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RELIGION AS A GROUND FOR SELF-DETERMINATION: A HUMAN RIGHTS' PERSPECTIVE ON SEEKING SECESSION ON A RELIGIOUS BASIS

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ABSTRACT

For decades, the international community has advocated the secularisation of state i.e. the separation of religion from the business of states. This is because it is generally believed that secular or non-religious states are better placed to respect the principles of democracy and human rights. But despite these efforts toward keeping religion away from the business of the state, the phenomenon has remained one of the major talking points in the politics of some states. Due to this, there have been religious-motivated secessionist movements, especially in states where there are religious tensions. Though there have been a handful of studies on these religious-motivated quest for secession, there hasn't been one which tackles the topic purely from a human rights perspective. When does religion qualify as a ground for secession under international human rights? Are there things that a secessionist group needs to show to succeed in its claim for self-determination on a religious basis? How should these claims be formulated by a secessionist group? This study attempts to answer some of these questions using the analytical method. It finds that under the current international human rights law, there are only a few circumstances which could justify secession on religious grounds.

Key Words: Religion, Self-determination, Secession, Human Rights, International law and Religious Conflict.

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1.0. INTRODUCTION (THIS INTRODUCTION ENCOMPASSES LITERATURE REVIEW)

Efforts to keep religion away from politics have not been successful. The freedom of religion, though recognised under international human rights law, has always been treated as a private right whose exercise is limited to the individual person. This is so because most states profess themselves as secular states, at least constitutionally. But despite all these efforts to separate religion from the affairs of the state, the phenomenon has continued to rear its head in politics. In fact, in some states today, argued Ferguson and Mansbach, people have more allegiance to their ethnicity or religion than they have for their states.² This is becoming a fact even in states with advanced democracies. A study by Fox and Sandler finds that even the 'best' democracies in the world have not been able to separate religion from their politics.³ This claim is confirmed by several other studies which link religion with discrimination,⁴ political conflicts,⁵ genocide,⁶ etc.

Due to this unabating interference of religion in the politics of states, some states have been exposed to the risk of disintegration with a number of religious-motivated secessionist movements being witnessed across the world. Observing this trend, Pomaranski, while writing on the League of the South (a secessionist movement that was formed to seek the independence of Christian-dominated states in the US) argues that as long as religion continues to cause political conflicts, it would remain one of the catalysts for secession.⁷ Beyond the US, Little studies the role played by religion in the formation of national identity and in motivating secession.⁸ Though Little's work covers a wider spectrum of religious-motivated secessionist movements, it is important to note that the author approaches the discourse majorly from a religious perspective which renders his work less useful for

²Ferguson, Y.H. and R.W. Mansbach, 'Global Politics at the Turn of the Millennium: Changing Bases of 'Us' and 'Them' (International Studies Review, vol. 1 (1), 2000) 89

³Fox Jonathan and Shmuel Sandler, 'Separation of Religion and State in the Twenty-First Century: Comparing the Middle East and Western Democracies', (Comparative Politics No. 37, 2005) 329

⁴Don-Yehiya E. 'Religion, Ethnicity, and Electoral Reform: the Religious Parties and the 1996 Elections', Israel Affairs, vol. 4 (1), 1997) 74–102; Little D, 'Ukraine: The Legacy of Intolerance', (United States Institute of Peace Press, 1991).

⁵Badal R.K, 'Religion and Conflict in the Sudan: a Perspective', Bulletin of Peace Proposals, vol. 21 (3), 1990) 263–264; Williams, R.H. (1996) 'Religion as Political Resource: Culture or Ideology' (Journal for the Scientific Study of Religion, vol. 35 (4), 1996) 369; Henderson E.A., 'Culture or Contiguity: Ethnic Conflict, the Similarity States, and the Onset of War, 1820–1989' (Journal of Conflict Resolution, vol. 41 (5), 1997) 649–68.

⁶Fein H, 'Genocide: a Sociological Perspective', (Current Sociology, vol. 38 (1), 1990) 49

⁷Marcin Pomarański, 'The role of Religion in the Contemporary Secessionist Movement in the USA,' in R. Zenderowski (Ed.), Civic Participation in the Visegrad Group Countries After 1989 (Maria Curie-Skłodowska University Press, 2017) 167, 170

⁸David Little, 'Religion and Self-Determination', in Donald Clark and Robert Williamson (eds), Self-Determination: International Perspectives, (MacMillan Press, 1996) 141 - 142

a concrete human rights inquiry. Thus, the current study aims to fill this research gap - to contribute a human rights perspective to the discourse. Specifically, the current study seeks to understand and explain under what circumstances secession is permissible on religious basis, what a secessionist group needs to show to succeed in its claim for self-determination on a religious basis and how such claim should be formulated by the secessionist group.

2.0. METHODOLOGY

This study majorly adopts the analytical legal method. It analyses the various laws governing self-determination under the international human rights law. Apart from legal analysis, this study also examines some of the religious-motivated secessionist movements across the world.

3.0. CONCEPTUAL FRAMEWORKS

Before we delve into the discourse, it is important to conceptualize certain words which are central to this study such as religion, self-determination, secession, etc. We will try to define these concepts within the context of this study.

3.1. Religion

Like many other social science concepts, religion has no universally accepted definition. While those who are critical of it argue that it is a human construct engineered by the West, others see it as ‘a system of culturally conditioned lived practices’.⁹ For the present study, however, we are not interested in the question of the origin of religion. What is of importance to us is how to understand the phenomenon as it relates to our topic. We this in mind, we shall adopt the three perspectives of religion proposed by Haynes thus:

- ‘(a) body of ideas and outlooks (i.e. as theology and ethical code);
- (b) as a type of formal organisation (eg the ecclesiastical Church);
- (c) as a social group (e.g. religious movements).’¹⁰

Without any discrimination, our understanding of religion (for the sake of this study) accommodates all the three perspectives above.

⁹Myhre, Paul O., *Introduction to Religious Studies* (Christian Brothers Publications, 2009) 1

¹⁰Jeff Haynes, ‘Religion, secularisation and politics: a Postmodern Conspectus’ (Third World Quarterly, 18(4), 1997) 710

3.2. Self-Determination and Secession

The term 'self-determination' is etymologically coined from two German words 'selbst' (self) and 'bestimmung' (determination).¹¹ The German coinage 'selbstbestimmung' originally referred to the willpower of an individual to control the affairs their life i.e. the freedom to self-determine one's life.¹² In the 19th and 20th centuries, however, the meaning of the term devolved from the original individualistic sense into being understood as a collective freedom of a group to 'determine their political future and to freely pursue their economic, social and cultural development'.¹³

Today, as simply put by the International Court of Justice in Western Sahara case, self-determination means the 'the freely-expressed will of the people'.¹⁴ It is 'the free will of a people who are legally as well as politically entitled to decide their destiny'.¹⁵

Self-determination could either be internal or external. It is internal when it is demanded or exercised within the territory of a state i.e. when a group seeks control over some aspects of their destiny (cultural, economic or political) within state.¹⁶ It is external where a group demands or exercises an autonomy which tampers with the territory of the state.¹⁷ External self-determination could be expressed by separating from an existing state (secession), voluntary merger or union of independent states, etc.¹⁸ Thus, secession is one form of external self-determination which entails a 'separation of a part of a state from the rest of its territory, leading to political withdrawal of a region from the original state'.¹⁹

¹¹Umozulike U Oji, *Self-Determination in international Law* (Hamden, Anchor Books, 1972) p. 1; Okeke Edwin Chika, 'Implementation of Self-Determination in Africa through Secession: An Appraisal of the Legal Hurdles' (African Journal of Criminal Law and Jurisprudence, Vol. 6, 2021) 166

¹²Ibid.

¹³Okeke Edwin Chika, 'Implementation of Self-Determination in Africa through Secession: An Appraisal of the Legal Hurdles' (African Journal of Criminal Law and Jurisprudence, Vol. 6, 2021) 166; Kone Elizabeth M. Jamilah, 'The Right of Self-Determination in the Angolan Enclave of Cabinda' (Sixth Annual African Studies Consortium Workshop, 1998) 1.

¹⁴Western Sahara (Advisory Opinion) (1975) ICJ Reports 81

¹⁵ Redie Bereketeab, *Self-Determination And Secession: A 21st Century Challenge to the Post-Colonial State in Africa* (The Nordic Africa Institute, 2012) 2

¹⁶O.O. Ikubanni & M.O.A Alabi, 'The Right To Self-Determination And Territorial Integrity Conflict: a Conundrum For Secession In Post-Colonial African States' (Makerere Law Journal, Vol. 54 No.2, 2025)33

¹⁷Ibid. 33

¹⁸Ibid. 33 -34; Frederic L. Kirgis, 'The Degrees of Self-Determination in the United Nations Era' (American Journal of International Law No. 88, 1994) 307; Amy Maguire, 'Law Protecting Rights: Restoring the Law of Self-determination in the Neo-colonial World' (Law Text Culture, 2008) 15

¹⁹ Redie Bereketeab, *Self-Determination And Secession: A 21st Century Challenge to the Post-Colonial State in Africa* (The Nordic Africa Institute, 2012) 2

Having conceptualised some of the key words in this study, we shall now proceed to examine the various international legal frameworks on self-determination with a view to understanding the circumstances under which secession could be permitted on religious basis as well as to learn how a secessionist group should formulate its claim for self-determination to succeed on religious basis.

4.0. SELF-DETERMINATION UNDER INTERNATIONAL LAW

There various resolutions, declarations and treaties made by the United Nations (UN) on the right to self-determination. Right from inception, the 51 states who came together to form the United Nations included in the UN Charter a clause which declared the rights of the people to self-determination.²⁰ Articles 1(2) and 55 of the Charter enjoin all the member-states to respect the 'equal rights and self-determination of peoples'.²¹ These articles of the UN Charter have, however, been interpreted as applying to the member-states of the organisation and not to all 'peoples' in the world.²²

It was not until the arrival of formerly colonised states as members of the UN that the issue of self-determination became associated with the peoples' right to be independent.²³ This push for decolonisation of colonised peoples gave birth to two key resolutions by the United Nations to wit; Resolution 1514 (XV) and Resolution 1541 (XV). Resolution 1514 (XV) proclaims that "all peoples have the right to self-determination; by virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development."²⁴ Similarly, principle VII of Resolution 1541 (XV) declares that: "free association should be the result of a free and voluntary choice by the peoples of the territory concerned expressed through informed and democratic processes."²⁵

To consolidate the position expressed in these resolutions the United Nations included in both the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR) a provision which declares that all peoples have the

²⁰The Charter Of The United Nations And Statute Of The International Court Of Justice (The UN General Assembly, 1945) available at < <https://treaties.un.org/doc/publication/ctc/uncharter.pdf> > accessed on 12th November, 2025.

²¹The Charter Of The United Nations And Statute Of The International Court Of Justice (The UN General Assembly, 1945) available at < <https://treaties.un.org/doc/publication/ctc/uncharter.pdf> > accessed on 12th November, 2025.

²²Higgins, Rosalyn. Problems and Process: International Law and How We Use It. (Clarendon Press, 1994) 112

²³Ibid. 113

²⁴UN General Assembly Resolution 1514 (XV), "Declaration on the Granting of Independence to Colonial Countries and Peoples," (UN General Assembly, December 14, 1960)

²⁵United Nations General Assembly, Resolution 1541 (XV), (A/RES/1541(XV, 15 December 1960)

right to self-determination.²⁶ Also emphasising the peoples' right to self-determination is the Declaration on Friendly Relations among States which was made by the United Nations on the 24th October 1970.²⁷

Though the interpretation to be given to the above legal frameworks has been subject of debate, there appears to be some consensus regarding the application of the right to colonised people.²⁸ Beyond the decolonisation, however, writers like Higgins argue that the right to self-determination can only be exercised within the existing states (i.e. internal self-determination) in recognition of the primacy of existing territorial boundaries.²⁹ How about external self-determination or secession? Under what circumstances can it be allowed today? We shall look at two major competing theories.

5.0. EXTERNAL SELF-DETERMINATION BEYOND DECOLONIZATION: EXAMINING THE TWO MAJOR COMPETING THEORIES ON SECESSION

The question of how the right to external self-determination should be understood and treated in the postcolonial era has been a subject of intense debate as there have been different moral and legal theories/arguments regarding the meaning and scope of the right in the era. We shall consider two of these theories to wit; the primary right theory (which is people-oriented in nature) and the remedial right only theory (which is state-based in perspective).

On the first theory i.e. the primary right theory, Miller presents a powerful argument in favour of the view that any group with a distinct cultural or national identity should be entitled to the full exercise of their right to self-determination.³⁰ Toeing a similar line of thought, Anyangwe contends that the various indigenous peoples should be entitled to tamper with the existing state borders in the exercise

²⁶Article 1, International Covenant on Economic, Social and Cultural Rights (The UN General Assembly, 1966); Article 1, International Covenant on Civil and Political Rights (adopted 16 December 1966 by the UN General Assembly)

²⁷Declaration on Principles of International Law concerning Friendly Relations and Cooperation Among States in accordance with the Charter of the United Nations, 24 October 1970, available at <https://treaties.un.org/doc/source/docs/A_RES_2625-Eng.pdf> accessed on 30th November, 2025.

²⁸Higgins, Rosalyn. Problems and Process: International Law and How We Use It. (Clarendon Press, 1994) 116; Buchanan, Allen, Federalism, Inclusion, and the Morality of Secession (Arizona Law Review, vol. 37, no. 1, 1995) 53 - 54

²⁹Higgins, Rosalyn. Problems and Process: International Law and How We Use It. (Clarendon Press, 1994) 123; Buchanan, Allen, Federalism, Inclusion, and the Morality of Secession (Arizona Law Review, vol. 37, no. 1, 1995) 53-54

³⁰David Miller, 'Liberalism and Boundaries: Response to Allen Buchanan', in A. Buchanan & M. Moore (Eds.) *Nations, and Borders: The Ethics of Making Boundaries* (Cambridge University Press, 2003) 262-263.

of their right to self-determination.³¹ Anyangwe rejects the idea that the territorial integrity of states takes precedence over claims for external self-determination as, according to him the principle of territorial integrity isn't intended to apply between a state and her people but rather among states who owe one another diplomatic respects.³² Wellman agrees with the position expressed by Miller and Anyangwe but insists that before any such group should be allowed to secede, it should be shown that such a group has the viability to survive side-by-side with the parent state.³³

Judging from the the primary right theory perspective, any religious group which has the population and capacity to survive as a state is entitled to the full exercise of their right to external self-determination, including seceding from their parent state. Though persuasive, the position canvassed by primary right theorists does not represent the dominant reading of the right under international law. Rather than the primary right theory, it is the remedial right theory that has been widely accepted as the right way to go.

The remedial right theory posits that secession should be legitimate or morally justified only where it is necessary to remedy a serious injustice against a particular group or people. Proposing the remedial theory, Buchanan argues that external self-determination (secession) should not be readily available to every group; rather, it should only be granted to colonised peoples or to groups that have suffered serious injustices at the hands of a state.³⁴ Buchanan's fear stems from the fact that 'uncontrolled secession' will throw existing states into political instability, thereby preventing the government of such states from offering protection to the rights of their citizens.³⁵ As an alternative to secession, Buchanan recommends federalism which he believes can grant some level of autonomy (internal self-determination) to groups to control their political destinies without necessarily seeking a breakaway.³⁶ Agreeing with Buchanan, Higgins contends that beyond decolonization, no group is entitled to rely on the right to self-determination to secede from any of the existing states unless there is evidence that such group has been a victim of severe oppression.³⁷

³¹Carlson Anyangwe, 'The normative Power of the Right to Self-Determination Under the African Charter and the Principle of Territorial Integrity: Competing Values of Human Dignity and System Stability' (African Human Rights Yearbook 2, 2018) 70

³²Ibid. 69

³³ Wellman Christopher Heath, *A Theory of Secession: The Case for Political Self-Determination* (Cambridge University Press, 2005) 1, 4 and 197

³⁴Allen Buchanan, 'Federalism, Secession, and the Morality of Inclusion' (Arizona Law Review, Vol. 37 No. 1, 1995) 53-54; Allen Buchanan, 'Theories of Secession' (Philosophy & Public Affairs, Vol. 26, no. 1, 1997) 37

³⁵ Buchanan, 'Morality of Secession' (n8) 55

³⁶ Ibid. 53

³⁷Ibid. 119, 120 and 124

It is imperative to state that Buchanan's remedial theory represents the dominant legal and political readings of the right to self-determination under international law, at least for today. Thus, under the current regime, internal self-determination is permissible while external self-determination can only be granted in favour of colonised people or people who are victims of extreme injustice.

6.0. SECEDING ON A RELIGIOUS BASIS: A LOOK AT RELIGIOUS SECESSIONIST STRUGGLES

It is clear from the discussion in the previous section that the fact that a group has a distinct religious culture does not qualify it for the exercise of external self-determination, particularly secession. This notwithstanding, there are circumstances which could justify the separation of particular religious population from an existing state.

One of such circumstances which could justify secession on religious basis is where there is a clear evidence of failure of coexistence between one religious population and another in a particular state.³⁸ Such failure of coexistence could manifest in form of endless religious conflicts between two rival religious populations in a state. A good example of this is the separation of South Sudan from Sudan in 2014. Before the break away of South Sudan from Sudan, the Arab-Muslim-dominated Northern Sudan and the Christian and animist Southern Sudan had engaged themselves in a religious-motivated war for about 39 years with over three million lives lost due to it.³⁹ As a result of this protracted religious conflict and their evident failure of coexistence, the Southern part of the old Sudan (which is dominated by Christian and animist was widely supported to secede from the Arab-Muslim-dominated Northern Sudan in 2014. Also falling within this bracket is the separation of Pakistan from India.⁴⁰

Another circumstance which could entitle a religious group to seek secession is the presence of an existential threat against such a religious population, especially where the government of their state is complicit. For instance, where a particular religious population is targeted for genocide in their parents state, then it would be justifiable for them to seek secession. This is the rationality that has drawn a

³⁸ Writers like Kaufmann advocate for the separation of warring ethnic/religious groups as a solution to ethno-religious conflicts. See Kaufmann C., 'Possible and Impossible Solutions to Ethnic Civil Wars', (International Security no. 20, 1996) 137

³⁹O.O. Ikubanni & M.O.A Alabi, The Right To Self-Determination And Territorial Integrity Conflict: a Conundrum For Secession In Post-Colonial African States (Makerere Law Journal, Vol. 54 No.2, 2025) 48

⁴⁰Andrea R. Dyehouse, "Religious Disparity in India and Pakistan: The Prospect of Peace through the Literary Views of Salman Rushdie and Manil Suri." (Eastern Kentucky University Libraries Research Award for Undergraduates, 2014)1

lot of support for the Palestinians with 157 out of the 193 member-states of the United Nations having voted in support of their separation from Israel.⁴¹ In West Africa, the Biafran secessionist movement in Nigeria similarly makes a claim for secession on basis on religious-motivated genocide.⁴²

Also worthy of being considered a justification for secession is the existence of religious subjugation or persecution against a particular religious group. Where the government of a particular state is controlled by a populist religious group and such government systemically dominate or subjugate other religious groups, then it might be justifiable for such subjugated groups to seek exit from such state in order to protect themselves and their faith. This is one of the claims made by the Buddhist-dominated Tibetan secessionist group in China.⁴³

7.0. CONCLUSION

Religion continues to feature in the politics of states despite concerted efforts made toward the secularisation of states. This presence of religion in the politics of state gives rise to religious tensions as rival religious group fight for domination. As a consequence of such tensions, some religious groups seek exit from their states in their exercise of their right to self-determination. To succeed in such claims, however, there must be clear evidence of an unresolvable religious conflict between the seceding group and a rival religious group, or the presence of an existential threat against such a religious group (e.g. genocide), or the existence of a state-licensed systemic religious subjugation against such a group.

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⁴²Babajimi O. Faseke, The Myth of Religious War: The Vatican Involvement and Nigeria's Defensive Diplomacy During the Biafran war, 1967–1970. (Kenneth Dike Journal of African Studies, 1(1), 2020) 240 - 241; Jennifer Agwan, Nnamdi Kanu Writes Trump Alleging Genocide Against Christians in South-East (Nigerian Info FM, 7 November 2025), available at < <https://www.nigeriainfo.fm/abuja/news/homepage/nnamdi-kanu-writes-trump-alleging-genocide-against-christians-in-south-east/>> accessed on 30th November 2025

⁴³Tibetan Centre for Human Rights and Democracy (TCHRD), 'Religious Repression in Tibet: Special Report 2012' (Tibetan Centre for Human Rights and Democracy, 2012).

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