



AN APPRAISAL OF YORUBA PEOPLE'S QUEST FOR SELF-DETERMINATION WITHIN THE CONTEXTS OF NIGERIA'S CONSTITUTION AND INTERNATIONAL LAW

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Abstract

Self-determination is one of the core ideas in international law it gives people the right to shape their own political future and work towards their economic and social progress. This paper takes a closer look at how this right applies under international law, focusing on the Yoruba Nation's movement in Nigeria. It digs into the legal roots of self-determination, drawing from major international documents like the UN Charter, the International Covenant on Civil and Political Rights (ICCPR), and the African Charter on Human and Peoples' Rights. The study examines the historical, political, and socio-economic forces driving the Yoruba Nation movement and determines whether these circumstances satisfy the external self-determinism criteria or are grounds for secession based on international law. It also interrogates the question of whether notwithstanding outright prohibition of succession under the Nigerian constitutional framework, recourse to these international instruments can provide the needed justification to back the agitation for Yoruba Nation. Through analysis of precedents established outside Nigeria concerning the actual provisions of the constitution and political conditions, it comes out in the paper that there exist tensions between self-determination and territorial integrity. It concludes that although the Yoruba agitation is driven by fundamental disappointment with the manner of governance and allocation of resources in the Nigerian federation, there are only a few legal bases in international laws on the possibility of secession by one part out of unilateralism. The demand for greater autonomy and restructuring can, however, fall within the acceptable limit of internal self-determination, providing a possible way of resolving ethnic grievances in the Nigerian federation.

Keywords: Self-determination, Yoruba Nation, Restructuring, International Law, Nigeria

1.0 INTRODUCTION

Self-determination is a key idea in international law. It means that people have the right to decide how they want to be governed and to shape their own economic, social, and cultural future¹. The

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pursuit of self-determination among the Yoruba tribe is founded on their unique cultural, historical, and political identity as they claim that they have been marginalized in the Nigerian federation. The framing of the agitation regarding law is political in that it has been conceptualized as a basic human right that is endorsed by international and domestic laws. Importantly, when Nigeria adopted the African Charter on Human and Peoples' Rights by domesticating it in his laws (LFRN 2004), it clearly recognized the right to self-determination as part of African legal values². Nigerian courts have recognized this right, as seen in a 2024 ruling by the Oyo State High Court, which declared the Yoruba Nation movement legal under both international and Nigerian law, including the UN Declaration on the Rights of Indigenous Peoples³.

The history of marginalization, unequal resource allocation, unequal recruitment and promotion in federal civil service, military, and other top agencies, as well as unequal state creation for South Western Nigeria (Yoruba Nation), are some of the reasons given for these separatist movements⁴. In addition, insecurity, alleged ethnic cleansing, a lack of leadership, and ideological repercussions that sparked the hopes of groups of people with an inclination for self-government via their shared ethnic religion are some more recent causes. Nigeria is a prime example of a failed state, as seen by the resurgence of armed groups, persistent internal strife, bloodshed, and growing damaging corruption.⁵

In the last few years, the Yoruba nation agitation has gathered greater momentum, due to perceived marginalization, insecurity, and the failures of governance in Nigeria⁶. Advocates argue that the Yoruba people's unique culture, history, and language are enough to qualify them as a 'people' under international law. The group also claims that Nigeria's structural imbalances and ongoing ethnic conflicts have continued to weaken their right to self-determination. Yet the Nigerian Constitution of 1999 does not enshrine the right of any sub-national group to unilaterally secede and while the Nigerian state has continued to repress and arrest secessionist agitators, there has been an upsurge in secessionist agitation by both Indigenous ethnic groups and former dissidents following a deteriorating situation in the country.⁷

¹ P A Ejembi et al, 'Deconstructing the Right to Self-Determination and the Polemics of Secession under International Law: The Case of Nigeria and Cameroon'. *African Journal of International and Comparative Law*, 31(2), (2023) 291-306.

² B A Akinterinwa 'International Law and the Making of a Yoruba Nation: Likely Scenarios of FG's Actions and Reactions'. *This Day Newspaper*, September 20, 2020. Available at <https://www.thisdaylive.com/index.php/2020/09/20/international-law-and-the-making-of-a-yoruba-nation-likely-scenarios-of-fgs-actions-and-reactions> (accessed 20 August 2023)

³ Tribune Online, 'Court declares 'Yoruba Nation' agitation legal. *Tribune Online*. Retrieved from <https://tribuneonlineng.com/court-declares-yoruba-nation-agitation-legal/> (2024, September 17)

⁴ S B Lugard, M Zechariah, & T M Ngufuwan, 'Self-Determination as a Right of the Marginalized in Nigeria: A Mirage or Reality?' *Journal of International Human Rights Law*, 1(1), (2015) 128-158

⁵ J Campbell & R I Rotberg, 'The giant of Africa is failing: Only Nigeria can save itself from state failure—but the United States can help'. *Foreign Affairs* (2021, May 31). <https://www.foreignaffairs.com/articles/africa/2021-05-31/giant-africa-failing>

⁶ U S Osaretin, 'Biafra agitation and politics of imbalance in Nigeria'. *Journal of Civil & Legal Sciences*, 8(2), (2019) 1-5.

⁷ P A Adesanya, 'Quest for Autonomy: Examining Self-Determination and the Resurgence of Separatist Movements in Nigeria'. *Nnamdi Azikiwe Journal of Political Science*, 8(3), (2023) 68-85.



The tension raised between constitutional integrity and international legal norms regarding the Yoruba self-determination movement is a test case of the limits of the black state. This position is buttressed by Alabi in his book titled: *Constitutionalism in Nigeria Politics and Law in an Emerging African Democracy*. He states that, “Nigeria’s history of colonialism and its diverse regions, cultures and religions have created tensions between the North and South”⁸. Significantly, there is very little clarity on whether the movement’s goals are unitarily achievable legally and politically in contemporary Nigeria. Also, of concern is that without a coherent, lawful roadmap, agitations will continue to persist, may heighten instability, and further erode the legitimacy of the struggle. In addition, there remains no internal coherence or leadership to the Yoruba movement, drawing doubts about its potential to act as a single front or to sustain long-term mobilization.

The main question this study tries to answer is whether the right to self-determination, within the constitutional framework, is truly achievable under international law. It focuses on the Yoruba Nation’s struggle and looks at both the legal and political angles within the wider international framework surrounding self-determination. It investigates whether the way self-determination is currently understood in international law supports the Yoruba people's claims. It also examines what the right really means and how it can work in practice, especially in a diverse and heterogenous country like Nigeria. In essence, the paper analyzes the roles of domestic legal structures as well as international responses in shaping the trajectory of such self-determination movements.

2.0 METHODOLOGY

This study employed a qualitative, descriptive and analytical design of legal research using the desk review method. A deep consultation with the literature through the use of such search engines and databases including Google Scholar, JSTOR, Web of Science, Taylor & Francis Online, and other relevant archival and academic resources and materials provided the researchers with a pool of data on such phrases such as “Yoruba Nation”, “Yoruba Nation Agitation”, “Yoruba self-determination”, “Yoruba Nationalism”, “Yoruba separatist groups”, and “Yoruba secession”, among others, that provided a pool of data that were systematically arranged, coded and evaluated using the document analysis method⁹ to reach scholarly albeit tentative conclusions that can be a basis for assessing the viability or otherwise of the Yoruba Nation agitation within the contexts of the Nigerian constitution and international law.

3.0 RESULTS AND DISCUSSIONS

The findings from the data gathered from the materials, documents and journals that were systematically analyzed are presented thematically after review in the remaining part of this paper.

⁸ M O A Alabi, ‘Constitutionalism in Nigeria Politics and Law in an Emerging African Democracy, (John Archers, Ibadan, 2022)

⁹ T Rapley, ‘Doing conversation, discourse and document analysis’ (London: Sage. 2007).



Key Contributing Factors to the Agitation of Yoruba Self-Determination: The key contributing factors to the agitation of Yoruba self-determination are outline below:

- The Union of the Northern and Southern Protectorates in 1914
- The Fulani Herdsmen's Activities and Insecurity in Southwest Nigeria
- Federalism and Political Marginalization's Failure
- Legitimacy Issues Regarding the 1999 Constitution
- Perceived Economic marginalization and inadequate infrastructure development
- Historical Grievances and Failed Political Reforms

Legal and Political Requirements for the Yoruba Nation: This section discusses the legal and political requirements for the Yoruba Nation. The question that needs to be attended to is whether the concept of the Yoruba nation incorporates political and legal factors, based on the principles of international law and Nigeria's constitution?

Legal Enforceability of the Right to Self-Determination in Nigeria:

Global effort to promote and protect rights of humans, dating back to the Universal Declaration of Human Rights (1948), has led to the creation of the African Charter on Human and Peoples' Rights (the Banjul Charter), signed in 1981. This Charter shows Africa's willingness to stand with the rest of the world in supporting a wide range of human rights—spanning political, religious, social, economic, civil, and cultural freedoms. Some of these key rights are also found in the Nigerian Constitution. Chapter IV outlines Fundamental Rights from Sections 33 to 46¹⁰. These rights include the right to life, dignity, personal freedom, a fair trial, and the freedom to gather and associate peacefully. They also cover freedom of thought, conscience, and religion; freedom of speech and the press; the right to privacy and family life; freedom of movement; protection from discrimination; the right to own property anywhere in Nigeria; and protection from having one's property taken by force. (**Source:** 1999 Constitution of the Federal Republic of Nigeria; Amended)

The Yoruba People's quest for an Independent Nation and its constitutionality: The 1999 Constitution lays forth the people's rights, responsibilities, and privileges, and it must always be upheld¹¹. The 1999 Constitution remains the foundation of Nigeria's democracy, where the rule of law is upheld. This was confirmed by the Supreme Court in the case of *Attorney General of the Federation v. Abubakar*¹². Although neither secession nor self-determination were specifically addressed in the preamble to the Nigerian Constitution, the contextual interpretation according to session 2(1) implies that any conflict that threatens the territorial integrity of the nation and tends to lead to the breakaway of any region is unlawful.

¹⁰ J O D Akande, 'The Constitution of the Federal Republic of Nigeria 1999'. MIJ Professional Publishers (2000). .

¹¹ O V Ikpeze, 'Constitutionalism and development in Nigeria: The 1999 constitution and role of lawyers'. *Nnamdi Azikiwe University Journal of International Law and Jurisprudence*, 1, (2010). 227-241.

¹² Federal Weekly Law Report, '*Attorney General of the Federation v. Abubakar*', FWLR (Pt.167), (2003) p.70



The study finds that the Nigerian Constitution does not support self-determination, as allowing it in any part of the country is seen as a risk to nation peaceful coexistence, and stability. (Section 2(3) CFRN 1999).

Legal Framework of Self-Determination: Although the Nigerian Constitution did not strongly integrate the concept of nation or group self-determination, it did not however out-rightly condemn it. The following international instruments to which Nigeria subscribes provide the legal rights and frameworks for self-determination:

1. The ICCPR, or International Covenant on Economic, Social, and Cultural Rights
2. Articles 1(2) and 55 of the United Nations Charter (Ofuatey-Kodjoe, 1977)
3. The Resolutions 1514 (XV) and 1514 (XV) of the United Nations General Assembly (United Nations, 1950)
4. Article I of UNTS 3.5 and the 1966 International Covenants
5. The Friendly Relations Declaration of 1970.
6. The 1975 Final Act of the Conference on Security and Cooperation in Europe (the Helsinki Declaration) and the 1976 Universal Declaration on the Rights of Peoples (the Algeria Declaration).
7. The Supreme Court of Canada's advisory opinion¹³, which is not binding on Nigerian courts, but which self-determination agitators do call in aid of their case, the two countries being federations and members of the Commonwealth with legal system greatly influenced by the English common law system.

The Nigerian Constitution and Self-Determination Nigeria is governed by laws enacted by the National Assembly, and the legitimacy of those laws comes from the Constitution. In the case of *Tribunal v. Okorafor*¹⁴, the issue of offences was addressed as below:

The Nigerian Constitution is founded on the principle of the rule of law, which means that everything whether by citizens or the government must be done according to legal procedures. It also means the government must operate within set norms and values that restrict the misuse of power or personal discretion.

It should be mentioned that neither the 1999 Constitution nor the earlier ones had any clauses on secession or self-determination. The necessity for all Nigerians to coexist as a single, cohesive nation with a single political identity was underscored in the preamble to the constitution. To truly support the freedom of the oppressed and formerly colonized people, international treaties on self-determination need to be viewed through the lens of colonial history. They are not required to give the colonized and oppressed power to compromise the territorial integrity of sovereign nations. Independence from colonial regulations is the only definition of self-determination. The African Charter states:

¹³ J Crawford, 'State practice in international law: Quebec and lessons learned'. Kluwer law internal the Hague (2010) pp. 31-32.

¹⁴ *Tribunal v. Okorafor* 18 NWLR (pt. 745) (2001) 310 to 327.



*Everyone has the right to live and to self-determination, which cannot be denied. People are free to choose their own leadership, shape their political future, and work toward their economic and social development*¹⁵

Nigeria applies the principle of *Utī Possidetis* in international law, which basically means that existing land and territorial ownership stay with whoever already controls it. However, Nigeria can still pursue internal self-determination, which involves using democratic processes to improve the existing system from within. Though, efforts toward external self-determination, like breaking away, are generally frowned upon by the international community.

International Law, Right to Self-determination: The right to self-determination is one of the core values at the heart of the United Nations Charter, and its importance has been reaffirmed over time by numerous legal systems and international decisions. **The right to self-determination is grounded in the UN Charter, which identifies self-governance as one of its main goals.** This right is further supported by two key international agreements—the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social, and Cultural Rights. Both documents recognize self-determination as a central principle, affirming that people, as members of a community, have the right to shape their own affairs.¹⁶ Article 1 of both laws stipulates that, “All peoples have the right of self-determination”. Under that right, they freely determine their political status and freely pursue their economic, social, and cultural development. This broad framework not only emphasizes collective rights but also implies that individual rights are inherently tied to collective self-determination, as people cannot fully exercise their human rights without having the capacity to influence their governance structures. However, a significant limitation arises when examining how this principle is enforced or interpreted within international legal bodies.

It is important to state that notwithstanding the reference to self-determination in the UN Charter, the Human Rights Committee has ruled that Article 1 of the Covenants cannot be enforced under the First Optional Protocol. The reason is that the protocol focuses on individual rights, while Article 1 deals with group or collective rights.¹⁷ Self-determination is strongly connected to the principle of non-intervention, which is another important part of international law. According to Article 2(7) of the UN Charter, no country is allowed to interfere in the internal matters of another. **This principle helps protect nations and their people from foreign influence in the matters of the state.** The UN General Assembly Resolution 2131 (XX) of 1965, known as the Declaration on the Inadmissibility of Intervention in the Domestic Affairs of States, reinforces this principle. It affirms that every nation has the right to decide its own political, economic, social, and cultural path without interference from others. The resolution also

¹⁵ U O Umzurike, ‘The African Charter on human and peoples’ rights’. *American Journal of International Law*, 77(4), (1983) 902-912.

¹⁶ S Joseph, & J Schultz, ‘The International Covenant on Civil and Political Rights’ (2003) Cases,

¹⁷ S Detrick, ‘A Commentary on the United Nations Convention on the Rights of the Child’. (2023) Brill.



stresses that all states must respect the right of people and nations to self-determination and independence, free from external influence or pressure.¹⁸

This resolution firmly establishes the principle of non-intervention in international law, making it clear that self-determination isn't just a right but also a responsibility. States are expected to respect the independence and autonomy of other peoples. This principle becomes especially important in cases where groups within a country are pushing for autonomy. The international community usually opposes outside support or interference in these movements, as it could violate a country's territorial integrity and political sovereignty. At the same time, non-intervention does not mean the absence of responsibility. States are expected to support self-determination when it aligns with international law, particularly in cases of decolonization or situations of severe oppression.¹⁹ In essence, countries must respect the peoples' right and avoid interfering in how other states handle this right. This principle also applies to those seeking self-determination; outside interference in another country's affairs is not allowed.

The International Court of Justice (ICJ) has also acknowledged self-determination as an *erga omnes* responsibility, which means that all nations owe a duty to the global community. This endorses the peoples' right to self-determination as being paramount, like the prohibitions against slavery, genocide, and racial discrimination. As an *erga omnes* duty, it means governments must not only respect this right within their own borders but also support and protect it in other countries.

How Justifiable are the Nigerian Separatist Movements and Secession Agitations under International Human Rights Law?: For clarity, this section will begin with an explanation of the meanings of pertinent and related legal words such as self-determination, secession, separatist, referendum, plebiscite, independence, sovereignty, and recognition. Self-determination is a nation's or country's right to choose whether to be independent of another country and to choose the type of government it prefers.²⁰ Secession is the action of withdrawing from membership in a State (country) or an organization of States to become independent and sovereign.²¹ Separatism is defined as an organised push for separation. A secessionist, often known as a separatist, is a person who advocates for independence on behalf of his nationality. Sovereignty refers to the highest level of administrative authority in an independent state, whereas independence is the freedom of a nation or country to administer all its internal and foreign affairs without interference from any other nation.²²

Only after granting recognition, a notion of international law and diplomacy that denotes a formal acknowledgement of the existence of a new nation or government, does another nation often start working with the newly independent nation or new government²³ (Garner, 2009, p. 1385). Following a contested presidential election, an unlawful change of administration, or a nation's

¹⁸J Rattan, 'Changing Dimensions of Intervention Under International Law: A Critical Analysis'. *SAGE Open*, 9(2), (2019) 2158244019840911.

¹⁹ Ibid

²⁰ A S Hornby, 'A guide to patterns and usage in English'. Oxford University Press. (1995) P. 1066.

²¹ Ibid p.1060.

²² B A Garner, 'Black's law dictionary 9th edition. St Paul Minnesota': West Publishing Co. p. 838, (2009) p. 1524.

²³ Ibid p.1385



independence, which can occasionally be normal or unilateral, recognition may occur. In contemporary international relations, independence and sovereignty are achieved peacefully by referendum and plebiscite. In a referendum, the people of a nation or a portion of it elects or votes to approve or disapprove of a constitution, a constitutional amendment, the nation's continuous membership, or any other significant public matter²⁴ (Garner, 2009, pp. 1393-1394). The term "plebiscite" refers to a binding or nonbinding referendum.²⁵ The separatists in Nigeria today are calling for a referendum, not a plebiscite. Based on the aforementioned, those who have criticized the secession agitators because no referendum had preceded their agitations are illogical and fallacious; expecting them to have a referendum before the agitation would be doing the opposite.

In contrast to what some people believe, certain Nigerians' agitations for independence are neither unlawful nor treasonous if they are not brutally pursued. The freedoms of expression, assembly, association, and self-determination recognized by all liberal or civilized municipal legal systems as well as international law are exercised in such agitations. Some self-styled Nigerian super-patriots are currently confusing it with treason, coup plans, treasonable crimes, insurrection, subversion, or sedition. On global human rights, all marginalized native people have the right to advocate for dignity and self-determination. Consequently, if government forces respond violently to Nigerian separatist movements, they could face stringent punishment by the ICC, similar to the case of genocide, etc. (United Nations, 1999)."

In reality, the Nigerian Constitution does not allow for separation. Section 2 of the 1999 Constitution clearly opined that 'Nigeria is one indivisible and indissoluble sovereign state, known as the Federal Republic of Nigeria.' The Supreme Court reinforced this stance in the 2007 case of *Dokubo-Asari v. Federal Republic of Nigeria*" (2007), where the ruling that Nigeria is indivisible was made. Nigeria follows the dualist theory of international law, which means that international human rights treaties—like those supporting self-determination—don't automatically apply in the country, even if Nigeria is a signatory. The doctrine of dualism, not monism, governs Nigeria, therefore even while several international human rights agreements guarantee the right to self-determination, they do not immediately apply or constitute justiciable legislation there. According to monism, there is a single global legal system that includes both local and international law. Monists hold that international law is as much a component of a state's domestic legal system as other legal systems. The monist theory states that a treaty is inherently enforceable in the signing nation and is applicable in England. As a constitution is to a statute, so is international law, and it is the duty of a nation's legislative, executive branch, and court to uphold international law.²⁶ On the other hand, dualism sees international law and local (municipal) law as two separate systems that apply to different issues and people. According to this view, commonly supported by legal positivists, each country decides if, when, and how to adopt international laws into its own legal system.²⁷ The 1999 Nigerian Constitution, section 12, implies that dualism is the theory that

²⁴ Ibid pp. 1393-1394

²⁵ Ibid p.1272

²⁶J E Jeffery et al, 'Analyzing evolutionary patterns in amniote embryonic development'. *Evolution & Development*, 4(4), (2002) 292-302.

²⁷ Ibid



applies in Nigeria. This section states that any treaty between Nigeria and other countries has no legal effect unless it is formally endorsed into law by the National Assembly.

It is said that the self-determination activists, separatists, and secession agitators now occupying Southern Nigeria still have cause for optimism or hope despite the indissoluble and dualistic clauses in the Nigerian Constitution. First, it's interesting to note that the 1999 Nigerian Constitution, which extols the country's indivisible and indissoluble nature, nonetheless guarantees the freedom of organization and expression. More significantly, human rights treaties that guarantee the right to self-determination in the global system are explicitly recognized by the Nigerian Constitution and laws. Through adoption, accession, ratification, or domestication, a nation can join or become a party to such treaties or international conventions.²⁸

By the Nigerian Constitution (section 12), international treaties only become part of Nigerian law when the National Assembly has passed the bill into law. The Federal Government has ratified and domesticated several international human rights agreements that support the right to self-determination. Some of the most important ones are the Universal Declaration of Human Rights (1948), the African Charter on Human and Peoples' Rights (1981), the International Covenant on Civil and Political Rights (1966), and the International Covenant on Economic, Social, and Cultural Rights (1966). Under international human rights law, separatist movements in Nigeria can be considered lawful if they are peaceful and based on valid concerns such as marginalization, oppression, or human rights violations. However, these assertions are complicated, and tensions can be raised by the use of violence or official persecution. To handle these agitations, dialogue and peaceful settlement techniques are frequently advised as a more successful strategy.^{29,30}

4.0 CONCLUSION

The Yoruba Nation's push for self-determination shows how complex this right can be in today's multi-ethnic countries. While international law supports people's right to self-determination, it also carefully balances that right with the need to respect a country's sovereignty and territorial integrity. Self-determination in the Yoruba setting is more likely to be explained as an appeal to internal reformation and regional autonomy except the actual independence. It shows how urgent Nigeria must reconsider its Federalism arrangement and provide a more representative government to respect ethnic diversity and regional ambition.

5.0 RECOMMENDATIONS

Based on the findings in this study, the following recommendations can be made:

²⁸ O Dörr, & K Schmalenbach, 'Vienna convention on the law of treaties'. (2018) Springer.

²⁹P A Adesanya, 'Quest for Autonomy: Examining Self-Determination and the Resurgence of Separatist Movements in Nigeria'. *Nnamdi Azikiwe Journal of Political Science*, 8(3), (2023) 68-85.

³⁰J S Ojo, 'Transforming Pacifists into Warmongers? Separatist movement, state repression, and the politics of framing terrorism in Nigeria: evidence from IPOB and Yoruba nation's freedom frontiers'. *Journal of Applied Security Research*, 19(3), (2024) 377-412.



Real federalism is required under which more powers and resources are transferred to the states or regions that will enable them to have more control locally over their economic and cultural lives. Long-standing complaints connected to marginalization, insecurity and economic inequality should be handled by government institutions in the form of specific development and social justice programs. Nigeria ought to fulfil its obligations as it subscribes to in international human rights instruments by ensuring freedom of expression and free assembly among groups that advocate peaceful self-determination. Lastly, the country should work out ways through which the demands of autonomy by the internal people are handled effectively and constructively, with the consideration that internal self-determination, when successfully carried out, can be a stabilizing factor within the pluralist societies.