SELF-DETERMINATION IN NIGERIA: ISSUES AND PROSPECTS

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Abstract

Agitation for self-determination is a burning issue in modern day Africa, and Nigeria is not left out. The right to self-determination is a fundamental principle in International Law. It evolved during the various period of decolonization of African States. Self-determination has two aspects: the internal which is synonym with democracy, and the external which is also known as secession. Regrettably Nigeria through the wordings on its constitution has no provision for the external aspect of self-determination. The preamble of the Nigerian Constitution which starts with "we the people" demonstrates the colouration of the Nigerians democratic entity which detached itself from secession. Hence, the various agitations for self-determination in Nigeria can only survive on the premise that the internal aspect of self-determination is prioritized. The External aspect of these rights ceased to be fashionable within the comity of Nations in post-colonial era in Africa, rather the principle of *uti possidetis* is well articulated in every region for stability and co-existence of people. Although in extreme cases, outright break-away could be permitted as a last resort, this is usually when human survival is precarious and no hope for remedial solution in co-existence. The paper revealed that in advance democracies like United Kingdom, Spain and Canada, there exists a right to determine their unification at any given time, through referendum because they practice co-federalism. This paper concluded that until the Nigerian Constitution is amended to corporate the need of co-federalism, external self-determination remain banned, outlaw and of no effect.

Keywords: International Law, Human right, De-colonization ICCPR, ICESCR

Introduction

The right to self-determination is a human right, it is important to human survival; it is also a principle of international law given that, it justifies the independence of people and peoples specifically during the times of decolonization of African states.[1] This right is fundamental in the principle of human right, and human right law as an individual and collective right to freely determine politically, to freely pursue Economic, Social and Cultural developments.[2] Further stressing the right of self-determination, involves the complemental roles it plays in public international law, emphasizing the equality of states, sovereignty and territorial integrity and to absolutely prohibit the use of force and non-interference in other sovereignty.

Article 1 of the International Covenant of Civil and Political Rights (ICCPR)[3] opined that a people has the right to determine their political dependence or independent. The General Assembly of the United Nations in Resolution 1514 declares that self-determination includes the right to complete independence howbeit in the colonial setting.[4] Again the General Assembly in Resolution 2625 speak on several mode of exercising self-determination, and they include the establishment of a sovereign and independent state, the free association or integration with an independent state or

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1 The International Covenant of Civil and Political Right also Article (1) of the International Covenant on Economic, Social and Cultural Rights (ICESCR).

2 Anaya James., *Indigenous People in International Law* (second edition, Oxford University Press, 1996) 88.

3 International covenant of Civil and Political Right (ICCPR).

4 Declaration in the Granting of Independence to colonia countries and people, G.A. Res. 1514 (XV UN GAOR Supp. 06 at to UNDOCA/4684 1961.

the emergence into any other political status, freely determined by a people, all these constitutes mode of implementing the rights of self-determination by a people.[5]

President Woodrow Wilson, in 1919 while introducing the concept of self-determination in the League of Nations defined the concept as the right of every people to choose the sovereign under which they like to be free of alien masters, and not to be handed about from sovereign to sovereign as if they were mere property. It is a right which arise when there is international recognition of the rights of the inhibitory of a colony to choose freely their independence or association with another state.[6] This early era of the concept was primarily concerned with granting independence to colonized nations, especially in Africa and Asia who had suffered the menace of servitude and slavery of colonialism. It was an era where most African Nationalist were bent on liberating their countries from the scourge of colonial powers.

It was much more at independence of many colonized countries that the concept of self-determination became dichotomous, (internal and external aspect). While the internal aspect of self-determination proposed that, the people in a sovereign state can elect and keep the government of its choice as a right which recognized and protect ethnic, racial and religious minority within a state and to also allow every group to be represented in the national government at equal proportion, for the betterment of the overall constitutional democracy of the state;[7] the external aspect of self-determination posits that a group have the right to break-away from any sovereign to form her own sovereign at any stage if marginalization and oppression became rampant to them. Arguably, this right was popular in the pre-independent days of the colonized countries, but after the 1960s Declaration in the granting of independence to colonial countries and people and the 1970 Declaration on the principles of International Law, much emphasis were now placed on the internal dimension of self-determination for the well being of the newly independent states, and the principle of territorial integrity became much more in force, as well as the rule of *Uti possideti*.

Nature and Scope of Self-Determination

In exploring the nature of Self-determination, and the right of people to self-rule with the parochial sentiments[8] against alien, traces to the early beginning of the institution of government; were activated. 'Self-determination' was first used in the works of Lenin[9] a German philosopher in the mid 19th century, it was also used in the report of London International Socialist Congress. It is however, closely related to nationalism movement in modern Europe which was formerly notorious for feudal institutions where territories were ruled as mere property of the king. At that time, the Kings' words were the law, no social institution was formalized nor political institutions. It was as if the king was 'everything' then with very minimal means of communication to the people, and there was a need to change the narrative which culminated into technological and social development in the fifteenth century which further lead to revolutionary perspective for a general perceptions of life.[10] In the European Society there was advocate for the removal of feudal municipalities under the monarch. Gradually the merchants classes, displaced the influence of the

5 Declaration on principle of International Law concerning friendly relations and co-operation among states under alien subjugation, domination and exploitation, via United Nation Charter.

6 Aberg. EM, 'Self-determination in Hong-Kong; A new chalege to to an old Doctrine (1985) 22 san DL Rev. 839.

7 Patrick Thornberg, The democracy or Internal Aspect of self-determination, with some remark on federalism p. 101- 138. See also Joshua C. International Law and self-determination. The Interplay of the politics of Territorial possession with formulation of post colonial National Identity. London. Nijhoft (2000), p.11.

8 Umozurike, O.: Self-determination in International Law, 1972 also see Hayes H: Essays on Nationalism (1926) particularly chapter 1, McCartney S. National States and National Minorities (1934) 21-23.

9 Lenin: The right of Nations to self-determination. In selected works Vol 1 (1947) p. 564.

10 This developments comprises of indusrial revolution on the one hand and the reformation on the other hand, see generally also, sabine and Thorson B, A History of political theory (4th edition) 1973, 311.

monarchy and established themselves in authority in the name of the people, and calling themselves a nation.[11]

This development later led to the basis for the nation-state as comprising 'citizens' who inhabited a common territory, possessed a voice in their common government and were conscious of their heritage, and their common interest.[12] This evolved a nation-state as having on a citizen as represented by a voice of their own in a common government and this voice would manifest the will of the people, which would determine their Political, Social and Economic Advancements, and it is upon this will that the people's right are derivative of government legitimacy. The significance of the principle of the 'will' of the people resulted in a revolution in the British American colony now known as Canada. The revolution led to the declaration of independence and consequently the following Declarations:

> We hold the truth to be self-evident, that all men are created equal, that they are endowed by their creator with certain inalienable Rights…..[13]

There was also the French revolution of 1789 that led to the renewal of the French upper class, at a time of social and political upheaval in French and its colonies. The ideas of the radicals and the liberal was to overthrow the monarchial influence to pave way for the will of the people both in French and in the other part of Europe.[14] Self-determination has this basic point in modern agitation. Both the American and the French revolution were landmark to the emergence of citizens will power for self rule as the will of the people. Recently the French revolution gave rise to the method of 'plebiscite which was a determination force in ascertaining the wish and 'will' of the people, a good example of this was in Savoy and Nice.[15] This voting system became very prominent in the recognition of the will of the people over issues that have direct touch on them plebiscite was also used in the case of new Italian kingdom and the cession of the lonian Island in 1863.[16]

The plebiscite principle became more famous in European International relations with the outbreak of the First World War when the Central powers and the Allies employed it as a basis for propaganda to win the support of the annexed and other Non-self governing nationalities.[17] Self-determination, though initially not a norn of international law or a general right of all people.[18] The formation of the United Nations consolidates it as a norn in the doctrines of Laws, and International law specifically.

United Nations and Self-Determination

The United Nations organization was instrumental to the creation of modern self-determination as a Human Right Instruments.

In 1941, the United Nations and the United States agreed inter alia that:

- They seek no territorial aggrandizement or other

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11 Shafer J., Nationalism, Myth and Reality, 100-105. Hayes, political and social history of Europe (1924, 30-38). See also Woolsey, Colbert and a century of French mercantilism 1939, 24-25.

12 Ibid

13 Ibid.

14 This is the basis of the consequence of American commitments to self-determination. See the principle of self-determination in national relations Vol. 33 (1955), Selt-determination independent Areas, Int. cone No. 50/195.

15 Ibid

16 Ibid.

17 McCartney N. National States and National Minorities 1934, 181-182..

18 Brownlie A: 'An essay in the History of self-determination', in Alexandrowicz (ed) studies the history of the law of Nations (Groutius Society papers 1969, 97

- They desire no territory changes that do not accord with the freely expressed wishes of the peoples concern.
- They respect the right of all people to choose the form of government under which they will live.[19]

The principle of the Atlantic charter was instrumental to incorporating self-determination as the basis for international relations in Declaring the United Nations at San Francisco Conference in 1945 as a body worthy of formation, and that self-determination should be view as a principle that encompassed either self-government or independence from external interferences.[20]

Wilson and Self-Determination

Wilson usually referred to as the father of modern self-determination. Wilson's concept was that people should be allowed to govern themselves through consent, the right of the people to choose their own form of government.

In his words:

> People are not to be handed about from one sovereignty to another by an International Conference or an undertaking between rivals and antagonists. National aspirations must be respected; people may now be dominated and governed only by their own consent self-determination is not a mere phase. It is an imperative principle of action which statement will henceforth ignore at their peril.[21]

Wilson gave the concept of self-determination a wider scope in the international relation which was firmly rooted into democratic thought as advocated in the context of America and French revolution. Democratic governance, according to Wilson would guarantee freedom from oppression and conflicts. It is only under a democratic form of government could a people choose their own government and control the actions of the government and ensure that it did not infringe upon the rights and interest of other people.[22]

Theories of Self-Determination

Self-determination as a concept is practically based on a good number of theories. The choice theory, the nationalistic theory, the remedial theory among others.

(a) The Choice Theory

As the name goes, it means the choice of a group of people in deciding what kind of life they would prefer, it implies a majority of a population deciding through self 'will' and desire to consider the sovereign in which they prefers, it is also called consent theory of political legitimacy to a government, and without prejudice of any kind, the choice theory validates a group's aspiration to a political identify, including the choice of external self-determination, which is a choice of secession. Proponents of this theory such as Harry Beran, Christopher Wellman, Daniel Philpot considered secession legitimate when a territorially concentrated majority expresses a wish to secede by plebiscite[23], based on their right of political association and value of individual autonomy. In achieving this, there are criterias that a group must satisfy. The said group must

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19 Full text of the Atlantic charter as produced in Church hill the Second World War Vol. 3, 1950, 395..

20 Trends in the views expressed at the conference. See UNCIO, Vol. 10, Doc 115 Da 877.

21 Manela; E, Wilson movements self-determination the origin of Anti-colonial Nationalism, Oxford University Press, 1954.

22 Ibid

23 A system of opinion pool, usually involves the casting of votes

adhere to democratic values and rights. A group under the choice theory has a right to external self-determination provided the secession caused no harm to the legitimate interest of the non-secessionist group. In this case, the right to secession is not based on injustice suffered by the group that wish to secede, rather their exodus is on the right of free political association.

The choice theory also involve the desire not to seek any further solace but to remain with a political system even if under subjugation or imperialism. The choice theory also relates to the willingness of its citizens to be part of one state. This in turn implies that the individual must have the right to emigration which have the right to occupy the territory on which they live it must have the right of collective self-determination, including secession[24] a good example of this is the United Kingdom which operate Co-federalism Britain is made up of four kingdoms, England, Whales, Scotland and Northern Ireland. They have the right to either remain together or live separately. In considering the option of choice of secession, the following are keen to the group:

(i) The group must be large enough to justify and assume responsibilities of an independent state.
(ii) It must be prepare to permit subgroups within itself to secede in accordance with the principle that justify its own secession.
(iii) If the secessionists wishes to oppress or exploit a subgroup within itself which cannot secede, they are not qualify to secede.
(iv) Its secession would create an enclave to the interest of the state from which it wishes to secede.[25]

(b) Nationalist Theory

This is otherwise known as collective theory of self-determination. It does not belong to the individual as a choice. It is held collectively. The theory explains that members of same nations have special obligations towards one another, and their membership is defined by collective characteristics to have the right to secede, and they must have a concentrated territory, they must also possess a common Language, Ethnicity, History, Religion Tradition, Values and Institutions and members of these groups consciously identify with one another and sees themselves as belonging to the group. Members of such groups sees themselves as having special obligations and responsibilities to their Co-nationals, a good example of Nationalist theory were evidence in many colonized states include Nigeria in their clamor for independence from their colonial masters.

This group is usually armed with the idea of nationalism which is a moral right of self-determination. In Miller[26] nationality comprises of three interconnected propositions. The first one concerns personal identify, because nationality is the constitutive part.[27] The second is the ethical proposition, the third is politics. This theory states that people who form a national community must have good reason for National self-determination. This is a good example why secession is difficult in Nigeria. Before independence, the Nigerian people constituted themselves as one indivisible people. Though differs in tongues and tribe, but in brotherhood every Nigerian were one. These attributes were visible in the various body language of the Nigerian Nationalist leaders across the width and breadth of Nigeria before 1960 independence, and the success of attaining independence was through the unity exhibited by the Nationalist Leaders

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[24] Beran H.A. democratic. Theory of political self-determination for a new world order in Lenning, percy (ed) Theories of Secession 1998 p. 35-39.
[25] Ibid..
[26] Miller D. Secession and principle of Nationality (Gilbert Ed) 1998, 72 the 5 elements that nationality holds sacrosanct.
[27] The 5 elements that nationality holds sacrosanctly.

Yael Tamir sees National self-determination as a right of individual members of a nation to express their national identify and preserve and protect the existence of their nation through political institutions[28], she emphasized the value of cultural belonging as the core of nationalist. She sees National identity as the fact of cultural symbols associated with the agitators of national self-determination. She also opined that cultural aspects of national life was a reflective of the demand for self rule which usually results in the right to be part of political institutions from democratic theory.[29] Apart from cultural sentiments, a degree of political autonomy and religious freedom are also a product of nationalist agitation for freedom.

The principle of nationality somewhat justify the break-up and disintegration of a perfectly legitimated states for the purpose of creating democracies of equality and betterments for the general interest of a people so connected by culture, religion, ethnic and history, however the criticism associated with this theory is that, there is no society today that are mono-cultural, rather the multinational and multicultural nature of societies adversely runs against nationalistic self-determination.

(c) Remedial Right Theory

Remedial theory is a form of relief to a group that has suffered gross injustices and oppressions from their dominating nation. This is available to a group who has been repressed by tyrannic system of government. And such group has the right to resist the tyranny system, this is linkable to the desire for self-determination. Remedial theory is also known as the just cause theory. If a government neglect her responsibility in providing the necessary fulfilments as to obligations and rights of the individuals, the disaffected groups has the right to ought out for self-determination in whatever form. The connection between human rights and the rights to self-determination enables the remedial theory to found the right to self-determination within the framework of human rights. Remedial right theory is seen in the light of the right to revolution, by making oppression a necessary condition for the right. In a condition where minority groups or vulnerable group in a large entity is frequently subjected to disdainful treatments at every given point and with impunity at this point, revolution would be thinkable as a best option to remedy the situation. It might not take the form of secession if necessary, but the principal aim would be to overturn the system within the same territorial framework for a better one through the implementation of state apparatus for internal purge by the people's will, whether voluntary or involuntary, and sometimes it could take the extreme form of violence. The Arab uprising was a typical example of this. The notion of Remedial theory is usually to remedy an already infested situation with a state.

However, remedial right theory suffers from the notion of just cause which to many, means different reasonings, the determining factor of a just cause remain disputed up till date. It is a fact that remedial right could lead to the breaking away of states, it can also be applied to unified the states to meet the minimal standard of justices and equity in democracies, for instance the remedial theory approach in Nigeria is the recognition of a process of working through the constitutional guidelines of democratic practices, a given state have a right not to be oppressed.[30]

Types of Self-Determination

Self-determination are of two variance the Internal and External aspects. Antonio Cassese is a leading scholar and proponent of this aspect of human right. The internal self-determination means that a people within a sovereign can elect and keep the government of their choice implying that in a given state, the right of Ethnic, Racial or Religious groups are not maligned, or a right not to

[28] Tamile Y. Liberal Nationalism, Princeton, 1993 p. 69.
[29] Tamile Y. Liberal Nationalism, Princeton, 1993 p. 69
[30] Cassese A. Self-determination of people's: A legal Appraisal; (Camridge University Press, 1999). 11-13.

be oppressed by the central government.[31] Cassese also stated that such right was a right to authentic self-government, that is the right of a people to freely choose their own Political and Economic Regime.[32] Internal self-determination is about the relationship between a people and its own state or government.

Alan Rosas also argued that internal self-determination principally addresses the right of the people of an existing state to exert control over its own constitution and government, meaning the right to democracy.[33] This is the right of the people to choose their political status within a state or to exercise a right of meaningful political participation.[34] This is the right that protect the 'will' of a people against its own government.

> The committee on the elimination of racial discrimination on its general recommendation XXI of 1996, stated clearly that, the right to self-determination of people has an internal aspect, that is to say, the right of all people to pursue freely their economic, social and cultural development without outside interference.[35] It is proper to note the following in considering this aspect of self-determination:
> (1) It is concern with domestic framework of a state.
> (2) Promotion, and guaranteeing the democratic rights and political freedom of a people within a state.
> (3) Their rights to choose a form of government they desire through resorting to democratic means.[36]

Internal self-determination is a continuing right of a people within a political system. The enjoyment of democracy is part of human rights which must have a continuing process and in a progressive dimension with the granting of certain level of autonomy to sub-units within a system. This will aid the overall participation in the national government from the grass root level to the top position.

External Self-Determination

This is the external dimension that determine the international status of a people and the territory to which those people belong, their independence and sovereignty, it concerns the achievement of political independence. It is defined by the committee on the elimination of racial discrimination as follows:

> The external aspect of self-determination implies that all people have the right to determine freely their political status and their place in the international community based upon the principle of equal rights and exemplified by the liberation of peoples from colonialism and by the prohibition to subject peoples to alien subjugation domination, and exploitation.[37]

The right to self-determination on external aspect is usually invoked on extreme cases and under carefully defined circumstances, this right gained prominence in the 1960s on the declaration on the granting of independence to colonial countries and peoples, and the 1970 declaration on

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31 Cassese A. Political Self-determination old concepts and new developments in Cassese (Ed) pp. 137-165.
32 Ibid.
33 Alan R. Internal Self-determination in a Democratic Secession from a multinational state ethics, Vol. 112, 2002, p. 562-565.
34 Ibid
35 Principle VIII of the conference on security and co-operation in Europe Final Act Helsinki 1975 htt://www.osce.orgmd39501. accessed 18/8/23.
36 Ibid.
37 Cassese A. Political Self-determination old concepts and new developments in Cassese (Ed) pp. 137-165.

principles of international law. It also gained prominence in the 1990s with the disintegration of the Soviet Union where several states became independent.

In qualifying for an independent statehood there are criteria in exercising the rights. The proof of qualification as a state under international law and the recognition as a state by international community is a prerequisite. The creation of a new state in international law through secession is usually held at a very high esteem. The 1933 Montevideo convention on rights and duties of states laid down the criteria:

a. A permanent population
b. A defined territory
c. Government
d. Capacity to enter into relationship with other states.[38]

The right to external self-determination is crystallized in international law, and it usually considered as remedial on the condition that the subject concern are people that constitute a territorially concentrated and marginalized or numerical minority group in a state from which they want to secede, the existence of a bond territorially between the people to wish to migrate to or they wish to take along with them is key importance and, they need to have a strong claim to a territory they intend to separate from the parent state.

However, the right to external self-determination, can only be invoke when the right of internal self-determination is so grave that it overrides the principle of territorial integrity of states. It is usually proposed that discrimination has to reached a degree capable of endangering the existence and collective identity of a people characterized by a collective identity and loyalty. External self-determination must be 'ultimum remedium' implying the exhaustion of all judicial and political remedies before resorting to this right, a good example was the case of Sudan, and Kosovo.

Legal Framework of Self-Determination

The legal rights for self-determination is as follow:

1. International Covenant on Economic Social and Cultural Right (ICCPR)
2. The United Nation Charter in Article 1(2) and 55 of the Charter.[39]
3. The United Nation General Assembly Resolution 1514 (XV) and 1514 (XV).[40]
4. The International Covenants of 1966, and Article I1993 UNTS 3.5
5. The 1970 declaration on friendly relations.
6. The 1976 universal declaration on the rights of peoples (Algiers declaration) and the 1975 Final Act of the conference in security and co-operation in Europe (the Helsinki Declaration.[41]
7. The Advisory opinion of the Supreme Court of Canada.[42]

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38 Seventh International Conference of American States Convention on right and duties of states. The 26th of Dec. 1933 International Conference of America States, first supplement 1933 – 140 Carnegie Endowment of International Peace. Washington D.C. p. 122

39 Ofuatey K. Principle of Self-determination in International Law 1977 p. 182 Crawford J. State practice in International Law: Quebec and lessons learned. Kluwer Law International the Hague (2000) pg. 31-32.

40 Declaration on the granting of Independence to colonial countries and people G.A. Res. 1514 XV GAOR 15 sess. No. 16, 2 UN Doc. A/4684 (1950).

41 University Declaration on the right of peoples, July 4th 1976 adopted in Algiers by a group of non-governmental actors. See also conference of security and co-operation in Europe.

42 Crawford J. State practice in International law: Quebec and lessons learned. Kluwerlaw internal the Hague (2010) pg. 31-32.

Nigeria Legislation of Self-Determination

(a) Sec. 39 of the Nigerian Constitution (the right to freedom of expression, including freedom to hold opinion)
(b) Sec. 34 of the Nigerian constitution (the right of dignity of the individual person.
(c) Sec. 33 (1) of the Nigerian constitution (the fundamental rights of every Nigerian).

The Nigeria Perspective of Self-Determination

The 1914 Amalgamation of the Northern and Southern Nigeria brought Nigeria today with the help of her colonial administrator. Lord Lugard. This policy was for ease of administration. This act eventually did not bring resentments among the different ethnic groups who lived within the geographical area, not until much more later years that the need for agitation for personal and collective independence arose. The contribution of nationalists from different ethnic groups across the country made sure that the country navigate towards self-independence. Notable among the Nationalists were Herbert Macaulay, Nnamdi Azikwe, Obafemi Awolowo, Tafawa Bablewa, Olufumilayo Ramsome Kuti and others.

The goals of the aforementioned personalities was for the separation from alien rules, for self, independent and indigenous rule. Though, one cannot ruled out entirely that the amalgamation was supported by the Northern or Southern, but they had no option, rather to remain as one entity as at that time. The Northerners had preferred a separate country of their own and wanted nothing to do with the Southern.[43] So also were the Southern, this was evidence few time to Nigerian independence when the former Premier of Northern Nigeria, Sir Ahmadu Bello noted:

> Lord Lugard and his Amalgamation were far from popular among us at the time. There were agitations in favour of secession, we should set up on our own; we should cease to have anything more to do with the Southern people; we should take our own way.[44]

The communiqué of the 1953 House of representation revealed that the Northerners were not at home with the amalgamation of the 1914 with the southerners hence they agitated for an accelerated independence from the colonial master, this was also evidenced in the passage of an eight-point programme providing for a virtually independent regional government[45] and few years after the Nigerian independence a leadership crisis in Nigerian erupted which was followed by the imposition of a state of emergency on the Western region spearheaded by the Tafawa Abubakar government, the Yorubas was resentful of the government of Tafawa Balewa, believing that he forced himself to become the Prime Minister of Nigeria through the influence of the erstwhile colonial masters. Before the amalgamation every ethnic groups in Nigeria held sway to their mineral resources. The control of these resources became a major problem in Nigerian unity, especially when the said resources was seen as for the general good of the nation and until the discovering of petroleum in commercial quality in olorobiri, Nigerians quest for self-determination did not intensify in the context of Personal independence. All attention became focus on oil and other petroleum products as against other natural resources. It was at the same premise that Adaka Boro an Ijaw Nationalist opted for the creation of Niger Delta Republic in 1966.

The context that played out in the early part of Nigeria independence was of national in-cohesion of multi-ethnic groups to the extent that state legitimacy was challenged to determine the level of either negotiation or seclusion on the basis of political autonomy over natural resources of

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43 Tekena N. Tamuno Separatist Agitation in Nigeria since 8 J MOD African Studies (1914) 563-66.
44 Ibid.
45 Viva O.B, The dynamics of Secession 1993. 108 August 1st 1975 14 LM 1292 http://.algerie-tpp.en/declaration Algiers.

equitable access to state power and accountability to democracy.[46] The Nigerian Unity was threatened in 1963 National census where the National council of Nigerian citizen (NCNC) of the Eastern part of the country accused the Northern Peoples' Congress (NPC) of over-inflating the Northern region's figures[47] and this led to counter-accusation of each of the regions, the cloud of separation had started gathering in the fabrics. The last Carmel that break the Carmel's back was the vote rigging, kidnapping and murder that marred the 1964 election.[48] The was obvious that the country drifted to ethnic tension because of natural resources. The aftermath of this led to a proclamation by the then President Nnamdi Azikwe with the tone of frustration that:

> It is better for us and our admires abroad that we should disintegrate in peace and not in pieces. Should the politicians that the experience of the democratic republic of Congo will be child's play, if it ever comes to our turn to play such a tragic role.[49]

From the Caveat, Nnamdi Azikwe could see a situation of selfishness and incompatibility in Nigeria, he therefore gave his warnings.

The first major move for external self-determination in Nigeria was by colonel Odumegwu Ojukwu, who would later became the Biafran War Lord. He claimed among other issues that the Nigerians of Eastern regime was near extinction due to the incessant killings which took place in the Northern region of the country, he claimed that genocide had been launched against the Easterners in the North, this was against the back drop of the killings of notable Northerners in the Coup led by Major Nzeogu Kaduna an Ibo soldier. The casualties of the Coup was said not to have involved any of the Ibos prominent figures, which gave room for suspicion and lack of confidence, and this degenerated into retaliation from the Northern military counterparts which led to the killing of Gen. Aguyi Ironsi a head of state of Ibo extraction and this was followed by indiscriminate killings of any Ibos in the Northern Nigeria which the Northerns now labelled as their enemies.

Colonial Ojukwu opted for external self-determination as a remedial solutions to the problem of perceived 'ethnic ceasing' against the Ibo tribes. The war which proceeded in 1967 and lasted till 1970 was a manifestation of ethnic and religious bigotry within a geographical entity were lives and property were taken for granted resulting in Mayhem leaches on people or persons of unfamiliar cultural orients.

In Nigeria since inception, another challenge to national identity has been an issue where self-determination policy or agitation find cleverage, every citizen are overtly connected to his root and culture, rather than national identity. Hitherto, National identity plays the second fiddle when a proper assessment or re-definition of elites are introduced, the cluster is on the independent institution which would experience casual symbol on a people so affirmly glued to indigenous and family tie of identity. The word 'Nigeria' is seen as the British reasoning or foreign to the ideas of the collective choice of a people, hence many Nigerians claimed to the tendencies of first identifying with their ethnic roots before identifying themselves as Nigeria. This was exemplified by one Ebino Batatope a top government official in his words.

If you people think that because I am a Minister that I have forgotten the fact that:
(i) I am an Ilesha man.

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46 Osaghae E. From Accomodation to self-determination: Minority Nationalism and the Reconstructing of the Nigerian State (Nationalism and ethnic politics) 7(1) (2001) P. 2

47 Tekena N. Tamuno Separatist Agitation in Nigeria since 8 J MOD African Studies (1914) 563-66.

48 Ibid

49 A speech by Nnadi Azikwe the First President of Nigeria.

(ii) I am an Ijesha man.
(iii) I am a Yoruba man, then
(iv) I am a Nigerian citizen then such people should really go and examine themselves.

He consequently added:
(i) I cannot divorce myself from the yearning and aspiration of the people of my roots.

National identity forms the basis of group discrimination and grievances in particular nations on the basis of religion[50] through which they want a self-determination. Religion is a ground for self-determination and it is of note that the geopolitical grafting in Nigeria some sets of fanatics through Boko Haram and other criminal elements have been attacking the institutions that held the country as one thereby creating religious insensitivity to the core value of Islam. (The ideology of this sect cannot reconcile the puritan Islamic claims with the current and moderate recognition of Islamic perception in either politics, governance and the constitution). This novel sets believed that Northern politicians are a gang of corrupt elements through the mechanism of Western style of administration, rather they preferred the pure Islamic state governance of Sharia Law by which the inhabitants takes pride in identity.

Other factors such as Marginalization and deprivation: are twin factors that meted woes on the entire nation in such away that the struggle in modern self determination became inevitable. This is due to failure of comity of nations not to recognized the impact of the legal covenant that recognized the right of man as a major factor in the economics and management of the affairs in his state, and local governments. Would resolved to the desire to seek redress elsewhere, in modern Nigeria corruption and totalitarian where democratic principles and human rights are far from achievement, propels a sense tantamount to agitation for freedom:

In the words of Ihonvbere J.

> In Nigeria, and for the sake of Federal Balance, government policies have tended to politicize national appointment rather than mitigate against ethnic consciousness successive government (in Nigeria) have used this approach to intensified the negative aspect of ethnicity and embolden the perception of ethnic domination, exploitation and class opportunism by the minority groups, indeed the various occupants of government position mostly from the Northern Region and especially at the exclusive level have converted such states-conferring social standing from government employment into state-honour to the detriment of national unity.[51]

Ihonvbere sees marginalization on basics of ethnicity another variance for ethnic desire for self-determination Claude E Welch J a notable personality on the subject of classical studies opined that:

> "Despite many rounds of purported decentralization and division of large regions or state power at the centre (in Nigeria) power remain too much at the centre.

Welch factor was too obvious on the non-inclusionary political power structure which dovetailed in the deprivation of the control of natural resources by minority group, he opined that such institutionalized discriminatory practice against such group is a basis for agitation or how else could one explain the deprivation from the full attainment of enjoyment of the benefits of the

[50] Onapajo H. Politics for God. Reglion, politics and conflect in democratic Nigeria (2012) 4(9) Journal of Pan African Studeies 44: http://www.jpanafrican.com/docs/Vol. 4. No. 9. Accesed 18/8/23.

[51] Ihonvbere J. Constitutionalism in Nigeria: A conceptual analysis file/F terronism % 20job/kalu.html. Accessed 18/8/23.

natural resources in his zone not be a reason for self-determination.[52] In a nutshell, dissatisfaction is the bed rock of agitation and violence in modern Nigeria.

Self-Determination in Modern Nigeria

The following factors are reasons for in modern era self-determination in Nigeria.

i. Marginalization in economic and social structure
ii. Resource control and revenue allocation in different zones with mineral resources.
iii. Political structure lopsidedness.
iv. Corruption and nepotism in public offices.
v. In security of life and property.
vi. Environmental issues, and degradations.

The Nigerian Constitution and Self-Determination

Nigeria is a country ruled by the enabling laws, enacted through the National Assembly. The legitimacy of the laws are derived from the constitution. In the case of offences, *Tribunal v. Okonfor*[53] It was held as follows:

> Nigerian constitution is founded on the rule of law, the primary meaning of which is that anything must be done according to law. It means also that government should be conducted within the framework of recognized rules and principles which restrict discretion power.

It is to be noted that the 1999 constitution along with the previous constitutions had no provision for self-determination or secession. The introductory part of the Nigerian constitution emphasized the need for all citizen to live together as one entity called Nigeria as a unified body with one political identity. The division of Nigeria into regions and later states is an indication of uniformity and continuity. Nigeria has existed under the structure of her unity.[54] The Nigerian people had constituted themselves through section 2(1) of the Nigerian constitution on the need to live together as one indivisible and indissoluble Sovereign Nation under God, therefore the constitution forbid any attempt to secession.

The 1914 amalgamation of the Northern and Southern protectorates was a pointer to Nigeria needs for unity, though initiated by the colonial master. The provisions of the various international conventions and covenants on self-determination must be viewed within the colonial context to granting of independence to the colonized and the oppressed, and not necessary to provide the leverage to undermine the territorial integrity of sovereign states. Self-determination is restricted to mean independence from colonial rules. The African charter[55] *posits that All People shall have the right to existence. They shall have the unquestionable and inalienable right to self-determination. They shall freely determine their political status and shall pursue their economic and social development according to the police they have freely chosen*.

The principle of '*Uti Posidetis'* is a principle in international law, that a territory and other property remains with its possessor, this is application to Nigeria. However, the need for internal self-determination is open to Nigeria as a option, this involve, the participation in internal arrangement for the betterment of the existing entity through democratic practices and principles. The international community frown at the external aspects of self-determination.

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52 Welch C.E. 'The Ogoni and self-determination: increasing violence in Nigeria, the Journal of Modern African Studies 635 <Htp??www.jstor.org/stable/161825. Accessed 18/8/23.

53 (2001) 18 NWLR (pt. 745) 310 at 327.

54 See generally the introduction section of the 1999 constitution (as amended).

55 Article 20(1) African Charter of Human and people's right.

Issues in Self-Determination

It is however, pertinent to note that the dissolution of the Soviet Union provided a clear examples of the limitations of the rule of self-determination in contemporary non-colonial contexts. In the soviet case which was usually referred to as the 'World last Empire'[56] International law could not hold the legal rights of the disintegration of Soviet Union. There is also the selective and manipulative manners by which powerful nations proclaims the right of self-determination to the efficacy and integrity of the elements of international law. In the words of Articles 39, 41 and 42 of the United Nation charter, though provide the criteria to take measures to maintain or restore international peace and security, unfortunate the veto power held on each permanent member of the United Nations security council, has somewhat prevented the United Nation from enforcing any of this mechanism to settle external claims of self-determination. There is also the inconsistency within the international law in the implementation of the principles of self-determination, because International law till date has not been able to clearly define what constitute a "people', it typically refers to a people as living within the same state or people organized into a state whereas in the real sense a 'people' is a lexicon that capable of different understanding.

Now, at what stage is the external self-determination permissible in contemporary times in international law? Studies have shown that, at no time is external self-determination permissible under international law which is in serious contestation with the principle of self-determination which gave the right to all people in Article 1 of ICCPR to determine their status, Politically and Culturally Article 2(7) of the United Nations charter, restrict every nations from interference in another's nations internal affairs, therefore in exercising self-determination in whatever form, there should be no interference, paradoxically, there are too many interferences in exercising this rights a good example is the incessant interferences by regional bodies, such is the European Union, African Union, the ECOWAS in affairs of other countries in the guise of humanitarian gestures even when it is adjudged unnecessary.

Conclusion

The right of self-determination is the right for everyone. The rights is based on human right of a people to decide their future status, Economically, Politically and socially with no interference from others. This is a product of contemporary intellectual interest, upholding human dignity and the elimination of slavery and dictatorship from the people. The exercise of self-determination beyond the internal aspects is usually associated with frustration and as the last resort. The right to self-determination may result in the external form, to form a sovereign entity where human protection, democracy and participation in the political affairs of the new state is guaranteed.

The purpose of internal self-determination requires a government to represents the whole people belonging to a territory without distinction of any kind and a complete neglect may justify potential rise to secession. A group may have common grievances or interest that they wish to protect or preserve and any denial of this would be tantamount to oppression, and for a group to be qualify for external self-determination. There must be evidence of great repression, threat of physical extermination.

The Nigeria perspective of self-determination as at now must be located within the internal aspect of self-determination where there will be equity in participation and representation in governmental activities at the various state levels and federal governments through the appropriate utilization of the principles of federal character.

[56] See general, Gerry Simpson 'The diffusion of sovereignty self-determination in the post colonial age standfood journal of International Law (1996) 32, 255-86.