

THE RIGHT TO SELF-DETERMINATION UNDER INTERNATIONAL LAW: THE CURRENT BIAFRA STRUGGLE

Abstract

The struggle for the right to self-determination for the actualization of Biafra State by the Indigenous People of Biafra (IPOB) and Movement for the Actualisation of the Sovereign State of Biafra (MASSOB) in the Nigerian State through legal and diplomatic means has continued to gather momentum from various fronts with the involvement of elders and statesmen from the enclave. Ironically, these pro-Biafra groups have one target: To achieve an independent Biafran Nation. This paper examines whether this is realisable by looking at salient provisions of municipal laws and international conventions governing the right to self-determination. The study also seeks to know whether the Biafra method are in tandem with the struggles for the right to self-determination by other Peoples in other States and how some of these were actualized.

Key words: *The right to self-determination, Biafra, People, De-colonisation, Referendum*

1. Introduction

The Republic of Biafra was a secessionist State¹ in the then South Eastern Nigeria that existed from 30 May 1967 to 15 January 1970 taking its name from the Bight of Benin (the Atlantic bay to its south). The inhabitants were mostly the Igbo people who led the secession due to economic, ethnic, cultural and religious tensions among the various peoples of Nigeria. The creation of the new State that was pushing for recognition was among the causes of the Nigerian civil war also known as the Nigeria-Biafra War². Precisely, the Movement for the Actualisation of the Sovereign State of Biafra (MASSOB) advocates a separate country for the Igbo people of south-eastern Nigeria.³ They accuse the Nigerian State of marginalising the Igbo people. MASSOB says it is a peaceful group and advertises a 25-stage plan to achieve its goal peacefully. Another group, Indigenous People of Biafra (IPOB), has reinvigorated the quest for Biafran realisation since 2012. Nnamdi Kanu⁴ recently set up a registered radio station, Radio Biafra, which has been broadcasting at various frequencies around the world. The Nigerian Government, through her broadcasting regulator, the Broadcasting Organisation of Nigeria and Nigerian Communications Commission, has sought to clamp down on the UK based Radio Station without success. This paper investigates the propriety or otherwise, and the viability or otherwise of the Biafra struggle within the framework of International laws.

2. Meaning of Self Determination

One of the earliest proponents of a right to self-determination was United States President Woodrow Wilson. A month after his famous Fourteen - Point speech to the United States Congress in January 1918 (in which the term “self-determination” does not appear), he proclaimed that the right to self-determination is not a mere phrase. It is an imperative principle of action which statesmen will henceforth ignore at their peril⁵. The Universal Declaration of Human Rights 1948 provides that “the will of the people shall be the basis of the authority of government”. The right to self-determination, a

* By **K.O. MRABURE, Ph.D (I.U.O), LL.M (BENIN), LL.B (BENIN), BL**, Faculty of Law (Oleh Campus), Delta State University. E-mail: kingomote@yahoo.com.07035420479.

¹ The present day eastern States are Anambra, Imo, Enugu, Ebonyi and Abia. In the context of this paper, the People of this territory shall simply be referred to as “Biafrans”, “Igbos”, “Easterners”. They mean the same thing in this paper.

² After two and a half years of war, during which over three million civilians died in fighting and from starvation resulting from blockades. Biafran forces under the slogan “no victor, no vanquish” surrendered to the Federal Military Government (FMG) and Biafra was reintegrated into Nigeria.

³ *Supra* n.1.

⁴ He is the leader of IPOB. He is presently being tried by the Nigerian government for treasonable felony. A trial that is likely to fail as the application by the Federal Government to be allowed to field masked witnesses was rejected by the Court after it was duly opposed by IPOB’S Counsel.

⁵ ‘Fourteen Points’ <[https://en.wikipedia.org/wiki/fourteen points](https://en.wikipedia.org/wiki/fourteen%20points)> accessed 20 March 2015.

fundamental principle of human rights law⁶ is an individual and collective right to freely determine political status and to freely pursue economic, social and cultural development. The principle of the right to self-determination is generally linked to the de-colonization process⁷ that took place after the promulgation of the United Nations Charter of 1945. The obligation to respect the principle of the right to self-determination is a prominent feature of the Charter appearing in both Preamble to the Charter and in Article 1. The International Court of Justice refers to the right to self-determination as a right held by people rather than a right held by governments alone⁸. United Nations studies on the right to self-determination set out factors of a people that give rise to possession of right to self-determination thus: a history of independence or self-rule in an identifiable territory, a distinct culture, and a will and capability to regain self-governance⁹. Therefore, we opine that if the right to self-determination is a fully recognized right, then it should be accorded such priority and addressed by the international community in an acceptable legal way by conducting a referendum¹⁰ in such State(s) so that people will have a say rather than watch such scenarios passively until they degenerate into uncontrollable chaos or maybe into a state of lawlessness or sometimes war. This is apt as present day realities point to this passivity on the part of the United Nations which ought to be proactive.

3. The Position under Nigerian Law and the African Charter on Human and People's Rights

Nigerian law which is the municipal law in this context provides in the Preamble to the Constitution¹¹ thus:

We the People of the Federal Republic of Nigeria: Having firmly and solemnly resolved: TO LIVE in unity and harmony as one indivisible, indissoluble, Sovereign Nation under God dedicated to the promotion of inter-African solidarity, world peace, international co-operation and understanding: AND TO PROVIDE for a Constitution for the purpose of promoting the good government and welfare of all persons in our country on the principles of Freedom, Equity and Justice, and for the purpose of consolidating the Unity of our people: DO HEREBY MAKE, ENACT AND GIVE TO OURSELVES THE following constitution.

⁶ Universal Declaration of Human Rights (entry into force in 1948), Article 21. See also The International Covenant on Civil and Political Rights (ICCPR), in force March 23 (Entry into force in 1976) Article 1 and The International Covenant on Economic, Social and Cultural Rights (ICESCR) (entry into force January 3, 1976) Article. 1.

⁷ K Parker 'Understanding Self-Determination': The Basics <www.guide to action.org/parker/selfdet.html> accessed 9 January, 2015. As a result of the de-colonization mandate, two types of situations emerged: situations I call "perfect de-colonization" and those that I call "imperfect de-colonization". The principle of self-determination arises in the de-colonization process because in a colonial regime the people of the area are not in control of their own governance. In these situations, there is another sovereign and illegitimate one exercising control. De-Colonization then is a remedy to address the legal need to remove that illegitimate power.

⁸ See *Western Sahara Case* [1975] ICJ 12, 31 where this view was stated. See also recent news caption: L Nwabughio, Buhari Backs Western Sahara on Self-Determination from Morocco *Vanguard* March 12 2016. What an anomaly!

⁹*Id* n.7.

¹⁰ 'Referendum' <<https://en.wikipedia.org/wiki/referendum>> accessed 20 March 2016. A referendum (in some countries synonymous with a plebiscite or a vote on a ballot question) is a direct vote in which an entire Electorate is asked to vote on a particular proposal. This may result in the adoption of a new law. Some definitions of 'plebiscite' suggest that it is a type of vote to change the constitution or government of a country. Others define it as the opposite. 'Referendum' is the gerund of the Latin verb *refero* and has the meaning 'bringing back' (i.e. bringing the question back to the people). The term 'plebiscite' has a generally similar meaning in modern usage and comes from the Latin *plebiscita*, which originally meant a decree of the *Concilium Plebis* (Plebeian Council), the popular Assembly of the Roman Republic. Today, a referendum can also often be referred to as a plebiscite, but in some countries the two terms are used differently to refer to votes with differing types of legal consequences.

¹¹ Constitution of the Federal Republic of Nigeria, 1999 (as amended).

We state unequivocally that though the above is fallacious and ironical, it simply re-echoes a collective agreement by the Nigerian People. For this principle of indivisibility and indissolubility to be undermined by any part of Nigeria, it will require the people of Nigeria coming together to agree that a part of the nation has a right to what that part considers as self-determination. The Constitution is the organic law governing the rights, duties, obligations, and privileges of the people of Nigeria and its supremacy must at all times be fundamentally observed. For any group of persons to seek to divide the Nation under any guise would amount to a brazen attack on the Constitution which is tantamount to the declaration of war.

We state further how absurd this is, when in the actual sense no people came together to make the Constitution. The constitution was birthed by an outgoing military regime¹² as the Nigerian Constitution does not provide for the right to self-determination for any part of the country to secede. The Constitution even lacks legitimacy. The attendant results of this restrictive assemblage of the Constitution is leading to great uproar, disenchantment and civil unrest and disobedience in the eastern part of the Nigerian State due to the acute and gross marginalization on the Igbo as a result of a “forced captured” belongingness to the Nigeria entity. On the other hand, the African Charter on Human and People's Rights¹³ also contains an article that addresses the right to self-determination. Its effect is not plausible. A look at it reveals that the struggle for the right to self-determination is still centred on people under colonial rule. For emphasis and a better understanding, Article 20 is hereby stated:

1. All peoples 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 policy they have freely chosen.
2. Colonized or oppressed peoples shall have the right to free themselves from the bonds of domination by resorting to any means recognized by the international community.
3. All peoples shall have the right to the assistance of the States Parties to the present Charter in their liberation struggle against foreign domination, be it political, economic or cultural.

In pursuance and determination of the above is the human rights suit¹⁴ brought under the African Charter on Human and Peoples' Rights (Ratification and Enforcement) and the Constitution of the Federal Republic of Nigeria filed by the Biafra Liberation in Exile¹⁵(Bilie). The claimants who are indigenes of the South East geo-political zone of Nigeria, parts of South South geo-political and the Middle Belt zones had dragged the Federal Republic of Nigeria and its Attorney-General to the Court as first and second defendants, seeking to be given the right to self-determination. According to the originating summons, the claimants are seeking a declaration of the Court to enforce their right to self-determination, pursuant to the relevant Articles on African Charter on Human and Peoples' Rights, adding that they are equally asking the Court to order the defendants to redress all wrongs inflicted on them by the defendants in consequence whereof. The claimants further prayed the Court to determine whether the IPOB who are the remnants that were not consumed in the Nigeria-Biafra civil war of 1967 to 1970 have the right of self-determination pursuant to Articles 19 to 25 of the African Charter on Human and Peoples' Rights. They also want the Court to determine whether the claimants who identified themselves as Biafrans by indigenous identity were committing any offence by doing so contrary to any provisions of the Constitution of the Federal Republic of Nigeria 1999 or contrary to any provision of the Criminal Code and whether it is a crime under any national or international law to

¹² The military regime of General Abdusallam Abubakar in 1999 conducted elections and handed over in that same year to the democratic government to the acclaimed winner, Chief Olusegun Obasanjo, a former military Head of State from 1976 to 1979.

¹³ African Charter on Human and People's Rights, adopted 27 June 1981, entered into force 21 October 1986.

¹⁴ The case came up at Federal High Court, Owerri, Imo State on September 22, 2015 in suit No FHC/OW/CS /192/2013.

¹⁵ A Human Rights Initiative representing IPOB.

mention the name of Biafra or for the remnants of IPOB who were not consumed by the war to maintain their indigenous identity as Biafrans with their native emblems and symbols as they do now, even though they are Nigerians by citizenship and nationality laws.

We state that even though the Nigerian Constitution does not recognize the principle of self-determination, a people under the Nigerian State as in this case Biafra can succeed in its right for self-determination through constitutional means¹⁶ by the conduct of a referendum i.e. a State referendum or one ordered, observed and supervised by the United Nations. Though, it is palpable that the Nigerian government¹⁷ may not succumb to this but it is a good way to jumpstart the process and this is achievable through the concerted and legitimate efforts of Biafrans through the instrumentality of the United Nations.

Yet, the African Charter on Human and People's Rights does recognize the right to self-determination but only in respect of States still under Colonial rule. This situation like the Nigerian Constitution does not make any difference as it is akin to the sides of same coin. Even though Biafra may not be able to found a claim for a successful right to self-determination under the Charter as the Nigerian State was freed from colonial domination almost fifty six years ago¹⁸. But this can be achieved through the means of the conduct of a referendum by Biafra within its territory asking for its pre-colonial sovereignty which was forcefully captured. A paradigm shift on the part of the United Nations from its present stand is needed to achieve this.

4. The Position under the United Nations Charter

In 1941, Allies of World War II signed the Atlantic Charter and accepted the principle of self-determination. In 1942, twenty-six states signed the declaration by the United Nations, which accepted those principles. The ratification of the United Nations Charter in 1945 at the end of World War II placed the right of self-determination into the framework of international law and diplomatic relations among nations based on respect for the principle of equal rights and self-determination of peoples and to take other appropriate measures to strengthen universal peace.¹⁹ The United Nations General Assembly adopted the United Nations General Assembly Resolution²⁰ under titled "Declaration on the Granting of Independence to Colonial Countries and Peoples" which provided for the granting of independence to colonial countries and peoples in providing an inevitable legal linkage between self-determination and its goal of decolonisation and a postulated new international law based right of freedom also in economic self-determination.

Article 5 of the Charter states that immediate steps shall be taken in Trust and Non-Self-Governing Territories, or all other territories which have not yet attained independence, to transfer all powers to the peoples of those territories, without any conditions or reservations, in accordance with their freely expressed will and desire, without any distinction as to race, creed or colour, in order to enable them to enjoy complete independence and freedom. On its part, Article 1 in both the International Covenant on Civil and Political Rights (ICCPR)²¹ and the International Covenant on Economic, Social and Cultural Rights (ICESCR)²² reads that 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

¹⁶ This could also be in the form of internal form by presenting a bill for the right to self-determination before the Nigerian National Assembly. This may fail because elected representatives from the eastern part of the country may not be able to muster the courage to support such a bill as they will be termed unpatriotic if they do.

¹⁷ Constitutional Conferences have been convened by the Nigerian State in many instances. But the Government had always insisted on the non-discussion on the divisibility of the Nigerian State. Hence, there is a great clamour for the convocation of a Peoples Sovereign Conference where all issues pertaining to the Nigerian Federation and its People shall be discussed.

¹⁸ The Nigerian State attained independence from Britain on October 1 1960.

¹⁹ 'United Nations Charter' *Un.org*. accessed on 25 January 2015.

²⁰ Resolution 1514 (XV) December 14 1960.

²¹ 'Text of International Covenant on Civil and Political Rights' <www.ohchr.org/en/professionalInterest/pages/interest/pages/ccpr.aspx> accessed on 27 January 2015.

²² *Supra* n.6.

development. The United Nations Universal Declaration of Human Rights²³ in Article 15 states that everyone has the right to a nationality and that no one should be arbitrarily deprived of a nationality or denied the right to change nationality.

The implication of the above stated provisions is that in declaring political autonomy from Nigeria in order to enforce the United Nations Declaration on Rights of Indigenous Peoples for the right to self-determination of Biafra, there must be a challenge to the traditional anti-secessionist United Nations stand. The present United Nations practice dictates that only colonies, those Third World nations under European domination can exercise the right to self-determination²⁴. We posit that despite these laudable provisions on the recognition of the right to self-determination by Biafra, its practicability still falls short of the needed expectation. The way out is for the United Nations to be proactive by ordering the conduct of a referendum as the case we have at hand ie the current Biafra struggle where there exists gross marginalization²⁵ in varying degrees. An internal decision making framework such as a National Conference may also be an option.²⁶ But most desirable will be through an external and internal backed referendum. This will be in form of referendum ordered by the United Nations within Biafra territory to test the will of the people. Although, the backdrop of establishing the internal and external aspect of the right to self-determination follows the issue of territorial integrity yet the main bone of contention for any group or peoples within a defined national boundary that wish to declare their right to self-determination is the fact that international law has developed within a framework of respect for the territorial integrity of a State. But how practicable this is, leaves much to be desired.

Territorial integrity and respect is enshrined in Article 2 of the Charter of the United Nations. The General Assembly²⁷ on the granting of Independence to Colonial Countries and Peoples even went as far as purporting to exclude the exercise of right to self-determination by discernible groups when it stated that any attempt aimed at the partial or total disruption of the national unity and the territorial integrity of a country is incompatible with the purpose and principles of the Charter of the United Nations. Given the fact that it may be difficult to argue that Biafra meets the threshold of a colonial people or an oppressed people under the present template under municipal and international law or that they have been denied meaningful access to government to pursue their political, cultural and social development, any quest they may have for the right to self-determination under the United Nations Charter should be sought under the holding of a referendum as Biafra may not fight another war having fought one almost five decades ago. It is this state of hopelessness in the Nigerian government that has driven Biafra Liberation in Exile (BILIE) to formally send a complaint²⁸ to the International Criminal Court (ICC) in The Hague, Netherlands. The group is asking ICC to intervene on their behalf before their kinds are completely exterminated in Nigeria. Bilie²⁹ through its legal representatives³⁰ is requesting the Chief Prosecutor at ICC to initiate investigations into the Islamic, ethnic, cultural killings

²³The Universal Declaration of Human Rights (UDHR) is a declaration adopted by the United Nations General Assembly on December 10 1948 at the Palais de Chaillot, Paris. The Declaration arose directly from the experience of the Second World War and represents the first global expression of rights to which all human beings are inherently entitled.

²⁴'Self-Determination' < https://www.law.cornell.edu/wex/self-determination_international_law> accessed on 30 January 2015.

²⁵ This has been evidenced in many forms. No Easterner in the Nigerian State has been elected a President of the country since the civil war of 1967, just few years ago, an Easterner was appointed to the sensitive post of Chief of Army Staff, only the Eastern Zone has five States whereas other zones have six States and in some cases seven, the present highest ranking elected Easterner official of the Nigerian government in the senate is from an Opposition party, social infrastructures are in great dilapidations in the East.

²⁶*Supra* n.17.

²⁷Declaration 1514 of 1960.

²⁸Biafra Group Files Complaint Against at ICC < www.igbofocus.co.uk/BIAFRA_GROUP_FILES_COMPLAINT_A/Biafra_group_files_complaint_againstnigeria_at_ICC_html> accessed on 30 September 2015.

²⁹ "Bilie" means "Stand Up" or "Arise" in Igbo Language.

³⁰Brimstone and Co. of Washington, DC in the United States.

of the Igbo and other Biafrans in Nigeria. We think this is the right step towards the enjoyment of right to self-determination as it is being pursued legitimately without recourse to violence.

5. Echoes from some other Jurisdictions

Kashmir

Kashmir case was an “imperfect” de-colonization process³¹ in which the United Nations got involved. The United Nations interest in the situation of Kashmir began³² during the de-colonization process of the British Empire in South Asia. The leaders of what became Pakistan and India reached an agreement with the British that the people of Kashmir would decide their own disposition. Due to a great deal of turmoil in the area including a full-fledged revolt in Kashmir against the British-imposed maharajah, the United Nations began formally to address Kashmir in 1948. That year, the Security Council established the United Nations Commission on India and Pakistan, which in addition to the Security Council itself adopted resolutions mandating that the final disposition of Kashmir was to be via a plebiscite³³ carried out under the auspices of the United Nations³⁴. The Indian government backed up its earlier promises that the Kashmiri people would decide the future of Kashmir when it supported the plebiscite under the auspices of the United Nations. However, before such a plebiscite could take place, the armed forces of India seized much of Kashmir under the pretext of coming to aid the British-maharajah who was attempting to quell the Kashmiri's revolt against him. The maharajah obtained India's military help in exchange for an Instrument of Accession giving Kashmir to India³⁵. India has maintained control of what must be called Indian-occupied Kashmir and continually refers to Kashmir as an integral part of India. India supports this view in part because of Indian-managed elections taking place in Kashmir. However, the United Nations Security Council has repeatedly rejected this argument by stating that such unilateral acts do not constitute the free exercise of the will of the Kashmiri People as only a plebiscite carried out by the United Nations would be valid³⁶. Unfortunately, the plebiscite has still not occurred. Even without the United Nations recognition of the Kashmiri's right to self-determination, the Kashmir claim is exceptionally strong³⁷ and so makes a good case study from this perspective³⁸ under reference which is the current right to self-determination by Biafra. The area had a long history of self-governance pre-dating the colonial period. The territory of Kashmir has been clearly defined for centuries. Kashmiri people speak Kashmiri which while enjoying Sanskrit as a root language as do all Indo-European languages is clearly a separate language from either Hindi or Urdu. The Kashmiri culture is similarly distinct from other cultures in the area in all respects: folklore, dress, traditions, and cuisine. Even every day artifacts such as cooking pots, jewelry have the unique Kashmiri style. The Kashmir struggle for self-determination still continues. This bears some semblance with the Biafra's right to self-determination and some aspects of it can be emulated especially on the need to have an action packed United Nations backed referendum.

Zaire

The scope of an extreme situation justifying external self-determination was addressed in the Opinion of the African Commission of Human Rights in *Katangese Peoples' Congress v Zaire*³⁹. It was

³¹*Supra* n.7.

³²In 1947 to 1948.

³³*Supra* n.10.Same as Referendum.

³⁴ See Security Council resolutions 39 of 1948, 47 of 1948, 80 of 1950, 91 of 1951 and 96 of 1951.

³⁵*Supra* n.7.The “Instrument of Accession to India missing from State Archives” *PTI News* (New Delhi), September 1 1995. News reports indicate that the United States, other Western and some Arab states wished to view the text because of serious questions of its validity.

³⁶ See for example, Security Council resolution 122 of 24 January 1957.

³⁷*Supra* n.7. There are a number of political parties in Kashmir that have been active for some time, even though at great risk resisting India's domination. Many of the leaders of these parties have spent time in Indian jails. In 1993 most of the Kashmiri political parties joined together to form the All Parties Hurriyet Conference (APHC).

³⁸*Id.* The APHC has sent leaders around Kashmir and around the world to forward dialogue, peaceful resolution of the Kashmiri war and realisation of the United Nations resolutions for a plebiscite of the Kashmiri people. Leaders and representatives of the APHC have regularly attended United Nations human rights sessions, special Conferences and the General Assembly.

³⁹[2000] AHRLR 72.

suggested that where a State denies a group participation in the Government process and violates its fundamental rights, the territorial integrity of the State may not be of such a paramount consideration. Furthermore, other instances where support for the extension of the principle of self-determination to indigenous populations may be inferred have been recorded. One such example was from the powerful separate opinion laid down in the *Western Sahara Case*⁴⁰. The judge opined that “it hardly seems necessary to make more explicit the cardinal restraints which the legal right of self-determination imposes... It is for the people to determine the destiny of the territory and not for the territory to determine the destiny of the people”. But even such a strong obiter is not without ambiguity. It could be inferred from this that the people must be of a whole territory and hence the judgment conforms to the territorial view of the United Nations.

On the other hand, the use of the term territory could be taken to mean that the land could be part of an existing State such as the case with Biafra which has defined land in Nigeria. This still causes some problems for self-determination with the colonial framework where questions of succession arise. Self-determination is clearly acceptable for divesting States of colonial powers. Although, while unilateral secession is not specifically prohibited, it is clear that international law does not specifically grant component parts of sovereign States the legal right to secede unilaterally from their parent State. Therefore, the United Nations should take a departure from this present norm and evolve new mechanisms or features taking into consideration the distinct cultural and historical identity of the people in tandem with the will of the people, in this case, the Biafran people.

Union of Soviet Socialist Republic (USSR)

The communist regimes of Soviet satellite States collapsed⁴¹ in rapid succession in Poland, Hungary, Czechoslovakia, East Germany, Bulgaria, Romania, and Mongolia. East and West Germany united; Czechoslovakia peacefully split into Czech Republic, and Slovakia while Yugoslavia began a violent break up into its former 6 sub-unit republics. Kosovo which was previously an autonomous unit of Serbia declared independence⁴² but has received less international recognition. The legitimization of the principle of national self-determination has led to an increase in the number of conflicts within States as sub-groups seek greater self-determination and full secession and as their conflicts for leadership within groups and with other groups and with the dominant State become violent.⁴³ The international reaction to these new movements has been uneven and often dictated more by politics than principle. The United Nations failed to deal with these new demands mentioning only the right to self-determination of peoples which remain under colonial domination and foreign occupation⁴⁴. This is clearly in negation of the current prevailing trends on the right to self-determination especially the instant Biafra debacle. We state that such agitations should be principally hinged on the supreme will of the people who are under a force captured colonial sovereignty.

Spain

After the 2002 Catalan march for independence in which more than 1.5 million citizens marched, President of Catalonia called for new parliamentary elections⁴⁵ to elect a new parliament that would exercise the right of self-determination for Catalonia. The Parliament of Catalonia voted to hold a referendum or consultation in the next four-year legislature in which the people of Catalonia would

⁴⁰*Supra* n.8. The International Court of Justice in its decision on the *Western Sahara* in 1975 ruled that if there is land that in fact no one has ever claimed, it is opened for grabs. Such land is called "terra nullius" meaning empty land. But if any land has had a population on it, that land belonged to that population and is not open for grabs. This question arose in the de-colonization process of Western Sahara because Morocco attempted to claim that prior to becoming a colony of Spain, Western Sahara has been "empty" except for a few nomadic Moroccans. The Court, however, found the Saharans to be a distinct people who historically populated that land.

⁴¹In 1989 to 1990.

⁴²This was in 2008.

⁴³M Griffiths, Self-determination, International Society and World Order, *Macquarie University Law Journal*, 1, 2003.

⁴⁴V Gudeleviciute, Does the Principle of Self-determination Prevail over the Principle of Territorial Integrity? *International Journal of Baltic Law*, Vytautas Magnus University School of Law, Volume 2, No. 2 April 2005.

⁴⁵Catalonian Parliamentary elections, November 2012.

decide on becoming a new independent and sovereign State. The parliamentary decision was approved by a large majority of Parliamentarians.⁴⁶ The President and the governing coalition agreed⁴⁷ to set the referendum for self-determination⁴⁸ which was declared void by the Spanish Courts and called by means of a consultation to the people. The question in the consultation was "Do you want Catalonia to be a State?" Possible answers were yes or no. In case the answer to the question was yes, a further question was elicited thus: "Do you want Catalonia to be an independent State?" Possible answers again were yes or no⁴⁹. However, Spain's government has consistently dismissed any secession plans as "nonsense". But Catalonians argue that the Spanish government has consistently refused to allow a legally recognised referendum to take place ignoring an unofficial vote backing independence.⁵⁰ A majority of Catalans favour a referendum on independence but are evenly divided over whether they want to secede⁵¹. On his part, Ban⁵² stated that the United Nations did not recognise Catalonia as a non-autonomous territory that should be able to claim the right to self-determination⁵³. He stated further that certain areas have been recognised by the United Nations as non-autonomous territories but Catalonia does not fall into this category. He submitted that the positive aspect of Spain is that there is respect for diversity: the culture, the languages, and the traditions. He expressed hope for "a consensual solution" for Catalonia based on dialogue and conforming to the democratic tradition. Although the referendum carried out by Catalonia was undermined by the United Nations but the bold step taken by the Catalans is commendable as the referendum was used in determining the will of the people which is supreme in determining Statehood for the people of Catalonia. Same is desirable for the current Biafra agitations for self-determination poised towards liberation from colonial sovereignty. This is achievable through a United Nations backed referendum.

Sudan

The civil war that precipitated a referendum and final secession of Southern Sudan from the former Sudan was majorly an agitation for self-determination. It was a result of continual economic and political domination of the South⁵⁴ by the northern government. A collection of rebel groups in the South which had lost confidence in the central government of Khartoum fought the government under the banner of the Sudan People's Liberation Army/Movement (SPLA/M).⁵⁵ The inestimable effects of the war left about two million Sudanese dead and double that number displaced⁵⁶. Greed, retribution, poverty, external intervention, and religious and ethnic divides all motivated the violence. Khartoum encouraged ethnic clashes by granting Arabic herdsmen a covert support to plunder and destroy the communities of the Dinka and Nuer African pastoralists of the South and implement an ambitious Islamisation project.⁵⁷ Through the referendum that was conducted, South Sudan became a State of its own after a bitter war that was fought for many years. Therefore, in Biafra's case, the support of the United Nations is needed to free it from colonial, forced captured and non-consensual colonial continuing sovereignty which violates its⁵⁸ fundamental rights. Biafra declaring war to achieve Statehood is totally ruled out as the relics of the Nigeria-Biafra civil war fought more than four decades ago are still evident. A peaceful method which is by the conduct of a United Nations backed referendum is the way out.

⁴⁶ 84 voted for, 21 voted against and 25 abstained

⁴⁷ On December 2013.

⁴⁸ November 9 2014.

⁴⁹ 'Catalonia, self-determination referendum, 2014' < https://en.wikipedia.org/wiki/catalan_self-determination_referendum_2014> accessed on 20 March 2015.

⁵⁰ 'Catalonia vote: Pre-Independence Parties win elections' < www.bbc.com/news/world-europe-34372548> on 20 March 2015.

⁵¹ *Id.*

⁵² The Secretary General of the United Nations.

⁵³ 'UN denies Catalonia's call to self-determination from Spain' < www.trtworld.com/europe/un-denies-catalonia-call-to-self-determination-from-spain-10427> accessed on 20 March 2015.

⁵⁴ LA Patey State Rules: Oil Companies and Armed Conflict in Sudan *Third World Quarterly*, Vol 28No. 5 (2007) 997.

⁵⁵ *Ibid.*

⁵⁶ *Ibid.*

⁵⁷ *Ibid* at 1001.

⁵⁸ Used in this sense to include the people of Biafra.

6. Conclusion

Under the present Nigerian law, the agitation for self-determination will not succeed as the law does not allow secession. However, from the discourse on other jurisdictions notably South Sudan and Catalonia with some modifications, the following is suggested. Let a peaceful march numbering millions be embarked on periodically by the Easterners to support and show total unison for the right to self-determination. On no instance should the right to self-determination become violent or lead to war as this is not desirable. It is achievable through a referendum by the United Nations evolving new mechanisms as a paradigm shift from its present traditional stand by taking into consideration the history, culture and will of the people.