

THE INDIVISIBILITY AND INDISSOLUBILITY OF NIGERIA  
VIS-À-VIS THE RIGHT OF SELF-DETERMINATION\*

**Abstract**

The geographical area which eventually evolved into the modern-day Nigeria is a territory/country made up of a heterogeneous population – it consisted, and still consists, of various indigenous peoples [of different ethnic groups and/or tribes, different languages, different aspirations, different cultures, and different religions] who, before colonization, existed and operated independent of each other. Accordingly, each of the said indigenous peoples maintained independent pursuit of their political, economic, social and cultural development as it were before colonization interrupted such independence and pursuits. The modern-day Nigeria was conceived and eventually birthed on the ancient colonial bed of the Great Britain vide the amalgamation of the then Northern Protectorate and Colony and Southern Protectorate; thus, before the advent of colonization by Great Britain, Nigeria was not in existence as one nation. This academic voyage of inquiry was, in the main, actuated by the incessant clamours/agitations by different indigenous peoples in Nigeria for independence. Accordingly, this work traces the oneness of Nigeria, and interrogates the indivisibility and indissolubility thereof vis-à-vis the development and application of the right of indigenous peoples to self-determination as recognized under International Law especially in the context of decolonization. It is the researcher's finding that the oneness, indivisibility, and indissolubility of the Federal Republic of Nigeria is not out of place, but such a fusion should necessarily be, and seen to have been, conceived and birthed on the bed of the mutual volition and/or valid consents of the various indigenous peoples in Nigeria. This work recommends, in the main, a true, honest and complete decolonization of Nigeria vide the conduct of free and fair plebiscite to afford the various indigenous peoples in Nigeria a genuine opportunity to determine how to pursue their respective political, economic, social and cultural development without any constitutional let or hindrance.

**Keywords:** Heterogeneous, Indigenous, Colonization, Amalgamation, Decolonization, Indivisible, Indissoluble.

**1. Introduction: A Dispassionate Tracing of the Oneness of Nigeria**

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 [political] empires.<sup>1</sup> Particularly noted for their ability to organize themselves into orderly social, culture and political grouping are the *Yorubas*, *Igbos* and *Hausa-Fulani* Indigenous peoples of Nigeria.<sup>2</sup> It thus significant to observe that the geographical area now merged and known as Nigeria is, and had always been, made up of a heterogeneous population – it consisted, and still consists, of various indigenous peoples [of different ethnicity/tribes, different tongues/languages, different aspirations, different cultures, and different religions] who, before colonization, existed and operated independent of each other. *Yoruba*, *Hausa* and *Igbo*, are the three major tribes in Nigeria. The South-western region of what is the modern-day Nigeria has always been dominated by the indigenous peoples of the *Yoruba* tribe/nation – descendants of the *Oyo* Empire, while the South-eastern region has always been dominated by the indigenous peoples of *Igbo* tribe/nation from the *Nri* Kingdom. Most of the Northern part/region has been inhabited by the Indigenous peoples of both *Hausa* and *Fulani* who are descendants of the *Hausa* Kingdom, *Fulani* Empire and *Songhai* Empire.<sup>3</sup> The British colonial claim over the territory known today as Nigeria received European official stamp of recognition at the Berlin Conference of 1884-1885.<sup>4</sup> The Berlin conference of 1884 – 1885 was a conference of all European powers and of how the continent of Africa should be shared among themselves for the purpose of acquisition of raw materials and marketing of their products. While the conference was still sitting, protectorates and colonies were being declared in many parts of the West Africa of which British government had actually declared Lagos a colony and continued to advance the said Colony from *Epe*, *Badagry*, *Ijebu*, *Igboland*

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<sup>1</sup> 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 April 5, 2020.

<sup>2</sup> 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 April 5, 2020.

<sup>3</sup> L Okoh, 'A Guide to the Indigenous People of Nigeria', *Culture Trip* (2018) available at <<https://theculturetrip.com/africa/nigeria/articles/a-guide-to-the-indigenous-people-of-nigeria/>> accessed on April 4, 2020.

<sup>4</sup> Berlin Conference of 1884-1885 available at <[https://cpb-us-e1.wpmucdn.com/cobblearning.net/dist/c/31/files/2015/02/Colonialism\\_Independence\\_-Part-II-blog-23k1x9z.pdf](https://cpb-us-e1.wpmucdn.com/cobblearning.net/dist/c/31/files/2015/02/Colonialism_Independence_-Part-II-blog-23k1x9z.pdf)> accessed on April 4, 2020.

to the North. However, prior to this period, the Royal Niger Company, master-minded by George Taubman Goldie,<sup>5</sup> emerged victorious and succeeded in imposing its authority on the indigenous peoples of the Niger area.<sup>6</sup>

Though the geographical area constituting the modern-day Nigeria was initially administered as a concession of the Royal Niger Company, it became a formal British Colony from the year 1900, and was ruled as three distinct political units: the Northern Protectorate, the Southern Protectorate and Lagos Colony. In 1906 the Lagos Colony and Southern Protectorate were merged. In 1914 the three political units were fused/merged/amalgamated into one nation: the 'Colony and Protectorate of Nigeria'. Partly in recognition of the major ethno-linguistic differences between *Igbo* and *Yoruba* in the south, the Southern Protectorate was split in 1939 into Eastern and Western Provinces. This was given constitutional backing when in 1947 Nigeria was divided into Northern, Eastern and Western regions, a move that gave prominence to the three dominant groups: *Hausa-Fulani* in the north, *Igbo* in the east and *Yoruba* in the west. Each of the former three regions had minorities who formed themselves into movements agitating for constitutional safeguards against opposition from the larger ethnic group that dominated the affairs of the region.<sup>7</sup>

Since the 1914 fusion/amalgamation of the two Nigerian regions - the Northern region and the southern region by the British colonial government,<sup>8</sup> the indigenous peoples in Nigeria have continued to agitate, debate, and discuss the issues bordering on the peaceful coexistence of the various ethnic groups on the one hand, and between Christians and Muslims on the other. The question about living together in peace emerged early in the Nigerian national debate as a result of the numerous violent confrontations between, among and within some ethnic groups in the North and some in the South, and between some Muslims and some Christians.<sup>9</sup> Scholars and Statesmen have expressed contending views in relation to negative and positive implication[s] and/or impact[s] of the 1914 amalgamation. For example, speaking in the Northern House of Assembly in 1952, Sir Alhaji Abubakar Tafawa Balewa, who later became the Prime Minister of Nigeria (1960–1966), reportedly dismissed the 1914 amalgamation of Nigeria by the British Government; he declared as follows:

...the Southern people who are swarming into this region daily in large numbers are really intruders. We don't want them and they are not welcome here in the North. Since the amalgamation in 1914, the British Government has been trying to make Nigeria into one country, but the Nigerian people are different in every way including religion, custom, language and aspiration. The fact that we're all Africans might have misguided the British Government. We here in the North, take it that 'Nigerian unity' is not for us.<sup>10</sup> (Underlining mine)

In the midst of the noted heterogeneity of Nigeria's population, and without a free and fair consideration vide plebiscite of the apparent differences among the various indigenous peoples especially among the three major tribes – *Igbo*, *Hausa-Fulani*, and *Yoruba*, Nigeria independence was granted to Nigeria on Thursday, October 1, 1960 and became a Republic on October 1, 1963. Since the colonial masters stepped aside from the government of Nigeria, Nigeria has experienced many crises ranging and/or resulting from tribalism, religious intolerance, riots, toppling/overthrowing of governments by the military, protests turned bloody, clamours for independence/self-determination, corruption, abuse of power, electoral malpractices and so on.

From 1967 to 1970, Nigeria was completely overwhelmed and ravaged by a bloody civil war that occurred mainly between the Muslim North (commonly identified as the *Hausa-Fulani* people) and the Christian Southeast

<sup>5</sup> The British trader and empire builder, Sir George Dashwood Taubman Goldie created the Royal Niger Company, which secured British claims to the lower Niger and Northern Nigeria. See *Sir George Dashwood Taubman Goldie Facts*, <<https://biography.yourdictionary.com/sir-george-dashwood-taubman-goldie>> accessed on April 9, 2020.

<sup>6</sup> AM Deji, 'Historical Background of Nigerian Politics, 1900-1960', *IOSR Journal Of Humanities And Social Science* (2013) 88 <<http://www.iosrjournals.org/iosr-jhss/papers/Vol16-issue2/K01628494.pdf?id=7790>> accessed on April 5, 2020.

<sup>7</sup> Minority Rights Group International, *World Directory of Minorities and Indigenous Peoples - Nigeria*, (2018) available at <<https://www.refworld.org/docid/4954ce6719.html>> accessed on April 4, 2020.

<sup>8</sup> M Crowther, *West Africa under colonial rule* (London: Hutchinson & Co. Ltd., 1968) cited in B. Ugorji, 'Ethno-Religious Conflict in Nigeria', *International Center for Ethno-Religious Mediation* (2016) 3 <<https://www.icermediation.org/wp-content/uploads/2015/08/Ethno-Religious-Conflict-in-Nigeria-by-Basil-Ugorji.pdf>> accessed April 4, 2020.

<sup>9</sup> B Ugorji, 'Ethno-Religious Conflict in Nigeria', *International Center for Ethno-Religious Mediation* (2016) p. 3 available at <<https://www.icermediation.org/wp-content/uploads/2015/08/Ethno-Religious-Conflict-in-Nigeria-by-Basil-Ugorji.pdf>> accessed April 4, 2020.

<sup>10</sup> A Adeleye, 'Amalgamation of 1914: Was it a mistake?', *Vanguard Newspaper of May 18, 2012* available at <<https://www.vanguardngr.com/2012/05/amalgamation-of-1914-was-it-a-mistake/>> accessed on April 3, 2020.

(known as the *Igbo* people), causing the death of more than one million people including children and women;<sup>11</sup> this refers to the Nigeria-Biafra bloody civil war. It is thus undeniable that over the years, especially since after Nigeria's independence, the ethnic and religious differences among the indigenous peoples of Nigeria have given rise, directly or indirectly, to several occasions for incessant crises and even bloodshed. It is therefore axiomatic that Nigeria has fought and struggled for oneness within herself even to the point of shedding the blood of innumerable indigenous peoples in the country/territory. Notwithstanding the foregoing, there are still till date clamours/agitations by different indigenous peoples in Nigeria for independence. Most prominent among the said clamours/agitations is the clamour/agitation by the majority of the indigenous peoples of the South-eastern region of Nigeria for the realization of the Sovereign State of Biafra.

All things being equal, it is quite disturbing and fearful to observe that in the uncompromising bid to quench and/or suppress the aforesaid clamours/agitations for independence, the Federal Government of Nigeria appears to have elected to consistently resort to the application of brute force, military might, and invocation of criminal law vis-à-vis sedition, treason and treasonable felony against the relevant indigenous peoples. It should be more disturbing and seriously fearful to further observe that the international community feigns to be, or is actually, ignorant of the foregoing state of affairs in Nigeria.

This work focuses on interrogating dispassionately the oneness, indivisibility, and indissolubility of Nigeria with a view to identifying and/or highlighting the incessant challenges that have bedeviled Nigeria due to her heterogeneity, and making lawful and thoughtful recommendations for lasting legal panacea to the situation.

## 2. Interrogating the Indivisibility and Indissolubility of Nigeria

At this juncture of this inquiry, the question is not on whether the Federal Republic of Nigeria is one nation; this is so because the conception and birth of the oneness of Nigeria has been dispassionately traced to the bed of colonization. In other words, the oneness of Nigeria originated in pursuance and in furtherance of the colonization by Great Britain of the different regions in Nigeria. It is thus safe to opine that the oneness of Nigeria was undeniably not generated from the grassroots, that is to say that the oneness was not drawn from the will of the indigenous peoples in Nigeria. The said oneness was actuated vide the 1914 merger/amalgamation of the Colony and Southern Protectorate and Northern Protectorate for the administrative convenience of the colonial masters. Now on the indivisibility and indissolubility of the modern-day one Nigeria, this work seeks, at this juncture, to inquire into, and find out, whether the oneness of Nigeria is really such that is truly indivisible and indissoluble. The said inquiry is in view of the heterogeneous population of Nigeria, the undeniable natural or biological divisions/differences among the indigenous peoples in Nigeria especially along tribal and religious lines, the colonial genesis of the oneness of Nigeria, the unending bloodsheds / massacre of people in Nigeria, and the incessant clamours/agitations by different indigenous peoples in Nigeria for independence/self-determination. Indivisibility is derived from the adjective 'indivisible' whereas indissolubility is derived from the adjective 'indissoluble'. On one hand, the adjective 'indivisible' in the main means not separable into parts<sup>12</sup>, while on the other hand, the adjective 'indissoluble' in the main means impossible to take apart or bring to an end<sup>13</sup>. Accordingly, to declare that a country is indivisible and indissoluble is to declare that the country is not separable into [independent] parts/regions and that it is impossible to take apart or bring to an end the national relationship binding the [indigenous] peoples in that country. The indivisibility and indissolubility of the Federal Republic of Nigeria appears in the Preamble to the extant Constitution<sup>14</sup> whereby it is announced *inter alia* that:

**WE THE PEOPLE** of the Federal Republic of Nigeria:  
**HAVING** firmly and solemnly resolved:

**TO LIVE** in unity and harmony as one indivisible and indissoluble sovereign nation under god, dedicated to the promotion of inter-African solidarity, world peace, international co-operation and understanding:

**AND TO PROVIDE** for a constitution for the purpose of promoting the good government and welfare of all persons in our country, on the principles of freedom, equality and justice, and **for the purpose of consolidating the unity of our people:**

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<sup>11</sup> B Ugorji, *From cultural justice to inter-ethnic mediation: A reflection on the possibility of ethno-religious mediation in Africa* (Colorado: Outskirts Press, 2012) p. 102.

<sup>12</sup> BA Garner, *Black's Law Dictionary* (9<sup>th</sup> edn, Minnesota: West, 2009) p. 843.

<sup>13</sup> Cambridge Dictionary, Meaning of Indissoluble in English available

<<https://dictionary.cambridge.org/dictionary/english/indissoluble>> accessed on April 6, 2020.

<sup>14</sup> *The Constitution of the Federal Republic of Nigeria, 1999.*

**DO HEREBY** make, enact and give ourselves the following constitution: [Underlining mine].

However, beyond the foregoing announcement in the Preamble, vide *Section 2(1) of the Constitution of the Federal Republic of Nigeria, 1999* which is the extant Constitution of Nigeria, the indivisibility and indissolubility is duly affirmed and declared for the avoidance of any doubt, whereby it is declared that Nigeria is one indivisible and indissoluble sovereign state to be known by the name of the Federal Republic of Nigeria. The above announcement, affirmation, and declaration of the indivisibility and indissolubility of Nigeria is impair material with the announcement, affirmation, and declaration of the indivisibility and indissolubility of Nigeria as contained in the 1979 Constitution of Nigeria. As a matter of fact, apart from the 1979 and 1999 Constitutions, no other Constitution of Nigeria, whether imperial/pre-independence, independence, or post independence, announced, affirmed and/or declared Nigeria as one indivisible and indissoluble nation. However, the 1960 Independence Constitution of Nigeria and the 1963 Republican Constitution of Nigeria both embraced the regional structure of government for Nigeria wherein the respective Regions had Regional Constitution to govern the govern though subject to the Federal Constitution.<sup>15</sup> Instead of setting the [Nigerian Legal] System in motion towards the full autonomy of the regions to serve the interest of the indigenous peoples and to affirm the right of the indigenous peoples in the various regions to freely determine and pursue their political, economic, social and cultural fate/destiny or development, the Nigerian Legal System was set in motion to rather insist continually, by all means, on the oneness of Nigeria even to the point of declaring Nigeria indivisible and indissoluble.

One will now wonder what actuated this constitutional announcement, affirmation and/or declaration of Nigeria as one indivisible and indissoluble nation. Is the ‘constitutional announcement, affirmation and/or declaration of Nigeria as one indivisible and indissoluble nation’ intended to serve as the legal panacea to the many crises that have bedeviled and are still bedeviling Nigeria ranging and/or resulting from tribalism, religious intolerance, and clamours for independence/self-determination, *et cetera*? In a quick response to the above research poser, the researcher opines that denying or undermining the true will/aspirations of the various indigenous peoples in Nigeria, will rather generate more crises in the country than it will [re]solve.

It is now imperative to observe here that the grassroots of the indigenous peoples in Nigeria did not participate in the making of the extant Constitution of Nigeria nor in making of the 1979 Constitution of Nigeria as feigned in the respective Preambles to the aforesaid Constitutions of Nigeria. One implication of the said regrettable non-participation of the grassroots of the indigenous peoples in Nigeria in the making of the 1999 Constitution of Nigeria is that the indigenous peoples are not privy to the constitutional announcement, affirmation and/or declaration of Nigeria as one indivisible and indissoluble nation.

In any event, the researcher deems it apposite to examine concisely the right of self-determination of the various indigenous peoples in Nigeria under International Law vis-à-vis the constitutionally declared indivisibility and indissolubility of Nigeria.

### **3. Right of Self-Determination vis-à-vis the Indivisibility and Indissolubility of Nigeria**

Self-determination denotes the legal right of people to decide their own destiny in the international order. Self-determination is a core principle of international law, arising from customary international law,<sup>16</sup> but also recognized as a general principle of law, and enshrined in a number of international treaties. For instance, self-determination is protected in the United Nations Charter of 1945,<sup>17</sup> the International Covenant on Civil and Political Rights (1966),<sup>18</sup> and the International Covenant on Economic, Social and Cultural Rights (1966),<sup>19</sup> as a

<sup>15</sup> See *Sections 2, 3, and 5 of the 1960 Independence Constitution of Nigeria*, <[https://www.worldstatesmen.org/nigeria\\_const1960.pdf](https://www.worldstatesmen.org/nigeria_const1960.pdf)> accessed on April 9, 2020. See also *Sections 2, 3, and 5 of the 1963 Republican Constitution of Nigeria*, <<https://www.dawodu.com/const63.pdf>> accessed on April 9, 2020.

<sup>16</sup> Customary international law is described in *Article 38 of the Statute of the International Court of Justice* as ‘international custom, as evidence of a general practice accepted as law’. <<https://www.icj-cij.org/en/statute>> accessed on April 7, 2020. Thus, customary international law is made up of rules that come from "a general practice accepted as law" and that exist independent of treaties. See International Committee of the Red Cross, *Customary International Humanitarian Law* <<https://www.icrc.org/en/document/customary-international-humanitarian-law-0>> accessed on April 7, 2020.

<sup>17</sup> The United Nations made references to the right of self-determination in Articles 1(2) and 55 of United Nations Charter of 1945 available at <<https://www.un.org/en/sections/un-charter/un-charter-full-text/>> accessed on April 7, 2020.

<sup>18</sup> *Part 1, Article 1 of International Covenant on Civil and Political Rights, 1966* <<https://www.ohchr.org/Documents/ProfessionalInterest/ccpr.pdf>> accessed on April 7, 2020.

<sup>19</sup> *Part 1, Article 1 of International Covenant on Economic, Social and Cultural Rights* <<https://www.ohchr.org/en/professionalinterest/pages/cescr.aspx>> accessed on April 7, 2020.

right of all peoples.<sup>20</sup> For clarity in presentation, the researcher hereby notes that the right of self-determination is more pronounced and expressed in identical terms in common Article 1 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) and International Covenant on Civil and Political Rights (ICCPR), but the said right draws/springs directly from the references to self-determination in Articles 1(2) and 55 of the United Nations Charter 1945. Significantly, it has been firmly noted elsewhere that self-determination is a principle of justice, which represents ultimately the right of indigenous peoples to freely determine and pursue their political, economic, social and cultural fate/destiny or development. Accordingly, the whole concept of self-determination can even be said safely, as of first importance, to be a concept of natural law, since the major concern for natural law tradition is justice.<sup>21</sup> Part 1, Article 1 of the United Nations' International Covenant on Civil and Political Rights (ICCPR) 1966 which is *in pari materia* with Part 1, Article 1 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) 1966 provides that 'all peoples have the right of self-determination by virtue of which they freely determine their political status and freely pursue their economic, social and cultural development'.

Now having underscored the international legal plank/framework upon which the right of self-determination firmly stands, it becomes imperative to find and/or adopt a working definition for the concept of [indigenous] peoples unto whom the right of self-determination collectively inure. In this bid, the researcher hereby acknowledges that considerable thinking and debate have been devoted to the question of definition of indigenous peoples, but no such definition has yet been adopted by any United Nations system body.<sup>22</sup> Meanwhile, one of the most cited descriptions of the concept of the indigenous was given/recommended by *Mr. Jose R. Martinez Cobo*,<sup>23</sup> 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 systems.<sup>24</sup>

The researcher humbly adopts the foregoing definition of [indigenous] peoples for the purpose of this present research and in the light thereof, submits that there are various indigenous peoples in Nigeria including peoples of the three major ethnic groups in Nigeria. For example, in the light of the definition of [indigenous] peoples, 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:

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.

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<sup>20</sup> Legal Information Institute, Cornell Law School, 'Self determination (International Law)' available at <[https://www.law.cornell.edu/wex/self\\_determination\\_\(international\\_law\)](https://www.law.cornell.edu/wex/self_determination_(international_law))> accessed on April 7, 2020.

<sup>21</sup> L Malksoo, 'Justice, Order and Anarchy: The Right of Peoples to Self-Determination and the Conflicting Values of the Law', *Juridica International IV* (1999) 76.

<sup>22</sup> United 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](http://www.un.org/esa/socdev/unpfii/documents/workshop_data_background.doc)> accessed on April 7, 2020.

<sup>23</sup> *Mr. 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](https://www.un.org/esa/socdev/unpfii/documents/MCS_intro_1981_en.pdf)> accessed on April 7, 2020.

<sup>24</sup> JRM 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)* 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](https://www.un.org/esa/socdev/unpfii/documents/MCS_xxi_xxii_e.pdf)> accessed on April 7, 2020.

In *Timor (Portugal v. Australia)*,<sup>25</sup> the International Court of Justice, which is the principal judicial organ of the United Nations (UN),<sup>26</sup> has identified the right of self-determination as one of the essential principles of contemporary international law whereby the Court (International Court of Justice) held *inter alia* that:

The principle of self-determination of peoples has been recognized by the United Nations Charter and in the jurisprudence of the Court...it is one of the essential principles of contemporary international law.

Exercise of the right of self-determination can result to different outcomes ranging from political independence through to full integration within a state. The importance lies in the right of choice, so that the outcome of a people's choice should not affect the existence of the right to make a choice.<sup>27</sup> In other words, should natural law be given liberty/space to command its due influence on the [further] development of international law and jurisprudence, particularly vis-à-vis the international legal framework for the existence and exercise of the right of self-determination, indigenous peoples anywhere in the world shall continue to be entitled to the sacred right of self-determination within the ambit of the legal framework for the exercise thereof.<sup>28</sup>

Now, it is the researcher's bid to inquire into the nexus and/or relationship between the foregoing international law principle of self-determination of [indigenous] peoples, and the constitutional announcement, affirmation, and declaration of Nigeria as one indivisible and indissoluble sovereign nation. In pursuance of the said bid, it is the researcher's informed opinion and firm submission that Nigeria's constitutional announcement, affirmation, and declaration of Nigeria as one indivisible and indissoluble sovereign nation cannot hinder the availability and utility of the right of self-determination to and by the [indigenous] peoples in Nigeria. In fact, having acceded<sup>29</sup> [to] the *International Covenant on Civil and Political Rights 1966*, Nigeria, alongside other States Parties to the Covenant, including those having responsibility for the administration of Non-Self-Governing and Trust Territories, has an obligation under *Part 1 Article 1(3)* of the said *International Covenant on Civil and Political Rights 1966* to ...promote the realization of the right of self-determination, and shall respect that right, in conformity with the provisions of the Charter of the United Nations. It follows that, the principle of self-determination, which the International Court of Justice has judicially certified/recognized as one of the essential principles of contemporary international law<sup>30</sup> must prevail over Nigeria's constitutional announcement, affirmation, and declaration of Nigeria as one indivisible and indissoluble sovereign nation in observation of the collective right of self-determination of the various [indigenous] peoples in Nigeria.

#### 4. Conclusion and Recommendations

The commitment of the international society of states to the self-determination of all peoples was demonstrated with the signing of the United Nations (UN) Charter in 1945. Article 1(2) of the UN Charter states that one of the purposes of the United Nations is to pursue the development of friendly relations among nations 'based on respect for the principle of equal rights and self-determination of peoples'.<sup>31</sup> Nevertheless, the backdrop to the emergence of the legal right to self-determination was the movement for decolonization during the 1960s.<sup>32</sup> This helps to explain why, in spite of self-determination as a political principle having a number of different dimensions,<sup>33</sup> the core meaning of the legal right to self-determination centers on the idea of freedom from colonization and/or

<sup>25</sup> Judgment, I. C.J. Reports 1995, p. 90 at 102 paragraph 29 <<https://www.icj-cij.org/files/case-related/84/084-19950630-JUD-01-00-EN.pdf>> accessed on April 7, 2020.

<sup>26</sup> International Court of Justice <<https://www.icj-cij.org/en/court>> accessed on April 7, 2020.

<sup>27</sup> Unrepresented Nations and Peoples Organization, *Self-Determination* (2017) <<https://unpo.org/article/4957>> accessed on April 7, 2020.

<sup>28</sup> The researcher's submission herein is in view of the fact that the concept and right of self-determination has been traced to natural law, since the major concern for natural law tradition is justice. See L. Malksoo, 'Justice, Order and Anarchy: The Right of Peoples to Self-Determination and the Conflicting Values of the Law', *Juridica International IV* (1999) 76.

<sup>29</sup> Nigeria acceded [to] both the *International Covenant on Civil and Political Rights (ICCPR)* and the *International Covenant on Economic, Social and Cultural Rights (ICESCR)* on the 29th day of July 1993. See United Nations, *International Covenant on Civil and Political Rights (ICCPR)*, <<https://treaties.un.org/doc/Publication/MTDSG/Volume%20I/Chapter%20IV/IV-4.en.pdf>> accessed on April 8, 2020. See also List Depicting Nigeria's Status of Ratification of U.N Human Rights Instruments <[https://lib.ohchr.org/HRBodies/UPR/Documents/Session4/NG/NHRC\\_NGA\\_UPR\\_S4\\_2009anx\\_RatifiedHumanRightsInstruments.pdf](https://lib.ohchr.org/HRBodies/UPR/Documents/Session4/NG/NHRC_NGA_UPR_S4_2009anx_RatifiedHumanRightsInstruments.pdf)> accessed on April 8, 2020.

<sup>30</sup> *Timor (Portugal v. Australia)*, supra.

<sup>31</sup> R Higgins, *Problems and Process: International Law and How We Use It* (Oxford: Clarendon Press, 1995) at 112.

<sup>32</sup> M Weller, *Escaping the Self-Determination Trap* (Leiden: Martinus Nijhoff, 2008) at 35; and J Salmon, 'Internal Aspects of the Right to Self-Determination: Towards a Democratic Legitimacy Principle?', in C Tomuschat (ed.), *Modern Law of Self-Determination* (Dordrecht: Martinus Nijhoff, 1993) 253 at 254 – 255.

<sup>33</sup> J Waldron, 'Two Conceptions of Self-Determination', in Besson and Tasioulas (eds), *The Philosophy of International Law* (Oxford: Oxford University Press, 2010) 397.

subjugation.<sup>34</sup> For instance, the *United Nations General Assembly's Declaration on the Granting of Independence to Colonial Countries and Peoples 1960*<sup>35</sup> states that [t]he subjection of peoples to alien subjugation, domination and exploitation constitutes a denial of fundamental rights, is contrary to the Charter of the United Nations...<sup>36</sup> And provides that '[a]ll peoples have the right to self-determination; by virtue of their right they freely determine their political status and freely pursue their economic, social and cultural development'. This is the basis for a people subject to colonial rule to be given the choice of how they wish to be constituted: independence, integration or association with another state.<sup>37</sup> It is undeniably obvious that the modern-day Nigeria is a union/fusion of various [indigenous] peoples who have respectively peculiar historical continuity, and pre-colonial societies that developed on their respective territories, consider themselves distinct from each other and are determined to preserve, develop and transmit to future generations their ancestral territories, and their ethnic identity, as the bases of their continued existence as [indigenous] peoples, in accordance with their own cultural patterns, social institutions and legal systems. The indigenous peoples in Nigeria include the *Hausa-Fulani* peoples of the Northern region/part of Nigeria, the *Yoruba* people of the South-Western region/part of Nigeria, and the *Igbo* people of the South-Eastern region/part of Nigeria. It is equally axiomatic that the oneness of the modern-day Nigeria truly originated from the British altar of colonization without any free and fair consultation with the 'grassroots' of the various [indigenous] peoples in Nigeria. Accordingly, the imposed merger/fusion/amalgamation of the various [indigenous] peoples in Nigeria could be responsible, directly or indirectly, for the many incessant challenges/crises ranging and/or resulting from tribalism, religious intolerance, riots, toppling/overthrowing of governments by the military, protests turned bloody, clamours for independence/self-determination, corruption, abuse of power and so on, which have bedeviled Nigeria and some of which still bedevils the country till date. An honest and true decolonization of Nigeria pursuant to the international law principle of self-determination should involve a free and fair consultation with, and participation of, the peoples at the grassroots of the various [indigenous] peoples in Nigeria so as to afford the various [indigenous] peoples a genuine opportunity for the utility of their fundamental right of self determination.

In the light of the foregoing, the study makes the following recommendations. In view of the pre-colonial, colonial, and post-independence history of Nigeria, the United Nations should promptly pass a resolution affirming specifically the existence of [indigenous] peoples in Nigeria. The United Nations should equally pass a resolution simultaneously affirming the entitlement of all the [indigenous] peoples in Nigeria to the exercise of the right of self-determination under international law. The United Nations should pass a further resolution affirming the obligation of the Federal Republic of Nigeria, and the obligation of the other States Parties to the International Covenant on Civil and Political Rights (ICCPR), to promote the realization of the right of self-determination of the [indigenous] peoples in Nigeria, and to respect that right, in conformity with the provisions of the Charter of the United Nations. Let the United Nations resolve that, after the expiry of a certain period but not later than a reasonable time-limit thereafter, a plebiscite shall be held in Nigeria for any desirous [indigenous] peoples under the supervision of the United Nations, which should ensure the freedom and impartiality of the plebiscite, to afford the indigenous peoples a genuine and fair opportunity to freely determine and pursue their political, economic, social and cultural fate/destiny or development. If the result of the plebiscite should reveal a clear preponderance of views in support of a particular course and objective, that course should be adopted and given effect by the United Nations. If it pleases the United Nations to set machineries in motion towards adopting and implementing the above recommendations, let it equally please the United Nations to advise the Federal Government of Nigeria to return, in the meantime, to the regional structure of government as it were under Nigeria's Independence Constitution of 1960 or the Republican Constitution of 1963 but this time, granting full autonomy to the regions and affirming the right of the indigenous peoples in the various regions to freely determine and pursue their political, economic, social and cultural fate/destiny or development. This will serve, in the meantime, as the panacea to the many crises that have bedeviled and are still bedeviling Nigeria ranging and/or resulting from tribalism, religious intolerance, and clamours for independence/self-determination, *et cetera*. The researcher sees no harm in Nigeria restructuring herself to have a loose central government and strong and/or autonomous regional governments, or better still become a confederation.

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<sup>34</sup> M Saul, 'The Normative Status of Self-Determination in International Law: A Formula for Uncertainty in the Scope and Content of the Right?', *Human Rights Law Review* (2011) 613.

<sup>35</sup> *The Declaration on the Granting of Independence to Colonial Countries and Peoples* was adopted by the United Nations General Assembly on 14 December 1960. See E MacWhinney, 'Declaration on the Granting of Independence to Colonial Countries and Peoples', *Audiovisual Library of International Law* (2008) 1 <[https://legal.un.org/avl/pdf/ha/dicc/dicc\\_e.pdf](https://legal.un.org/avl/pdf/ha/dicc/dicc_e.pdf)> accessed on April 8, 2020.

<sup>36</sup> GA Res 1514 (XV), 14 December 1960, at paras 1 and 2. <<https://www.sfu.ca/~palys/UN-Resolution%201514.pdf>> accessed on April 8, 2020.

<sup>37</sup> *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, p. 16. <[https://www.icc-cpi.int/RelatedRecords/CR2018\\_04586.PDF](https://www.icc-cpi.int/RelatedRecords/CR2018_04586.PDF)> accessed on April 7, 2020.