



## THE YORUBA PEOPLE'S QUEST FOR SELF-DETERMINATION WITHIN THE NIGERIAN CONSTITUTION

By

Oluwaseye Oluwayomi Ikubanni\*

&

Prof. Mojeed Olujinmi A. Alabi\*\*

### Abstract

*The demand for self-determination is not a recent phenomenon in Nigeria. There have been cacophonies of secession from Nigeria before the independence but there has been much more since independence. Different tribes constituting present-day Nigeria had at one point or the other agitated and attempted to exercise their right to self-determination but the agitation of the Yoruba people remains one of the most pronounced in recent times. However, the Nigerian government has always adopted a reprisal approach to quelling these agitations. The support for this approach, according to the government is that the right to self-determination challenges the territorial integrity of the country, hence unconstitutional. This paper examined the historical contexts and factors underpinning the quest of the Yoruba people for self-determination in Nigeria. It further examined the constitutionality of the right to self-determination under the 1999 Constitution. Through the adoption of a qualitative research methodology using a doctrinal method of legal research, the paper found that the 1914 amalgamation of the Southern and Northern protectorates, the insecurity challenges in the Southwest, the perceived political and economic marginalization of the Yoruba people, and the legitimacy questions surrounding the 1999 Constitution amongst others are the factors underpinning the agitation for self-determination of the Yoruba people. The paper found further that the right to self-determination is unconstitutional in Nigeria. The paper, therefore, recommended appropriate solutions to the incessant struggle for self-determination of the Yoruba people.*

**Keywords:** Self-determination; Secession; Territorial Integrity; Yoruba people; Amalgamation of Southern and Northern protectorates

## 1. Introduction

In international law, the right to self-determination remains arguably one of the most controversial concepts due to the ambiguity in its content, nature, meaning, and scope especially since the end of colonialism<sup>1</sup>. The question of whether the right to self-determination applies in post-colonial states remains the centre focus of these debates<sup>2</sup>. Self-determination has been ascribed by scholars to the American and French revolutions around the 18<sup>th</sup> century as a principle that ensures democratic participation inside newly formed political institutions<sup>3</sup>. However, it was first invoked in the 19<sup>th</sup> century as a democratic principle but not a legal right<sup>4</sup>. The aftermath of the First World War saw the adoption of self-determination as a foundational idea utilized to form new states from the ruins of the Austria-Hungarian and Ottoman Empires<sup>5</sup>.

In the 20<sup>th</sup> century, Woodrow Wilson and Vladimir Lenin championed the advocacy for self-determination. While Lenin conceived the idea as a violent means by which people may liberate themselves from an oppressive government, Wilson viewed it as only achievable through a democratic process<sup>6</sup>. The recognition of self-determination as a human right began with the incorporation of the concept in international instruments such as the United Nations Charter, of 1945, the International Covenant on Civil and Political Rights of 1966, the International Covenant on Economic, Social and Cultural Rights of 1966, the African Charter of Human and Peoples' Rights of 1981, the United Nations Declaration on the Granting of Independence to Colonial Countries and Peoples, 1960, and the Declaration of Principles of International Law concerning Friendly Relations and

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Lecturer I, Joseph Ayo Babalola University, Ikeji-Arakeji,, E-mail: [ooikubanni@jabu.edu.ng](mailto:ooikubanni@jabu.edu.ng) Tel: +2348107295253

Dual Faculty Professor in Political Science and Department of Public and International Law, College of Law, Ifetedo Campus, Osun State University, E-mail: [mojeed62@yahoo.co.uk](mailto:mojeed62@yahoo.co.uk); Tel: +2348121432670

<sup>1</sup> JD Van der Vyer, 'The Right to Self-determination and Its Enforcement' *International Law Students' Association Journal of International and Comparative Law* [2004] 10 (421) 422; Hurst Hannum, *Autonomy, Sovereignty, and Self-Determination: The Accommodation of Conflicting Rights* (2nd ed University of Pennsylvania Press, 1990) 27; JA Colliin, 'Self-Determination in International Law: The Palestinians' Case' *Western Reserve Journal of International Law* [1980] 12 (10) 138; J Summers, *Peoples and International Law* (2nd ed, Nijhoff, 2014) 39

<sup>2</sup> DZ Cass, 'Rethinking Self-Determination: A Critical Analysis of Current International Law Theories' *Syracuse Journal of International Law and Commerce* [1992] 18(1) 22.

<sup>3</sup> TM Franck, 'The Emerging Right to Democratic Governance' *American Journal of International Law* [1992] 82(1) 46-91

<sup>4</sup> M Batistich, 'The Right to Self-Determination and International Law' *Auckland University Law Review* [1995] 7(4) 1015; N Jones, 'Self-Determination and the Right of Peoples to Participate in International Law-Making' *British Yearbook of International Law* [2021] 1-33, 7

<sup>5</sup> D Kumbaro, 'The Kosovo Crisis in an International Law Perspective: Self-Determination, Territorial Integrity, and NATO Intervention' A Final Report for North Atlantic Treaty Organisation, Office of Information and Press, [2001] 8. Available at <https://www.nato.int/acad/fellow/99-01/kumbaro.pdf> [accessed 19<sup>th</sup> August, 2022]

<sup>6</sup> Milena Sterio, 'On the Right to External Self-Determination: "Selfish," Secession and Great Powers' Rule' *Minnesota Journal of International Law* [2009] 9; D Lino, 'The Politics of Inclusion: The Right to Self-determination, Statutory Bills of Rights and Indigenous Peoples' *Melbourne University Law Review* [2010] 34(3) 839-845.

Co-operation Among States of 1970<sup>7</sup>. It is imperative to state that self-determination has metamorphosed from a mere political principle to a right today.

According to Dakar, self-determination does not have a generally acceptable Definition<sup>8</sup>. However, an arguably acceptable definition could suggest the right of a people to determine their destiny and the legal right of a particular ethnic or indigenous people to choose their purpose under international order.<sup>9</sup> It usually confers on the people to freely determine their own political, social, and economic destiny without any external influence.<sup>10</sup> Similar to self-determination, the concept of secession is ambiguous, although scholars generally agree that it refers to the removal of a people and their homeland from the authority of a duly established state<sup>11</sup>. Though violent free secession from within an African state is indeed uncommon, numerous African states have faced repeated calls for independence from various factions within their states including Nigeria<sup>12</sup>.

Though there have been several ethnic struggles for self-determination in Nigeria, the Yoruba people's struggles remain the loudest in recent times. However, the government of Nigeria has taken the reprisal approach to quench this agitation on the basis that the right to self-determination is unconstitutional. This paper therefore seeks to examine the right of self-determination of the Yoruba people within the context of the Nigerian Constitution.

## **2. Historical Contexts of the Agitations of the Yoruba People for Self-Determination**

The struggle for self-determination in Nigeria is not a recent phenomenon<sup>13</sup>. It is a response to the colonial trajectory of the country. Most of the many ethnic groups that make up modern-day Nigeria had their independence as autonomous entities free from outside interference before colonialism<sup>14</sup>. Before colonialism, there was

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<sup>7</sup> NA Iguh and ME Alita, 'Critical Examination of the Concept of Right in Right to Self-Determination Under International Law' *Law and Social Justice Review* [2022] 3(3) 43-49;

<sup>8</sup> D.C. J. Dakas, 'The Right to Self-Determination and the Spectre of Balkanization Post-Colonial African States: The Challenges of Nationhood and Imperative of Good Governance in Nigeria (Nigerian Bar Association, Jos Branch, Annual Law Week held at Crest Hotel & Garden, Jos, November 25-27, 2009) 2

<sup>9</sup> R Emerson, 'Self-Determination' *American Journal of International Law* [2017] 65(3) 459-475; R Medina, 'The Right to Self-Determination as a Strategy to Dispute the Legal Field' *Utopia Y Praxis Latinoamericana* [2020] 25(3) 74; Y Olomjobi, 'The Existing Cause of Biafrexit and Its Right to Self-Determination' *African Human Rights Journal* [2016] 1, 111-113

<sup>10</sup> N Berman, 'Sovereignty in Abeyance: Self-Determination and International Law in M Koskenniemi (ed), *International Law* [1992] 389, 390

<sup>11</sup> Pavkovic Aleksandar, 'Secession: A Much-Contested Concept' Politics: Causes, Outcomes and Resolution' (1st edn, Damian Kingsbury & Coostas Laoutides eds) 13-28 cited in AT Joshua, 'Exploring the Meaning and Scope of Self-Determination under International Law: A Case Study of Separatist Agitations in Nigeria' *Cavendish University Law Journal* [2023] 3, 11-25, 3-4

<sup>12</sup> AC Ekeke & N Lubusi, 'Secession in Africa: An African Union Dilemma' *African Security Review* [2020] 28(3-4) 245-260

<sup>13</sup> NH Nwefuru, 'Ethnic Separatist Agitation: Implication for Political Stability in Nigeria' *African Journal of Politics and Administrative Studies* [2010] 5(1) 60-72, 63

<sup>14</sup> O Olasupo, IO Oladeji & EOC. Ijeoma, 'Nationalism and Nationalist Agitation in Africa: The Nigerian Trajectory' *The Review of Black Political Economy* [2017] 44 262-283; Jack Pain, 'Ethnic

no Nigeria. Rather, all the ethnic groups that exist in Nigeria today were autonomous groups exercising full control over their natural resources without any external influence<sup>15</sup>. Before the British arrived, strong kingdoms like the Oyo Empire, the Sokoto Caliphate, the Benin Kingdom, and others nominally reigned over their neighbours and other farther-flung populations, but these kingdoms or nations were never unified under a single authority<sup>16</sup>. Before the British arrived, Mayowa claims that the 1952–1953 census verified that there were 200 ethnic groups in what was then Nigeria, most of which had unique languages, customs, and traditions<sup>17</sup>.

The way these countries and kingdoms operated was changed by the arrival of colonisation. Between 1885 and 1914, the British seized these lands to build her colonial possessions, which would later become Nigeria. However, certain independent communities were not subjugated and added to the protectorate until the early 1900s<sup>18</sup>. Without their permission, these nations were combined to form the Nigerian state, regardless of their willingness to do so or not<sup>19</sup>. The British attempt to usurp these ethnic autonomous groups' autonomy was met with resistance. The British invasion of the autonomy of these ethnic independent tribes was met with resistance. One example of this kind of resistance was the Oba Dosumu's objection to the British cession of Lagos. The start of colonialism was the force used to get Oba Dosumu to sign the Treaty of Cession in 1861<sup>20</sup>.

The British had already conquered the oil protectorate, which is modern-day Southern Nigeria, by 1885. The British colonialists had already conquered the Northern protectorate by 1900, and the Royal Niger Company had a significant

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Violence in Africa: Destructive Legacies of Pre-Colonial States' *International Organisation* [2019] 73(3) 645-683

<sup>15</sup> I Sagay, 'Nigeria: Federalism, the Constitution and Resource Control' [2008] 1. Available at [http://unpub.wpb.tam.us.siteprotect.com/var/m\\_f/fa/fa2/22697/235469-nigeria\\_federalism\\_.pdf](http://unpub.wpb.tam.us.siteprotect.com/var/m_f/fa/fa2/22697/235469-nigeria_federalism_.pdf) [Accessed 1st May 2023]; M Odum, 'Agitations for Separation and Non-Negotiability of Nigeria's Unity: Bottling the Bomb?' Available at [https://www.africaportal.org/documents/18414/Agitations\\_for\\_separation\\_and\\_non\\_negotiability.pdf](https://www.africaportal.org/documents/18414/Agitations_for_separation_and_non_negotiability.pdf) [Accessed 1st May 2023]; Anthony Aladekomo, 'Nigerian Separatist Movements, Growing Secession Agitations and the Stand of International Human Rights Law' [2021] 1-59, 3. Available at [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3869141](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3869141) [Accessed 22<sup>nd</sup> July 2023]

<sup>16</sup> IA Ayua and DCJ Dakas, 'Federal Republic of Nigeria' in J Kincaid and GA Tarr (eds). *'Constitutional Origins, Structure, and Change in Federal Countries'* (McGill-Queen's University Press, Montreal & Kingston, 2005) 248.

<sup>17</sup> Abayomi-Alli Mayowa, 'Pre-Colonial Nigeria and the European's Fallacy' *Review of History and Political Science* [2014] 2(2) 17-27; MG Kaladharan Nayar, 'Self-Determination Beyond the Colonial Context: Biafra in Retrospect' *Texas International Law Journal* [1975] 325-326

<sup>18</sup> OW Igwe, A Bereprebofa & O Anthony 'The Right to Self-Determination Under Contemporary International Law: The Case of Minority Groups in Nigeria' *International Journal of Innovative Legal and Political Studies* [2020] 8(1) 57-70

<sup>19</sup> M Odum, 'The Nigerian State and the Politicisation of Population Census: Implications for Socio-Economic Development' *Journal of International Politics and Development* [2016] 14(1 and 2) 41-58; M Odum, 'Partisan Politics and National Integration in Nigeria: Rethinking Nigeria's Unity in Diversity' In A Okolie, S Ibrahim, and H Saliu (Eds.), *Governance, Economy and National Security in Nigeria* (Enugu: Nigerian Political Science Association [2016] 110-125.

<sup>20</sup> OW Igwe, A Bereprebofa & O Anthony (19) 59-60

impact on the British takeover of Eastern Nigeria<sup>21</sup>. The Southern Protectorate, the Northern Protectorate, and the Colony of Lagos were all created as a result of British conquests; however, Sir Walter Egerton later combined the Colony of Lagos with the Southern Protectorate in 1906<sup>22</sup>. In 1914, the British sought administrative convenience and combined the protectorates of the North and the South, disregarding the cultural, linguistic, and religious differences between the constituent populations<sup>23</sup>. Then, with Flora Shaw's suggestion<sup>24</sup>, Frederick Lugard combined the name "*Niger Area*" to create Nigeria<sup>25</sup>. In his remarks regarding the merger, Ikelegbe<sup>26</sup> claimed that it completely altered the image of the Nigerian state. He opined that:

the amalgamation of the Northern and Southern protectorates in 1914 marked the turning point in the evolution of the Nigerian state. Nigeria as a political entity was created that year. The result was not to have a new territory per se but for economic exploitation.

Scholars have hypothesised that the several movements for self-determination in Nigeria were created as a result of these countries' coerced union to create the Nigerian state<sup>27</sup>. This helps to explain why Obafemi Awolowo claimed in 1947 that Nigeria was a British invention. The leading Yoruba leader at the time, Obafemi Awolowo, declared in 1947 that:

Nigeria is not a nation. It is a mere geographical expression. There are no 'Nigerians' in the same sense as there are 'English' or 'Welsh' or 'French'. The word 'Nigeria' is merely a distinctive appellation to distinguish those who live within the boundaries of Nigeria from those who do not.<sup>28</sup>

When discussing the union of the Southern and Northern Protectorates, Sir Abubakar Tafawa Balewa, the then-prime minister who led the Federal Government both before and after independence, said on multiple occasions both before and after

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<sup>21</sup> P Eric, 'The Amalgamation of Nigeria: Revisiting 1914 and the Centenary Celebrations' *Canadian Social Sciences* [2016] 12(12) 66-68.

<sup>22</sup> Ibid, 66

<sup>23</sup> Fredrick Forsyth, "The Biafra Story" (Penguin Books, 1969) 13; Sir F. D. Lugard, 'Nigeria: Amalgamation of Northern and Southern Nigeria, and Administration, 1912-1919' (Colonial Office, Africa (West) No. 1070, October 1919) 7-8 cited in J.N. Onwubiko, "The Biafra Self-Determination Question: Challenges and Prospects" [2023] 31(1) *African Journal of Comparative and International Law* 125

<sup>24</sup> P Eric (n 22) 66

<sup>25</sup> Lugard Amadin Emokpae, "Self-Determination in Nigeria: Issues and Prospects" *International Journal of Research Publication and Review* (2023) 4(10) 3390-3399

<sup>26</sup> A Ikelegbe, 'Politics and Government: An introductory and Comparative Analysis' (Uri Publishers, Benin-City, Edo State, 1995) cited in P Eric (n 22) 66-68

<sup>27</sup> Lugard Amadin Emokpae (26) 3395; A Abdullahi and AS Odumu, 'Restructuring the Nigerian Federation: Power Sharing and Resource Allocation Perspectives' *Zamfara Journal of Politics and Development* [2021] 2(2) 2; Tekena N. Tamuno, 'Separatist Agitations in Nigeria Since 1914' [1970] 8(4) *Journal of Modern African Studies* [1970] 8(4) 563-584, at 567-568

<sup>28</sup> Obafemi Awolowo, '*Path to Nigerian Freedom*' (Faber and Faber: London, 1947), 47-48 cited in Chukwuemeka Nwubu, 'Ethnic Identity, Political Integration, and National Development: The Igbo Diasporas in Nigeria' *The Journal of Modern African* [1975] 13(3) 399

independence that Nigeria has only existed as a single nation on paper since the union of the Southern and Northern Provinces in 1914. It is still a long way from unification. The Nigerian people do not exhibit any evidence of wanting to join despite the British government's attempts to unite them despite their historical differences in backgrounds, religious beliefs, and customs. This situation led to the creation of political organisations based on ethnic identities such as the Action Congress (AC) with its roots in the West, the Northern People's Congress (NPC) in the North, and the National Council of Nigeria and Cameroons (NCNC) in the East<sup>29</sup>. This ethnic rivalry was reflected in the first election that saw Nnamdi Azikiwe and Ahmadu Bello emerge as Governor and Prime minister respectively which created a bond between the East and the North and later the North and the West<sup>30</sup>.

The attempt to reject every form of nepotism, favouritism, and tribal discrimination led to the coup of January 15 1966 by Chukwuma Kaduna Nzeogwu which occasioned the death of some northern leaders such as Tafawa Balewa, Ahmadu Bello, and a Yoruba leader, S.L. Akintola. In July, 1966, a northern countercoup emerged which killed Aguiyi-Ironsi and installed Yakubu Gowon<sup>31</sup>. The Ibos were devastatingly affected by the counter-coup because over 80, 000 Ibos were brutally killed<sup>32</sup>. However, the Aburi agreement of 1967 quite calmed the crisis but did not take long before Colonel Ojukwu declared the Republic of Biafra which was fiercely rejected by the Gowon-led administration thereby leading to the civil war between July 6, 1967, to January 15 1970 from which thousands of people especially the Ibos lost their lives<sup>33</sup>. Today, the Ibos are still in pursuit of their secession agenda to form the Republic of Biafra because of their perceived marginalization<sup>34</sup>.

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<sup>29</sup> Y Olujobi and T. Abiodun-Oni, 'Human Rights in Crises: A Comparative Study Between the Question of Self-Determination of Biafra and Oduduwa Republics' *International Journal on Minority and Group Rights* [2023] 30(2) 338-362.

<sup>29</sup> EC Ejiogu, 'Book Review: The Nigeria-Biafra War: Genocide and the Politics of Memory Chima J Korieh (eds), *Remembering Biafra: Narrative, History, and Memory of the Nigeria-Biafra War*' *Journal of Asian and African Studies*[2013] 48 387.

<sup>30</sup> Paul Collier, and Anke Hoeffler, 'The Political Economy of Secession' (eds) H. Hannum and E. Babbitt (Lexington Books, 2006) 37-59

<sup>31</sup> T. Falola and M.M. Heaton, *History of Nigeria* (Cambridge University Press, New York, 2008) 172; Adewale Ademoyega, *Why we Struck, Evans Brothers* (Nigeria Publishers Limited, Ibadan, Nigeria, 1981) 151, 157-158, 163, 165, 171, 177, 182-184

<sup>32</sup> CO Omeire, EU Omeire, PC Nwaoma, AB Otunko, and PA Onoh, 'The Biafra Question: A Sociocultural Examination of the Igbo Nation of Southeastern Nigeria' *International Journal of Social Sciences, Humanities and Education* [2017]1(4) 320-328.

<sup>33</sup> R Akresh, S Bhalotra, M Leone, and UO Osili, 'War and Stature: Growing Up during the Nigerian Civil War' *American Economic Review: Papers & Proceedings* [2012] 102(3) 273.

<sup>34</sup> C Otuonye, 'The Fight for Language: An Exploration of the Nigerian State's Response to Protest Groups in Southeastern Nigeria' *Genocide Studies and Prevention: An International Journal* [2019] 13(2) 106-113; CC Ojukwu, and EO Oni, 'Re-Thinking Biafra Ideology of Self-Determination in Nigeria' *Ethnic Studies Review* [2017] 39(40) 98-105

The devastating effect of oil exploration in the Niger Delta region also fueled the agitation of the Ogoni for autonomy<sup>35</sup>. The activities of the Nigerian National Petroleum Company (NNPC) contributed to the underdevelopment and poor economic growth of the region<sup>36</sup>. However, the federal government quelled the agitation by militarizing thereby killing the people brazenly. After this, militant organisations like the Movement for the Emancipation of Niger Delta (MEND), Niger Delta Avengers, and Niger Delta Creek Warriors (NDCW) emerged, sparking a bloody struggle for autonomy, self-government, and control over oil resources and revenues<sup>37</sup>. During this time, the military conducted multiple operations in the Niger Delta to quell militant activity there. These missions, which were dubbed "Operations Salvage," "Operations Hakuri I, II, and III," "Operation Pulo Shield," and "Operation Flush Out," were notorious for not succeeding in their goals<sup>38</sup>. As a result of the region's persistently high rates of poverty, unemployment, environmental degradation, socioeconomic underdevelopment, and demand for self-determination, Adisa observes that the Nigerian armed forces and militant groups continue to pose a threat to security<sup>39</sup>.

With an estimated population of over thirty million, the Yoruba people are one of the largest and most prominent ethnic-linguistic groupings in sub-Saharan Africa. They make up twenty-one percent of the population of modern-day Nigeria. Although Yoruba people are thought to be spread throughout the country, including Kwara, Edo, and even Kogi States, they are primarily concentrated in six states: Ogun, Oyo, Osun, Lagos, Ekiti, and Ondo. These states make up Nigeria's South-Western region, a geopolitical zone<sup>40</sup>. The Yoruba people before amalgamation were autonomous. However, the increased marginalization of the region spurred the quest to return to the autonomous state which led to the formation of the Oduduwa

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<sup>35</sup> B Naanen, 'Oil-Producing Minorities and the Restructuring of Nigerian Federation: The Case of the Ogoni People, *Journal of Commonwealth and Comparative Politics* [1995] 33(1) 66.

<sup>36</sup> AY Bagaji, JO Achegbulu, A Maji, and N Yakubu, 'Explaining the Violent Conflicts in Nigeria's Niger Delta: Is the Rentier State Theory and the Resource-Curse Thesis Relevant?' *Canadian Social Science* [2011] 7(4) 34-43.

<sup>36</sup> J Omotola, 'From the OMPADEC to NDDC: An Assessment of State Responses to Environmental Insecurities in the Niger Delta, Nigeria' *Africa Today*, [2007] 54(1) 73-89

<sup>37</sup> RT Ako, and O. Omiunu, "Amnesty in the Niger Delta: Vertical Movement towards Self-Determination or Lateral Policy Shift" [2013] 1(1) *Journal of Sustainable Development Law and Policy* 87-93.

<sup>37</sup> O.W. Igwe, A. Bereprebofa, and O. Anthony, "The Right to Self Determination under Contemporary International Law: The Case of Minority Groups in Nigeria" [2020] 8(1) *International Journal of Innovative Legal & Political Studies* 59-62

<sup>38</sup> OA Oluyemi, 'The Military Dimension of Niger Delta Crisis and Its Implications on Nigeria's National Security' *International Journal of Social Science Research and Review* [2020] 10(2) 1- 11

<sup>39</sup> OA Oluyemi, 'Suggestible Consequences of Militarizing Self-Determination Movements in Nigeria: A Case Study of Yoruba Separatist Movement' *Journal of Humanities and Social Sciences Studies* [2022] 4(4) 255

<sup>40</sup> FM Ibrahim, 'Everyone Tries to Avoid Responsibility: The Attenuating Role of Financial Obligations in Fertility Change Among Yorùbá farmers of Southwestern Nigeria' *Demographic Research* [2020] 43(26) 750. Available at <https://www.demographic-research.org/volumes/vol43/26/43-26.pdf> [Accessed 17th May 2023]

People's Congress (OPC) in 1994 by Dr. Frederick Fasahun<sup>41</sup> to promote the interest of the Yoruba people and to facilitate its secession from Nigeria<sup>42</sup>. The Yoruba nation, sometimes known as the Oodua Republic, has fought multiple times to secede from Nigeria. However, after Prof. Adebajji Akintoye emerged on August 22, 2019, through the Assembly of All Yoruba Groups Worldwide, as the leader of the Yoruba Nation's self-determination agitators, the movement has garnered substantial coordination, exposure, and recognition in Nigeria. Later on, the group changed its name to Ilana Omo Oodua<sup>43</sup>.

Under the direction of Prof. Adebajji Akintoye, the Ilana Omo Oodua began a serious campaign for Yoruba country self-determination. This effort resulted in the gathering of a new group of individuals, including Chief Sunday Adeyemo, also known as Sunday Igboho. Several rallies were arranged by Sunday Igboho in various southwestern states, including Ogun, Ondo, Osun State, Oyo, Ekiti, and Lagos. On the orders of the federal government, security officials, however, blocked the rally's grand climax in Lagos. The Department of State Security (DSS) then conducted a raid on Sunday Igboho's home in Ibadan on July 1, 2021, which resulted in damage to the property and all of the cars inside, the deaths of two people, and the arrest of over ten more people who were then taken to the DSS headquarters and eventually charged with crimes. Sunday Igboho was detained at the airport in Cotonou, the Republic of Benin, by the Benin government while traveling to Germany. He had been reported missing by the Department of State Security in Nigeria for allegedly hoarding weapons and ammunition. The eventual arrest of Sunday Igboho in the Republic of Benin on the order of the federal government of Nigeria remains a clog to the wheel of the progress of this agitation<sup>44</sup>.

### **3. Factors Underpinning the Quest for Secession of the Yoruba People**

There are several underlying factors responsible for the agitation for self-determination of the Yoruba People. However, the major factors are as follows:

#### **i. The 1914 Amalgamation of the Southern and Northern Protectorates**

The amalgamation of 1914 remains a core factor contributing to the disunity of Nigeria and the quest of different ethnic groups including the Yoruba to secede from Nigeria largely because of the failure of the British to consult and secure the consent of the various ethnic groups constituting the present-day Nigeria on whether or not

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<sup>41</sup> Oyvind Sandve 'Ethnic Militias in Nigeria and their Impact on Democratic Consolidation' a Thesis Submitted for the Award of Master's of International Studies, Faculty of Arts, Stellenbosch University, Stellenbosch, South Africa, 2009, 41

<sup>42</sup> Wale Adebawo, 'The Carpenter's Revolt: Youth, Violence and the Reinvention of Culture in Nigeria' *Journal of Modern African Studies* [2005] 43(3) 339;

<sup>43</sup> Oluseye Ojo, 'Yoruba Self-Determination Struggle Suffers Setback' (The Sun Newspaper, 3 September 2022). Available at <https://sunnewsonline.com/yoruba-self-determination-struggle-suffers-setback/> [May 17<sup>th</sup> 2023]

<sup>44</sup> Oluseye Ojo, "Yoruba Self-Determination Struggle Suffers Setback" (The Sun Newspaper, 3 September 2022). Available at <https://sunnewsonline.com/yoruba-self-determination-struggle-suffers-setback/> [May 17<sup>th</sup> 2023]

they wanted to be merged as a single nation<sup>45</sup>. The various ethnic groups amalgamated by the British were not unique in religion, customs, lifestyle philosophies, colonial staff, land tenure systems, educational policies, and political structures<sup>46</sup>.

The cultural diversity is why Chief Obafemi Awolowo the then premier of the Western region observed that it is wrong to assume and refer to all the ethnic groups as Nigeria because, just as there are distinctions between Germans, Turks, Russians, and English, each group is a nation unto itself. These ethnic groups' shared master does not eliminate their essential distinctions from one another<sup>47</sup>. This account for the reason Awolowo threatened to break away from Nigeria during the Constitutional Conference, which was held in London from July 30 to August 22, 1953, if Lagos was taken out of the Region and made a federal jurisdiction<sup>48</sup>

## ii. **Insecurity and the Activities of the Fulani Herdsmen in the South-West of Nigeria**

The Yoruba people sought self-determination due to several issues, including the purported Fulanization objective of President Muhammadu Buhari's administration and the growing trend of insecurity brought on by the herders from the Fulani tribe and targeted largely on the Southwest region of Nigeria that constitute the states of Ekiti, Ondo, Osun, Lagos, Ogun, and Oyo which are geographically close to one another and share a shared language, culture, and way of life.<sup>49</sup> Based on his perceived fulanization agenda which was demonstrated by the president's nepotism, the Rural Grazing Area (RUGA) policy, the official reaction to the dispute involving Fulani herdsmen and local farmers, the government's double-speak on urgent national issues, and the promotion of national security interests to the detriment of the rule of law—the President Muhammadu Buhari administration was found to have not shown any commitment to national integration<sup>50</sup>.

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<sup>45</sup> JS Ojo, 'Prebendalism, Socio-linguistic, and Ethnic Politics: The Bane of Nigerian Democracy' *International Journal of Politics and Good Governance* (2014) (5.1) 1-23; D Adetoye, and MO Omilusi, 'Ethno-religious Conflicts and Democracy in Nigeria' *Global Journal of Arts Humanities and Social Sciences* (2015) (1) 51-58; MM Duruji, 'Democracy and the challenge of Ethno-nationalism in Nigeria's Fourth Republic: Interrogating Institutional Mechanics' *Journal of Peace, Conflict and Development* [2010] 5 1-2

<sup>46</sup> IA Kanu, 'Philosophy, Self-Determination, Peace and Intercultural Co-Existence in Nigeria: An Igwebuikwe Perspective' *Unizik Journal of Religion and Human Relations* [2022] 14(1) 118

<sup>47</sup> Obafemi Awolowo, *Path to Nigerian Freedom* (Faber and Faber: London, 1947), 47-48

<sup>48</sup> JB Olawale, *Questions and Answers on Advanced Level Government (Constitutions)* (Jola Publishing Company, Ilesa, Nigeria, 1982) 24-25.

<sup>49</sup> JS Ojo, 'Governing "Ungoverned Spaces" in the Foliage of Conspiracy: Toward (Re)Ordering Terrorism, From Boko Haram Insurgency, Fulani Militancy to Banditry in Northern Nigeria' *African Security* [2020] 13(1) 77-110; CO Udeh, HC Edeh, Q Eyikorogha, PN Ekoyo, and UC Obiagu, 'Banditry-herdsmen Activities in Nigeria and National Development' *Covenant University Journal of Politics and International Affairs*, (2021) 9(2) 3732-3752; OM Olubade and AO Ogunnoiki, 'Regional Security Initiative and Security Challenges in Nigeria: The Case of Operation Amotekun' *Covenant University Journal of Politics and International Affairs*(2020) 8(2) 91-92

<sup>50</sup> LA Quadri, 'The Third Coming of the Fulani and Its Security Implications for Southwest Nigeria' *Journal of Multidisciplinary African Studies* [2023] 1(1) 21-38, 28-33; JO Nwachukwu, 'Buhari Government Backing Fulani in Attack on Sunday Igboho' (The Daily Post, July 1, 2021). Available at

The administration of former president, Muhammadu Buhari saw the rise in the deadly attacks on the Yoruba people of the Southwestern region of Nigeria. There were cases of kidnappings and rapes of women on their farms, car hijacking on motor roads, and destruction of farms by cattle of the Fulani herders. One of the instances of kidnapping in the Southwest region of Nigeria was the abduction of Chief Olu Falae, a well-known Yoruba nationalist and presidential candidate, from Ilado Village in Akure, Ondo State by Fulani herders on the 21<sup>st</sup> of September 2015. Several of his subordinates suffered machet cut injuries to varying degrees<sup>51</sup>. He had to pay a five million naira ransom before being freed<sup>52</sup>. Once more, in April 2016, Fulani herders ambushed his farm and murdered Ayodele Ige, his security guard<sup>53</sup>.

The invasion of the Igangan community in the Ibarapa area of Oyo State in May 2021 by suspected Fulani herders leading to the death of eleven people and the destruction of the palace of Asingangan of Igangan town, along with several other properties significantly fueled the Yoruba nation's agitation for self-determination<sup>54</sup>.

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<https://dailypost.ng/2021/07/01/buhari-govt-backing-fulani-herdsmen-in-attack-on-sunday-igboho-huriwa/> (accessed 21 August 2023); B.A. Akinterinwa, 'Islamisation by Manu Militari: Containment by Self-Determination Agitation and Consequences' (2021). Available at <https://www.thisdaylive.com/index.php/2021/03/21/islamo-fulanisation-by-manu-militari-containment-by-self-determination-agitation-and-consequences> (accessed 20 August 2023); S.A. Igbenedion, 'Terrorism, Self-Determination and IPOB' (The Guardian Newspaper, 25 October 2017). Available at <https://guardian.ng/opinion/terrorism-self-determination-and-ipob-part-2/> (accessed 20 August 2023)

<sup>51</sup> Abiodun Badejo, 'How Ex-SGF was Kidnapped on his Birthday' (DailyPost, September 21, 2015) Available at <https://dailypost.ng/2015/09/21/how-ex-sgf-olu-falae-was-kidnapped-on-his-birthday/> (accessed 21 August 2023); Bola Ojuola, 'Olu Falae Kidnapped on 77<sup>th</sup> Birthday' (DailyTrust, September 22, 2015) Available at <https://dailytrust.com/olu-falae-kidnapped-on-77th-birthday/> (accessed 21 August 2023); Josiah Oluwole, 'How I was Kidnapped, Tortured and Released-Olu Falae' (Premium Times, September 28, 2015). Available at <https://www.premiumtimesng.com/news/headlines/190728-how-i-was-abducted-tortured-released-olu-falae.html?tztc=1> (accessed 21 August 2023).

<sup>52</sup> A.C. Ameh, 'Police Did not Rescue me, my Family Paid Ransom for my Release' (DailyPost, September 29, 2015). Available at <https://dailypost.ng/2015/09/29/police-did-not-rescue-me-my-family-paid-ransom-for-my-release-olu-falae/> (accessed 21 August 2023); Josiah Oluwole, 'Ex-minister, Olu Falae Admits Paying Ransom to Kidnappers' (Premium Times, September 28, 2015). Available at <https://www.premiumtimesng.com/news/190726-breaking-ex-minister-olu-falae-admits-paying-ransom-to-kidnappers.html?tztc=1> (accessed 21 August 2023).

<sup>53</sup> Zaccheus Somorin, 'Ondo: OPC may Retaliate Killing of Member by Herdsmen' (THISDAYLIVE, April 11, 2016). Available at <https://www.thisdaylive.com/index.php/2016/04/11/ondo-opc-may-retaliate-killing-of-member-by-herdsmen?amp=1> (accessed 21 August 2023); Josiah Oluwole, 'Fulani Herdsmen Attacks Pushing Nigeria to 'Precipice'' (Premium Times, April 11, 2016). Available at <https://www.premiumtimesng.com/news/top-news/201646-fulani-herdsmen-attacks-pushing-nigeria-precipice-mimiko.html?tztc=1> (accessed 21 August 2023); Bamigbola Gbolagunte, 'Falae: OPC Threatens Reprisal Attack on Fulani Herdsmen' (The Sun, April 11, 2016). Available at <https://sunnewsonline.com/falae-opc-threatens-reprisal-attack-on-fulani-herdsmen/> (accessed 21 August 2023)

<sup>54</sup> Adejumo Kabir, 'Igangan Attack: Police Confirmed 11 People Killed in oyo Community' (Premium Times, June 7, 2021). Available at <https://www.premiumtimesng.com/news/headlines/466053-igangan-attack-police-confirm-11-people-killed-in-oyo-community.html?tztc=1> (accessed 21 August 2023)

In the Southwest of Nigeria, there were also many incidents of violence between Fulani herders and farmers due to the latter's custom of using the farmers' land as a grazing area for their cattle, which consistently resulted in property and human casualties. The Southwest governors opted to control open grazing, with Ekiti State setting the pace, to lessen the tension between farmers and herders, which was one of the security concerns in the region. Despite this strategy, the federal government under Buhari has not been able to address the threat of insecurity in the Southwest region of Nigeria, and as a result, the situation has become more unstable<sup>55</sup>.

The Western Nigeria Security Network (WNSN), also known as "Amotekun," was established on January 9, 2020, to function as the region's indigenous security force, following a resolution made by the six governors of the Southwest and other stakeholders to address the insecurity in the area. While highlighting the significance of Amotekun, former Ekiti State governor Kayode Fayemi says that

Amotekun is not a duplication nor is it a replacement for the Nigeria Police Force. Amotekun is a complement that gives our people the confidence that they are being looked after by the people they elected into office. We do not want this to create fear in the mind of anyone. We are not creating a regional police force. We are not oblivious to the steps we need to follow in forming a State police. We are law-abiding citizens of Nigeria. We know that will require a constitutional amendment and we are not there yet<sup>56</sup>

The unrelenting slaughter of Yorubas by the Fulanis, coupled with the Buhari administration's unwillingness to act decisively to stop this ethnic cleansing, caused grave concern in Southwest Nigeria and ultimately contributed to the calling for the Yoruba nation to declare their own independence<sup>57</sup>.

### iii. Failure of Federalism and Political Marginalisation

Nigeria is governed by a federal structure. However, Nigerian federalism has continuously been implemented in counterproductive ways, raising severe concerns throughout the years<sup>58</sup>. However, Ethnic marginalisation, the concentration of political power in one region of the country, and the unequal distribution of resources are attributed to Nigeria's federalism's failure, which gives rise to

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<sup>55</sup> Taiwo Ojoye, 'Force and Limits of Ekiti State's Anti-Grazing Law' (Punch Newspaper, September 8, 2016); NS Olutegbe and OO Ogungbaro, 'Efficacy of Ekiti State Anti-Grazing Law: Key Stakeholders' Perspectives' *Afrika Focus* [2020] 33(2) 117-136

<sup>56</sup> Rotimi Ojomoyela, 'Amotekun not Regional Police' (Vanguard Newspaper, January 9, 2020). Available at <https://www.vanguardngr.com/2020/01/amotekun-not-regional-police-fayemi/> (accessed August 21, 2023).

<sup>57</sup> BA 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)

<sup>58</sup> Gabriel Tyungu and Godwin Koko, 'Restructuring, Secession and True Federalism: Ethnic Agitations and the Deepening Crises of Nigerian Federalism' *World Journal of Research and Review* [2018] 7(1) 23-27

demands for restructuring and self-determination<sup>59</sup>. The over-centralization of the federal system and the ineffective federal character make Nigerian federalism defective<sup>60</sup>. The Federal Character principle was a fundamental instrument for maintaining Nigeria's unity under the country's federal system and was included in both the 1979 and 1999 constitutions<sup>61</sup>. The federal character idea was ingrained in the 1979 and 1999 Constitutions as a result of the necessity to confront the fear of ethnic dominance and exclusion that has afflicted Nigerian politics. Consequently, the Federal Character principle seeks to prevent one ethnic group from controlling federal institutions and agencies<sup>62</sup>. It aims to guarantee that the institutions of the federal government represent the diversity of the nation<sup>63</sup>.

Tribalism and ethnicity have had a significant impact on how the federal government functions<sup>64</sup>, mostly benefiting the Hausas and Fulanis in the North. In fact, ethnicity has become a crucial component of Nigerian politics, with the general public now aware that when someone is elected or appointed to public office, their favourable appointments are determined by the area or ethnic group they belong to. The Yoruba nation's demand for self-determination intensified as a result of President Muhammadu Buhari's implementation of federalism<sup>65</sup>. There was a great deal of controversy in the southern part of Nigeria following President Buhari's appointment of 47 cabinet members, 35 of whom were from the northern part of the nation<sup>66</sup>. Suberu and Agbaje describe Nigerian federalism as "paradoxes, pathologies and irregularities,<sup>67</sup>" and they attribute the Yoruba nation's movement for independence, various ethno-religious uprisings, and a variety of agitations and undue tension to real or perceived marginalisation, dominance, and intimidation

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<sup>59</sup> NG Obah-Akpowoghaha, 'The Challenge Of Federalism and Its Implications for the Nigerian State' *International Journal of Politics and Good Governance* Quarter III [2017] 8(8.3) 1-24

<sup>60</sup> Dele Babalola, 'The Efficacy of Federalism in Multi-Ethnic State: Nigeria Experience' *The Journal of Pan African Studies* [2015] 8(2) 76

<sup>61</sup> M Dent, 'Ethnicity and Territorial Politics in Nigeria' in G. Smith, (ed.), *Federalism: The Multiethnic Challenge* (London & New York: Longman, 2015) 128-153.

<sup>62</sup> AO Augustine, 'The Crisis of Multi-Ethnic Federations: A Case of Nigeria' *Journal of Political Science and Public Affair* [2019] 7(1) 1-8; T Onimisi, H Ku Samsu, MM Ismail, and MM Mohd Nor, 'Federal Character Principles: A Conceptual Analysis' (*International Journal of Social Science and Humanities Research*, [2018] 6(2) 172-177; CE Okeke, 'Implementation and Enforcement of the Federal Character Principle in Nigeria' *Nnamdi Azikiwe University Journal of International Law and Jurisprudence* [2018] 10(2) 174-185

<sup>63</sup> CO Udeh, HC Edeh, Q Eyikorogha, PN Ekoyo, and UC Obiagu, 'Banditry-herdsmen Activities in Nigeria and National Development' *Covenant University Journal of Politics and International Affairs* [2021] 9(2), 3732-3752.

<sup>64</sup> E Amah, 'Federalism, Nigerian Federal Constitution and the Practice of Federalism: An Appraisal' *Beijing Law Review* [2017] 8 (3) 287-310

<sup>65</sup> OS Ubi, 'The Causes of Political Instability in Nigeria' *African International Journal of Contemporary Research*, [2017] 4(6) 12-23; CE Malachy and FO Nwobi, 'Integration policies as structures of disintegration: The Political Economy of Nationhood and Resource Control in Nigeria' *Journal of African Studies and Development* [2014] 6(8)6(8) 148-155.

<sup>66</sup> OI Eme and MI Okeke, 'Buhari Presidency and Federal Character in Nigeria: A Human Needs Theory Perspective' *International Journal of Philosophy and Social-Psychological Sciences* [2017] 3(1) 74-90, 74

<sup>67</sup> Rotimi Suberu and Adigun Agbaje, 'The Future of Nigeria's Federalism' In Kunle Amuwo (eds), *Federalism and Political Restructuring in Nigeria* (Ibadan: Spectrum, 1998) 335

during the Buhari administration as seen in his political appointments from 2015 to 2021<sup>68</sup>.

#### iv. **Legitimacy Question Surrounding the 1999 Constitution**

The result of military intervention in Nigeria's political sphere is the 1999 Constitution. Out of 120 million Nigerians, just 450 people—mostly politicians—were purportedly involved in the 1999 Constitution's creation, contributing written comments to the Constitution Debate Committee (CDC)<sup>69</sup>. With military additions to the text that the Committee had previously submitted, the 1999 Constitution was enacted<sup>70</sup>. Additionally, on October 1, 2023, Ayo Adebajo stated in an appearance on Arise TV that the military's takeover of power and subsequent amendments to the country's constitution were the root cause of Nigeria's problems. He goes on to say that the military imposed a constitution on Nigeria, which is why there are issues there now. We need to change this constitution to get back to our previous state of affairs. The foundation of all our current problems is the fictitious constitution that the military imposed on us. He contends that Nigeria was not granted independence and that the country now runs under a defective constitution. One of the main things continuing to fuel the demand for the self-determination of the 1999 Constitution is the controversy surrounding its legitimacy.

#### v. **Perceived Economic Marginalisation and Poor Infrastructural Development**

One of the things driving the Yoruba nation's yearning for self-determination is the region's perceived economic marginalisation and inadequate infrastructure development when compared to their northern counterparts in the Southwest. Prof. Banji Akintoye claims that before independence, the Western region was progressive both economically and in the field of education<sup>71</sup>. Nevertheless, the federal government's first action after independence was to destroy the area, leaving the Western region as little more than a shell of its former glory. He claims that the area's federal government highways are in terrible condition, which has an impact

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<sup>68</sup> C. Udeh, OEC Ezenwa and O Ovaga, 'The Lopsided Appointments of Buhari's Administration; Federal Character Principle and National Integration in Nigeria' *International Journal of Innovative Legal & Political Studies* [2023] 11(2) 59-72; PO Okolo, 'Influence of the Federal Character Principle on National Integration in Nigeria' *American International Journal of Contemporary Research* [2014] 4(6)121-138; O Ibeano, N Orji and CK Iwumadi, 'Biafra Separatism: Causes, Consequences and Remedies' Institute for Innovations in *Development* [2016] 1-60

<sup>69</sup> FT Abioye, 'Constitution Making, Legitimacy and Rule of Law: A Comparative Analysis' *The Comparative and International Law Journal of Southern African* [2011] 4491, 59-79, 72; JO Omotola 'Democracy and Constitutionalism in Nigeria under the Fourth Republic, 1999-2007' *Africana* [2008] 2(2) 6; JO Ihonvbere 'How to make an Undemocratic Constitution: The Nigerian Example' [2000] 21(3) *Third World Quarterly* 343-366 at 344; TI Ogowewo 'Why the Judicial Annulment of the Constitution of 1999 is Imperative for the Survival of Nigeria's Democracy' *Journal of African Law* [2000] 44(2) 135

<sup>70</sup> TI Ogowewo 'Why the Judicial Annulment of the Constitution of 1999 is Imperative for the Survival of Nigeria's Democracy' *Journal of African Law* [2000] 44(2) 135.

<sup>71</sup> Banji Akintoye in a Press Statement titled 'Yoruba Nation Self-Determination Struggle: A State of the Nation Address' (October 22, 2022). Available at <https://koikimedia.com/news/f/press-statementyoruba-nation-self-determination-struggle> (accessed August 22, 2023)

on the local economy<sup>72</sup>. He claims that historical instruction is no longer permitted in schools, an attempt to divorce Yoruba youngsters from their heritage and origins.

The head of the Yoruba nation's drive for self-determination also highlighted the devastation of Obafemi Awolowo University, an indigenous institution serving the Yoruba people. He claims there hasn't been enough funding for the organisation. Obafemi Awolowo University in the Southwest received 33 million naira in 2020 as development capital, whilst Ahmadu Bello University in the North received 370 million naira. This indicates that the Southwest values education more than the Northerners do. In addition, he says that the Yoruba people have a strong belief in the idea that maintaining the standard of living for the populace is the fundamental purpose of government. This belief is shared by the Southwest region. It was mostly practiced by the kings before colonialism, and when self-rule in the Southwest began in 1951, Obafemi Awolowo stressed the need for government to maintain the high standard of living that was constantly improving. This led to the creation of free television, excellent highways, water systems in most cities, free education, and so on. But whereas the Southwest as a whole has seen extreme brutality between 1962 and the present, the Yoruba people have lagged.

#### 4. The Constitutionality of the Quest for Secession of the Yoruba People

In Nigeria, the fundamental document that establishes the rights, obligations, and privileges of the people is the 1999 Constitution which must always be respected<sup>73</sup>. In the case of Attorney General of Federation v Abubakar,<sup>74</sup> the apex court posited amongst other things that the 1999 Constitution remains the foundation of the Nigerian democracy where the rule of law is upheld<sup>75</sup>. The contextual interpretation of the preamble to the Nigerian Constitution is suggestive that any struggle that tends to occasion the breakaway of any part of the country challenges the territorial integrity of the country is unconstitutional hence illegal even though neither self-determination nor secession was mentioned therein. The preamble to the 1999 Constitution states that

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

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<sup>72</sup> PDP Knocks Federal Government Over Deplorable Roads in South West (Nigerian Tribune, October 5, 2021); Available at <https://tribuneonline.ng/pdp-knocks-fg-over-deplorable-roads-in-south-west/> (accessed August 22, 2023); Victor Ogunje, 'Protest Rocks Ekiti Over Deplorable Federal Roads' (This Day Newspaper, October 23, 2022). Available at <https://www.thisdaylive.com/index.php/2022/10/23/protest-rocks-ekiti-over-deplorable-federal-roads> (accessed August 22, 2023)

<sup>73</sup> OVC Ikpeze, 'Constitutionalism and Development in Nigeria: The 1999 Constitution and Role of Lawyers' *Nnamdi Azikiwe Journal of International Law and Jurisprudence* [2010] 1, 228

<sup>74</sup> (2007) ALL FWLR (Pt. 37) 1264

<sup>75</sup> Federal Republic of Nigeria v. Ifegwu (2003) FWLR (Pt.167) p.70

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.

The phrase ‘...to live in unity and harmony as one indivisible and indissoluble sovereign nation...’ is a clear indication that self-determination by way of secession is contrary to the spirit of the Constitution because secession is known to alter and divide the country<sup>76</sup>. It challenges the indivisibility and indissolubility status of the country<sup>77</sup>. Admittedly, there are concerns that the Constitution lacks legitimacy because it is a fraudulent document in that there was no time the people of Nigeria came together to agree on the content of the document<sup>78</sup>. However, it remains extant and binding on all persons<sup>79</sup>. Furthermore, the provision of Section 2 sub-section 1 on the indivisibility and indissolubility of Nigeria buttresses the intention of the Constitution to protect the territorial integrity and corporate existence of the country<sup>80</sup>.

The attitude of the federal government of Nigeria towards the quest for either autonomy or secession in the past including the present agitation of the Yoruba people for a Yoruba nation is a clear indication that the demand is considered unconstitutional and illegal. The fierce resistance and militarization of the Ogoni people’s quest for autonomy leading to the killing of Ken Saro-wiwa and others is a testament to this position<sup>81</sup>. Similarly, the demand of the Independent People of Biafra (IPOB) for self-determination was fiercely opposed which led to the Civil War between 30 May 1967 and 15 January 1970<sup>82</sup>. The proponent of the IPOB agitation Nnamdi Kanu was arrested with some of his cohorts extra-judicially killed by the men of the Nigerian Army on the order of the federal government which was

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<sup>76</sup> Vladyslav Lanovoy, ‘Self-determination in International Law: A Democratic Phenomenon or an Abuse of Right’ *Cambridge Journal of International and Comparative Law* [2015] 4(2) 404

<sup>77</sup> S.B. Lugard, M. Zechariah & T.M. Ngufwan, ‘Self-determination as Right of the Marginalized in Nigeria: A Mirage or Reality’ *Journal of International Human Rights Law* [2015] 1(1) 128-158

<sup>78</sup> JO Ihonvbere, ‘How to Make an Undemocratic Constitution: The Nigerian Example’ *Third World Quarterly* [2000] 21(2) 343-366

<sup>79</sup> K.O. Mrabure, ‘The Right to Self-Determination Under International Law: The Current Biafra Struggle’ *Nnamdi Azikiwe University Journal of International Law and Jurisprudence* [2015] 6 66-74.

<sup>80</sup> CE Okeke, ‘Implementation of Self-Determination in Africa through Secession: An Appraisal of the Legal Hurdles’ *African Journal of Criminal Law and Jurisprudence* [2021] 6 175

<sup>81</sup> ST Udogbo, ‘An Exploration of the Ogoni People’s Resistance in Nigeria: A Participatory Action Research Approach’ being a Thesis Submitted for the Degree of Doctor of Philosophy in Sociology, Department of Sociology, National University of Ireland, Maynooth (2021) 1

<sup>82</sup> EW Nafziger, ‘The economic impact of the Nigerian Civil War’ *Journal of Modern African Studies* [1972] 10(2) 223-245.

followed by the proscription of the IPOB as a terrorist organisation<sup>83</sup>. The agitation of the IPOB for self-determination is still ongoing regardless<sup>84</sup>.

It is trite that the Constitution of Nigeria is not expressive concerning the validity or otherwise of the demand for self-determination. However, once the constitution is silent over any issue, the only logical interpretation of such silence is that such an act is not permitted<sup>85</sup>. In the unreported case of Chief Sunday Adeyemo v Attorney General of Federation & 2 Ors.<sup>86</sup>, *the trial court granted the reliefs of the applicant which included his right to self-determination. However, on appeal in the case of Attorney General of Federation & 2 Ors. V. Chief Sunday Adeyemo*,<sup>87</sup> the court ruled that the right to self-determination is against the spirit of the Constitution of Nigeria. Therefore it is unconstitutional and illegal. The Court of Appeal's stance represents the judiciary's current position regarding the constitutional interpretation of the right to self-determination in Nigeria. The stare decisis doctrine serves as the foundation for this<sup>88</sup>.

## 5. Conclusion and Recommendations

The British amalgamation of the Southern and Northern protectorates in 1914 without the consent of the people remains a strong factor responsible for this agitation. The demand for the self-determination of the Yoruba people is the most pronounced agitation in recent times. However, the demand for self-determination is unconstitutional under the present Constitution. It is therefore not surprising that the federal government often adopts a reprisal approach to quelling this agitation. The reprisal approach adopted by the government of Nigeria poses a danger to the unity of Nigeria. The Nigerian government must protect and preserve the lives of its people rather than take them. It, therefore means that appropriate measures and

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<sup>83</sup> C Adonu, 'IPOB Condemns Fresh Invasion of Nnamdi Kanu's Home' (10<sup>th</sup> September 2018). Available at <https://allafrica.com/stories/201809100175.html> [Accessed 15<sup>th</sup> April 2023]; A Sunday and SL Muhammad 'Interrogating Criminal Label and Scourge of Insecurity in Contemporary Nigeria' *KIU Journal of Humanities and Social Sciences* [2021] 7(4) 63-67; CE Chukwudi, DE Gberville, UD Abasilim, and D Imhonopi, 'IPOB Agitations for Self-Determination and the Response of the Federal Government of Nigeria: Implications for Political Stability' *Academic Journal of Interdisciplinary Studies* [2019] 8(3) 179-194; Femi Fani-Kayode, 'Soldiers Invade Nnamdi Kanu' House, Removes his Properties' (*Daily Post Newspaper*, 8 October 2017. Available at <https://dailypost.ng/2017/10/08/soldiers-invade-nnamdi-kanus-house-remove-properties-fani-kayode%E2%80%8E-alleges/> [Accessed 15<sup>th</sup> April 2023]; OI Umuo, 'Soldiers Surround Nnamdi Kanu's Home, Invade NUJ Office' (*Punch Newspaper*, 12 September 2017). Available at <https://punchng.com/tension-as-soldiers-return-to-umuahia-invade-nuj-office/> [Accessed 15<sup>th</sup> April 2023]; IM Abada, PH Omeh, and IR Okoye, 'Separatist Agitation by the Indigenous People of Biafra (IPOB), and National Question in Nigeria' *Journal of Political Science, Public and International Affairs* [2020] 2(1), 9-17

<sup>84</sup> PC Eboh, 'The Right to Self-Determination; the Constitutional Issues in Nigeria: The Case of Indigenous People of Biafra (IPOB) in View' [2017] 13 *Unizik Law Journal* 1-53

<sup>85</sup> *Calder v Bull* 3 U.S. 386 (1798).

<sup>86</sup> Suit number M/345/2021

<sup>87</sup> Suit number CA/IB/373/2021 (Unreported)

<sup>88</sup> DON Agwor and O Igala, 'An X-ray of the Doctrine of Stare Decisis in Nigeria' *International Journal of Business and Law Research* [2022] 10(1) 98-104

approaches must be taken by the government of Nigeria to address the incessant struggle for self-determination.

So far, this study has revealed the complexity of the circumstances necessitating the struggle for self-determination of the Yoruba people in that its justifications are economic, political, social, and historical. Therefore, addressing the self-determination issue in Nigeria also requires a multidimensional approach that involves a combination of economic, political, social, and legal measures. This paper, therefore, makes the following recommendations thus:

1. **Constitutional reforms:** As revealed in this study, the legitimacy question surrounding the constitution of Nigeria remains one of the factors underpinning all the ethnic agitations for self-determination in Nigeria including the Yoruba people. To address the incessant agitation for self-determination in Nigeria, there must be a new constitution for Nigeria with the input of the people for its general acceptance. Thus, the new constitution must make provision for the following:
  - i. Legal recognition of the right to self-determination and the procedural requirement for the exercise of the right to self-determination in Nigeria;
  - ii. Constitutionalising referendum: Self-determination is a collective right of the minority group to determine their own political, cultural, and economic destiny. Referendum remains a principle in international law by which a people may express their desire on their political destiny as seen in the cases of secession of South Sudan, Eritrea, etc. The present constitution of Nigeria does not have any provision for a referendum. The constitutional reform must include recognition of the referendum with guidelines on how same must be conducted to enable the Yoruba people to express their view on their political destiny.
  - iii. The decentralization of federal powers and devolution of more powers to the states. The decentralization may involve the creation of semi-autonomous regions with the power to exercise control over their political, cultural, and economic affairs which encompasses resource management and governance.
2. **Dialogue through Alternative Conflict Resolution Mechanisms:** Dialogue is an essential measure to be adopted in any conflict. There is a crucial need for the government of Nigeria to engage the recognized and people-chosen representative of the Yoruba people in dialogue and negotiations by setting up a neutral reconciliation commission. The involvement of international bodies or persons as neutral third may be necessary to broker peace between the federal government and the region seeking self-determination (in this case the Yoruba people) and come up with peaceful and mutually acceptable solutions. The dialogue and conflict resolution must be done within the framework of the Nigerian constitution and international laws.