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## Are There Politico-Legal Differences between Self Determination and Secession: A Comparative Analysis on the Nigeria and Biafra Civil War 1967 - 1970

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**Abstract:** *This study examines the differences between self determination and secession from political and legal perspectives, using the Nigeria and Biafra civil war that occurred between 1967 and 1970 and also the speech by the IPOB leader, Mr. Nnamdi Kanu in 2017, on a comparative analysis with the speech with Lt. Col. Odumegwu Ojukwu in 1967. The study is an interdisciplinary approach. It was observed that the case in 1967 – 1970 is quite difference from that in 2017. It was also discovered from our findings that in 1967 there was no legal pronouncements from either the Nigerian Courts that Biafra is a terrorist organization, quite unlike in 2017 when the Nigeria government obtained an order of injunction from the Federal High Court, Abuja, proscribing IPOB and tagging it as a terrorist organization. The study concludes that there were differences between the 1967 and 2017 and that the meanings of both of them are different.*

**Keywords:** *Biafra civil war, politico-legal differences*

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### INTRODUCTION

The Nigerian Civil War that started in 1967 ended in 1970. The war was between Nigeria and the South-Eastern States of Nigeria; otherwise known as Biafra, headed by Lt.Col. Odumegwu Ojukwu (now deceased). This study is a comparative analysis of acts that gave rise to the war in 1967 and the actions of the present the leader of Indigenous People of Biafra (IPOB), Mr. Nnamdi Kanu in 2017 that caused the Nigerian Military operations in all the South-Eastern States of Nigeria, (otherwise known as Python Smile or in Igbo dialect “Igwu-Eke”), consisting of *Abia, Anambra, Ebonyi, Enugu and Imo* states of Nigeria, so as to ascertain whether the two actions by the two leaders are the same. Also, the study will have to comparatively analyze the legal and political meanings of the two words: “self determination” and “secession”, to know whether the two words are the same or conveyed the same meaning.

## **SELF-DETERMINATION**

Rogers Scruton in his book, *Dictionary of Political Thoughts* (1982), defined “self determination” as: The aspiration of some group of persons with similar racial identity, language or religion that are in the same territory and forming their own sovereign state, with the aim of governing themselves. In the *Black’s Law Dictionary*, Sixth Edition, (1990), there is no word such as: “self determination” or “right of self determination”. The only word similar to it, is “right of local self-government”, which at page 1325, of the *Black’s Law Dictionary*, is defined as: the power of citizens to govern themselves on matters through their own selections. It is, therefore obvious that self-determination in the *Dictionary of Political Thoughts*, and “right of self local government” in the *Black’s Laws Dictionary*, conveyed the same meaning and understanding. Sections 35 to 42 of the 1999 Constitution of the Federal Republic of Nigeria (as amended), contains various rights to citizens of Nigeria. for example, Section 33 deals with right to life, while section 34 deals with right to dignity of human person. Section 35 deals with right to personal liberty; Section 36 deals with right to fair hearing; Section 37 deals with right to private and family life; Section 38 deals with right to freedom of thought, conscience and religion; Section 39 deals with right to freedom of expression and the press; Section 40 deals with right to peaceful assembly and association; Section 41 deals with right to freedom of movement; and Section 42 deals with right to freedom from discrimination. These rights are inherently vested on Nigerian citizens by the Nigerian government and enshrined in the 1999 Constitution (as amended). These rights are known and called as “right to self determination”, which are recognized by both the African Union and also the United Nations. According to the Wikipedia, the Free Encyclopedia, “self determination” is defined as: that fundamental code in

modern international law, with the latin maxim; *jus cogens* (meaning; obligatory regulation). The United Nations Charter's norms. is based on the principle of equal rights and fair equality of opportunity, to freely choose their sovereignty and international political status with no interference. Both the African Charter of Human and Peoples’ Rights and also the United Nations Charter, there are laid down procedures to actualize the right to self determination.

## **SECESSION**

According to Rogers Scruton in his book, *Dictionary of Political Thoughts* (1982), is defined as: The voluntary removal of a state from some federation of which it forms a part, most famously exemplified in the secession of the eleven southern states of the US in 1860 – 62, to form the Confederation States of America. From the above definition, it is obvious that the United States government vehemently oppose the removal of those eleven southern states from its confederation between 1860-1862 and which act led to their Civil War in 1870. Consequently, in Nigeria acts of secession by any state or group of persons in a state are usually regarded as illegal. Section 1(1), (2) and (3) of the Nigeria 1999 Constitution (as amended) provides thus: *the Constitution is supreme and its provisions shall have binding force on all authorities and persons throughout the Federal Republic of Nigeria.1(2) the Federal Republic of Nigeria shall not be governed, nor shall any person or group or persons take control of the Government of Nigeria or any part thereof, except in accordance with the provisions of this Constitution. While section 1(3) of the Nigerian Constitution provides that if any other law is inconsistent with the provision of this Constitution, this Constitution shall prevail, and that other law shall to the extent of the inconsistency be void.* The *Black’s Law Dictionary*, Sixth Edition, also defined

“Secession” thus: The act of withdrawing from membership in a group. Certain states attempted unsuccessfully to secede from the United State of America at the time of the Civil War. From the above section 1(1), (2) and (3) of the Nigeria 1999 Constitution (as amended) and also the Black’s Law Dictionary, sixth edition, we can see that the acts of withdrawal from group of membership is by use of force and not voluntarily allowed. Consequently, the Federal government of Nigerian government will not allow acts of secession by any group of persons to use force to secede, as such acts that are not in accordance with the Constitution, might lead to the Nigerian government waging war through military operations to resist such states’ secession.

### **ACTS THAT LED TO THE 1967 SECESSION BY BIAFRA**

According to the Vanguard Newspaper (online) of May 31st, 2017 captioned “Ojukwu’s 1967 speech that called for secession of Biafra”, he sought for secession, self-determination and self-independence of all Eastern States. Consequently, Mr. Nnamdi Kanu is also calling for the same secession of all South-Eastern in 2017, without regard to the over three million lives that were lost by Biafra between 1967 and 1970. The above speech are in clear breach of section 1(1) (2) and (3) of the then 1960 Constitution which is *impari materia* (meaning, the same) as the 1999 Constitution. According to the Newsroom Nigeria dated July 8, 2017, and captioned: “*How Nnamdi Kanu went from calling for ‘one Nigeria’ to making hate speeches*”, it was reported that Nnamdi Kanu’s recent speeches were usually associated with his hatred for the Nigerian State. According to the Channels Television publication of September 20, 2017 captioned: *Federal High Court Proscribes IPOB*, it was reported that the Acting Chief Judge of the Federal High Court, Justice Abdu Kafarati, has granted an order, proscribing IPOB. The ex-parte motion was filed by the Attorney-General of the Federation and Minister of Justice, Mr Abubakar Malami (SAN). In moving the said motion, Mr. Malami cited Section 2 of the Terrorism Prevention Act and listed IPOB as the only respondent in Suit. No FHC/ABJ/CS/871/2017. From the above, it is very clear that IPOB was proscribed by the South-East Governors Forum, the Nigerian government and also the Federal High Court.

### **DIFFERENCES BETWEEN SELF-DETERMINATION AND SECESSION**

There are wide differences between both words, although are used interchangeably.

The differences between them are as follows:

- (1) In 1967, there was no proscription order against Biafra by either the Nigerian government or any of the Nigerian Courts. But in 2017, both the South-East Governors, the Nigerian government and the Federal High Court Abuja proscribed IPOB and tagged it as a terrorist organization. And so, the Nigerian government is justified by its **Military Operations in the South-East** States of Nigeria to quell a terrorist group in Nigeria known as Independent People of Biafra (IPOB).

In 1967, the South-East Government headed by LtCol. Odumegwu Ojukwu, as the then

- (1) Military Administrator, made the pronouncement for the secession of the South-Eastern states while he was still in authority as the then Governor and so his acts were seen as coming from an official body or an authority in governance. The Nigerian government failed to change him or replace him as the then Governor of South-Eastern States. Quite unlike Mr. Nnamdi Kanu, who in 2017, was just a leader of an NGO that has now been proscribed by the same Nigerian government that issued the certificate of recognition, through the Corporate Affairs Commission. The said Mr. Nnamdi Kanu has not occupied any governmental position and so his speech for the secession of the South-East States from Nigeria, was regarded as illegal. The Federal High Court order proscribing IPOB and tagging it as a terrorist organization suffices. The speech by Mr. Nnamdi Kanu contravened Section 1(1), (2) and (3) of the 1999 Constitution.
  
- (2) Both the legal and political interpretations between the two words conveyed different meaning and understanding. In 1967, the Nigerian government failed to take appropriate legal steps as it did in 2017.

## **CONCLUSION**

This study has shown that there were remarkable differences between the acts that gave rise to secession in 1967 with that of 2017. Also, there were differences in meaning of the words, both legally and politically. From the study, we have observed that there is nothing like right to self-determination in the Black's Law Dictionary, sixth edition, but Right to Local Self-government. The circumstances of the acts that could give rise to the two words are being used interchangeably by ordinary persons. The study concludes that no government will allow any of its states or group to secede from it without such states going to war or to follow the laid down procedures contained in the African Charter of Human and Peoples' Right, the United Nation Charter and also the rules of modern international law. Therefore, any deviation from these laid down rules or procedures, will be regarded as illegal.

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