination as a way of forestalling further breaches of international humanitarian laws which breaches often result in the breakdown of international peace and security.

⁴⁸G Welhengama and N Pillay, 'Minorities' Claim to Secession by Virtue of the Right to Self-Determination: Asian Perspectives with Special Reference to Kosovo and Sri Lanka', *Nordic Journal of International Law* 82 (2013) 248-282, at p.253.