

CONTOURS OF TRUE DECOLONIZATION VIS-À-VIS THE RIGHT TO SELF-DETERMINATION*

Abstract

The United Nations' General Assembly in her Declaration on the Granting of Independence to Colonial Countries and Peoples which Declaration is otherwise known as General Assembly Resolution 1514(XV) recognized, among other things, the passionate yearning for freedom in all dependent peoples and the decisive role of such peoples in the attainment of their independence and that the peoples of the world ardently desire the end of colonialism/colonization in all its manifestations. The United Nations General Assembly in the aforementioned Instrument firmly communicated her belief 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. There are also other Resolutions of the United Nations' General Assembly which do not only frown firmly at any form or manifestation of colonialism but equally affirm the right of [indigenous] people to self-determination. Though as a matter of fact, there is no controversy over the right to self-determination as long as it is in the context of decolonization, this paper interrogates the contours of true decolonization in relation to the right of all peoples to self-determination. It is the researchers' finding that decolonization cannot be truly complete until every indigenous people in any former colony that covets autonomy / self-government is given a free and fair opportunity to determine their political status and freely pursue their economic, social and cultural development. Where certain facets, structures, infrastructures, and traces of colonization are considered prejudicial, oppressive or unfavourable by any indigenous people, the right to self-determination should avail such people genuine opportunity to decide their destiny. Yes, true decolonization in any case should mean nothing less than the total liquidation and end of colonialism in all its prejudicial / unfavourable / oppressive forms and manifestations. This work recommends, in the main, a true, honest and complete decolonization of former colonies vide affirmation by the United Nations of the inalienable right to self-determination of the various indigenous peoples and the conduct of free and fair referenda to afford indigenous peoples in those former colonies genuine opportunity to determine how to pursue their respective political, economic, social and cultural developments.

Keywords: Colonialism, Amalgamation, Indigenous, Peoples, Decolonization, Oneness, Indivisible, Indissoluble.

1. Meaning and Major Manifestations of Colonialism

The practice of colonialism/colonization dates to around 1550 BCE when Ancient Greece, Ancient Rome, Ancient Egypt, and Phoenicia began extending their control into adjacent and non-contiguous territories. Using their superior military power, these ancient civilizations established colonies that made use of the skills and resources of the people they conquered to further expand their empires.¹ Going forward on the historical lane, it has been noted that many African societies experienced an intensification of European territorial domination and exploitation following the European 'Scramble for Africa' and the Berlin Conference in 1884, in which Western European powers met to arrange the territorial domination of the African continent in a manner cordial for Europeans.² Let us now press on to inquire what colonialism or colonization actually is. Colonialism or colonization refers to the combination of territorial, juridical, cultural, linguistic, political, mental / epistemic, and/or economic domination of one group of people or groups of people by another (external) group of people.³ Colonialism is the policy and practice of a strong power extending its control territorially over a weaker nation or people.⁴ According to Ocheni and

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¹ R Longley, 'What Is Colonialism? Definition and Examples', *ThoughtCo.* (2021) <<https://www.thoughtco.com/colonialism-definition-and-examples-5112779>> accessed on 5 November 2021.

² A Murrey, 'Colonialism' in A Kobayashi (Ed.), *International Encyclopaedia of Human Geography* (2nd Edn, Vol. 1, Elsevier Ltd.: Amsterdam, 2020) p. 317

³ *Ibid.*, p. 315.

⁴ MT Shaibu & AO Ogoh, 'The Strategic Features of Colonial Politico-Economic, Changes and Continuities: The Nigerian Experience', *International Journal of Humanities Social Sciences and Education (IJHSSE)* vol. 2(3) (2015) p. 3 <<https://www.arcjournals.org/pdfs/ijhsse/v2-i3/13.pdf>> accessed on 5 November 2021.

Nwankwo,⁵ colonialism is the direct and overall domination of one territory by another on the basis of state power being in the hands of a foreign power – an example is the direct and overall domination of Nigeria by Britain between 1900 and 1960.⁶ In essence, colonialism is an act of political and economic domination involving the control of a territory or geographical area and its people[s] by settlers from a foreign power. In most cases, the goal of the colonizing countries is to profit by exploiting the human and economic resources of the countries they colonized. In the process, the colonizers – sometimes forcibly – attempt to impose their religion, language, cultural, and political practices on the indigenous population.⁷ To Ocheni and Nwankwo, the first objective of colonialism is political domination while its second objective is to make possible the exploitation of the colonized people and the colony.⁸ Colonialism is generally classified by one of four overlapping types according to the practice's particular goals and consequences on the subjugated territory and its indigenous peoples. These are settler colonialism; exploitation colonialism; surrogate colonialism; and internal colonialism.⁹

Settler Colonialism: This is the most common form of colonial conquest, and it describes the migration of large groups of people from one country to another country to build permanent, self-supporting settlements. Remaining legal subjects of their native country, the colonists harvested natural resources and attempted to either drive the indigenous peoples away or force them to assimilate peacefully into colonial life.¹⁰ In settler colonialism, the colonizers appropriate land for the purposes of occupation as well as for the purposes of capital accumulation. Colonial settlements are imposed through *racialized* rhetoric of permanence that demand large-scale displacements and resettlements of Indigenous people[s].¹¹

Exploitation Colonialism: This describes the employment and/or deployment of force to control another territory for purposes of exploiting its population as labor and its natural resources as raw material. In undertaking exploitation colonialism, the colonial power sought only to increase its wealth by using the indigenous people as low-cost labor. In contrast to settler colonialism, exploitation colonialism required fewer colonists to emigrate, since the indigenous people could be allowed to remain in place – especially if they were to be enslaved as laborers in service to the motherland.¹²

Surrogate Colonialism: In surrogate colonialism, a foreign power encourages and supports, either openly or covertly, the settlement of a non-native group on territory occupied by an indigenous population. Support for surrogate colonialism projects might come in the form of any combination of diplomacy, financial aid, humanitarian materials, or arms. Many anthropologists consider the Zionist Jewish settlement inside the Islamic Middle Eastern state of Palestine to be an example of surrogate colonialism because it was established with the urging and assistance of the ruling British Empire. The colonization was a key factor in negotiations that resulted in the Balfour Declaration of 1917, which facilitated and legitimized the still-controversial Zionist settlement in Palestine.¹³

Internal Colonialism: Internal colonialism describes the oppression or exploitation of one racial or ethnic group by another within the same country. In contrast to traditional types of colonialism, the source of the exploitation in internal colonialism comes from within the county rather than from a foreign power.¹⁴ Internal colonialism can be said to be a manifestation of the traditional types of colonialism in view of Mukaria's¹⁵ submission that:

...after the colonizers had seized vast indigenous lands, they exploited them to their advantage...As a result, the indigenous people become dependent on the colonizers.

⁵ S Ocheni & BC Nwankwo, 'Analysis of Colonialism and Its Impact in Africa', *Cross-Cultural Communication* 8(3) (2012) p. 46 <<http://cscanada.net/index.php/ccc/article/view/j.ccc.1923670020120803.1189>> accessed on 5 November 2021.

⁶ *Ibid.*

⁷ R Longley, 'What Is Colonialism? Definition and Examples', *Thought Co.* (2021) <<https://www.thoughtco.com/colonialism-definition-and-examples-5112779>> accessed on 5 November 2021.

⁸ S Ocheni & BC Nwankwo, *op. cit.*

⁹ Aakansha, 'Colonialism: Meaning, History, Types, and Evolution', *Sociology Group* <<https://www.sociologygroup.com/colonialism-meaning-history-types-evolution/>> accessed on 5 November 2021.

¹⁰ R Longley, *op. cit.*

¹¹ A Murrey, *op. cit.*

¹² R Longley, *op. cit.*

¹³ *Ibid.*

¹⁴ *Ibid.*

¹⁵ A Mukaria, 'Western Colonialism: the Genesis of the Degradation of of Nature', *Academia Matters*, Article 1737 (2021) p. 5 <<https://doi.org/10.20935/AL1737>> accessed on 9 November 2021.

After independence, the indigenous people who took over power had learned the art of exploitation... They further expanded and continued with the exploitation...¹⁶

The typical manifestations of colonialism range from racial and cultural inequality between the colonizer and the colonized, political and legal intimidation and/or domination by the colonial power, to exploitation of the indigenous people[s].¹⁷ Colonialism being the maintenance of political, social, economic, and cultural domination over people by a foreign power for an extended period,¹⁸ 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 indigenous people[s], such as tribal/ethnic groups, to become [a] minority in an area they once were the majority (dominant) group.¹⁹ 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 peoples.²⁰ Zimmerer²¹ 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'.²² Murrey²³ 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'²⁴. 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'²⁵. 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 [political] empires.²⁶ To Okeke,²⁷ a good picture of this particular [critical] manifestation of colonization/colonialism is the geographical area which is now known as the Federal Republic of Nigeria.²⁸ In tandem with verifiable history, he (Okeke) submitted *inter alia* that:

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.²⁹

There could be other examples of this particular manifestation of colonialism/colonization in African and perhaps elsewhere but for the purpose of this research, let Nigeria suffice for a perfect example and case

¹⁶ *Ibid.*

¹⁷ MT Shaibu & AO Ogoh, *op. cit.*

¹⁸ RT Schaefer, 'Minorities', *International Encyclopedia of Human Geography* (2nd Edn, 2015) p. 567 <<https://www.sciencedirect.com/science/article/pii/B9780080970868320918>> accessed on 5 November 2021.

¹⁹ *Ibid.*

²⁰ 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 November 2021.

²¹ Jürgen Zimmerer is a historian at the University of Hamburg.

²² C 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 November 2021.

²³ A Murrey, *op. cit.*, p. 317.

²⁴ *Ibid.*

²⁵ *Ibid.*

²⁶ 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.

²⁷ OE Okeke, 'The Indivisibility and Indissolubility of Nigeria vis-à-vis the Right of Self-Determination' *International Journal of Comparative Law and Legal Philosophy* (2020) Vol. 2, Issue 2, p. 70.

²⁸ *Ibid.*

²⁹ *Ibid.*

study of the point made in this paper. Still in line with the foregoing manifestation of Colonialism / colonization, Okeke observed and further submitted *inter alia* that:

...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*, independence was purportedly granted to Nigeria on Thursday, October 1, 1960 and she (Nigeria) 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...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 of the blood of innumerable indigenous peoples in the country/territory...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...³⁰

It is noteworthy that there is substantial consensus in the critical humanities and social sciences that colonialism, in some form(s) and manifestation(s), endures and that the traces and/or influences of colonialism/colonization continue to structure and inform culture, relations, territoriality, geography, politics, and economics.³¹ Thus, in a modern sense, colonialism may also refer to those less immediately visible residues, practices, logics, and arrangements of colonialism.³²

To the foregoing ends, colonialism may not rightly be discussed and/or dismissed as a mere historical artifact since it is still a persistent force, cause or course behind several conditions, crises and clamours involving and/or affecting various indigenous peoples in the contemporary world and it remains a relevant term for any meaningful voyage of academic enquiry into the contours of true decolonization in relation to the right to self-determination.

2. The Right of all Peoples to Self-Determination

The right to self-determination encapsulates a great ideal, the total freedom of peoples to choose any form of political, economic, social, and cultural destiny they desire. It became intensely popular during the period of decolonization in the second half of the twentieth century, as a right guaranteeing independence from colonial domination and exploitation (colonialism), resulting in the creation of newly independent states.³³ Essentially, the right to self-determination is the right of a people to determine its own destiny. In particular, the principle allows a people to choose its own political status and to determine its own form of economic, cultural and social development. Exercise of this right can result in a variety of 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. In practice, however, the possible outcome of an exercise of self-determination will often determine the attitude of governments towards the actual claim by a people or nation. Thus, while claims to cultural autonomy may be more readily recognized by states, claims to independence are more likely to be rejected by them. Nevertheless, the right to self-determination is recognized in international law as a right of process

³⁰*Ibid.*, pp. 71 – 72 <<https://www.nigerianjournalsonline.com/index.php/IJOCLLEP/article/viewFile/960/944>> accessed on 10 November 2021.

³¹ A Murrey, *op. cit.*, p. 321.

³² *Ibid.*

³³ Accordance with International Law of the Unilateral Declaration of Independence in Respect of Kosovo, Advisory Opinion, [2010] I.C.J. Rep. 1 at 29230.

(not of outcome) belonging to peoples and not to states or governments.³⁴ Self-determination is a core principle of international law arising from customary international law,³⁵ but also recognized as a general principle of law, and codified under a number of international conventions and protocols. The interesting thing about this right is the fact that it is linked to many of the most important and fundamental principles of public international law and that it incarnates the concept of the right of peoples to determine their own destiny without outside interference or subjugation, presupposing all peoples are equal.³⁶

The concept of self-determination is virtually as old as the concept of statehood itself. Since its inception, self-determination has undergone dramatic alterations in many aspects, from a concept initially conservatively applied to issues such as decolonization, to a justification for the break-up of multi-ethnic states. The concept may now extend towards indicating a right of self-determination for indigenous people.³⁷ The right of self-determination has been identified by the International Court of Justice (ICJ or 'the Court') as 'one of the essential principles of contemporary international law'.³⁸ According to Abdullah.³⁹

The right to self-determination is one of the most important, yet contentious, principles of international law. It has served as a powerful slogan and a vital justification for the independence of many peoples, most significantly the independence of colonial peoples. In fact, the colonial context is what specifically comes to mind when the right to self-determination is brought up and it is the colonial aspect of the right to self-determination that is uncontested, for the right to self-determination consists of many elements and it has several aspects...In short, there are many situations in the world where the right to self-determination is of great relevance.⁴⁰

It has been submitted that the right of self-determination is of two aspects; internal self-determination and external self-determination.⁴¹ Internal self-determination is the right of a people to freely pursue their economic, political, social and cultural development or advancement within an existing sovereign state or independent political framework and not seeking to become a new sovereign state or an independent political entity. It is simply seeking better participation in the affairs that concern them than having a more powerful state or government within which territory the people are occupied, control their affairs. The external aspect of self-determination applies where independence and establishment of a sovereign state are sought by a people. Hillier sees internal self-determination as the right of a people to pursue their economic, social and economic and political interest / goal by seeking a more participatory system of government as opposed to seeking to become a new international legal entity-which is external.⁴² The distinction between external and

³⁴Unrepresented Nations and Peoples Organization, 'Self-Determination' (2017) <<https://unpo.org/article/4957#:~:text=Essentially%2C%20the%20right%20to%20self,economic%2C%20cultural%20and%20social%20development.>> accessed on 21 May, 2021.

³⁵Customary 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.

³⁶M Abdullah, *The Right to Self-Determination in International Law: Scrutinizing the Colonial Aspect of the Right to Self-determination* (Göteborg: University of Göteborg, 2006) p. 4 <https://gupea.ub.gu.se/bitstream/2077/1888/1/gupea_2077_1888_1.pdf> accessed on 29 May, 2021.

³⁷M Batistich, 'The Right to Self-Determination and International Law', *Auckland University Law Review* (1995) 7(4) p. 1013 <<http://www.nzlii.org/nz/journals/AukULRev/1995/7.pdf>> accessed on 30 May, 2021.

³⁸*East Timor (Portugal v. Australia)*, Judgment, I. C.J. Reports 1995, p. 90 at 102, para. 29 <<https://www.icj-cij.org/public/files/case-related/84/084-19950630-JUD-01-00-EN.pdf>> accessed on 30 May, 2021.

³⁹M Abdullah, *The Right to Self-Determination in International Law: Scrutinizing the Colonial Aspect of the Right to Self-determination* (Göteborg: University of Göteborg, 2006) pp. 3 – 4 <https://gupea.ub.gu.se/bitstream/2077/1888/1/gupea_2077_1888_1.pdf> accessed on 29 May, 2021.

⁴⁰*Ibid.*

⁴¹H Hannum, 'Legal Aspects of Self-Determination', *Encyclopedia Princetoniensis* <<https://pesd.princeton.edu/node/511#:~:text=Self%2Ddetermination%20has%20two%20aspects%2C%20internal%20and%20external.&text=External%20self%2Ddetermination%20is%20the,of%20their%20own%20independent%20state.>> accessed on 25 May 2021.

⁴²T Hillier, *Sourcebook on Public International Law* (London: Cavendish Publishing Limited, 2008) p. 189 <https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&ved=2ahUKEwibqIrYn_HwAhVF4OAKHSfxBr gQFjA AegQIAxAF&url=https%3A%2F%2Fwww.researchgate.net%2Fprofile%2FKarlo_Godoladze%2Fpost%2FWhich_is_the_best_definition_of_the_international_public_law%2Fattachment%2F59d628ce79197b80779873b9%2FAS%253A332277805535241%25401456232611018%2Fdownload%2F%255BTim_Hillier%255D_Sourcebook_on_Public_International.pdf&usq=AOvVaw0wFnuR-4ZbIMcqWQ0Z13w->> accessed on 30 May, 2021.

internal right to self-determination can be inferred from the pronouncement of the Supreme Court of Canada in *Reference Re Secession of Quebec*⁴³. The Supreme Court of Canada in that case stated as follows:

...a right to secession only arises under the principle of self-determination of peoples at international law where a 'people' is governed as part of a colonial empire; where 'a people' is subject to alien subjugation, domination or exploitation; and possibly where 'a people' is denied any meaningful exercise of its right to self-determination within the state of which it forms a part. In other circumstances, peoples are expected to achieve self-determination within the framework of their existing state. A state whose government represents the whole of the people or people's resident within its territory, on a basis of equality and without discrimination, and respects the principles of self-determination in its internal arrangements, is entitled to maintain its territorial integrity under international law and to have that territorial integrity recognized by other states.

In a nutshell, the right of self-determination is the right of peoples to freely determine their political status and freely pursue their economic, social and cultural development⁴⁴.

3. Colonization, Decolonization and Self-Determination

Colonizers enforced their colonial interests, operations and advantages through the introduction and/or imposition of facets, concepts, structures and/or infrastructures that are convenient and beneficial to them (the colonizers) usually without any [true] resort or recourse to the indigenous peoples in the colony.⁴⁵ Broadly, decolonization signifies the conscious, continuous and systematized struggle by formerly colonized people[s] to overcome or overthrow unfavourable and oppressive facets, structures, infrastructures, and traces of colonization.⁴⁶ According to Frantz Fanon,⁴⁷ decolonization is thus a complex but 'permanent motivation' felt by all those subjected to colonial logics (colonialism/colonization).⁴⁸ Decolonization is the full liquidation and undoing or dismantling of colonialism which encompasses *inter alia* the transfer of sovereignty from the colonizer to colonized.⁴⁹ In fact, it is the ending and the very end of colonialism in all its forms and manifestations.⁵⁰ The nexus between decolonization and self-determination can be captured by the fact that self-determination is the legal means provided by the United Nations for the accomplishment of decolonization; little wonder it has been posited that self-determination is without controversy in the context of decolonization.⁵¹

4. The Legal Framework for Self-Determination and Decolonization

United Nations Charter, 1945

The commitment of the international community of states to the self-determination of all peoples was demonstrated with the signing of the United Nations (UN) Charter in 1945. The United Nations Charter constitutes the first document with legal force to proclaim the principle of the self-determination of peoples, although the formulation adopted saw the principle as something to be aimed at, not a definite obligation. In the UN Charter, *Articles 1 and 55* maintain that one of its fundamental purposes and principles is 'to develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples'. Although the word 'self-determination' is nowhere to be found in Article 73 of Chapter XI of the

⁴³(1998) 2 SCR 217

⁴⁴N Berman, 'Sovereignty in Abeyance: Self-Determination and International Law' (1988), 7 *Wisconsin Journal of International Law*, pp.389, 390.

⁴⁵ A Murrey, *op. cit.*, p. 315.

⁴⁶ *Ibid.*, p. 317.

⁴⁷ Cited in *Ibid.*

⁴⁸ *Ibid.*

⁴⁹ AWM Smith & C Jeppesen, 'Introduction: development, contingency and entanglement: decolonization in the conditional' in AWM Smith & C Jeppesen (Eds), *Britain, France and the Decolonization of Africa: Future Imperfect?* (London: UCL Press, 2017) p. 2 <<https://discovery.ucl.ac.uk/id/eprint/1543203/1/Britain-France-and-the-Decolonization-of-Africa.pdf>> accessed on 6 November 2021.

⁵⁰ *Last paragraph of the Preamble to the Declaration on the Granting of Independence to Colonial Countries and Peoples - General Assembly resolution 1514 (XV) of 14 December 1960* <<https://www.ohchr.org/EN/ProfessionalInterest/Pages/Independence.aspx>> accessed on 12 September 2021. See also the first paragraph of the Preamble to the *United Nations' General Assembly Resolution 2621 (XXV) – Programme of Action for the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples* <[https://undocs.org/pdf?symbol=en/A/RES/2621\(XXV\)](https://undocs.org/pdf?symbol=en/A/RES/2621(XXV))> accessed on 5 November 2021.

⁵¹M Abdullah, *The Right to Self-Determination in International Law: Scrutinizing the Colonial Aspect of the Right to Self-determination* (Gooterborg: University of Gooterborg, 2006) pp. 3 – 4 <https://gupea.ub.gu.se/bitstream/2077/1888/1/gupea_2077_1888_1.pdf> accessed on 29 May, 2021.

United Nations Charter on non-self-governing territories and Article 76 of Chapter XII of the United Nations Charter on the international trusteeship system, it has been argued that ‘the drafters of the Charter considered Chapters XI and XII as specific applications of the principle of self-determination’. According to Article 73 of the United Nations Charter, Members of the United Nations administering non-self-governing territories were obliged ‘to develop self-government, to take due account of the political aspirations of the peoples, and to assist them in the progressive development of their free political institutions, according to the particular circumstances of each territory and its peoples and their varying stages of advancement’.⁵²

The Two International Covenants

Common Article 1 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the International Covenant on Civil and Political Rights (ICCPR) which was adopted by the United Nations General Assembly in 1966⁵³ provide as follows:

1. All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.
2. All peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic co-operation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence.
3. The States Parties to the present Covenant, including those having responsibility for the administration of Non-Self-Governing and Trust Territories, shall 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.

With the inclusion of a provision on self-determination in the above two International Covenants,⁵⁴ it could no longer be denied that the political principle had definitely developed into a positive rule of international law.⁵⁵

Customary International Law⁵⁶

Customary international law is made up of rules that come from ‘a general practice accepted as law’ and that exist independent of treaties.⁵⁷ Customary international law is described in Article 38(1)(b) of the Statute of the International Court of Justice as ‘international custom, as evidence of a general practice accepted as law’⁵⁸. Along this line, some relevant Resolutions of the United Nations’ General Assembly and the jurisdiction of International Court of Justice as they relate to the right to self-determination and shall be concisely considered hereunder.

Declarations and Resolutions of the United Nations’ General Assembly

After the adoption of the Charter of the United Nations, the international community became more and more concerned with the ‘fight against colonialism’.⁵⁹ The General Assembly in particular took a very active stance in this matter and as a result of this, the process of decolonization became the Organization’s top priority.⁶⁰ With the adoption of numerous resolutions linking self-determination to decolonization, the

⁵² *Charter of the United Nations 1945*, Art. 73(b).

⁵³ S Smis, *A Western Approach to the International Law of Self-Determination: Theory and Practice*, Unpublished PhD Thesis, (Brussels: Vrije Universiteit Brussel, 2001) p. 409 cited in C Griffieon, *Self-Determination as a Human Right: The Emergency Exit of Remedial Secession* (The Hague: Cip Gegevens Koninklijke Bibliotheek, 2010) p. 6 <<https://www.peacepalacelibrary.nl/ebooks/files/335882129>> accessed on 30 May, 2021. Both Covenants entered into force in 1976. On 5 April 2009 164 out of 192 UN Member States had ratified the ICCPR and 160 had ratified the ICESCR *Part I, Article 1 of International Covenant on Civil and Political Rights, 1966* <<https://www.ohchr.org/Documents/ProfessionalInterest/ccpr.pdf>> accessed on April 7, 2020 and *Part I, 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.

⁵⁴ C Griffieon, *Self-Determination as a Human Right: The Emergency Exit of Remedial Secession* (The Hague: Cip Gegevens Koninklijke Bibliotheek, 2010) p. 15 <<https://www.peacepalacelibrary.nl/ebooks/files/335882129>> accessed on 30 May, 2021

⁵⁵ C Griffieon, *Self-Determination as a Human Right: The Emergency Exit of Remedial Secession* (The Hague: Cip Gegevens Koninklijke Bibliotheek, 2010) pp. 16 – 17 <<https://www.peacepalacelibrary.nl/ebooks/files/335882129>> accessed on 30 May, 2021

⁵⁶ C Griffieon, *op. cit.*, p. 18.

⁵⁷ 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.

⁵⁸ Statute of the International Court of Justice <<https://www.icj-cij.org/en/statute>> accessed on April 7, 2020. Also available at <https://legal.un.org/avl/pdf/ha/sicj/icj_statute_e.pdf> accessed on 14 September 2021

⁵⁹ S Smis, *op. cit.*, p. 116.

⁶⁰ *Ibid.*

General Assembly contributed in an important way to the development of customary rules.⁶¹ Three General Assembly resolutions on self-determination that stand out will be highlighted hereunder, but before the highlight, it is imperative to make a preliminary remark on the legal value of General Assembly resolutions in general. It has convincingly been argued that ‘General Assembly resolutions can contribute to the creation of rules of international law’ in a number of ways.⁶² For present purposes it suffices to mention one of these ways, namely when a General Assembly resolution helps to develop, establish or clarify a rule of customary law.⁶³ However, it is important to keep in mind that the legal value of each resolution should be judged on its own merits, taking into account a number of factors.⁶⁴ In this respect Rosalyn Higgins has pointed out that:

As with much of international law, there is not easy answer to the question: What is the role of resolutions of international organizations in the process of creating norms in the international system? To answer the question we need to look at the subject-matter of the resolutions in question, at whether they are binding or recommendatory, at the majorities supporting their adoption, at repeated practice in relation to them, as evidence of *opinio juris*. When we shake the kaleidoscope and the pattern falls in certain ways, they undoubtedly play a significant role in creating norms.⁶⁵

The adoption of General Assembly Resolution 1514 (XV)⁶⁶ entitled ‘Declaration on the Granting of Independence to Colonial Countries and Peoples’ by the United Nations’ General Assembly has been called ‘the beginning of a revolutionary process within the United Nations’ and ‘an attempt to revise the Charter in a binding manner’.⁶⁷ According to its preamble, the resolution was pursuant to the ‘necessity of bringing to a speedy and an unconditional end colonialism in all its forms and manifestations’⁶⁸ and in paragraph two it declared that ‘All peoples 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’⁶⁹. In this Resolution, the General Assembly of the United Nations recognized, among other things, the passionate yearning for freedom in all dependent peoples and the decisive role of such peoples in the attainment of their independence⁷⁰ and that the peoples of the world ardently desire the end of colonialism in all its manifestations.⁷¹ The United Nations General Assembly in the aforementioned Instrument firmly communicated her belief 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.⁷²

The above landmark UN GA Resolution 1514(XV) on decolonization was followed by another anti-colonial resolution that was adopted the next day by the General Assembly: Resolution 1541 (XV) concerning the ‘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’. As the title indicates, this resolution was meant to

⁶¹ *Ibid.*, p. 115.

⁶² *Ibid.*, p. 119

⁶³ *Ibid.*, pp. 121-122. See also the opinion of the International Court of Justice in *Military and Paramilitary Activity in and against Nicaragua (Nicaragua v. United States of America)*, ICJ Reports (1986) p. 89 – 90, para. 188 available at <<https://www.icj-cij.org/public/files/case-related/70/070-19860627-JUD-01-00-EN.pdf>> accessed on 13 September 2021, wherein the Court stated that ‘*opinio juris* may, though with all due caution, be deduced from, inter alia, the attitude of the Parties and the attitude of States towards certain General Assembly resolutions.’. The Court referred to General Assembly Resolution 2625 (XXV), ‘Declaration on Principles of International Law Concerning Friendly Relations and Co-operation among states in Accordance with the Charter of the United Nations’ of 24 October 1970 (“Friendly Relations Declaration”), to conclude that ‘[t]he effect of consent to the text of such resolutions cannot be understood as merely that of a “reiteration or elucidation” of the treaty commitment undertaken in the Charter. On the contrary, it may be understood as an acceptance of the validity of the rule or set of rules declared by the resolution by themselves’.

⁶⁴ *Ibid.*, p. 127

⁶⁵ R Higgins, *The Development of International Law Through the Political Organs of the United Nations* (London: Oxford University Press, 1969) p. 28.

⁶⁶ General Assembly resolution 1514 (XV) of 14 December 1960 <<https://www.ohchr.org/EN/ProfessionalInterest/Pages/Independence.aspx>> accessed on 5 November 2021.

⁶⁷ M Pomerance, *Self-Determination in Law and Practice. The New Doctrine in the United Nations* (The Hague: Martinus Nijhoff Publishers, 1982) p. 11.

⁶⁸ *Last paragraph of the Preamble to the Declaration on the Granting of Independence to Colonial Countries and Peoples - General Assembly resolution 1514 (XV) of 14 December 1960* <<https://www.ohchr.org/EN/ProfessionalInterest/Pages/Independence.aspx>> accessed on 12 September 2021.

⁶⁹ *Ibid.*, paragraph 2.

⁷⁰ *Ibid.*, paragraph 3.

⁷¹ *Ibid.*, paragraph 6.

⁷² General Assembly resolution 1514 (XV), *Art. 2*.

provide a number of 'guiding principles' to enable members to determine whether they were under an obligation to transmit the information requested by Article 73 (e) of the UN Charter.⁷³ *Principle I of the UN GA Resolution 1541 (XV)* pointed out that Chapter XI of the UN Charter was meant to apply to territories 'known to be of the colonial type', which according to *Principle II* were 'in a dynamic state of evolution and progress towards a 'full measure of self-government'. While Resolution 1514 granted the right of self-determination to colonial peoples, Resolution 1541 clarified that colonial peoples were 'the inhabitants of non-self-governing territories'.⁷⁴ *Principle IV of the UN GA Resolution 1541 (XV)* defined a non-self-governing territory by applying the 'salt water theory', according to which a territory is non-self-governing if it is 'geographically separate and is distinct ethnically and/or culturally from the country administering it'.⁷⁵ According to *Principle V of the UN GA Resolution 1541 (XV)*, other elements to be considered were elements of 'administrative, political, juridical, economical or historical nature.' In *Principle VI of the UN GA Resolution 1541 (XV)* specified three possible ways in which self-determination could be achieved:⁷⁶

- (1) Emergence as a sovereign independent state;
- (2) Free association with an independent state; or
- (3) Integration with an independent state.

Because independence was the preferred means of exercising self-determination, the resolution stipulated that free association and integration should be the result of the free choice of the peoples of the territory concerned, 'expressed through informed and democratic processes'.⁷⁷ On 12th October 1970, United Nations' General Assembly passed Resolution 2621 (XXV) which is entitled 'Programme of Action for the Implementation the Declaration on the Granting of Independence to Colonial Countries and Peoples' whereby the right of all peoples to self-determination and independence is reaffirmed and it is accordingly further declared, among other things, that the further continuation of colonialism in all its forms and manifestations is a crime.⁷⁸ Another relevant Resolution of the United Nations' General Assembly is Resolution 2625 (XXV) – the 'Declaration on Principles of International Law Concerning Friendly Relations and Co-operation among states in Accordance with the Charter of the United Nations' adopted unanimously on 24 October 1970. This Resolution enumerates seven principles, the fifth of which is 'the principle of equal rights and self-determination of peoples'.⁷⁹ According to this Declaration,⁸⁰ 'in their interpretation and application the above principles are interrelated and each principle should be construed in the context of the other principles'.⁸¹ In addition to the foregoing Resolutions, it is interesting and instructive that **the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) was adopted by the General Assembly on Thursday, 13 September 2007.**⁸² The said Declaration is a further important step forward for the recognition, promotion and protection of the rights and freedoms of indigenous peoples and

⁷³ The United Nations' General Assembly, Principles which should guide Members in determining whether or not an obligation exists to transmit the information called for under Article 73 e of the Charter, adopted in the 948th plenary meeting held on 15 December 1960 <[https://www.undocs.org/A/RES/1541\(XV\)](https://www.undocs.org/A/RES/1541(XV))> accessed on 12 September 2021.

⁷⁴ S Smis, *op. cit.*, p. 134.

⁷⁵ *Ibid.*

⁷⁶ *Ibid.*

⁷⁷ TD Musgrave, *Self-Determination and National Minorities* (New York: Oxford University Press, 1997) p. 72.

⁷⁸ *The United Nations' General Assembly Resolution 2621 (XXV) – Programme of Action for the Implementation the Declaration on the Granting of Independence to Colonial Countries and Peoples* <[https://undocs.org/pdf?symbol=en/A/RES/2621\(XV\)](https://undocs.org/pdf?symbol=en/A/RES/2621(XV))> accessed on 5 November 2021.

⁷⁹ The seven principles of the Declaration are: I the principle that States shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the purposes of the United Nations; II the principle that States shall settle their international disputes by peaceful means in such a manner that international peace and security and justice are not endangered; III the principle concerning the duty not to intervene in matters within the domestic jurisdiction of any State, in accordance with the Charter; IV the duty of States to co-operate with one another in accordance with the Charter; V the principle of equal rights and self-determination of peoples; VI the principle of sovereign equality of States; VII the principle that State shall fulfil in good faith the obligations assumed by them in accordance with the Charter. See *the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations*, A/RES/2625 (XXV) 24 October 1970, p. 122 <https://digitallibrary.un.org/record/202170/files/A_RES_2625%28XXV%29-EN.pdf> accessed on 13 September 2021.

⁸⁰ Resolution 2625 (XXV).

⁸¹ *General Part 2 of the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations*, A/RES/2625 (XXV) 24 October 1970, p. 124 <https://digitallibrary.un.org/record/202170/files/A_RES_2625%28XXV%29-EN.pdf> accessed on 13 September 2021.

⁸² United Nations Department of Economic and Social Affairs, 'United Nations Declaration on the Rights of Indigenous Peoples', A/RES/61/295 (2007) <<https://www.un.org/development/desa/indigenouspeoples/declaration-on-the-rights-of-indigenous-peoples.html>> accessed on 14 September 2021.

in the development of relevant activities of the United Nations system in this field.⁸³ Today the Declaration is the most comprehensive international instrument on the rights of indigenous peoples.⁸⁴ It establishes a universal framework of minimum standards for the survival, dignity and well-being of the indigenous peoples of the world and it elaborates on existing human rights standards and fundamental freedoms as they apply to the specific situation of indigenous peoples.⁸⁵ In the United Nations Declaration on the Rights of Indigenous Peoples, the United Nations General Assembly expressed her concern that ‘Indigenous peoples have suffered from historic injustices as a result of, inter alia, their colonization and dispossession of their lands, territories and resources, thus preventing them from exercising, in particular, their right to development in accordance with their own needs and interests’.⁸⁶ The United Nations General Assembly went further to acknowledge that ‘the Charter of the United Nations, the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights, as well as the Vienna Declaration and Programme of Action, affirm the fundamental importance of the right to self-determination of all peoples, by virtue of which they freely determine their political status and freely pursue their economic, social and cultural development’.⁸⁷

Directly on the rights of indigenous peoples to self-determination and the scope of the said right, *Articles 3 and 4 of the United Nations Declaration on the Rights of Indigenous Peoples* provide that:

3. Indigenous peoples 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.
4. Indigenous peoples, in exercising their right to self-determination, have the right to autonomy or self-government in matters relating to their internal and local affairs, as well as ways and means for financing their autonomous functions.

Some of the other salient provisions of the United Nations Declaration on the Rights of Indigenous Peoples are as follows:

1. Indigenous peoples have the right to the full enjoyment, as a collective or as individuals, of all human rights and fundamental freedoms as recognized in the Charter of the United Nations, the Universal Declaration of Human Rights and international human rights law.⁸⁸
2. Indigenous peoples and individuals are free and equal to all other peoples and individuals and have the right to be free from any kind of discrimination, in the exercise of their rights, in particular that based on their indigenous origin or identity.⁸⁹
3. Indigenous peoples have the right to maintain and strengthen their distinct political, legal, economic, social and cultural institutions, while retaining their right to participate fully, if they so choose, in the political, economic, social and cultural life of the State.⁹⁰
4. Every indigenous individual has the right to a nationality.⁹¹
5. Indigenous individuals have the rights to life, physical and mental integrity, liberty and security of person.⁹²
6. Indigenous peoples have the collective right to live in freedom, peace and security as distinct peoples and shall not be subjected to any act of genocide or any other act of violence, including forcibly removing children of the group to another group.⁹³
7. Indigenous peoples and individuals have the right not to be subjected to forced assimilation or destruction of their culture.⁹⁴
8. States shall provide effective mechanisms for prevention of, and redress for:⁹⁵
 - (a) Any action which has the aim or effect of depriving them of their integrity as distinct peoples, or of their cultural values or ethnic identities,⁹⁶

⁸³ Paragraph 21 of the Preamble to the United Nations Declaration on the Rights of Indigenous Peoples, 2007.

⁸⁴ *Ibid.*

⁸⁵ *Ibid.*

⁸⁶ The Preamble to the United Nations Declaration on the Rights of Indigenous Peoples, 2007, para. 6.

⁸⁷ *Ibid.*, para. 16.

⁸⁸ United Nations Declaration on the Rights of Indigenous Peoples, 2007, Art. 1.

⁸⁹ *Ibid.*, Art. 2.

⁹⁰ *Ibid.*, Art. 5.

⁹¹ *Ibid.*, Art. 6.

⁹² *Ibid.*, Art. 7(1).

⁹³ *Ibid.*, Art. 7(2).

⁹⁴ *Ibid.*, Art. 8(1).

⁹⁵ *Ibid.*, Art. 8(2).

⁹⁶ *Ibid.*, Art. 8(2)(a).

- (b) Any action which has the aim or effect of dispossessing them of their lands, territories or resources;⁹⁷
 - (c) Any form of forced population transfer which has the aim or effect of violating or undermining any of their rights;⁹⁸
 - (d) Any form of forced assimilation or integration;⁹⁹
 - (e) Any form of propaganda designed to promote or incite racial or ethnic discrimination directed against them.¹⁰⁰
9. Indigenous peoples and individuals have the right to belong to an indigenous community or nation, in accordance with the traditions and customs of the community or nation concerned. No discrimination of any kind may arise from the exercise of such a right.¹⁰¹
 10. Indigenous peoples shall not be forcibly removed from their lands or territories. No relocation shall take place without the free, prior and informed consent of the indigenous peoples concerned and after agreement on just and fair compensation and, where possible, with the option of return.¹⁰²
 11. Indigenous peoples shall not be forcibly removed from their lands or territories. No relocation shall take place without the free, prior and informed consent of the indigenous peoples concerned and after agreement on just and fair compensation and, where possible, with the option of return.¹⁰³
 12. Indigenous peoples have the right to participate in decision-making in matters which would affect their rights, through representatives chosen by themselves in accordance with their own procedures, as well as to maintain and develop their own indigenous decision-making institutions.¹⁰⁴
 13. States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them.¹⁰⁵
 14. Indigenous peoples have the right to the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired.¹⁰⁶
 15. Indigenous peoples have the right to own, use, develop and control the lands, territories and resources that they possess by reason of traditional ownership or other traditional occupation or use, as well as those which they have otherwise acquired.¹⁰⁷
 16. States shall give legal recognition and protection to these lands, territories and resources. Such recognition shall be conducted with due respect to the customs, traditions and land tenure systems of the indigenous peoples concerned.¹⁰⁸

International Court of Justice

The International Court of Justice (ICJ) is the principal judicial organ of the United Nations (UN).¹⁰⁹ It was established in June 1945 by the Charter of the United Nations and began work in April 1946.¹¹⁰ The seat of the Court is at the Peace Palace in The Hague (Netherlands). Of the six principal organs of the United Nations, it is the only one not located in New York (United States of America).¹¹¹ The Court's role is to settle, in accordance with international law, legal disputes submitted to it by States and to give advisory opinions on legal questions referred to it by authorized United Nations organs and specialized agencies.¹¹² The Court is composed of 15 judges, who are elected for terms of office of nine years by the United Nations General Assembly and the Security Council.¹¹³ It is assisted by a Registry, its administrative organ. Its official languages are English and French.¹¹⁴ Whereas the United Nations General Assembly Resolutions that have been discussed above have been instrumental in furtherance of the development of the right of self-determination, the International Court of Justice¹¹⁵ has made an important contribution to this development by 'confirming the legal status of these

⁹⁷ *Ibid.*, Art. 8(2)(b).

⁹⁸ *Ibid.*, Art. 8(2)(c).

⁹⁹ *Ibid.*, Art. 8(2)(d).

¹⁰⁰ *Ibid.*, Art. 8(2)(e).

¹⁰¹ *Ibid.*, Art. 9.

¹⁰² *Ibid.*, Art. 10.

¹⁰³ *Ibid.*, Art. 12(1).

¹⁰⁴ *Ibid.*, Art. 18.

¹⁰⁵ *Ibid.*, Art. 19.

¹⁰⁶ *Ibid.*, Art. 26(1).

¹⁰⁷ *Ibid.*, Art. 26(2).

¹⁰⁸ *Ibid.*, Art. 26(3).

¹⁰⁹ The International Court of Justice, *The Court* <<https://www.icj-cij.org/en>> accessed on 13 September 2021.

¹¹⁰ *Ibid.*

¹¹¹ *Ibid.*

¹¹² *Ibid.*

¹¹³ *Ibid.*

¹¹⁴ *Ibid.*

¹¹⁵ Herein also referred to as the Court.

resolutions.¹¹⁶ In addition to this it is important to note that self-determination in the context of decolonization was still a controversial issue at the time these resolutions were adopted but the pronouncements of the Court have thus played an important role in clarifying the content of the norm and settling the controversy.¹¹⁷

5. Conclusion and Recommendations

It has been noted that while colonialism / colonization refers to the combination of territorial, juridical, cultural, linguistic, political, mental / epistemic, and/or economic domination of one group of people or groups of people by another (external) group of people, decolonization, simply put, is the undoing or dismantling or liquidation of colonialism including the dismantling of prejudicial, unfavourable and oppressive facets, structures, infrastructures, traces and/or influences of colonialism/colonization. Fanon talked about 'true' and 'false decolonization', and advocated a deeper struggle against colonialism that would purge the body politic of the charade of flag independence, what he called the 'fancy dress parade and the blare of the trumpets'.¹¹⁸ What the researchers interpret this to mean in other words is that true decolonization is far deeper than a feigned grant of territorial independence alongside the ceremonies including signing and hand-over of Instrument[s] of transfer of sovereignty, launching and hoisting of flags, launching of national anthems and pledges, parades, *et cetera* and the momentary celebrations associated with such grants of independence. It is the researchers' conclusion that decolonization cannot be true until every indigenous people in every former colony who desire autonomy is given a free and fair opportunity to determine their political status and freely pursue their economic, social and cultural development. And where any indigenous people meets the requirements for statehood and so desires, the United Nations should ensure that such indigenous people is granted independence and recognized as a sovereign state after all sovereignty belongs and attaches to the people and to a territory or geographical area *per se*. Now, think of a geographical area or territory wherein, prior to colonization, various indigenous peoples existed and operated independent of one another, but in the course of colonization, the Colonialist merged / amalgamated the various indigenous peoples into one colony for the purpose of administrative convenience without any resort or recourse to the will of the indigenous peoples. Later on in the course of history, the geographical area or territory in question is purported to be decolonized whereby territorial independence is feigned to be granted to that one colony still without resort or recourse to the will of the various indigenous peoples therein. This instance cannot be said to represent true decolonization and/or exercise of right to self-determination because colonialism cannot be said to have been dismantled or totally liquidated in all its forms and manifestations as the amalgamation / merger in question remains an imposition on the various indigenous peoples. A good example of this kind of situation is the geographical area or territory now known as Nigeria. Little wonder Nigeria has been bedeviled by recurrent crises and incessant clamours by some indigenous peoples therein for secession. In the premises of the foregoing, the researcher makes the following recommendations:

1. If the United Nations is truly interested in the development of friendly relations among States and the strengthening of universal peace as feigned under *Article 1(2)* of the United Nations Charter of 1945, the United Nations should no longer stand aloof vis-à-vis the recurrent crises in many territories (former colonies), and the persistent clamours for secession/independence by many indigenous peoples in many former colonies but should rise to responsibility in ensuring / enforcing true and complete decolonization of territories (former colonies). The clamours and cries of indigenous peoples should be given due and true attention by the United Nations.
2. The United Nations should equally pass a resolution re-affirming the inalienable entitlement of all indigenous peoples to the exercise of the right to self-determination under international law.
3. The United Nations should develop an international legal framework setting out the requirements and/or conditions for attainment of statehood and affirming that any indigenous peoples that meets the set requirements and/or conditions shall be entitled to secede (become an independent/sovereign state) and become recognized as such.
4. Let the United Nations affirm the right to self-determination as an inalienable right inuring to indigenous peoples which right can be exercised from time to time as the peoples may choose either to become a sovereign independent state, or to freely associate with an independent state or to integration with an independent state.
5. The Justices of the International Court of Justice should rise up to its judicial responsibility of ensuring justice for all peoples anytime its advisory opinion is sought vis-à-vis the right to self-determination. Let the Court be bold, in all its pronouncements, insist on true decolonization and maintain that sovereignty belongs to the people and accordingly any people including any indigenous people that desires statehood and meets the requirements or conditions for the attainment of statehood should be granted independence and so recognized by the international community.

¹¹⁶ S Smis, *op. cit.*, p. 177

¹¹⁷ *Ibid.*

¹¹⁸ F Fanon, *The wretched of the Earth* (New York: Grove Press, 1963) p. 59.