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## Self-Determination and Multi-Ethnic Societies in Africa

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### **Abstract**

*For over three decades, there have been intense debates among scholars with regard to the condition or circumstance under which struggle for self-determination by a group of people within the boundary of a sovereign state can be considered just and legitimate. As a result, two schools of thought emerged, each with its own 'reasonable' argument. While a school of thought, say A, argues that a group only has the right to make legitimate claim to right to self-determination if act of injustice has been committed against such group by the majority of the people within the state or the state itself, the second school, B, argues that an act of injustice should not be the prerequisite for struggle towards self-determination. To the second school of thought, a group has the right to self-determination provided it considers itself as culturally, historically, and linguistically distinct from the other groups within the sovereign state. This paper examines these competing, conflicting and opposing claims to determine which of these schools of thought has a genuine and 'reasonable' argument approvable within the established rights. It asks specifically: under what condition can a group have legitimate right to self-determination? This paper, however, supports the position of the school A which argues that the only legitimate way a group can lay claims to the rights to secession is when an act of injustice has been done to such group either by the state or majority of the people within such state.*

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### **INTRODUCTION**

#### **Background**

The rhetoric of self-determination became popularized during the early years within the twentieth century. Historically speaking, the term was first used by Woodrow Wilson, a former American Statesman and 28<sup>th</sup> President of the United States of America during the end of the World War I in 1918, as a solidarity statement in the interests of those countries which were still trapped under the siege of colonialism or colonial influence. In the document popularly known as *Fourteen Points*, Woodrow Wilson made some typical liberal arguments for why the peace needed by the world at the time was dependent on the willingness of great or superpowers such as Great Britain, France, Italians, Germans, Belgians, Portuguese, and Spaniards who still had colonies scattered all over the globe to grant the colonies their inalienable rights to freedom and self-determination. Woodrow Wilson's statement started with the following lines:

‘what we demand in this war, therefore, is nothing peculiar to ourselves. It is that the world be made fit and safe to live in; particularly that it be made safe for every peace-loving nation which, like our own, wishes to live its own life, determine its own institution, be assured of justice and fair dealings by the other peoples of the world as against force and self-aggression’ (Woodrow Wilson, 1918).

This was an appeal to the European countries with colonies to grant their subjects the right to become self-governed. The peace, progress, and security, as well as avoidance of future wars and senseless aggression could become possible if the countries under colonial domination were granted their freedom.

Furthermore, on his last point, he mentioned that ‘a general association of nations must be formed under specific covenants for the purpose of affording mutual political independence and territorial integrity to great and small states alike’ (Woodrow Wilson, 1918). This shows that all nations must be treated equally and should be able to have sovereign control over their boundaries or territories irrespective of sizes, population, or resources. Importantly, every nation under colonial bondage had the right to self-determination or independence.

Wilson’s defense of self-determination therefore had to do with relations between states or countries, and the rights of colonized and oppressed states to become freed. This declaration had more to do with states’ right to self-determination as opposed to group’s right to self-determination. And arguably, majority of the subsequent declarations and resolutions by the United Nations, regional political organizations and institutions, and international legal institutions with regards to freedom, secession, self-determination, and people’s rights, must have been inspired or informed either directly or indirectly by the Wilson’s declaration of 1918.

This statement, however, has been reinterpreted and twisted by pro-self-determination and secessionist activists around the globe, especially within the African continent, to suit their clamour for self-determination. It therefore became, in Africa, at some point from the mid-twentieth century, normal for groups of people to agitate for self-determination. This was seen in the case of the secessionist group in Nigeria called Biafra which laid claims to self-determination using the ideas in the above document as leverage to buttress or validate its positions. Aside the Biafrans, there had been waves of secessionist movements by both minorities and majorities across the continent. While some succeeded in their struggles for self-determination (i.e Eritrea, South Sudan), majority of other have failed. The distinction between those who succeeded and those who failed lies in the authenticity of their claims to rights to secession or self-determination.

These developments (struggle for self-determination) therefore created the impetus amongst scholars to probe the ideal condition under which a group or groups of people within a sovereign state could lay claim to the legitimate right to self-determination. Of equal importance was the consideration of question of ‘exactly who is entitled to claim this right- a group, a people, or a nation- and what exactly the right confers’ (Carley 1997, v/3). In the light of these, two major schools of thought emerged, each armed with theoretical framework to buttress its positions. While one argues that a group would have legitimate claim to self-determination only if an act of injustice is done to its members, the other argues that self-determination is the right of all people especially if they consider themselves different ethnically, culturally, linguistically from the rest of the people within the boundary of a sovereign state. This paper examines these claims to determine which is logical between them, and qualifies to make a genuine claim to self-determination. The paper supports the claim that only when injustice is done to a group would such groups have the legitimate right to push for self-determination, because, as Lea Brilmayer rightly puts it, ‘secession typically represents a remedy for past injustices’ (Brilmayer 1991, 179).

This paper is divided into three sections. The first section presents the various theories of self-determination and secession as put forward by scholars; the second section applies the theories to some African countries such as Nigeria and Ethiopia, to determine which theoretical claim holds in the cases of those countries; and the third section brings together the entire theoretically-backed positions and from there, concludes this paper to a reasonable or logical point.

### **Theories of Secession and Self-Determination**

There are two major theories advanced by the theorists of secession. The first is Remedial Rights Only Theory, while the second is Primary Rights Theories. The Primary Rights, however, has two sub-theories known as Ascriptive and Associative. According to one of the foremost theorists of secession, Allen Buchanan, 'all theories of the right to secede either understand the right as remedial right only or also recognize a primary right to secede' (Buchanan 1997, 34). This section has two goals: first, it will lay out the claims by each of these two theories, and second, it will analyze and scrutinize the claims to determine which claim is legitimate enough to guarantee undisputable right to secede.

The first theory to be examined is the Remedial Rights Only Theory. According to Buchanan, 'Remedial Right Only Theory asserts that a group has a general right to secede if and only if it has suffered certain injustices for which secession is the appropriate remedy of last resort' (Buchanan 1997, 34-35). The stipulation of this theory is starkly clear: any group of people within the boundary of any state or country that craves to secede and be on its own must have some reasonable evidence pointing to the fact that one form of injustice or another has been done to the entire group or a section of such group by the majority of the people in the state. Injustice, as conceived, could take the form of economic marginalization, ethnic cleansing, exclusion from political power or government threshold, and it could even be as a result of forceful or unlawful annexation or occupation of territory which was formerly independent.

What is important following the stipulation of this theory is that some sorts of injustices must have been experienced by the group before such group's grievance could be approvable, and acceptable by the international legal institutions. In the words of Buchanan, not just anything that qualifies for injustice. In his specific terms, injustice is done to a group of people if 'the physical survival of its members is threatened by the state, or it suffers violation of other basic human rights, or its previously sovereign territory was unjustly taken by the state' (Buchanan 1997, 7). These represent the standard and most acceptable forms of injustices which a group agitating for secession or self-determination could lay claim to. The physical survival of the group members could be economic exploitation within the state leading to high youth unemployment, high crime rate, alarming poverty, and even low level or lack of educational infrastructure within the area or community inhabited by the group; unjust treatment and political exclusion of the group can also stand as human right violation by the state. These injustices, coupled with the claims that the sovereign state invaded and annexed their territory against their collective wish, could qualify the group for secession according to this theory.

Furthermore, as demonstrated by Buchanan, an act of injustice is not the only way in which a group within a sovereign state could have a legitimate claim to secession. He argues that there are some exceptional circumstances under which a group could make secession claim and such claim would be recognized by the state and international legal institutions. This is called 'special right'. Buchanan lists such exceptions to include:

'if (1) the state grants the right to secede, if (2) the constitution of the state includes the right to secede, or perhaps if (3) the agreement by which the state was initially created out of previously independent political unit included the implicit and explicit assumption that secession at a later point was permissible', and he concludes that 'if any of these three conditions obtain, we can speak of special right to secede' (Buchanan 1997, 36).

The granting of self-determination to Norway by Sweden in 1905 stands as proof that self-determination through 'special right', that devoids an act of historic injustices, is a possibility. However, one thing that comes out clear from this alternative means of secession by a group is that this opportunity cannot be enjoyed on a platter of gold. The state willing to grant the

right to self-determination would scrutinize the economic, socio-cultural and political potentials of the membership of the group to ascertain that the group is able to build strong institutions and sustain itself and members in the newly established state. Another possibility is the fact that this so-called special right to self-determination would involve some levels of lobbying by the group, diplomatic maneuvering, and close interpretation and reinterpretation of the constitution of the sovereign state to determine whether the decision to grant this special right to self-determination is in compliance with all sections of the country's laws. As a result, the achievement of self-determination might take longer than expected, though it will someday!

The point to emphasize is that the special right, just as the right obtained through claim to injustice, will not come as easily and simple as it sounds. Special right, one can argue, is hardly granted by independent states to groups intending to secede from them, especially if most of the economic resources on which the wealth of the sovereign state are found within the territory which the group occupies as in the case with the Biafrans of Nigeria. Hence, the special right does not appear as a better alternative to the rights obtainable through act of injustices.

The Primary Right Only Theories, on the other hand, is the opposite of Remedial Rights Only Theory. With the Primary Right Only Theories, the group aiming for secession does not need to experience any act or form of injustice in the hand of the sovereign state where it exists before it would be qualified to secede. The right to secession is synonymous with what one can call natural right. This comes out explicit in Buchanan's description of this theoretical position, 'Primary Right Theories assert that certain group can have a (general) right to secede in the absence of any injustice. They do not limit legitimate secession to being a means of remedying injustice' (Buchanan 1997, 35). With these, groups can just gather themselves together, and demand a divorce from a sovereign state under whose authority and protection they had been for many years. And according to the logic of these theories, self-determination must be granted by the sovereign state.

As mentioned earlier, there are two categorizations of Primary Right Theories. The Ascriptive Theory (AT) is nonpolitical and emphasizes on the fact that a group has the right to secede from a state provided 'it has a common culture, history, language, and a sense of its own distinctiveness, and perhaps a shared aspiration for constituting its own political unit' and the Associative Group Theories (AGT) which 'assert that there is a right to secede, which is, or is an instance of, the right of political association' (Buchanan 1997, 38-39). With the former, there is emphasis on norms, values and identities which all members of the group must possess, while with the latter, anybody, irrespective of his culture, religion, language, or history, can qualify to be member of the group provided he can swear allegiance and dedication to the cause of the group. Summarily, one can say the former is restrictive, while the latter is open, free, and liberal.

Furthermore, the work of Margalitz and Raz can be described as Ascriptive in character. The Ascriptive Group Theories elements such as common culture, ethnicity, tribal affiliation, shared historical experience, common language, identical way of life, similar flair for the arts, music, cuisine, dressing and other values that bind a group of people together or give them a common sense of belonging run through their work (Margalitz & Raz 1990, 443-447). And to drive home their position that a culturally-binded group has the right to self-determination as demonstrated in their description of a qualifying group, they maintained thus:

'the defining properties of the group we identified are of two kinds.  
On the one hand, they pick out groups with pervasive cultures;  
on the other, they focus on groups, membership of which is important

to one's self-identity. This combination makes such groups suitable candidates for self-rule' (Margalitz & Raz 1990, 448).

Generally, to the scholars who believe in the Ascriptive Group Theories, cultural and historical homogeneity of a group is enough to grant it access to lay claim to legitimate right to secession or self-determination.

In the same vein, the Associative Group theorists have further elaborated on their position on right to self-determination by a group. In Christopher Wellman's article, he emphasized that 'any group may secede as long as its and its remainder state are large, wealthy, cohesive and geographically contiguous enough to form a government that effectively performs the functions necessary to create a secure political environment' (Wellman 1995, 162). Wellman is one of the leading proponents of this idea. What Wellman's position points towards is that any group of people that has the resources and deems itself fit to be able to survive financially, and economically, as well as build strong political and legal institutions that can rival, or perhaps, surpass those existing within the current state where it finds itself can qualify to secede at will. This is what one can call 'free right' to self-determination! The membership of such group under the AGT goes beyond historical, ethnic, or cultural ties. It has more to do with members' dedication to the group's principles.

Therefore description and analysis of the competing theories and their claims reveal some obvious realities concerning the strengths and weaknesses of these theories. The various claims by the Primary Rights Theories are capable of creating more problems than they can resolve. A unilateral right to self-determination, without an act of injustice, as claimed by the Primary Rights is almost unrealistic, or to say the worst, utopia. To take, for example, the Ascriptive Group Theories, one is quick to realize that a claim based on cultural, ethnic affiliation, or common historical experience is not sufficient to qualify a group to have the right to self-determination. The emphasis on cultural homogeneity would be strengthened if the group could lay additional claim to territory (unjustly annexed by the state) or any other forms of injustices as mentioned by Buchanan.

One must, of course, take into account that the group that is planning to secede is expected to have a territory or an area where its members would occupy after being granted the right to self-determination. If a group is granted the right to secede based on cultural or ethnic distinctiveness, where would it settle its people or citizens? If they could claim to be culturally, linguistically, and ethnically distinct from the majority of the other groups within the state, then when granted the right to secede, they are not entitled to live or be found within the boundary of the state they had denounced or rejected. If they are found within the territory of the state they had denounced, this would constitute an infringement on the state's territorial integrity or right, and might give the state the impetus to use military force to drive the group away. If the claim to territorial reoccupation is not important, would the culturally homogenous group emigrate out of the state instead to found their own state in a distant sphere? Should this be the case, then it is not regarded as self-determination or secession.

However, if their cultural homogenous and ethnically distinctive claim for right to secede is aligned with territorial claim which is rooted at the heart of injustices, then the group would have a good cause to self-determination as its case is strengthened. As Brilmayer argues below:

'secessionists must somehow establish a claim to the territory on which they would found their new state. Such claims to territory do not flow automatically from ethnic distinctiveness. Groups that are ethnically distinct but possess no individual territorial claims, have very poor chances of convincing anyone of their right to secede' (Brilmayer 1991, 188).

To further paint another scenario: assume that a couple has been living together in a house for many years. The house where they live, the cars they own, and other properties featuring in the house were bought by the husband. One morning, the wife, madam S, wakes up and decides to leave the husband, perhaps, because she no longer feels any love or affection for him. If the husband, Mr X, decides to grant her wish by letting her go based on her determination to be self-dependent, is madam S still expected to exist within the territory of Mr X? The answer definitely is negative (NO). But if madam S had contributed towards the building of the house, acquisition of the automobiles, and she has proof to show at a competent court of law, she would equally have the right, just as Mr X, to claim ownership of the property. As a result, she is also a stakeholder with respect to property ownership.

This scenario explains the challenges that the Ascriptive Group Rights would generate for the group claiming right to secede under this principle. Hence, if the group based its rights to self-determination on cultural homogeneity, such group would lack the right to remain within the boundary of the state that grants it self-determination. If the group decided to stay within the state after denouncing affiliation with it, the sovereign state would have the legitimate right to fight the group out of its territory with its military power. The point being made here is that cultural claim alone would not suffice to grant a group access to secession, unless it is backed by claims of some forms of injustices, especially territorial.

Additionally, the Associative Group Theories also have their own alarming defects. As Wellman indicated above, *any* group of people that have the financial resources and equal political ideology has the right to Self-determination. This is problematic as it would grant a leeway to groups to have rights to multiple secession. The end result would be a total collapse of the sovereign state. As Mueller clearly points out:

‘ascribing a right to self-determination, or even secession to all groups which would qualify as nations’, would generate enormous problems, because, ‘each independence struggle is likely to imply issues such as disputes over territory or economic resources, and minority protection and respect for human rights in the new state’ (Mueller 2012, 296).

Mueller is not only against the position of Associative Group ideas, but also supports the claim that self-determination struggle must be backed by territorial claims, and other forms of injustices such as economic exploitation. The stand by Wellman has also been criticized by Buchanan. In his description, ‘a theory such as Wellman’s, if used as a guide for international legal reform, would run directly contrary to what many view as the most promising response to the problems that can result in secessionist conflicts’ (Buchanan 1997, 53). Wellman’s response to this critique goes thus ‘I respond that this is not secession per se, but proliferation of secessions and the resulting small political units that would emerge from unlimited secession which are harmful’ (Wellman 1995, 161). The above statement by Wellman, instead of contradicting, rather strengthens the positions of Buchanan and Mueller that his theory could lead to multiple secession which is detrimental to the sovereign state, the new states, and international system as a whole.

To add to the above, following the claim by Wellman that groups that have the resources, and have unified purpose or aim, irrespective of their cultural or historical background, could lay claim to the right to secession, what happens if all the groups within a sovereign state have the resources enough to sustain them as independent state or people? The plausible implication of this is that the groups, knowing fully well their resource capabilities, would opt to leave the existing or current state (as no group of people desires to be subjected to political domination), and the end result would be the instant collapse of such state. In this light, Wellman’s idea, as maintained by Buchanan and supported by Mueller, has the potential of generating several conflicts.

The Primary Rights theories have been advanced for good cause, but they tend not to be strong enough in their claims to be able to stand the test of time with respect to right of groups to self-determination. The Remedial Rights Only Theory seem to be more appealing and realistic than the Primary Rights Theories. This fact has been emphasized by Mueller, ‘a ‘remedial’ right to secession serves the purpose of averting grave injustices and protecting the existence of minority group only’, she went further to proclaim thus ‘remedial’ rights theories reduce the risk of violent conflict by limiting justified unilateral secession to instances in which a state’s severe discrimination against the minority threatens this group’s existence’ (Mueller 2012, 299). It is therefore clear that Remedial Rights Only Theories, instead of generating conflicts, and promoting instability within the states systems, are capable of averting and preventing conflict within and among states.

The preceding section of this paper will focus on the application of Remedial Right Only Theory as it is the only theory that can explain vividly the trends of self-determination and secession struggles Africa. The section will focus on the analysis of the instances of self-determination movements spurred by injustices rather than the Primary Rights Theories proclaimed cultural and ethnic homogeneity amongst other seemingly unrealistic factors.

### **Remedial Rights only Theories and Multi-Ethnic African States**

In the earlier section, the forms or acts which qualify as injustices against a group have been mentioned. For the sake of clarity in this section, however, it would be necessary to re-introduce these acts that qualify as injustices against a group or groups of people within the boundaries of a sovereign state. Buchanan, in his categorization of acts of injustices that could qualify a group of people for secession claims or rights, only mentions these acts without further elaboration. Brilmayer fills this gap. Brilmayer, in his work, emphasizes on the fact that one of the most reasonable and convincing ways in which a group aiming for secession could have good cause to self-determination struggle is to argue that certain forms of injustices had been done to them in the past. Though all other forms of injustices as identified by Buchanan could qualify such group for the rights to secede, claims to territorial injustices either through forceful annexation or unlawful domination or occupation seem to be more appealing and convincing.

Brilmayer’s emphasis on importance of territorial injustice to secession or self-determination claim led him to identify two forms of possible injustices that could be done territorially. According to him, ‘the first proposes that the land was acquired through conquest by the state from which the ethnic group wishes to secede. In this type of historical grievance, the currently dominant state from which the separatist wishes to secede is responsible, it is alleged, for improperly including the group’s land base into its own. The wrongdoer is thus the current dominant state’ (Brilmayer 1991: 190) . With this first category, any group whose boundary had been unjustly occupied by a sovereign state has the right to make effort to reclaim its former territory and denounce any form of affiliation or association with that state. The other category according to Brilmayer the second:

‘concentrates on the wrongdoing committed by a third party. At some previous point in history, a state with no current state in the dispute of improperly joined the territories of the currently dominant state or the secessionist group. This type of wrongdoing occurred when European colonial powers fixed colonial border to suit their own convenience, and then left the borders intact when their borders receded’ (Brilmayer 1991, 190).

This was true of the colonial powers whereby they would merge formerly distinct existing territories or state into one large entity for administrative convenience and resource management purposes. Majority of African countries faced such improper merger of

territories and that was part of the major developments that led to several conflicts and self-determination struggles on the continent during the post-independence era.

The Brilmayer's criterion of injustices will be applied to the Biafra, and Eritrea's self-determination struggles to determine whether the claims of these secessionist groups fit either or both of the above criterion of territorial injustices.

### **BIAFRA versus NIGERIA**

Biafra was declared as a secessionist state from the larger body of Nigeria in 1967. Prior to the declaration of the creation of the Republic of Biafra by the former leader, Odumegwu Ojukwu, the different tribes and ethnic groups making up the most populous nation in Africa, had long history of intra and inter-ethnic conflicts and confrontations caused either due to trade disagreements, political marginalization or voting manipulation, but no group could publicly proclaim the right to secede from the country to the point of execution as witnessed in the case of Biafra. Even the Biafrans would not have developed the defiance to take arms against the Nigerian state in the fight for secession if not for some of the historical legacies of the British colonial rule.

Before the coming of the British to the soil of the country known as Nigeria today, majority of the tribes and ethnic groups were autonomous. In short, they were referred to according to their ethnic affiliate; for instance, the Igbo would be said to be from Igboland, the Yoruba from Yorubaland, and Hausa from Hausaland. And even within each of the major groups, there were sub-groups which identified themselves as distinct and had the rights to lay claim to their boundaries or territories without any dispute.

According to Ajala, in his reference to the Yoruba group, 'different Yoruba sub-group used their sense of common identity as a group to establish cultural influence and political power. Each of these different sub-groups claimed its distinct sub-group identity during the pre-colonial period' (Ajala 2009, 4). These ethnic tags gave the groups, for a long time, a sense that they were different territorially, ethnically, culturally, religiously, and even politically as this was reflected in the different political systems that were existing in the different parts of the country at the time of the coming of the British (Deji 2013) from one another. As a result, those from Iboland had the right to lay claim to their territory, as well as the other ethnic groups such as the Yoruba and Hausa without any contestation or friction.

Things, however, began to change after the coming of the British in the nineteenth century. The coming of the British led to ethnic, territorial, and geographical fusion. The major one was the merger of the long independently existing southern part of the country and its people with the northern part of the country for the purpose of administrative convenience by the British Governor General Lord Lugard in 1914 (Lugard 1914; Eric 2016, 2-3). What the British seemed not to realize was the fact that these groups of people had lived separately within their distinct boundaries, had distinct political, religious, and socio-cultural orientations, and worse still, they were not speaking the same languages. With this in place in 1914, one therefore needed not be told that there would be friction, uprisings, violence which could potentially lead to struggle for secession amongst the groups. The seed of secession by Biafra was therefore planted in 1914 which was the formative year of the country known as Nigeria today.

This forced marriage of groups existed up to the 1960 when the country gained independence, but the seeds of conflict and discord and inter-ethnic suspicion had already begun to germinate. Shortly after the British had left, in 1966, there were coup staged by Ibo



men of Biafra origin in the Nigerian military targeted against the northern leaders and in the process the highly respected northern political leaders such as Ahmadu Bello (Sadauna of Sokoto) and Abubakar Tafawa Balewa (the then Premier of Nigeria) were killed by the coup plotters (The Nation, January 15, 2016). This act, according to the northerners, was an Ibo (Biafra) war or conspiracy against them.

As a result, months later, the northerners launched attacks not only on the Ibo groups in the military, but including the civilians of Biafra origin especially those living in the northern part of the country. Though one can hardly ascertain the number of those who were killed by the northerners as an act of revenge as there is no data available for such measure, hundreds of thousands of Biafra citizens were reportedly 'massacred' (Uzoigwe 2016, 30-31; Uchendu 2007, 298). To avert further massacres of its citizens, and perhaps, correct the anomalies created by the British through amalgamation in 1914, the Biafrans decided to pull out of Nigeria and become an independent nation. The struggle by the Biafrans to keep themselves outside of Nigeria, and the counter-struggle by the Nigerian military government under General Yakubu Gowon, to keep the Biafrans in led to arms conflict between Biafra and Nigeria which lasted from 1967-1970.

The Biafra secessionist story was introduced to drive home a point in support of Remedial Rights Only Theory. From the above narratives, it becomes clear that the Biafrans had control of their own territory located in the Eastern Region, they had their own Military Governor in the name of Odumegwu Ojukwu who later championed the secessionists cause, they had, though arguably, their own economic resources especially oil within and around their region. And in addition to these, they felt that the lives of their citizens were at risk and could further be endangered should they remain within Nigeria. All these were enough for these groups of people to claim the rights to secede. First, territorial injustice through forceful amalgamation of their territory with the northern territory by the British in 1914; and secondly, the mass killings of their citizens in the northern part of Nigeria which had been described as massacre against the Biafrans.

Applying the criterion of injustices by Brilmayer and Buchanan, it becomes clear that the Biafrans had the right to secede. A right hinged on claims towards injustices rather than ethnic or cultural distinctiveness. It must be recalled that prior to the agitation for secession, the Biafrans were conscious of the fact that they were culturally distinct from other tribes or ethnic groups in the country, yet they did not muster courage to sue for secession. This was because, as one would believe, they were smart enough to realize that the claims for secession without an act of injustice done to them would not win them the right to secede. The Remedial Rights Only Theory, therefore, holds in the case of Biafra.

### **ERITREA versus ETHIOPIA**

On May 24, 1993, after a large number of Eritreans indicated interest to become independent from Ethiopia, the former Ethiopian colony became fully independent with its own government and institutions. Eritrea's independence therefore became recognized by the Organization of African Unity (OAU), the United Nations (UN), and other global legal and political institutions. This freedom, which was celebrated in 1993, was not easy to achieve by the Eritreans, especially the Eritrean People Liberation Front (EPLF) which fought the Ethiopian successive government's right from the days of Late Emperor Haile Sellassie in the 1970s until the 1990s.

Eritrea appears to be one of the few African countries dominated or controlled by different colonial powers. It was said to have for over three decades been occupied 'by a secession of powers, from the Ottoman Turks to Egypt, Italy, Britain, and finally Ethiopia. Each left its mark and fostered a deep distrust of outsiders among Eritreans and a fierce commitment to

Eritrean's separate identity' (Connell 2011, 1). However, it has been found that prior to the occupation of Eritrea by these outsiders; the country was already an independent nation as far back as at least 700 years earlier (Cervenca 1977, 38). Since the purpose of this paper is not to chronicle the independence history of Eritrea, but rather to show how the country could be said to have the right to secede or self-determination as at when it came in 1993, I will limit my discussions by focusing on the relations between Ethiopia and Eritrea in the twentieth century.

Eritrea had been on its way to self-determination from external rule for many decades. The struggle for self-government by Eritrea caught the ears of the members of the United Nations in the late 1940s, and as a result, the issue was discussed with recommendation for the granting of an autonomous status to the country under the control of Ethiopia in 1950s. As presented by Cervenca, the United Nations resolution maintained that 'Eritrea shall constitute an autonomous unit federated with Ethiopia under the sovereignty of the Ethiopian crown' (Cervenca 1977, 40). This implied that Eritrea, according to the United Nations guidelines and principles, had the right to become independent of any external control or domination. The process towards execution of this resolution was underway when the Ethiopian Emperor and African Stateman, Haile Selassie, unilaterally went against the United Nations declaration on Eritrea and annexed the country under the control and domination of Ethiopia on November 14, 1962. Eritrea then became the 14<sup>th</sup> province of Ethiopia (see Cervenca 1977, 40).

This action must have upset the United Nations as it was contradictory to any basis of human right principles. But unfortunately the organization could not do anything because 'Ethiopia had the support of the United States as of the time; the Emperor was extremely powers and influential among all African leaders; and majority of African countries were in the dark as regard the issue between Ethiopia and Eritrea' (Cervenca 1997, 40-41). This act of territorial infringement or injustices by Ethiopia was not the only major humiliation which the Eritreans faced at the period. The people were highly marginalized and deprived their rights to good living and survival within the Ethiopian territory. For instance, 'increased taxation was imposed on them, the court system was made more remote and expensive, Eritreans lost government jobs to Ethiopian Amharas who discriminated against them, Amharic was the only language permitted in government offices and schools' (Cervenca 1977, 42). The policies of the Emperor of Ethiopia made life unbearable for the Eritreans even more than when they were under the British and Italians. This is because they would at least have the liberty to speak their language under the colonial powers as opposed to now when they were forced under Ethiopian control and Ethiopian language, culture and tradition was being forced upon the formerly independent state or people.

With the oppressive regimes against the Eritrea, the Eritreans both within and outside Ethiopia began to group themselves together in preparation for struggle toward self-determination. As Bezibih describes the consequences of the oppressive acts of Ethiopian government, 'the ferment of insurgency was burning inside, waiting only for a favourable time to burst out. The separatist movement broke out in the wake of the complete denial of self-rule and autonomy to realize the aspirations of Eritreans for self-determination' (Bezibih 2014, 40). This shows the extent to which the marginalized Eritreans led by Eritrean People's Liberation Front founded in the 1960s to champion the country's right to self-determination were determined to sacrifice anything, including their lives, in this struggle. Though majority of these fighters were killed and destroyed in the struggle as Bezibih further pointed out 'the struggle to secure those rights has also created the we/they divide and

therefore the birth of a distinctive identity tainted with blood of martyrs' (Bezibih 2014, 40), the fighters did not give up until the self-rule, self-determination, or independence was won in 1993.

This victory must have been considered as a path toward remedying the long injustices against the people of Eritrea by Ethiopia. And as a result, the United Nations was the sponsor of the independence referendum (Connell 2011, 1) leading to outright recognition of Eritrea as an independent nation since 1993. Under the criterion, with the level of injustices done to the Eritreans, the people were considered by the United Nations and other organizations including the OAU to have the right to self-determination.

This victory by Eritrea came that late because African leaders or states are complex and rigid when it comes to issues of self-determination. Cervencia has characterized African nations and leaders with respect to secession or self-determination in this way, 'African attitude toward Eritrea had been strongly influenced by the commitments of most countries to the existent boundaries which, however fragile, imposes a barrier in the way of any logic behind a struggle aimed at secession' (Cervencia 1977, 45). African states, through their colonial experiences, had developed toughness and intolerance towards any acts from ethnic groups within their boundaries that could threaten or lead to a shift of their territorial influence.

Additionally, democratic institutions in Africa are yet to mature to be able to give rooms for flourishing moral justice, freedom, and equality upon which secession or self-determination claims are often based. The world was aware of how long it took South Sudan to gain independence from Sudan despite their claims to historic injustices; the Kikuyu ethnic group in Kenya is part of the most marginalized groups in the country due to its roles in the Mau Mau movements, yet they had not summoned the courage to struggle for self-determination; since the end of Rwandan genocide whereby a large number of Tutsi ethnic group were murdered by the Hutus, we are yet to hear of any move toward self-determination by Tutsi against Rwanda. It is not to deny the fact that the Kikuyu and Tutsi would have the rights to self-determination if their cases were presented and pursued through the right channels, but would they find it as easy as Norway did with Sweden in 1905? That I doubt, as things are done differently in Africa! If it could take Eritrea, a country which the world knew was going through oppressive moments under the rule of the Emperor of Ethiopia, about four decades, with bloodsheds, to win its independence, how many years would it take a secessionist group claiming rights towards self-determination under the Primary Rights Theories?

Another reason most countries in Africa hardly tolerate cases of secession or self-determination by groups within a sovereign state is because if one group is given the opportunity or right to secede, there is a very high likelihood that the victory would spur uprisings among other groups within the state because virtually all the countries in Africa are multi-ethnic in compositions. Cervencia captures this fact, 'if Eritrea is given autonomous rule under a federal system, other provinces such as Tigre and Gojjam, which have never held great affection for Addis Ababa would demand the same status. Indeed, the Tigre Peoples Liberation Front (TLGF) had already joined the battle for more autonomy of its people' (Cervencia 1977, 46). This reason contributed to the harsh policies of the Emperor against the Eritreans as means to silence them. If in this circumstance the Remedial Rights Only Theory would not grant the Eritreans the automatic right to self-determination, then it is doubtful that Primary Rights Theories claims would appeal to any multi-ethnic state or country in Africa. The theory most suitable in defense of the right to self-determination by groups found within the boundaries of any African state is Remedial Rights Only Theory.

## CONCLUSION

Self-determination or secession struggle is common to most countries in Africa due to their multi-ethnic nature or composition. It is therefore not surprising for one to hear of groups rising against the state in demand for their self-determination or independence. This demand for self-determination, under normal circumstances, is expected to be backed by some justifiable claims. These claims, as argued in this paper, in order to be approvable, acceptable, and convincing, must revolve around acts of injustices committed against the group or groups, hence the call for remedy. As shown above, most cases of self-determination, or secession struggle experienced in Africa were supported by some claims to past or current injustices committed by the state or majority of the people in the state against the secessionist group. This position is also evident in the United Nations declaration on the rights of indigenous peoples. According to the declaration, we are ‘concerned that indigenous people have suffered from historic injustices as a result of, inter alia, their colonization and dispossession of their lands, territories and resources, thus preventing them from exercising their right to development in accordance with their own needs and interests’ (UN Declaration on Rights of Indigenous People 2007, 2). With the above, the organization was confident to declare that the people who felt marginalized and discriminated against had the right to self-determination. This declaration is proof to the fact that the people had a case approvable and convincing enough to earn them their self-determination before any competent legal institution or court of law around the world. But if the people had been found not to have experienced any acts of injustice from the sovereign state within whose boundaries they existed, they would not have had a case worthy enough to be approvable and backed by the law of the United Nations. Such claims that would prove difficult to be backed by law rest within the confines of Primary Rights Theories. As a result, the theories are not strong enough to deliver the rights to self-determination to any group in Africa. In the light of this, though not absolute in its own perfection, the Remedial Rights Theories still represent the means through which aggrieved and marginalized groups could lay legitimate claims to rights toward self-government or self-determination.

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