

QUEST FOR SELF-DETERMINATION THROUGH SECESSION IN CAMEROON

by

PIUS ATANGCHO

(Under the Direction of Gabriel Wilner)

ABSTRACT

The quest for self-determination through secession is activated by various groups in the contemporary scene guided by claims of speaking a certain language, having similar values and having a unique historical past. There is a growing support for human rights and its extension to the right to self-determination as a principle in International law. States on the other hand justify their opposition by arguing for the primacy of territorial integrity. The International system's position shows a basic nation-state bias aimed at safeguarding and maintaining international boundaries and for international peace and security. Federalism is seen as a viable solution to secessionist threats by accommodating the divergent aspirations of multi-cultural federal subunits by promoting some degree of autonomous self-government.

INDEX WORDS: Human Rights-Democracy-Self-determination-Secession-International law-International System-Federalism-States-Ethnicity-Multiculturalism-Disintegration-Discontent-Territorial Integrity

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DEDICATION

I dedicate this work to all the unsung heroes of Cameroon, those brave men and women who have died or are languishing in jailhouses, having risked their lives in the perilous struggle against all forms of injustices in this country. May their sacrifices not be in vain as those present and those yet unborn continue in the fight for this noble cause and in so doing be the lighthouse for a nation-state we all dream of.

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INTRODUCTION

Throughout human history, numerous uprisings have occurred but the French revolution was a turning point for it symbolized the recognition of the right of the 'ruled' as such to turn against the 'rulers'.¹ The idea of the right to self-determination at this stage was an evolution of the right of human freedom.² The world has entered into a new age of democracy. Democratization movements have sprung up in Central and Eastern Europe and in the fragments of the former Soviet Union.³ A great democratic revolution has won its first battles in South Africa. Political changes that hold some prospect of progress toward democracy are occurring in other states in sub-Saharan Africa and in parts of Latin America. These changes on the ground have both stimulated and been reinforced by significant developments in international law that go some distance toward the recognition of a right to democratic governance.⁴

This surge of democratic state-makings has been accompanied by a rash of state-breakings. Secession is not a new phenomenon, but the current pervasiveness of secession movements and, even more strikingly, of successful attempts at secession, is unprecedented.⁵ With the exception of the case of Bangladesh there were virtually no successful secession movements in the entire period from 1920 till 1989. From 1989 there have been at least a dozen secessionist attempts and more than twenty-five new states have been formed out of fragments of old ones.⁶ Enthusiasm for democratization is almost universal; attitudes toward secession are often negative or ambivalent at best. It is not just conservatives who shudder at the prospect of uncontrolled state-breaking.

¹ P. Hoffman, 'The Right of Self-determination in Very Small Places', New York University Journal of International Law and Politics, p. 486 (1976)

² See *Id.* at 488

³ Jennings, Ivor. *The Approach to Self-Government*. Boston, Beacon Press, (1963)

⁴ William Turning, *Issues of self-Determination*, Aberdeen, Aberdeen University Press, p. 24-68 (1999)

⁵ see *Id.* at 28

⁶ *Id.*

⁷Secessionist attempts, and the efforts of states to resist them, have usually led to severe economic dislocations and massive violations of human rights. All too often, ethnic minorities have won their independence only to subject their own minorities to similar treatments suffered when they were part of the undivided state.⁸

International law has not provided coherent guidance for how to respond to the new wave of secessions.⁹ On the one hand, neither international legal doctrine nor practice recognize a right to secede, except in the case of the efforts of colonies to free themselves from metropolitan control; and this provision is of little practical relevance today, since the work of colonial liberation, which began in earnest in the 1960s, is virtually complete.¹⁰ On the other hand, international law has not been invoked successfully to block secession either; nor has it provided a principled distinction between legitimate and illegitimate secession.¹¹

There is a tendency to view these two profound political changes-the spread of democracy and the surge of secessionist movements as distinct and unrelated phenomena. Scholarly literature tends to concentrate on the one or the other, without attempting to provide a systematic analysis that links the two.¹² However, at least at a superficial level, democracy and secession are intimately related. Both are cases of self-determination or as many have assumed. If democracy is popular sovereignty, government by the people, then secession might be seen simply as the effort of various peoples to govern themselves, to be politically self-determining in the most literal sense, by forming their own states.¹³ According to this view, the same values that justify democracy also support what may be called a plebiscitary right to secede, the right of a majority in any portion of

⁷ Cobban Alfred, *National Self-Determination*, London, Oxford University Press, (1944)

⁸ Alston P, *The United Nations and Human Rights: A critical Approach*, Oxford Clarendon Press, 26 (1992). See also Yael Tamir's discussion in 'The Right to National self-determination', *Social Research*, vol. 58, no. 3, p.584-9 (1991).

⁹ Kamanu Onyeonoro, *Secession and the Right of Self-Determination: An O.A.U. Dilemma*, *Journal of Modern African Studies.*, vol. 12, p. 363-387 (1994).

¹⁰ See Id at p.368

¹¹ *supra* at 8

¹² *supra* at 9

¹³ *Supra* at 8

the territory of a state to form its own independent state if it so chooses, even if the majority of the state as a whole opposes their bid for independence.¹⁴

If this is the correct view of the relationship between democracy and secession, then existing international legal doctrine and practice, which encourage democratization, but not secession, are starkly inconsistent.¹⁵ The right to democratic governance is seen as a general right which the citizens of every state have, while the right to secede is understood to be, like the right to revolution, a remedial right only-a right which groups come to have if seceding is the remedy of last resort for serious injustices perpetrated against them by the state.¹⁶

Decolonization saw the emergence and independence of many nation-states in Africa and Asia which were freed from the British and French imperial domination. Outside decolonization, we are witnessing demands for the right to self-determination by national minorities in the face of perceived oppression in the political system.¹⁷ The quest for self-determination through secession activated by various groups on the contemporary scene is guided by claims of speaking a certain language, having similar values and having a unique historical past. These set of claims are threatened by the current rulers who may not speak the same language or belong to the same ethnic group, or relate to the same historical past.¹⁸

My thesis is on self-determination with particular reference to its evolution in the Republic of Cameroon. Self-determination practices in other parts of the world have been very helpful to buttress some arguments put forward in this thesis. Some of the accounts

¹⁴Bluway Gilbert, *Democracy at Bay: The Frustration of African Liberal*, also A. Gboyaga and E. Osasghae, *Human Rights Problems in Africa*, Institute of African Studies, p. 45-48 (1992); See also Awa Kalu, *Legal Process for Human Right Enforcement*, Lecture delivered at Human Right Africa Training Institute, August 20, 1991

¹⁵Ikke, F.C., *How Nations Negotiate*, Harper & Row, New York, 48 (1964).

¹⁶id.

¹⁷Iorns C.J., *Indigenous Peoples and Self-determination: Challenging State Sovereignty International Law*, 247-267 (1992).

¹⁸Adebayo Adedeji, *Promoting Human Right with Nations: Thoughts on African Development*, paper delivered at the 2nd Ambassador's Colloquium organized by Human Rights Africa (April 1992)

in this discourse are firsthand, personal experiences since I have actually participated or witnessed the unfolding of some of the events in Cameroon's 46 years independent statehood.

Discontent between English-speaking Cameroon, designated as Southern Cameroon prior to independence and French-speaking East Cameroon has been simmering for over 40 years. Anglophones make up 25 percent of Cameroon's approximately 16 million population. In a bid to acquire independence status, the people of this former UN trust territory under British colonial rule were presented the choice to vote in a plebiscite to be a part of Nigeria or to reunite with French-speaking East Cameroon. The voting machinery was administered under United Nation supervision and was free and fair by all accounts which was exceptional to say the least for a burgeoning democratic state in South Saharan Africa.¹⁹ An overwhelming majority voted to join East Cameroon to constitute the Federal Republic of Cameroon which later became a unitary state, the Republic of Cameroon. At least these events prove that the people of English-speaking Cameroon had been willing to try to make it with the political entities of which they were a part. As will be discussed in the body of this essay, the Anglophones in Cameroon are nursing the bitter feeling that this political union was ill-fated, a political miscalculation, an experiment that has woefully failed in light of ensuing events. They are looking with nostalgia on their former sovereign identity as Southern Cameroon. Some of the leaders are now trying to make it as a separate community within or without the existing political entity.

Since reunification, Cameroon has undergone a series of constitutional evolution viewed by Anglophones as a systematic attempt to stamp out their identity, annex and plunder their territory. Their grievances include the exclusion of Anglophones from certain strategic public offices, the sidelining of English language in official business. Anglophones also lament the lack of investment in the Anglophone region where the standard of living has allegedly dropped below pre-unification levels despite the glaring

¹⁹ Hall H. D. *Mandates, Dependencies and Trusteeship*, Washington: Carnegie Endowment for International Peace. (1948). On the importance of 'recognition', for new states in Africa, see Charles Taylor's discussion in 'The Politics of Recognition', in Amy Gutmann (ed.), *Multiculturalism and the 'Politics of Recognition': An Essay by Charles Taylor*, Princeton, Princeton University Press, (1992).

fact that about 80 percent of the country's GNP, chiefly from petroleum products derives from the Anglophone region. There are fundamental differences and conflicting views between French Cameroon with its colonial background of assimilation, civil law and a unitary system, and Southern Cameroon which had a Westminster-style parliament and a common law system.²⁰ The Anglophones are also embittered about the imposition of one-party rule in 1966, the suspension of the federal constitution by former President Ahmadou Ahidjo, followed in 1972 with the introduction of a unitary constitution through a referendum, and in 1984 renaming the country "La Republique du Cameroun" (the Republic of Cameroon) which was the name of the French-speaking Cameroon before unification. Anglophone anger has been channeled into political action.

The Southern Cameroon National Council (SCNC), an umbrella organization of Anglophone nationalist movement formed in 1993 has become increasingly vocal. The government's reaction has been marked by intimidation, mass arrests, long detention and also gunning down of demonstrators. Government troops sporadically fired on peaceful march by Anglophones killing a handful. Thousands have been forced into exile where they have launched a diplomatic offensive to put Southern Cameroon grievances on the global agenda. The government's refusal to pay attention to SCNC's call for dialogue has finally pushed the group to espouse secession as a final solution.

The first chapter of my thesis opens with a case before the Africa Commission on Human and Peoples Right introduced by SCNC as complainant against the respondent Republic of Cameroon represented by a delegation led by the Minister for Commonwealth. Both sides present their views for deliberation by the Commission. I examine the claims and counterclaims in a balanced and unprejudiced position as possible. Chapter 2 attempts a broad definition of self-determination as a principle of customary and treaty law and further examines the basis of the right to self-determination. I also elaborate on the desire to achieve self-determination as a prima-facie human right with legal force that gives a group independent statehood or expanded powers within a federal state structure. Democracy and human rights also mandate the

²⁰ Basil Davidson. *The Black Man's Burden: Africa and the Curse of the Nation-State*, New York Times, (1992); See also Costner Rene, *French Effort in Cameroon*, Paris, Larose, no. 12 (1975)

means of achieving self-determination through a plebiscite, election or by a negotiated consensus in order to avoid the evil consequences of armed struggle – refugees, disrupted lives prevalent in secessionist wars. The 1966 Biafra civil war presents a poignant illustration of the horrors of secessionist war. It reveals the way in which regional elites contemplated secession as a means of acquiring and retaining their power base and privileges which is covered in chapter 3. I argue for a presumption against secession which as a last resort is justifiable when claims to self-determination are in fact enhanced by grievances that are not likely to be remedied short of full independence such as the treatment that the Bosnian Muslims feared if left alone with the Serbs in unified Yugoslavia or the treatment of the Iraqi Kurds at the hands of Saddam Hussein.

Chapter 4 looks at the response of the international system. The pressures of ethnic self-determination produces an enormous proliferation of political entities with implications for the peace and security of the international system. There is a negative reaction in the African Union (former Organization of African Unity) and the UN to the quest for self-determination in already independent states based on the possible epidemic effect of such aspirations. A basic nation-state bias persists.²¹ Ethnic groups are relegated to the status of dependent variables or policy problems. There is simultaneously a growing support for human rights and its extension to the right of self-determination. There is a scholarly view among jurists that the right to self-determination is not limited to colonial peoples. States on the other hand justify their opposition by arguing for the primacy of territorial integrity. In the face of these contending principles, a careful investigation of international documents serves to determine the international system's position on secession in general.²²

In most multination or multiethnic states, the component nations are inclined to demand some form of political autonomy or territorial jurisdiction so as to ensure the full

²¹ Michael Hechter, *Internal Colonialism*, Berkeley, University of California Press, 116 (1975); At the African Head of State Meeting held in Monrovia to discuss issues of Human Right and self-determination, adopted Decision 115 (XVI) of 16th Ordinary Session, Monrovia, Liberia (20 July 1999)

²² Daniel Elazar, *Federalism and the Way to Peace*, Institute of Intergovernmental Affairs, Queen's University, Kingston, 1994, *Exploring Federalism*, Tuscaloosa, University of Alabama, (19870).

and free development of their cultures and promote the interest of their people.²³ The widespread interest in federalism reflects a welcome acknowledgement that the desire for national minorities to retain their ethnic cultural identity should be accommodated not suppressed.²⁴

Chapter 5 asks the question whether federalism can be seen as a viable alternative to secession. Can it be employed satisfactorily to accommodate the divergent aspirations of multicultural communities by promoting self-government in the federal subunits as is the case in Quebec and Catalonia where the national minorities remain culturally distinct and politically self-governing societies. Theorists have argued that federalism has the flexibility in accommodating distinct groups. Does American federalism which is considered a mature and classic model be used in solving the conflicts in developing countries where there is ethno-cultural diversity such as in Cameroon and what, if any, are the pitfalls in adopting federalism in such cases. I will discuss the problems attendant with how boundaries are drawn and powers distributed in Cameroon with its French colonially-structured and over-centralized state system.

To conclude, I look at the enormous tasks facing the modern state in a developing country like Cameroon seen as a positive political achievement and any threat to it must be resisted. The task of constructing a modern state from primitive tribes of distant past, from organizational simplicity to complex state-wide configurations, from traditional to modern, from primary relations to secondary relations; a progression from lower to a higher quality of human relations stretching to the international scene is unprecedented.

The task of national reconstruction, of building national value system, of making the instruments of national integration to flourish takes time. Nation-building can only move forward through an ongoing bargaining and compromise. There is simply no escape from the existing state system in Cameroon. Separatist tendencies connote disintegration which implies disorder and chaos. Breaking away would create too small, economically nonviable entities in a country where some territorial boundaries were established and consolidated by historical accidents. Members of the international

²³ Id

²⁴ Howse, R and K. Knop, *Federalism, Secession and the Limits of Ethnic Accommodation*, *New Europe Law Review*, 269 (1993)

community are reluctant to lend support to separatist groups except in the few cases where they have an interest in the emergence of the aspirant new state such as a common ethnic identity.²⁵

²⁵ Eric Nordlinger, Conflict Regulation in Divided Societies, Harvard University Center for International Affairs. No 29, (January 1972)

**Chapter 1. ISSUES IN A CASE OF SOUTHERN CAMEROON VS “LA
REPUBLIQUE DU CAMEROUN”**

This is a case that was filed before the Africa Commission on Human and Peoples’ Rights on January 9, 2003 by representatives of the Southern Cameroons National Council (SCNC) and Southern Cameroons Peoples Organization (SCAPO), acting on their personal behalf and on the behalf of the people of Southern Cameroons as plaintiffs. The complaint recites that La République du Cameroun is guilty of violating the rights of hundreds of citizens of the Southern Cameroons and the collective rights of the People of the Southern Cameroons.²⁶

VIOLATION OF THE RIGHTS OF CITIZENS OF SOUTHERN CAMEROON

In their Submissions on Admissibility and on the Merits Complainants adduced compelling and conclusive evidence of a continuing and consistent pattern of gross and reliably attested violations by the Respondent State of individual human rights in the Southern Cameroons. This was supported by an exhaustive catalogue of repression and oppression, targeting the people of the Southern Cameroons, involving torture, arbitrary arrest and detention, maiming, extra judicial executions and killings of the citizens of the Southern dating from 1961.²⁷

Complainants submitted that the delinquent conduct of Respondent State violates Articles 1, 2, 3(1), 4, 5, 6, 7, 9, 10, 11, and 14 of the African Charter on Human and Peoples’ Rights. Particular attention was drawn to Article 4 which protects the right to life and to the physical integrity of the person; to Article 5 outlaws torture and other cruel, inhuman and degrading treatment and punishment; to Article 6 which prohibits

²⁶ The Banjul Communiqué, 37th Session of the African Commission on Human & Peoples Right, Communication No 266/2003. On claims on the complicity of the UN and Britain in the annexation of Southern Cameroon see analysis by the International Federation for the Protection of the Rights of Ethnic, Religious, Linguistic and other Minorities, available at http://www.unhchr.ch/html/menu2/b/a_ccpr.htm.

²⁷ Amnesty International, “Cameroon: Blatant Disregard for Human Rights” (16 Sept. 1997), p. 33

arbitrary arrests and detention; Article 7 which guarantees the right to fair trial; and Articles 9-12 which guarantee the right to freedom of expression, association, assembly and movement.

Complainants further submitted that forty-four years ago in 1961, Respondent State occupied the Southern Cameroons and established its colonial rule there, complete with its structures, and its administrative, military and police personnel, applying a system and operating in a language alien to the Southern Cameroons. Respondent State continues to exercise a colonial sovereignty over the territory to this day. But according to the fantastic claim of Respondent State the Southern Cameroons is part of its territory that was transferred back to it by the UN and the UK Government. Yet the stubborn fact of the matter is that Respondent State is a latter-day colonizer. It has grabbed and is trying to steal territory it has no rightful claim to at all. Its conduct is in violation of international law and a breach of its obligations under the African Charter.²⁸

Complainants have always argued and adduced conclusive evidence in support, that the occupation and assumption of a colonial sovereignty over the Southern Cameroons by Respondent State amounts to a violation of Articles 19 and 20 of the African Charter on Human and Peoples' Rights, both of which outlaw domination, and colonialism in all its forms and manifestations. Article 19 places an absolute ban on the domination of one people by another. Article 20 emphatically asserts the right of every people to existence, to self-determination, and of resistance to colonialism or oppression by resorting to any internationally recognized means of resistance.²⁹

²⁸ See United States Department of State, Country Reports on Human Rights Practices for 1998, vol. 1, May 1998, p. 46

²⁹ The Committee deplores multiple cases of torture, ill-treatment and extra-judicial execution and illegal detention in Cameroon, (CCPR/C/76/ADD.33, Para. 11);

RELIEF SOUGHT FROM THE AFRICA COMMISSION.

The substance of the complaint of the people of the Southern Cameroons is that the rights recognized to the peoples under the African Charter on Human and Peoples Rights have for the people of the Southern Cameroons, been suppressed by La République du Cameroun (the Respondent State) through domination and colonization in violation of the Charter; and that la République du Cameroun is guilty of a series of gross, massive, persistent and reliably attested human rights violations of the citizens and groups of citizens of the Southern Cameroons.³⁰

The Commission is requested to find la République du Cameroun (the Respondent State) guilty of these violations; to reaffirm the inherent, unquestionable and inalienable right of the people of the Southern Cameroons to self-determination and thus the enjoyment of all the rights recognized to the peoples under this Charter; to reaffirm the right of the people of the Southern Cameroons to live in peace and security as a free people; to call on States parties to the Charter to assist the people of the Southern Cameroons in their liberation struggle against the foreign domination of La République du Cameroun; to call on la République du Cameroun to end its continuing violation of the human rights of individual Southern Cameroons Citizens; and to find that victims of rights violations by la République du Cameroun are entitled to adequate compensation.³¹

At the 35th Session of the Commission held in Banjul in May/June 2004 the admissibility of the case was considered. At that hearing La République du Cameroun was represented by a delegation led by Minister Delegate in the Ministry of Foreign Affairs.³² The Respondent State argued that the communication does not meet the requirements of Article 56 (2) because the Complainants are advocating for secession

³⁰ Antoinette Ekam, "Considerations sur la detention preventive" *Cahier Africaines Droits des l'Homme*, No. 1, November 1998, Association pour la Promotion des Droits de L'Homme en Afrique Centrale, pp. 89-111 (1998)

³¹ Awa Kalu, *Legal Process for Human Right Enforcements*, Human Right Africa Training Institute, (Aug. 20 1991).

³² Human Right Treaty Bodies and Indigenous people available at <http://www.unhchr.ch/html/racism/indileaflet4.doc>

under the pretext of allegations of violation of the provisions of the African Charter and other human rights instruments. While conceding that the right to self-determination is an inalienable right, the Respondent State argued that this right should not “be interpreted as authorizing or encouraging any measure that would partly or wholly compromise the entire territory or the political unity of sovereign and independent States”³³

After satisfying itself that the communication satisfied the seven conditions stipulated in article 56 of the African Charter of Human and Peoples’ Rights, the Communication was declared admissible by the African Commission on Human & Peoples’ Rights. It may be recalled the Respondent State, said that the SCNC has been in factions and that la République du Cameroun did not know which faction to deal with. The Respondent State said it had now identified some SCNC individuals with whom it was discussing.³⁴

At the 37th Session of the Commission, held in Banjul from April 27 to May 11, the Commission heard oral presentation made by the Complainant (Southern Cameroons) and the response of Respondent State (la République du Cameroun). The Complainants reiterated that their submissions at the Admissibility and Merit stages of this case establish conclusively the elements of ‘people’, ‘domination’, ‘colonialism’ and ‘oppression’: the people of the Southern Cameroons are without any shadow of a doubt a people, a people under the domination of the people of Respondent State, a people under the colonial rule of Respondent State, and a people oppressed by Respondent State. Complainants repeated the following facts:³⁵ (i) that the Southern Cameroons and République du Cameroun were two separate Class B UN Trust Territories under two separate colonial Authorities with well-defined international boundaries in accordance with 1958 official map showing the Southern Cameroons as a UN Trust Territory under UK Administration; Nigeria is to the west and the Trust Territory of French Cameroun is to the east; (ii) that the Plebiscite Questions as framed by the UN invited the people of the Southern Cameroons to pronounce themselves on the achievement of independence by ‘joining’ either Nigeria or République du Cameroun; (iii) that the pre-plebiscite

³³ Universal Declaration of Human Rights: <http://www.un.org/overview/rights/>

³⁴ Supra at 31

³⁵ Details of this case in the African Guardian, Lagos, January 23, 2003

Agreements between the Southern Cameroons and Respondent State and the voting at the UN in April 1961 leading to the adoption of Resolution 1608 clearly envisaged three concomitant events to happen on 1 October 1961, namely, achievement of independence by the Southern Cameroons, entry into a federal association with République du Cameroun and the consequential termination of the trusteeship over the Southern Cameroons;³⁶ (iv) that operative paragraph 5 of Resolution 1608 called on the Government of the Southern Cameroons, the UK and République du Cameroun to finalize before 1 October 1961 the arrangements by which the agreed and published policies on a federal association would be implemented; (v) that the said paragraph 5 was not and has never been implemented; (vi) that on 1 September 1961 Respondent State passed an annexation law asserting sovereignty over the Southern Cameroons; and (vii) that on 1 October 1961 Respondent State sent its troops into the Southern Cameroons, grabbed it as part of its territory, and has since been exercising a colonial sovereignty over it, the fierce protest of the people notwithstanding.

The Complainants concluded their presentation as follows: “the self-determination process of the people of the Southern Cameroons is irreversible. Respondent State is grossly mistaken in its blind faith in the use of force, in the use of corrupted chiefs and other reactionary forces in the Southern Cameroons as fifth columnists, to maintain its colonial subjugation of the Southern Cameroons. The lesson of history, ancient and modern, shows how unsustainable and unrealistic such expedients always have been”.

The Commission asked for clarification on the following issues:

1. How do the Complainants reconcile their claim to self-determination with the OAU (Organization of African Unity) Cairo Declaration of 1964 on the inviolability of boundaries inherited at independence?³⁷
2. Whether the People of the Southern Cameroons were ethnically connected with the people of la République du Cameroun?

³⁶ Commentary on the Banjul Communiqué, 37th Session of the African Commission on Human & Peoples Right, Press Release, African Concord, January, 2003, p.9

³⁷ Organization of African Unity, Cairo Declaration, OAU/Af/Min./2454/1964

The Complainants responded by confirming their total subscription to the terms of the OAU Cairo Declaration that States must respect the borders, which they inherited at the time they attained independence. Complainants called the Commission's attention to the fact that the Respondent State, a former UN Trust Territory under French Administration, achieved independence on January 1, 1960 and was admitted to membership of the United Nations on September 20, 1960. At no time prior to or at the independence of the Respondent State or at the time of its admission to the United Nations was the Southern Cameroons ever a part of the Respondent State.³⁸ The international law principle of *uti possedetis juris* ordains that the boundaries of a colonial territory become frozen on the date of its attainment of independence. Respondent State's claim to territory outside the territorial framework it inherited on its attainment of independence could only be expansionist, hegemonistic and colonialist, outlawed under international law.

On the second question, the Complainant stated that there is no substantial ethnic connection between the Southern Cameroons as a whole and the people of the Respondent State as a whole; but that along the common border between the Southern Cameroons and la Republique du Cameroun, one occasionally finds some communities astride the common border between the two countries. However, there is nothing unique about this phenomenon in Africa. For example, there are many tribes in the territory of the Respondent State which spill over into the contiguous states of Equatorial Guinea, Gabon, Congo, Chad, Central African Republic and Nigeria. Along the common Nigeria – Southern Cameroons border, there are communities which are astride Nigeria and the Southern Cameroons. Therefore even if such connection existed to a substantial degree, it cannot be the basis for laying any claim to the territory of the Southern Cameroons.³⁹

³⁸ Basil Davidson, *The Black Man's Burden: Africa and the Curse of the Nation-State*, N.Y Times Books,(1992).

³⁹ Alemante Selassie, 'Ethnic identity and constitutional design for Africa', *Stanford Journal of International Law*, vol. 29, no. 1, p.1-54, (1993)

Chapter 2. THE NOTION OF SELF-DETERMINATION

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.⁴⁰ Essentially, the right to self-determination is the right of a people to determine its own destiny. In particular, the principle allows a people to choose its own political status and to determine its own form of economic, cultural and social development. Exercise of this right can result in a variety of different outcomes ranging from political independence through to full integration within a state. The importance lies in the right of choice, so that the outcome of a people's choice should not affect the existence of the right to make a choice.⁴¹ In practice, however, the possible outcome of an exercise of self-determination will often determine the attitude of governments towards the actual claim by a people or nation. Thus, while claims to cultural autonomy may be more readily recognized by states, claims to independence are more likely to be rejected by them.⁴² Nevertheless, the right to self-determination is recognized in international law as a right of process (not of outcome) belonging to peoples and not to states or governments.⁴³ The preferred outcome of an exercise of the right to self-determination varies greatly. For some, the only acceptable outcome is full political independence. This is particularly true of occupied or colonized nations. For others, the goal is a degree of political, cultural and economic autonomy, sometimes in the form of a federal relationship. For others yet, the right to live on and manage a people's traditional lands free of external interference is the essential aim of a struggle for self-determination.⁴⁴

⁴⁰ Hannum H. *Autonomy, Sovereignty and Self-Determination: The Accommodation of Conflicting Rights*, Philadelphia, University of Pennsylvania Press, 354 (1996)

⁴¹ *See Id.* at 356

⁴² *See Id.* at p. 358

⁴³ Henrard, K., *Devising an Adequate System of Minority Protection: Individual Human Rights, Minority Rights, and the Right to Self-Determination*, The Hague, Kluwer Law International, p. 352 (1999)

⁴⁴ Crawford Young, *The Politics of Cultural Pluralism*. Madison, University of Wisconsin Press. (1996)

SELF-DETERMINATION IN INTERNATIONAL LAW

The principle of self-determination is prominently embodied in Article I of the Charter of the United Nations. Earlier it was explicitly embraced by United States President Woodrow Wilson, by Lenin and others, and became the guiding principle for the reconstruction of Europe following World War I. The principle was incorporated into the 1941 Atlantic Charter and the Dumbarton Oaks proposals which evolved into the United Nations Charter. Its inclusion in the United Nations Charter marks the universal recognition of the principle as fundamental to the maintenance of friendly relations and peace among states. It is recognized as a right of all peoples in the first article common to the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights which both entered into force in 1976. Paragraph 1 of this Article provides:⁴⁵ "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".

The right to self-determination of peoples is recognized in many other international and regional instruments, including the Declaration of Principles of International Law Concerning Friendly Relations and Co-operation Among States adopted by the UN General Assembly in 1970,⁴⁶ the Helsinki Final Act adopted by the Conference on Security and Co-operation in Europe (CSCE) in 1975, the African Charter of Human and Peoples' Rights of 1981, the CSCE Charter of Paris for a New Europe adopted in 1990 and the Vienna Declaration and Program of Action of 1993. It has been affirmed by the International Court of Justice in the Namibia case , the Western Sahara case , and the East Timor case , in which its erga omnes character was confirmed. Furthermore, the scope and content of the right to self-determination has been elaborated upon by the United Nations Human Rights Committee , and the Committee on the

⁴⁵ A. Cassese, Self-determination of peoples: A legal reappraisal, 171,172 (1995).

⁴⁶ General Assembly Resolution A/Res 2625 (XXV) (1970) G.A.O.R., 25th Sess., Supp. 28 at 121

Elimination of Racial Discrimination, and numerous leading international jurists.⁴⁷

That the right to self-determination is part of so called hard law has been affirmed also by the International Meeting of Experts for the Elucidation of the Concepts of Rights of Peoples brought together by UNESCO from 1985 to 1991, it came to the conclusion that (1) peoples' rights are recognized in international law; (2) the list of such rights is not very clear, but also that (3) hard law does in any event include the right to self-determination and the right to existence, in the sense of the Genocide Convention.⁴⁸

The inclusion of the right to self-determination in the International Covenants on Human Rights and in the Vienna Declaration and Program of Action, referred to above, emphasizes that self-determination is an integral part of human rights law which has a universal application. At the same time, it is recognized that compliance with the right of self-determination is a fundamental condition for the enjoyment of other human rights and fundamental freedoms, be they civil, political, economic, social or cultural.⁴⁹

The concept of self-determination is a very powerful one. As Wolf Gruber put it⁵⁰: "No other concept is as powerful, visceral, emotional, unruly, as steep in creating aspirations and hopes as self-determination. It evokes emotions, expectations and fears which often lead to conflict and bloodshed." Some experts argue that the title holders should be or are limited in international law. Others believed in the need to limit the possible outcome for all or categories of title holders. Ultimately, the best approach is to view the right to self-determination in its broad sense, as a process providing a wide range of possible outcomes dependent on the situations, needs, interests and conditions of concerned parties.⁵¹ The principle and fundamental right to self-determination of all peoples is firmly established in international law.

⁴⁷ Crawford, *The Criteria for Statehood in International Law*, 48 *British Y.B.I.L.*, 120 (1976-77)

⁴⁸ *Supra* at 44

⁴⁹ *Supra* at 44

⁵⁰ Wolf Gruber, *The Emerging of States in International Law*, *Journal of International Affairs* 29, No 2, (1972)

⁵¹ The African Charter on Human and Peoples' Right, Decision 115 of 16th ordinary session, (20 July 1999); see coverage by *Daily Times*, Lagos, July 2, 1999, p. 21

SELF-DETERMINATION AND HUMAN RIGHT

Human rights are international moral and legal norms that aspire to protect all people everywhere from severe political, legal, and social abuses.⁵² Human rights are minimum standards of legal, civil and political freedom that are granted universally. These rights take precedence over other claims by individuals, groups or states. Human rights refer to the perception that humans, no matter what ethnicity, nationality or legal influence, have universal rights. These rights usually include the right to life, freedom from torture, freedom of movement, the right to an adequate standard of living, freedom of religion, the right to self-determination, the right to participation in cultural and political life and the right to education. Many international as well as national laws safeguard the human rights of its inhabitants, although these laws and their implementations vary.⁵³

Human rights are also political norms dealing mainly with how people should be treated by their governments and institutions. They are not ordinary moral norms applying mainly to interpersonal conduct (such as prohibitions of lying and violence).⁵⁴ Human rights are those basic standards without which people cannot live in dignity. To violate someone's human rights is to treat that person as though she or he were not a human being. In conclusion, human rights belong to all people simply because they are human beings.⁵⁵

⁵² Gilbert G, The Council of Europe and Minority Rights, Human Rights Quarterly 18, p. 168 (1996).

⁵³ Supra at 32

⁵⁴ Henrard K, Individual Human Rights, Minority Rights and the Right to Self-determination, The Hague, Kluwer law International, p. 347-398 (1999)

⁵⁵ Zehra F. Arat, Democracy and Human Rights in Developing Countries, Boulder, Colo.' Lynne Rienner Publishers, (1991), p. 71 René Dumont, Pour L'Afrique J'Accuse (1986), p. 339. Translated from its original French by the author.

HUMAN RIGHTS IN INTERNATIONAL LAW

Many human rights violations have occurred during the centuries with many countries resisting the acceptance of universal human rights, beyond metaphysical or philosophical principles. In some countries massive popular upheavals took place and gave birth to Human Rights Charters, for example the Magna Carta, the French Declaration of the Rights of Man and of the Citizen of 1789, followed two years later by the American Bill of Rights.⁵⁶ The international era of the human rights debate began in earnest with the creation of the United Nations Commission on Human Rights in 1946, which was composed of 18 member states. During its first session, the main item on the agenda was the Universal Declaration of Human Rights. The Commission set up a drafting committee which devoted itself exclusively to preparing the draft of the Universal Declaration of Human Rights.⁵⁷ During the two-year drafting process of the Universal Declaration, the drafters maintained a common ground for discussions and a common goal: respect for fundamental rights and freedoms. Despite their conflicting views on certain questions, they agreed to include in the document the principles of non-discrimination, civil and political rights, and social and economic rights. They also agreed that the Declaration had to be universal.⁵⁸

On 10 December 1948, at the Palais de Chaillot in Paris, the 58 member states of the United Nations General Assembly adopted the Universal Declaration of Human Rights, with 48 states in favor and eight abstentions (two countries were not present at the time of the voting). The General Assembly proclaimed the Declaration as a "common standard of achievement for all peoples and all nations", towards which individuals and

⁵⁶ The international and regional bills of human and peoples' rights remain a mere ideal in sub-Saharan Africa, for details on the press in Africa, see *Attacks on The Press 1989: A Worldwide Survey*, Committee to Protect Journalists, N.Y. (1990).

⁵⁷ Phillip Alston, "International Law and the Right to Food," in Pierre Claude Richards and Burns Weston, *Human Rights in the World Community: Issues And Action*, Philadelphia, University of Pennsylvania Press, p. 144, (1989)

⁵⁸ Barsh R, *Indigenous Peoples in the 1990s: From Object to Subject of International Law*, Harvard Human Rights Journal, p. 76 (1994).

societies should "strive by progressive measures, national and international, to secure their universal and effective recognition and observance".⁵⁹ Although the Declaration, which comprises a broad range of rights, is not a legally binding document, it has inspired more than 60 human rights instruments which together constitute an international standard of human rights. These instruments include the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights, both of which are legally binding treaties. Together with the Universal Declaration, they constitute the International Bill of Rights.⁶⁰

Challenges still lie ahead, despite many accomplishments in the field of human rights. Many in the international community believe that human rights, democracy and development are intertwined. Unless human rights are respected, the maintenance of international peace and security and the promotion of economic and social development cannot be achieved. Human rights "specify limits to a regime's internal autonomy".⁶¹ There are six major international human rights treaties (legally binding instruments) within the UN Human Rights system that deal with civil and political rights, economic and social rights, racial discrimination, torture, gender discrimination, and children's rights. A country becomes a party to a treaty by ratifying or acceding to it. An individual or group can only use the treaty system to seek redress when the specific country is failing to observe obligations it has formally accepted by becoming party to a treaty. This also applies to the complaints mechanisms: a complaint can only be filed by a group or

⁵⁹ Colonial structures pose obstacles to the establishment of liberal democracy. For details, see Henry Shue, *Basic Rights: Subsistence, Affluence and U.S. Foreign Policy*, N.J., Princeton University Press, (1980), p. 53.

⁶⁰ Henrard K, *Individual Human Rights, Minority Rights and the Right to Self-determination*, The Hague. Kluwer Law International, p. 368 (1999)

⁶¹ id. at 354

person if the specific state has accepted the complaints provisions in a treaty.⁶² There is a supervisory committee for each of these treaties that monitors the way in which states parties (the countries whose governments have accepted the treaty) are fulfilling their human rights obligations as stated in the relevant treaty. The committees (also known as treaty bodies) are composed of international human rights experts.⁶³

⁶² Rupert Emerson, *From Empire to Nation: The Rise of Self-Assertion of Asian and African Peoples*. New York Lexington Books, (1990).

⁶³ *Id.*

Chapter 3 ANALYSIS OF THE DECISION TO SECEDE

A secession crisis occurs when the leaders representing a territorially concentrated and distinct community within a larger state translate discontent into demands for secession, and possess the power, either through sufficiently strong internal community mobilization or through the use of force, to compel the central government to react to those demands. The crucial distinction here lies in the requirement that the central government in fact reacts to the demands for secession.⁶⁴

DISINTEGRATION AND DISCONTENT

Secession is a logical, although not inevitable, conclusion of the process of political disintegration.⁶⁵ Political integration is “the process whereby political actors in several distinct political systems are persuaded to shift their loyalties, expectations, and political activities toward a new center, the institutions of which possess or demand jurisdiction over the pre-existing sub-system.” By contrast, the decision to secede represents an instance of political disintegration, wherein political actors in one or more sub-systems withdraw their loyalties from the jurisdictional center to focus them on a center of their own.⁶⁶

This process of disintegration, however, can ultimately result in numerous different outcomes due to the “the fickleness and elasticity” of separatists' demands. The demands of a disgruntled community fluctuate.⁶⁷ Although separatist movements vary widely in terms of intensity, degree of violence, and duration, their demands usually fall on a political spectrum somewhere between demanding greater regional autonomy and outright secession. At any particular time, a movement may include those who push for

⁶⁴ Reginald Green, "Pluralism, Participation and Decentralization in Sub-Saharan Africa," *Third World Legal Studies*, p.32, (1989).

⁶⁵ Kirk Green, *Crisis and Conflict in Nigeria*, London, Oxford University Press, 71 (1969)

⁶⁶ id.

⁶⁷ id.

secession, and others who press for domestic change.⁶⁸ The government of ex-President Ahmadou Ahidjo consolidated power in Cameroon by instituting a one-party system shortly after independence in 1966. Opposition parties were outlawed and successfully eradicated and a dismal period of a repressive and dictatorial regime lasted until 1990. In early 1990, there was considerable pressure from western donor countries for transparency in government and a pluralistic political system as part of the World Bank and IMF structural adjustment conditionality package for troubled developing countries. The new Cameroon leader President Paul Biya in compliance, approved multipartism in Cameroon. This was a mixed blessing. Many political parties were formed based on tribal and ethnic affinities amidst infighting in the party ranks and clashes between parties which were often destructive and chaotic. There was widespread violence and arson after elections. No party was willing to accept defeat at the polls, coupled with the fact that corruption and mismanagement of the electoral process tarnished this novel democratic experiment. Political and economic grievances which could not be addressed during the era of one-party dictatorship were voiced openly as Cameroonians for the first time in over a decade were able to express their opinions openly without fear of victimization.⁶⁹ The euphoria was however short-lived. The Social Democratic Front under John Fru Ndi an Anglophone, emerged as the leading opposition party to the ruling Cameroon People Democratic Movement. This party is believed to have defeated the incumbent President but the election result was annulled and the President declared the winner. Violent protest erupted which was met with ruthless resistance and reprisals by the government forces of law and order.

Whatever the democratic dispositions of the ruling political leaders may have been, when leaders have tried to compromise, it has been shown repeatedly that leadership leeway is very narrow on issues of ethnic power in severely divided societies such as in Cameroon.⁷⁰ Compromisers can readily be replaced by extremists on their

⁶⁸ Melville J., *Continuity and Change in African Cultures*, Chicago, University of Chicago Press. (1959)

⁶⁹ Patrick Healy, *The Approach to Self-Government in Africa*, *Journal of African Studies*, No 15 (1973). Stresses that despots who have ruled Africa since independence have mainly been concerned with consolidating their hold on power.

⁷⁰ Melville J., *Continuity and Change in African Cultures*, Chicago, University of Chicago

flanks, once the latter are able to make the case that a sell-out of group interests is in progress. This was the case with the Ewondo and Beti regions from where President Paul Biya originates. Holding key government posts, they quickly consolidated power and unleashed a reign of terror. Strikes, disorder and chaos spread across the other ethnic regions in Cameroon and was matched with government reprisals and drastic reactionary measures to keep the peace. Since 1992, political tension and a disintegrating spiral is palpable in the Cameroonian polity.⁷¹

Anglophones have seized this opportunity to press their demands for autonomous status in a federation or outright independence. John Fru Ndi has always opposed separation and has instead pushed for a loose federation for the entire country. He has however been criticized for having self interest in taking this position; after all he has ambition to become President of Cameroon and this is more likely to happen than the promises of an autonomous status for English-speaking Cameroon. I believe that the separatist leaders also blur their demands due to their own uncertainty or due to strategic considerations.⁷² For instance, they espouse secession as the primary goal to strengthen their negotiating position for greater devolution, or to consolidate their base of support and thus enable them to pursue secession in the future. Anglophone Cameroon makes up approximately 25 percent of the citizens occupying two out ten provinces. Despite their size relative to the rest of the country, their leaders have always expected larger budgetary appropriations for development. This is one of the factors that incited the dominant French-speaking leaders to make the change from federalism to a unitary system in order to blunt these demands. The Anglophone region is not worse off and in many aspects could be seen as more favored in infrastructure and education than most other provinces in Cameroon. Development aid has specifically been earmarked for the two Anglophone provinces by Britain and Canada.

In their case before the Commission, the Southern Cameroons party adduced the claim that their discontent was based on the fact that the territory of Southern Cameroon was annexed and colonized by La Republique du Cameroon and up to this day remained

Press. (1959).

⁷¹ id.

⁷² V. Montville, *Conflict and Peace-making in Multi-Ethnic Societies*. New York, Lexington Books, (1989).

a colony and also drew attention to the human right abuses inflicted on the people of Southern Cameroons who have been systematically starved of development assistance in their region, a situation warranting the push for separation.⁷³ Secessionists like to compare their separatist project with anti-colonial movements which gave independence to much of Africa and Asia after the Second World War. The analogy gives the secessionist project legitimacy, as it casts the existing state in the role of imperialist exploiter.⁷⁴ It allows the secessionists to claim the same right to self-determination which colonized peoples possess under international law. It conveys an impression that the secessionist regions are united as most colonies were, behind the independence project. Between 1885 and 1916, Southern Cameroon was part of German Cameroon (Kamerun) which ceased to exist with the end of World War 1 and the Peace Treaty of Versailles that gave birth to the League of Nations.⁷⁵ The territory was thereafter partitioned by the British who took one-fifth and the French four-fifth. The British administered this mandate territory of the League of Nations as an integral part of Nigeria. They further split the territory into Northern Cameroons and Southern Cameroons. To grant independence to both regions, the leaders were given the choice either to opt for integration with Nigeria or to revert to its former unified territory with French Cameroon under the German occupation. Both Nigeria and French Cameroon had in the same period been granted independence. In a UN organized plebiscite of February 11, 1961, Northern Cameroons voted for integration into Nigeria while Southern Cameroons voted for unification with French Cameroon and was thus reunified in a UN sponsored federation of two equal states known as the Federal Republic of Cameroon. On May 20, 1972, following negotiations with the leaders of Southern Cameroons, a referendum was held

⁷³ Id.

⁷⁴ Melville J., *Continuity and Change in African Cultures*, Chicago, University of Chicago Press. (1959)

⁷⁵ Rupert Emerson, *From Empire to Nation: The Rise of Self-Assertion of Asian and African Peoples*. New York Lexington Times (1990)

and the federal structure was abolished and a unitary state inaugurated under the name ‘the United Republic of Cameroon’, later changed to the “Republic of Cameroon”⁷⁶

The claim by the SCNC that Southern Cameroons is an annexed territory, a colony of French Cameroon is an overstatement. The state of Cameroon is an internationally recognized member of the community of nations and this status includes the former territory of Southern Cameroons. Gross human rights abuses have been documented in Cameroon but statistics prove that French-speaking Cameroonians are more victims of the regime as the Anglophones. Disgruntled English-speaking Cameroonians are using the language divide to mask other grievances of a political nature. It is not surprising that almost all the leaders of the separatist movement were at one time senior functionaries of the government, most had studied in western universities with the aid of government scholarships. It is only in the early 1990’s that these separatist claims were published and the key leaders are few representing different tribes. The respondent Republic of Cameroon delegation to the Commission was ironically led by an Anglophone minister.

It should be noted that English-speaking Cameroonians have held senior administrative and political offices in the government of Cameroon including the Speaker of the parliament who was next in rank to the President and currently the post of Prime Minister who is the head of government. In fact the last three Prime Ministers including the incumbent have been Anglophones. The separatist SCNC leadership are convinced that they cannot compete in the undivided state of Cameroon of which they are a part, colonized by civil servants from the dominant Francophone territories and subjected to uncongenial policies regarding language and other state symbols, their patience has been exhausted. Having tried to negotiate for a return to the federal structure which was dissolved in 1972, they attempt independence heedless of the costs. One reason for the relative attractiveness of secession resides in the position of the Southern Cameroon group leaders. In a secessionist state these leaders can easily acquire political and civil

⁷⁶ Over-centralization of power is an impediment to effective participation of the majority of people in Cameroon. See commentary in *Africa Watch*, *The Road to Participatory Democracy*, no. 14 (June 18, (1985)

service positions that eludes them in the undivided state.⁷⁷ With only two provinces out of ten, the number of senior level positions available to the Anglophone region are few and heavily contested. Most of these leaders have been shut out of power permanently and can expect to see their position transformed overnight with secession and independence. For them small is beautiful. It provides them with the prerogatives, and the trappings of power.⁷⁸ It is far better to be the President of a small Southern Cameroons, than to be the leader of a permanent opposition party which has very slim chance of ever gaining power in Cameroon.

ELEMENTS OF A SECESSION CRISIS

A secession crisis implies some necessary elements including a distinct community, territory, leaders, and discontent.⁷⁹ First, the demands must be presented by an identifiable unit, or distinct group to withdraw if not satisfied. Political protests would not normally lead to secession crises. The May 1989 mass demonstrations by Chinese students and workers in Tiananmen Square demanding increased political rights from a repressive totalitarian regime did not lead to a secession crisis, since the demonstrators' intentions were not to pull out of the People's Republic but rather to reform its government.⁸⁰

This identifiable unit of people must be associated with a geographical territory, on which it would presumably intend to establish its new independent state. Because they are dispersed across the United States, African Americans are unlikely to translate demands to end racial discrimination into calls for secession. Leadership of the movement is necessary both to translate the community's needs into demands for secession and to organize efforts to make its threats credible.⁸¹ Without effective

⁷⁷ Walter Schwarz, *Nigeria*, New York. Praeger, p. 234-67(1968)

⁷⁸ id.

⁷⁹ Kirk Green, *Crisis and Conflict in Nigeria*,. London, Oxford University Press, 79 (1969), for a comparative analysis of secessionist attempts in African countries.

⁸⁰ For plausible accounts of the nature of nationality, which I broadly follow, see Brian Barry, 'Self-government revisited', in *Democracy and Power: Essays in Political Theory*, vol. 1, Oxford, Clarendon Press, (1991), David Miller, 'In defense of nationality', *Journal of Applied Philosophy*, vol. 10, no. 1, (1993); David Miller *On Nationality*, Oxford, Clarendon Press, (1995)

⁸¹ Id.

leadership, threats to the community might merely generate social disorder and violence as pent-up frustrations are vented. The Southern Cameroon National Council is known to have serious leadership problem. Most of the leaders are in exile, mainly in the United States. Their appeal to the English-speaking people of Cameroon has not generated popular grass-root support due to a lack of a strong ethnic consciousness and self-definition. The nostalgia for the benefits of an autonomous status of Southern Cameroons prior to reunification in 1961 with French Cameroon is hard to recapture. The younger generation born after 1972 have no personal experience of these events. The educational system in Cameroon has calculatedly almost expunged this portion of history from government approved civics textbooks in schools at all levels in Cameroon. The SCNC leadership lack sufficient resources to popularize a sustained separatist movement and active membership is undoubtedly small, impoverished and are resident mainly in the United States. With economic hardship in Cameroon it is extremely difficult to raise funds locally for secession effort and since most Cameroonians depend for their livelihood on the government, the people are afraid to be seen as supporters of a separatist group. The celebration of former Southern Cameroon's independence day which falls on October 1st is an occasion that raises awareness for the separatist cause . Frantic effort to mobilize members and organize campaigns for secession is concentrated during this period. Escalating threats to the physical safety and the cultural inheritance of a community generate fear and discontent, and can provoke a secession attempt. Faced by such desperate circumstances, the decision to secede becomes one of "last resort."⁸² "

The Commission raised the issue of whether the 'people' residing in the territorial jurisdiction of former Southern Cameroons can be grouped as an identifiable ethnic group separate from other people groups in French Cameroon. The different tribes that made up the Southern Cameroons exist as public record in the archive of the United Nations. Do the people in the former territory of Southern Cameroons constitute a nation.⁸³

⁸² Donald Rothchild, *The Politics of African Separatism*, *Journal of International Affairs*, no.15 (1961)

⁸³ James C. N. Paul, "Ethnicity, Human Rights and Constitutional Orders in Sub-Saharan Africa," in Jack A. Hiller, Mary G. Persyn, and Paul H. Brietzke, eds., *Third World Legal Studies*, (1989); Valparaiso, Ind.: International Third World Legal Studies Association and the Valparaiso University School of Law, (1989), p. 65.

Many discontented communities have specifically not been accorded national status in order to withhold a sense of recognized legitimacy for their aspirations.⁸⁴ Former President Sékou Touré of Guinea was correct in more than one sense when he claimed in the early 1960s that “in Africa it is the state that creates the nation.”⁸⁵ To prevent the rearrangement of their continent's arbitrarily drawn colonial borders and to cultivate a sense of loyalty among their disparate citizens, many African leaders have pursued forceful policies of assimilation to create a sense of nationhood within the state. However, President Touré's statement poses a second meaning. Using their access to international fora, many African leaders branded internal protests as “tribalisms,” thereby seeking to dismiss them. These leaders feared that they would no longer be able to ignore a community if these demands were to garner international recognition as legitimate national claims.⁸⁶ For there exists no principle of “tribal self-determination” comparable to the principle of national self-determination in international law. None the less, based on most objective definitions of the term, there exists no a priori reason that three million Welsh should be called a nation, while 12 million Ibos or 6 million English-speaking Cameroonians could not be characterized by the same term.⁸⁷ In fact, and more importantly, most communities seeking political autonomy have been denied the description of nation unless they successfully created their own state. Fortunately, this distinctions cannot be applied to the former Southern Cameroons since it existed as a UN trust territory with a ‘distinct community’ made up of the different tribes and actually became a federated state in the Federal Republic of Cameroon.

In a sense nationalisms are simply those tribalisms, for that matter any other kind of grouping, which through luck, effort, and circumstance succeed in becoming an effective force under modern circumstances.⁸⁸ They are only identified ex post factum. Tribalism never prospers, for when it does, everyone will respect it as true nationalism, and no one will dare call it tribalism. Given this controversy, one could ask, what is the

⁸⁴ id.

⁸⁵ id.

⁸⁶ Theda Skocpol, *States and Social Revolution*, Cambridge University Press, (1979); Barrington Moore Jr., *Social Origins of Dictatorship and Democracy: Lord and Peasant in the Making of the Modern World*, Boston, Beacon, (1966).

⁸⁷ Neil McCormick, *Nation and Nationalism*, Oxford, Clarendon Press, 287 (1982)

⁸⁸ id.

nation? Many people have tried to find a definition. It seems, after a good deal of thought, that all we can say is that a nation exists when an active and fairly numerous section of its members are convinced that it exists.⁸⁹ Not external objective characteristics, but subjective conviction is the decisive factor. Any territorially concentrated community of people seeking to change its political situation, either through demands for increased autonomy or for outright independence, either peacefully or through the use of force, will be called not a nation, nor a tribe, nor an ethnic group, but rather a “distinct community.”⁹⁰ This term does not invoke specific political associations and is inclusive of all communities seeking to alter their political circumstances, whether they are inside the borders of an established state and willing to remain so or are pressing for secession.⁹¹ More importantly, the people in this group perceive characteristics which distinguish their members from individuals not within the group such as in language, culture and mode of administration in public affairs including education system, legal and penitentiary systems. These areas, to name a few, separate the Anglophone distinct community from their French-speaking neighbors.

⁸⁹ id.

⁹⁰ C. Gwendolyn, National Unity in Africa, *Journal of African Studies*, no. 15 (1976)

⁹¹ id.

BARRIERS TO SECESSION IN CAMEROON

It should be noted that secession could create a new set of minority problems in the secessionist region. This is a 'risk that cannot be altogether avoided'.⁹² This puts the problem rather mildly, since, nine times out of ten, the creation of a new set of minority problems is a 'risk' that will come to pass. In Biafra, there were the Rivers and Cross River people who were understandably hostile to Biafran independence. Bosnia has minorities everywhere; Croatia has Serbs in Krajina; Serbia has Hungarians in Vojvodina and Albanians in Kosovo; Kosovo in turn has Serbs. Slovakia has a large minority of Hungarians. Even relatively homogeneous Bangladesh had the Biharis, who were victimized immediately upon independence.⁹³

Sub-ethnic cleavages, usually submerged while common struggles are being played out on a larger canvas are prone to resurface. Eritrea had Christian Eritreans and Muslim Eritreans, who fought each other intermittently even as both were fighting Ethiopia.⁹⁴ The secession of South Kasai in Zaire in 1960 immediately produced a prominent, polarizing cleavage between Tshibanda and Mukuna. Both were subgroups of the Luba, who had suffered at the hands of the Lulua and had hoped South Kasai would be 'an all-Luba polity. The same was true of the Ibo solidarity in the all-Nigeria context but in their home region divided by sub-region into Owerri, Onitsha, Aro, and other subgroups that sought power along ascriptive lines.⁹⁵ Aside from the Efik, Ijaw, and other Eastern Region minorities that resisted Biafran independence, the Ibo themselves would have produced ethnic heterogeneity and conflict, merely on a smaller scale. Underestimating the continuing problems of pluralism following secession end up

⁹² David George, *The Ethics of National Self-Determination*, Aberdeen, Aberdeen University Press, p.18 (1991)

⁹³ Barzan Barry, *People, States, and Fear: An Agenda for International Security Studies in the Post-Cold War Era*, London, Wheatsheaf. (1991)

⁹⁴ See Id. at p. 312

⁹⁵ J. Fonkeng, *Histoire des Institutions*, Ibadan University Press, 54-67, (1984)

causing subsequent secessions.⁹⁶ The question of Southern Cameroon as a homogeneous people was raised by the Commission. Prior to the advent of Europeans and colonialism, the territory that today constitutes Southern Cameroon was not one geo-political entity that could equally be designated as a cultural entity. It was inhabited by different ethnic groups with different cultures, traditions and languages. As they differed in origin and culturally, so did they differ in outlook, aspirations and world view.⁹⁷ Nothing held them together as one people. The different ethnic groups with different indigenous political systems and religions also differed from one another in their occupational activities and socio-economic development. Thus there is a vast difference between the peoples of the coastal region and those of the grassland, which difference is not only visible in art, dance and economic life but also in social organization and social relationships.⁹⁸

This means that one can rightly refer to Southern Cameroon as a multi-cultural and multi-lingual political entity carved by the colonial masters without any recourse to the inhabitants. To build up one large political entity, the colonial masters had to impose its political centralizing authority while undermining the cultural diversity. There is an acrimonious rift between the coastal people in the southwest and the people of the northwest of the Anglophone territorial jurisdiction. There has been sporadic fighting between neighboring villages across this region over claims on farmlands and other resources. Due to the intervention of the government, relative peaceful co-existence has been restored. It is not hard to imagine that the elites of these villages would be willing to put down their machetes and fight the common enemy, “La Republique du Cameroun” in order to gain their independence. Southern Cameroon nonetheless lacks internal cultural unity. The seceding community will no doubt also become deeply divided by differences in values, priorities, and interests once the struggle for secession has been completed.⁹⁹

Anglophone areas in Cameroon have ethnic minorities which are strongly opposed to the secession project, and want to stay part of the united state or have their

⁹⁶ Gordon R., Legal Problems with Trusteeship, Cornell International Law Journal, 324 (1995)

⁹⁷ id.

⁹⁸ id.

⁹⁹ V. Montville, Conflict and Peace-making in Multi-Ethnic Societies. New York, Lexington Books (1989)

own state. Sometimes, individuals from local ethnic majorities identify with the larger state, or have nested or dual identities and do not want to have to choose between them. Many new states which have been created as a result of secession experience problems related to their heterogeneity.¹⁰⁰ Significant proportions of local majority groups also identify with the larger political community as well as their local group. In many cases it is wrong to assume discrete forms of identity in which groups either identify with one national community or another. Individuals frequently have nested identities, and feel part of several communities simultaneously.¹⁰¹ Thus, the Bamilekes are francophones and yet have stronger cultural ties with the English-speaking Cameroonians from the grassland areas than with the rest of French Cameroon and the most prosperous business elites are Bamileke Anglophones. The Bassa Anglophones and the coastal indigenes having stronger ethnic ties with their co-ethnic groups across French Cameroon will be troubled in the event of a secession. This is analogous to Scots identifying with Scotland and the United Kingdom, many francophone Quebecois identifying with Canada and Quebec, and many Catalans feel an affinity to Spain and Catalonia. The Flemish and Walloons living in Brussels will have problems if Flemish Belgium secedes from French-speaking Belgium. The problem with secession, from the perspective of these groups, is that it forces them to choose one identity at the expense of another.¹⁰²

In sum, secession rarely involves the unproblematic breakaway of a region. In many cases these problems are similar to those which existed in the predecessor state, and which contributed to its breakup. In these cases, secession does not solve the problem of national diversity; it merely places it in a different state context. Moreover, the process of new-state formation can exacerbate inter-group conflict.¹⁰³ The new state's dominant group, concerned about the loyalty of minorities, especially if the states' borders are contested, is often in no mood to accommodate them. Having gained their own state, new majorities may often want to use their power to promote their culture and political

¹⁰⁰ Cobban Alfred, *National Self-determination*. London, Oxford Press, (1994)

¹⁰¹ Richard Werbner, "Multiple Identities, Plural Arenas," in *Postcolonial Identities in Africa*, ed. Richard Werbner and Terence Ranger, London: Zed, p.14 (1996).

¹⁰² Donald Horowitz, *Self-determination, Ethnicity & Group Rights*, New York. N.Y. University Press, p. 421-467 (1997)

¹⁰³ id.

position at the expense of minorities. The minorities, who normally find themselves cut off from their co-ethnics in the predecessor state, and who may find their status transformed from dominant to dominated group overnight, cannot be expected to take this lightly. The result is frequently conflict, although the intensity of this varies greatly from place to place, depending on the respective sizes of the groups and whether there are traditions of violence or accommodation.¹⁰⁴

Due to perceived benefits of membership, most distinct communities do not consider secession as a viable option. But if they were to consider secession, they would immediately run into a second barrier namely the costs of secession.¹⁰⁵ State opposition and international hostility can force a distinct community to give up its independence struggle or not to embark on one in the first place. Furthermore, these costs of secession are the most effective obstacle to success even if the distinct community continues its struggle. More often than not, states have effectively opposed secession attempts. And even if the secessionist community were to win on the battlefield, it still stands to lose the diplomatic contest.¹⁰⁶ The principle of territorial integrity as one of the fundamental norms of post-1945 international relations limits secession as a means of altering existing borders. As a consequence, the international community has consistently withheld diplomatic recognition and the associated privileges from secessionist entities.¹⁰⁷

Historically, the struggle for secession has often entailed dreadful costs in terms of lives and human suffering. In a remarkable example, the Eritrean community has made an enormous sacrifice, in the form of approximately 500,000 dead out of a total population of about 4 million, in its nearly three-decade long struggle to secede from Ethiopia. Although it would be difficult to prove, one can imagine that the credible threat

¹⁰⁴ Iyob, "From Defiance to Democracy?"; From Guerrillas to Government: "Eritrean People's Liberation Front"; Abbay Identity Jilted, 28–32. (1992)

¹⁰⁵ David Elkins, Reflections on Non-Territorial Provinces and other Constitutional Proposals, University of Alberta, Centre for Constitutional Studies. (1992)

¹⁰⁶ Bathus V. . The Dynamics of Secession, Cambridge, Cambridge University Press. (1999)

¹⁰⁷ Cobban Alfred, National Self-determination. London, Oxford Press, (1994)

of state opposition has dissuaded other distinct communities from embarking on the secessionist path in the first place.¹⁰⁸

State opposition is one of the most effective barriers in the creation of new sovereign states through secession. Only a few communities have been able to overcome this obstacle. The leaders of a distinct community force the central government to react to their demands for political change through the organization of protests which threaten economic loss or destruction of the social order. No longer able to ignore these protests, the state must decide whether to allow or to resist the demands. Many government decisions have been based upon the perception that the deprivation of territory through secession would necessarily damage three separate state interests—security, wealth, and prestige. This perception of interests has propelled states facing demands for secession almost uniformly to oppose them.¹⁰⁹ Historically, security depended directly on military strength, which in turn depended on domestic resources. Economic and security concerns weigh heavily in the minds of leaders as they suppress rebellion.¹¹⁰ If the secessionist groups and territory in Cameroon were to secede, the country would lose their guaranteed source of export products, in particular petroleum and timber which account for 80 percent of the country's GNP.

Yet resolve must be complemented by ability. The governing regime commands potentially coercive powers that enable it to crush dissent. Though they may suffer from underdeveloped political institutions, even small and weak countries like Cameroon can still mobilize the police, army, and bureaucracy. This monopoly of force, when used efficiently, can defeat most incipient secessionist movements.¹¹¹ Cameroon has recently being in the news. Pro-secession activists clashed with police leaving many casualties and some deaths. The Southern Cameroon National Council (SCNC) that spearheads the separatist agitation is riddled with division and a serious leadership problem. With

¹⁰⁸ Crawford Young, "Comparative Claims to Political Sovereignty: Biafra, Katanga, Eritrea," in *State Versus Ethnic Claims: African Policy Dilemmas*, ed. Donald Rothchild and Victor Olorunsola (Boulder, Colo.: Westview, 219 (1983).

¹⁰⁹ id.

¹¹⁰ Bathus V., *The Dynamics of Secession*, Cambridge University Press. (1999)

¹¹¹ id.

mounting state resistance and use of often violent and abusive force and threats, most of their founding members who enjoyed the limelight for a decade have suddenly vanished. Many are in exile. The group's current leaders are at each other's throat. Even if the government of Cameroon's President Paul Biya is inclined to deliberate with the SCNC on the issues, the government is faced with the problem of choosing which faction to talk to. The benefits of membership for a distinct community accrue from the services and advantages provided by the undivided state. This section dissects these benefits into their constituent security, economic, and social factors. Critical to the argument, investigation of specific cases in which secession was a viable alternative and yet not chosen reveals that communities sometimes calculate that they can ill afford to forfeit the benefits associated with participation in a larger and more powerful state. In effect, this calculation provides a powerful restraint on secession attempts. After independence, Southern Cameroon received enormous benefits through subsidies and development assistance transferred from the central government. The country had not yet harnessed its petroleum resources. Even if secession were achieved there would be complications derived from calculating the compensation to La Republique du Cameroun for losing Southern Cameroon's territory.¹¹²

Security benefits of membership manifest themselves in the state's maintenance of internal order so as to protect citizens from violence at each other's hands and in its guarantee of defense from the aggression of foreign powers. Before colonialism, Cameroon like other African multicultural states was composed of primitive marauding and also nomadic tribes who fought tribal wars with each other. The history of the slave trade carries stories of wars fought and the exploits linked with human trafficking. Cameroon comprises upwards of 250 dispersed tribes many of which have very tenuous cultural ties. It takes a strong central government that replaced the colonial administration's law and order machinery to keep the peace. Many countries in Africa including Sudan, Ethiopia, Somalia, Rwanda, the Congo, Nigeria, Sierra Leone, Liberia have been ravaged by civil wars and overrun by local warlords.¹¹³ Millions have forfeited

¹¹² Ed Hirschman, *The Politics of Ethno-nationalism*, J.I.A., p. 1-13 (1973)

¹¹³ Ruth Iyob, "The Eritrean Experiment: A Cautious Pragmatism?", *Journal of Modern African Studies* 35, no. 4, 652, 656 (1997).

their lives, others displaced as refugees and the economic loss has been staggering. Cameroon has not had a military regime nor has there been any civil war or serious political upheaval worth mentioning. This is a great achievement in statecraft and I believe that weighing the cost of secession in light of its perversities or choosing to wallow in real or perceived social, economic and political injustices and discriminations for the price of peace, I will take the latter.¹¹⁴

The economic benefits of membership also manifest themselves in two ways. First, by unifying many regional economies with a coherent set of regulations, the government of Cameroon provides its citizens with numerous advantages based on scale: access to a large market for their products, access to raw materials, integration into large transport and communications networks, to name but a few. Second, through the implementation of specific policies, Cameroon also provides the members of poorer communities with numerous economic benefits such as development assistance, technology transfers, and subsidies for health and educational programs. Frequently those specific members within a distinct community who understand such economic advantages also oppose secession most strongly. For example, an investigation of the public pronouncements by the Quebec business community reveals a sharp awareness of the economic benefits for Quebec of remaining within the Canadian federation and market.¹¹⁵ Fearing the economic sacrifices clearly associated with independence, Quebec's prominent business leaders have consistently advised against the Parti Quebecois proposals for secession. In addition, the beneficiaries of welfare programs or budget transfers from other more prosperous regions protest strongly against a country's disintegration. Such economic calculations can prove to be very compelling.¹¹⁶

Obviously, the severely underdeveloped nature of the Cameroon's economy contrasts with the self-assuredness of Quebec. Quebec's prosperity is based on the province's possession of enviable economic resources including raw materials, industry, services, an admirable educational system, and the enterprise of its skilled workforce. Yet

¹¹⁴ Kai Nielsen, *Secession: The case of Quebec*, *Journal of Applied Philosophy* 1, vol. 10 (1993)

¹¹⁵ Cobban Alfred, *National Self-Determination*, London: Oxford University Press, (1994)

¹¹⁶ id.

Quebec shares a common privilege within the Canadian federation.¹¹⁷ Membership in a larger state often provides cumulative economic benefits not only to communities with developing economies, but also to those possessing more advanced systems. In the recent debates on secession, it has been respected leaders of the Quebec business community who have warned the public of the economic sacrifices associated with independence. The Quebec business leaders made a forceful public stance against secession. “The crucial change is that Quebeckers must better understand that the province's inherent economic strength might not outweigh the importance of economic linkages and economic association with the rest of Canada. A survey conducted by the Nation of Toronto found that 92 per cent of Quebec's top business executives believed that Quebec independence would have a very negative” effect on their companies. This flows in part from a fresh appreciation of the benefits of economic union and a cooler analysis of the high costs of independence.¹¹⁸

There are numerous economic challenges that are also associated with secession. For example, the government of a newly independent state must concern itself with the creation of a currency, commerce, and banking system. It must adopt credible fiscal and monetary policies in order to regulate its economy. It must also create legislative, judicial, and executive institutions, administer the education system, and establish external embassies to administer foreign policy. To a newly emerging country possessing only limited resources, these economic challenges can prove daunting. Conversely, independent statehood can also provide both new opportunities for previously disadvantaged ethnic elites and the possibility of receiving international financial assistance.¹¹⁹

There are other intangible social benefits linked with international prestige and recognition. Cameroon is known in many other nations due to its magnificent success at the 1992 world soccer tournament. Most of the illustrious players were professional

¹¹⁷ id.

¹¹⁸ Kamanu Onyeonoro, *Secession and the Right of Self-Determination*, *Journal of Modern African Studies* Vol. 12, 1974).

¹¹⁹ James C. N. Paul, “Ethnicity and the New Constitutional Orders of Ethiopia and Eritrea,” in *Autonomy and Ethnicity: Negotiating Competing Claims in Multi-Ethnic States*, ed. Yash Ghai (Cambridge: Cambridge University Press, p. 191 (2000).

players from French-speaking Cameroon who were in French teams. The prestige and adulation derived from their success was vicariously enjoyed by all Cameroonians. Cameroon has a rich cultural diversity enhanced by French cultural influence in recreation, tourism, food and drink. There are many Anglophone Cameroonians who live in France and applaud the advantages and benefits Cameroon enjoys as a member of La Francophonie (Commonwealth of ex-French colonies) which is similar to the English Commonwealth under the auspices of Great Britain. The fact that French national interest is the driving force behind these exchanges does not detract from the unvarnished truth that economic and financial co-operation between countries is predominantly based on national interest. This applies to all nation-states, rich or poor, weak or strong and the rules also apply.¹²⁰ Many Anglophones have argued that there is disparity between the resources originating from the Southern Cameroon territory which accounts for 80 percent of the country's GNP and the government's disbursement to the region for infrastructural and economic development. Southern Cameroons would be able to revert to its pre-unification developmental structures and given its resources would fare better as per capita income would be higher. It would be comparable to oil producing countries such as Gabon and Equatorial Guinea having populations half the size of Southern Cameroon and enjoying a higher standard of living than Cameroon.

¹²⁰ Kirk-Green, *Crisis and Conflict in Nigeria: A Documentary Source Book, 1966–1970*, vol. 2, Oxford University Press, (1971).

Chapter 4 RESPONSE TO SECESSION BY THE INTERNATIONAL COMMUNITY.

A scrutiny of international documents, including the United Nations Charter and resolutions,¹²¹ the Final Act of the Helsinki Conference on Security and Cooperation in Europe,¹²² and the Organization of African Unity Charter and resolutions, gauges the attitude of the international community toward secession.¹²³ By restricting the application of the principle of self-determination, and by raising territorial integrity to the level of a nearly absolute principle, the international system has implicitly condemned secession. Indeed, on several occasions the international community has made this implicit condemnation explicit.

PRINCIPLE OF TERRITORIAL INTEGRITY

The reverence for self-determination is at least equaled, if not superseded, by the emphasis on territorial integrity. Article 2(4) of the UN Charter reflects this attitude. The Organization and its Members, in pursuit of the Purposes stated in Article 1, shall act in accordance with the following Principles:

“That all members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any State.”

Resolution 1514, which elevated the status of self-determination, also emphasized territorial integrity. The United Nations General Assembly Declares that:

¹²¹Tekena N. Tamuno, Separatist Agitation in Nigeria, *The Journal of Modern African Studies*, 563 (1970)

¹²²Id.

¹²³Id.

“Any attempt aimed at the partial or total disruption of national unity and territorial integrity of a country is incompatible with the Purposes and Principles of the Charter of the United Nations”;

All States shall observe faithfully and strictly the provisions of the Charter of the United Nations, the Universal Declaration of Human Rights and the present Declaration on the basis of equality and non-interference in the internal affairs of all States, and respect the sovereign rights of all peoples and their territorial integrity. Part VIII of the Final Act of the 1975 Helsinki Conference on Security and Cooperation in Europe, while setting out a policy statement on “The Equal Rights and Self-Determination of Peoples,” actually emphasizes the primacy of territorial integrity: The participating States will respect the equal rights of peoples and their right to self-determination, acting at all times in conformity with the purposes and principles of the Charter of the United Nations and with relevant norms of international law, including those relating to territorial integrity of states.

EXPLICIT CONDEMNATION OF SECESSION.

The African states as a group have not shared the international community's ambivalence toward the debate between self-determination and territorial integrity. They have systematically used the mechanism of international law to raise territorial integrity to nearly an absolute principle. Recognizing their mutual vulnerability due to arbitrary borders and societies divided by deep cultural cleavages, they have developed what Onyeonoro Kamanu has described as “the current doctrinaire emphasis of the Organization of African Unity (OAU) on the absolute preservation of the territorial integrity of member states and on the sanctity of existing frontiers.”¹²⁴ Not only does the OAU deny the right of self-determination to historic African communities who do not currently possess a state, the organization itself denies a forum for those communities seeking to publicize their grievances. As one of the leaders of the Southern Sudanese secessionist struggle, Major-General Joseph Lagu laments: “We have endured more deaths than all the other African freedom movements combined. And yet the OAU will

¹²⁴ Dunstan M. Wai, “Sources of Communal Conflicts and Secessionist Politics in Africa,” *Ethnic and Racial Studies* 1, no. 3, p.301, (1978).

not even allow our story to be told. ” ¹²⁵ Numerous OAU resolutions have entrenched this position. Determined to safeguard and consolidate the hard-won independence as well as the sovereignty and territorial integrity of our States, and to resist neo-colonialism in all its forms; The purposes of the Organization of African Unity are:

“To defend its member states' sovereignty, their territorial integrity, and their independence”.

The OAU Resolution on Border Disputes, adopted in Cairo on July 21, 1964, further clarified the duties of member states.¹²⁶ Considering further that the borders of African states, on the day of their independence constitute a tangible reality, the Assembly solemnly declares that all Member States pledge themselves to respect frontiers existing on their achievement of national independence. Thus, Article 2 of the OAU Charter and Article 3(3) of the OAU Resolution on Border Disputes impose an obligation on members far beyond similar provisions in the UN Charter. Article 2(4) of the UN Charter concentrates on the negative or passive obligation of member states. It merely requires that they abstain from violating the territorial integrity or political independence of any other state. Meanwhile, the OAU Charter requires the organization “to defend” the sovereignty and territorial integrity of its members—a positive or active obligation. Moreover, the OAU Charter presumably commits the organization to defend the territorial integrity of its member states from both external aggression and internal threats. The difficulties surrounding a “right” to secession are certainly not in short supply. Secession, by its very nature, presents the international system with instability and chaos. Most secessionists will be unable to receive sufficient aid and international support to keep up a drawn-out struggle. Many neighboring states will only aid secessionists in order to achieve some gain by meddling in the affairs of their neighbors, but few will provide sufficient assistance over a period long enough to help the secessionists through a protracted war. ¹²⁷ Most states have more limited motives for

¹²⁵ id.

¹²⁶ Kamanu Onyeonoro, Secession and the Right of Self-Determination. *Journal of Modern African Studies*, Vol. 12 (1974)

¹²⁷ Dunstan M. Wai, “Sources of Communal Conflicts and Secessionist Politics in Africa,

supporting secessionists than the secessionists do for fighting. An assisting state is vulnerable to the quid pro quo, to domestic pressure to end support, or to some weak spot (perhaps an ethnic-minority vulnerability of its own) that makes it recalculate the costs of involvement. Most long standing secessionist movements receive support from multiple sources. The support comes and goes; it is rarely enough. By contrast, the international system has a strong bias toward central governments; these are able to augment their own military resources with external assistance for which they are likely to be able to give more than separatists are in return. For all these reasons, secession is usually a long shot.¹²⁸ The victory of the Eritrean secessionists by force of arms was unprecedented in independent Africa. It was a victory won at a fortuitous time. The Eritrean war against Ethiopia was fought in conjunction with other insurgent movements within Ethiopia proper and was probably won for this reason. The victory and the secession came at the same time as the fragmentation of Liberia and Somalia. North Somalia, the former British Somaliland, a predominantly Isaq region, has declared its independence. The confluence of these movements may ultimately produce increasing instability in African boundaries, which have been remarkably stable.¹²⁹ Eritrea was, like the Baltic states, a case of illegitimate incorporation. Haile Selassie disregarded his promise to maintain a federal relationship with the former trust territory of Eritrea. Equally important, the Tigrean and Oromo movements, which also defeated Addis Ababa, actually agreed that Eritrea could have its independence. Central governments do not generally agree to regional secession. Successful secessionist movements are likely to have demonstration effects. The unsuccessful Biafra movement became a catalyst for separatists among the Agni and the Bete in the Ivory Coast. Africa has many weak states that might be vulnerable, although most African secessionists will be unable to call upon a strong neighboring state with powerful motives for assistance.¹³⁰

Ethnic and Racial Studies 1, no. 3, 308, (1978),

¹²⁸ Karen Knop, Rethinking Federalism, Vancouver, University of British Columbia Press, (1995).

¹²⁹ Yash Ghai, Ethnicity and Autonomy: A Framework for Analysis, Negotiating Competing Claims in Multi-Ethnic States, Cambridge University Press, 8, (2000).

¹³⁰ id.

The dissolution of Yugoslavia and the creation of independent Slovenia, Croatia, Macedonia, Montenegro, Bosnia, and Serbia, occurred along non-consensual, violent lines. Although Bosnia was a state with no history of independence, the disintegration of Yugoslavia was followed by international recognition of the new states. Led by Germany, European and American recognition of the former Yugoslav republics was accomplished in disregard of international law doctrine forbidding recognition of secessionist units whose establishment is being resisted forcibly by a central government.¹³¹ The recognition of the Baltic states, which was inevitable, may have affected recognition practice when it came to Yugoslavia. It seems clear, however, that there has been a sharp change in the willingness of Western states to recognize secessionists. It is not a uniform change, as non-recognition of Northern Somalia and Biafra secession war make clear. Biafra was a cause with great sympathy in the West, particularly in the United States. Many Ibo had studied in the United States, and Biafran propaganda about ethnic oppression, wartime suffering, and infant starvation was extremely skilful. In spite of this, not only did Western countries, excepting France, which aided Biafra militarily, refuse to recognize Biafra, but the United States, Britain, and the Soviet Union all assisted the Nigerian central government in its military efforts, despite its culpability in creating the conditions that led to war. The UN formally remained silent on the Biafran secession from Nigeria. The Organization of African Unity, by contrast, condemned the Biafran secession. The Resolution on the situation in Nigeria in September 1967 declared:¹³²

“Solemnly reaffirming their adherence to the principle of respect for the sovereignty and territorial integrity of Member States; reiterating their condemnation of secession in any Member State”.

¹³¹ Kamanu Onyeonoro, *Secession and the Right of Self-Determination: An O.A.U. Dilemma*. *Journal of Modern African Studies*, Vol. 12 (1974)

¹³² For a similar point, especially regarding Biafra and Katanga, see Crawford Young, “Comparative Claims to Political Sovereignty: Biafra, Katanga, Eritrea, ” in *State Versus Ethnic Claims: African Policy Dilemmas*, ed. Donald Rothchild and Victor Olorunsola (Boulder, Colo.: Westview, 219 (1983).

The OAU Conference of Heads of State and Government also resolved to “send a consultative mission of six heads of state to the head of the Federal Government of Nigeria to assure him of the Assembly’s desire for the territorial integrity, unity, and peace of Nigeria”.¹³³ By effectively using international law and forums like the UN and the OAU, African states created the pressure to precipitate this remarkable shift in international norms. Therefore, in the rare instance where the distinct community has defeated the government’s military forces, it still faces the nearly insurmountable obstacle of gaining international recognition. Before 1991, the domestic and international constraints on secession have been, by any measure, nearly prohibitive of the creation of new states through secession.¹³⁴

This change in the willingness to recognize secessionists may slowly be felt in international law. If Eritrean independence and the dissolution of the Soviet Union and Yugoslavia are watershed events shaping prospects for the proliferation of states and, to that extent, for a territorially based doctrine of self-determination, it is none the less possible to draw too much from them. The Eritrean and Soviet experiences are, in some ways, special cases. The recognition of the Yugoslav secessionists took place at an especially weak moment for Western diplomacy and will surely not be seen everywhere as a successful policy. All of this surely means that people who were resigned to living together, no matter how uncomfortably, may now think they no longer need to be so resigned. Secessionist movements did not need much encouragement before, when their prospects for success were very slim. Now they need less. The background to this development is a degree of firmness of inherited boundaries, an international law that supports no real departures from them. Territorial integrity and the inviolability of existing boundaries among states is particularly strong in the Organization of African Unity (African Union) that is totally inhospitable to secession and have generally taken a hard line against secession. To put the point sharply, the former view was that

¹³³ id.

¹³⁴ Kamanu Onyeonoro, *Secession and the Right of Self-Determination: An O.A.U. Dilemma*. *Journal of Modern African Studies*. Vol. 12 (1974)

international boundaries were fixed and regimes could do what they wished within them. This was the international framework for a good deal of tyranny.¹³⁵

This matter was made clear by the Arbitration Committee attached to the International Conference on the Former Yugoslavia. The conference had asked the committee to determine the lawfulness of the secessions from Yugoslavia. The committee pronounced Yugoslavia to be a federation 'in the process of dissolution',¹³⁶ and it therefore concluded that new states could emerge within the previous republican boundaries (Croatia, Bosnia, Serbia, etc.) but not within any other boundaries. Croatia and Bosnia may thus secede but remain intact. The permissibility of disintegration of federations along the lines of their constituent units is profoundly important. This new doctrine appears to legitimate the secession of Eritrea, which earlier had a federal relationship with Ethiopia, and it could conceivably justify secession of intact units from other federal states like the Russian Federation and why not Southern Cameroon which was at one time equal part of a federation like Eritrea and later assimilated into a unitary state under the dominance of French Cameroon.

Based on this theory, Southern Cameroon has grounds to justify its attempt to secede. Following the UN organized plebiscite of February 11, 1961, which was organized on the same day separately for Southern Cameroon and Northern Cameroon, Northern Cameroon voted for integration into Nigeria and was thus integrated, while Southern Cameroon voted for unification with French Cameroon and was thus reunified. This began the story of unification of the two Cameroon united in a UN-sponsored federation of two states of equal status known as the Federal Republic of Cameroon in October 1961. Thus, the Southern Cameroon and La Republique du Cameroun, respectively became sub nations of the federation, with each retaining its inherited

¹³⁵ Jean-Loup Amselle, *Anthropology of Identity in Africa and Elsewhere*, Stanford, Calif., Stanford University Press, (1998). In this influential study, Amselle deconstructs ideas set forth by specific colonial-era administrators' treatments of ethnic identity in Africa.

¹³⁶ Akuma John, *Histoires des Institutions Camerounais: Critiques et Analyses*, University of Yaoundé Press. Vol. 13, (1983)

territory, colonial political and administrative system, legal, educational, economic and cultural systems.

The Foumban Constitutional Conference of 1961, which federated Southern Cameroon with La Republique du Cameroun was not in line with what the UN had envisaged. According to the UN such a conference was to involve the governments of Southern Cameroon, La Republique du Cameroun, United Kingdom as the Administering Authority, and the UN as the Supervisory Authority. Unfortunately, it was held without some of these parties like the UN and Britain. Again, there was no accord signed by the two parties that discussed in Foumban to later dissolve the federation in exchange for a unitary state totally dominated by French-speaking Cameroon. From 1962 to 1972, the former President of La Republique du Cameroun, Ahmadou Ahidjo, who became the President of the Federal Republic, took steps to annex Southern Cameroon into La Republique du Cameroun. On May 20th, 1972, he finally organized a referendum, which violated the Talks at Foumban. He abolished the Federal Constitution and imposed a Unitary Constitution. Hence the name of the country became United Republic of Cameroon. Southern Cameroon lost its autonomous status it enjoyed under the federal system and initially, became two of the seven provinces of the unitary state. Southern Cameroon liberation movements and Southern Cameroonians as a whole met in Buea under the banner of the All Anglophone Conference (AAC I). Its aim was to establish a Southern Cameroon stand and to press for the autonomy of Southern Cameroon in a restored federal system. This firm stand is contained in the Buea Declaration. Another meeting was held in Bamenda (AAC II) which issued the Bamenda Proclamation. These declarations led to the formation of the Southern Cameroon National Council (SCNC), which is a political organization fighting for the statehood and sovereign independence of Southern Cameroon. Despite the obstacles placed on the road to statehood of Southern Cameroon, the admissibility stage of the case deposited against La Republique du Cameroun in the African Commission on Human and Peoples Rights in Banjul was a recognition victory; as also was the case against Nigeria, which obliged Nigeria to table and support Southern Cameroon's bid for independence to the international community. Southern Cameroon was admitted as a new member of the Unrepresented Nations and

Peoples Organization (UNPO) in The Hague. On February 14, 2002 a suit was filed at the Federal High Court in Abuja by 12 Southern Cameroonians acting for themselves and on behalf of the peoples of the Southern Cameroon, against the Attorney General of the Federal Republic of Nigeria.

Chapter 5. FEDERALISM AS A VIABLE ALTERNATIVE TO SECESSION.

Around the world, multi-ethnic states are in trouble. Many have proven unable to create or sustain any sense of solidarity across ethnic lines. The members of one ethnic group are indifferent to the rights and interests of the members of other groups, and are unwilling to make sacrifices for them. Moreover, they have no trust that any sacrifice they might make will be reciprocated. Recent events in Eastern Europe and the former Soviet Union show that where this sort of solidarity and trust is lacking, demands for secession are likely to arise.¹³⁷ Some commentators have argued that secession is indeed the most appropriate response to the crisis of multi-ethnic states. On this view, the desire of minority groups to form a separate state is often morally legitimate, and it is unjust to force them to remain within a larger state against their will. International law should therefore define the conditions under which a group has the right of secession, and the procedures by which that right can be exercised.¹³⁸

Critics of this approach argue that recognizing a right of secession as a norm in international law, would encourage more secessionist movements, and thereby increase the risk of political instability and violence around the world. On this view, secession often leads to civil war, and may start a chain reaction in which minorities within the seceding unit seek to secede in turn. Moreover, even if actual secession never occurs, the very threat of secession is destabilizing, enabling groups to engage in a politics of threats and blackmail.¹³⁹

It is a striking and distressing fact that so many groups in the world today feel that their interests cannot be satisfied except by forming a state of their own. This problem is

¹³⁷ Karen Knop, *Rethinking Federalism*, Vancouver, University of British Columbia Press, p. 345 (1995).

¹³⁸ Daniel Elazar, *Federalism and the Way to Peace*, Institute of Intergovernmental Affairs, Queen's University Kingston, (1994),

¹³⁹ *Supra* at 137

not confined to the Second and Third Worlds. Various multi-ethnic democracies in the West whose long-term stability used to be taken for granted now seem rather more precarious. Consider recent events in Belgium or Canada. Even though they live in prosperous liberal states, with firm guarantees of their basic civil and political rights, the Flemish and Québécois may be moving down the path to independence. The threat of secession has arisen in both capitalist and Communist countries, in both democracies and military dictatorships, in both prosperous and impoverished countries.¹⁴⁰

The prevalence of secessionist movements suggests that contemporary states have not developed effective means for accommodating ethnic and cultural diversity. Whether or not we recognize a right to secede, the fact is that secession will remain an ever-present threat in many countries unless we learn to accommodate ethno-cultural diversity. As long as minority groups feel that their interests cannot be accommodated within existing states, they will contemplate secession.¹⁴¹ Federalism is a commonly cited mechanism for accommodating ethno-cultural pluralism. Many commentators argue that federalism provides a viable alternative to secession, since it is uniquely able to accommodate an ethnic and culturally diverse community. To what extent can this assertion hold for an ethno-culturally diverse country like Cameroon with upwards of 200 tribes, each with its own dialect and an overarching dominant cultures bequeathed by both the French and British colonizers. Federalism, it is said, respects the desire of groups to remain autonomous, and to retain their cultural distinctiveness, while nonetheless acknowledging the fact that these groups are not self-contained and isolated, but rather are increasingly and inextricably bound to each other in relations of economic and political interdependence. Moreover, since federalism is a notoriously flexible system, it can accommodate the fact that different groups desire different levels or forms of self-government.¹⁴²

¹⁴⁰Raymond Breton, *The Illusion of Difference: Realities of Ethnicity in Canada*, Ottawa, C.D. Howe Institute, (1994).

¹⁴¹id.

¹⁴²Alemante Selassie, *Ethnic Identity and Constitutional Design for Africa*, Stanford Journal of International Law, vol. 29, no. 1, p.1-56 (1993).

My aim here is to evaluate this claim. I will challenge this optimistic picture of the value of federalism in accommodating ethno-cultural pluralism in the Cameroonian context. For one thing, federalism is simply not relevant for many types of ethno-cultural pluralism. Moreover, while there are some circumstances where federalism is relevant, these very same circumstances make it likely that federalism will simply be a stepping-stone to either secession or a much looser form of confederation. In general, it seems to me unlikely that federalism can provide an enduring solution to the challenges of ethno-cultural pluralism. It may restrain these challenges for a period of time, but federal systems which are designed to accommodate self-governing ethno-cultural groups are likely to be plagued by deadlock and instability.¹⁴³ This by no means imply that federalism should be rejected as a tool for accommodating ethno-cultural pluralism. On the contrary, federalism often provides the best hope for keeping certain countries together. My point, rather, is that, where federalism is needed to keep a country together, the odds that the country will remain together over the long-term are not great. Federalism may be the best available response to ethno-cultural pluralism, but the best may not be good enough.¹⁴⁴

Arguably, many federal systems were not designed as a response to ethno-cultural pluralism- e.g. those of the United States or Australia. In these federal systems, the federal units do not correspond in any way with distinct ethno-cultural groups who desire to retain their self-government and cultural distinctiveness. These sorts of federal systems can be quite stable. The focus here is on countries which have adopted federalism in order to accommodate ethno-cultural pluralism. Contrary to popular conceptions, I will argue that federalism often lacks the flexibility to resolve these issues in a satisfactory way. Finally, I will argue that even where federalism has been designed in such a way as to accommodate ethno-cultural groups, it may not be a stable solution, but rather may simply provide a stepping-stone to secession.

¹⁴³ James D. Fearon and David D. Laitin, Explaining Interethnic Cooperation, *American Political Science Review* 90, no. 4 (1996).

¹⁴⁴ Id

ETHNO-CULTURAL PLURALISM.

It is a commonplace to say that modern societies are increasingly 'multicultural'. One source of cultural diversity is the coexistence within a given state of more than one nation, where 'nation' means a historical community, more or less institutionally complete, occupying a given territory, sharing a distinct language and culture.¹⁴⁵ A 'nation' in this sociological sense is closely related to the idea of a 'people' or a 'culture'. A country which contains more than one nation is, therefore, not a nation-state but a multination state, and the smaller cultures form 'national minorities'. The incorporation of different nations into a single state may be involuntary as occurs when one cultural community is invaded and conquered by another, or is ceded from one imperial power to another, or when its homeland is overrun by colonizing settlers. But the formation of a multination state may also arise voluntarily, when different cultures agree to form a federation for their mutual benefit.¹⁴⁶

Hence, Southern Cameroon was a nation, a people who occupied a delineated territory and under British colonial rule had inherited a distinct English language and system of government and had also developed 'pidgin English' as their lingua franca commonly spoken across the territory and in Nigeria which was jointly administered under the British system. Therefore Southern Cameroon had closer ethno-cultural affinity with Nigeria than with French Cameroon. The leaders who had campaigned for a plebiscitary federation of the two East and West Cameroon had been faced with a dilemma. Either vote to be part of Nigeria and perpetrate the dominance of the Ibos or take a chance with French Cameroon in an equal and autonomous self-governing

¹⁴⁵Basil Davidson, *The Black Man's Burden: Africa and the Curse of the Nation-State*, New York Times Books, p.286-342 (1992).

¹⁴⁶David A. Lake and Donald Rothchild, "Spreading Fear: The Genesis of Transnational Ethnic Conflict," in *The International Spread of Ethnic Conflict: Fear, Diffusion, and Escalation*, ed. David A. Lake and Donald Rothchild (Princeton: Princeton University Press, 1998), 19–21; Donald Rothchild, "Interethnic Conflict and Policy Analysis in Africa," *Ethnic and Racial Studies* 9, no. 1 (1986).

federation with both federated states retaining its inherited colonial system and culture.¹⁴⁷ The best choice for the people of Southern Cameroon was complete independence which was never presented as a choice by the UN and British colonial trustee.

Cameroon like most Western democracies was a multination before it was involuntarily incorporated into a unitary state. The federation was acceptable, even though the Francophone territory was dominant as long as the Anglophones continued to manage their own affairs and were able to maintain their own institutions unchallenged. There are a number of national minorities in the United States, including the American Indians, Alaskan Eskimos, Puerto Ricans, the descendants of Mexicans (Chicanos) living in the Southwest when the United States annexed Texas, New Mexico and California after the Mexican War of 1846-8, native Hawaiians, the Chamoros of Guam, and various other Pacific Islanders. These groups were all involuntarily incorporated into the United States, through conquest, colonization or imperial cession. Had a different balance of power existed, these groups might have retained or established their own sovereign governments. And talk of independence occasionally surfaces in Puerto Rico or the larger Indian tribes. However, the historical preference of these groups has not been to leave the United States, but to seek autonomy within it.¹⁴⁸

As they were incorporated, most of these groups acquired a special political status. For example, Indian tribes are recognized as 'domestic dependent nations' with their own governments, courts and treaty rights; Puerto Rico is a 'Commonwealth', and Guam is a 'protectorate'. Each of these peoples is federated to the American polity with special powers of self-government, as well as group-specific rights regarding language and land use. In short, national minorities in the United States have a range of rights intended to reflect and protect their status as distinct cultural communities, and they have fought to retain and expand these rights.¹⁴⁹

¹⁴⁷ Sharon O'Brien, Cultural Rights in the United States: A Conflict of Values, Law and Inequality Journal, vol. 5, (1987)

¹⁴⁸ id.

¹⁴⁹ Supra at 147

In other countries the existence of national minorities is more obvious. Canada's historical development has involved the federation of three distinct national groups (English, French and Aboriginals).¹⁵⁰ The original incorporation of the Quebecois and Aboriginal communities into the Canadian political community was involuntary. Indian homelands were overrun by French settlers, who were then conquered by the English. While the possibility of secession is very real for the Quebecois, the historical preference of these groups as with the national minorities in the United States has not been to leave the federation, but to renegotiate the terms of federation, so as to increase their autonomy within it.

Many other Western democracies are also multinational, either because they have formed a more or less voluntary union of two or more European cultures (e.g. Belgium and Switzerland). In fact, many countries throughout the world are multinational, in the sense that their boundaries were drawn to include the territory occupied by pre-existing, and often previously self-governing cultures. This is true of most countries throughout the former Communist bloc and the Third World.¹⁵¹

FEDERALISM AND ACCOMODATION OF MULTI-CULTURAL GROUPS.

Virtually all liberal democracies are either multinational or multiethnic, or both. The challenge of multiculturalism is to accommodate these national and ethnic differences in a stable and morally defensible way. In this section, I will discuss whether federalism provides a feasible or desirable mechanism for responding to the demands of national minorities and ethnic groups.¹⁵² There is no universally accepted definition of 'federalism'. I take federalism to refer to a political system which includes a constitutional division of powers between a central government and two or more subunits (provinces/states/cantons), defined on a territorial basis, such that each level of

¹⁵⁰ Mark Tushnet, *Comparative Constitutional Federalism: Europe and America*, New York, Greenwood, 113 (1990) .

¹⁵¹ Id.

¹⁵² Supra at 147

government has sovereign authority over certain issues.¹⁵³ This distinguishes federalism from both (a) administrative decentralization, where a central government establishes basic policy in all areas, but then devolves the power to administer these policies to lower levels of government, typically regional or municipal governments; and (b) confederation, where two or more sovereign countries agree to co-ordinate economic or military policy, and so each devolves the power to administer these policies to a supranational body composed of delegates of each country.¹⁵⁴

It is possible to combine elements from these different models, and some political systems may be difficult to categorize. All of these systems involve power-sharing, but the path by which these powers come to be shared differs. In both administrative decentralization and confederation the central government within each country is assumed to possess complete decision-making authority over all areas of policy; it then chooses to devolve some of this authority upwards or downwards on the basis of its perceived national interest. But this devolution is voluntary and revocable since it retains ultimate sovereignty over these areas of policy.¹⁵⁵

National minorities in most multination states, are inclined to demand some form of political autonomy or territorial jurisdiction, so as to ensure the full and free development of their cultures and to promote the interests of their people. They demand certain powers of self-government which they say were relinquished by their involuntary incorporation into a larger state as the case was in Cameroon. At the extreme, attempting or wishing to secede results from the belief that their self-determination is impossible within the present unitary state.¹⁵⁶ One possible mechanism for recognizing claims to self-government is federalism. Where national minorities are regionally concentrated, the boundaries of federal subunits can be drawn so that the national minority forms a

¹⁵³ Barbara Thomas and Edmond Keller, 'Majority Rule and Minority Rights: 'American Federalism and African Experience'', *Journal of Modern African Studies*, vol. 32, no. 3, (1994).

¹⁵⁴ *Id.*

¹⁵⁵ *Id.*

¹⁵⁶ Arthur MacMahon, *Federalism: Mature and Emergent States*, New York, Russell & Russell, 354 (1962)

majority in one of the subunits. Under these circumstances, federalism can provide extensive self-government for a national minority, guaranteeing its ability to make decisions in certain areas without being outvoted by the larger society.¹⁵⁷ For example, under the federal division of powers in Canada the province of Quebec (which is 80 per cent Francophone) has extensive jurisdiction over issues that are crucial to the survival of the Francophone society, including control over education, language and culture, as well as significant input into immigration policy. The other nine provinces also have these powers, but the major impetus behind the existing division of powers, and indeed behind the entire federal system, is the need to accommodate the Québécois. At the time when Canada was created, in 1867, most English-Canadian leaders were in favor of a unitary state, like England, and agreed to a federal system primarily to accommodate French-Canadians. Had Quebec not been guaranteed these substantial powers and hence protected from the possibility of being outvoted on key issues by the larger Anglophone population it is certain that Quebec either would not have joined Canada in 1867 or would have seceded sometime thereafter.¹⁵⁸

For the people of Southern Cameroon, Canada is the most prominent example of federalism being used to accommodate national minorities. The apparent stability and prosperity of Canada has led other multination countries to adopt federal systems in the post-war period upon decolonization (e.g. India, Malaysia, Nigeria). Even though many of these federations are facing serious difficulties, we are currently witnessing yet another burst of interest in federalism in multination countries, with some countries in the process of adopting federal arrangements (Belgium, Spain), and others debating whether it would provide a solution to their ethnic conflicts (e.g. South Africa).¹⁵⁹ The dominant French-speaking political elites in Cameroon assumed that modernization would inevitably wither away the national identity of Anglophones. Central governments around the world have tried to dissolve the sense amongst national minorities that they constitute distinct

¹⁵⁷ Id.

¹⁵⁸ Id.

¹⁵⁹ Barbara Thomas and Edmond Keller, 'Majority Rule and Minority Rights: 'American Federalism and African Experience'', *Journal of Modern African Studies*, vol. 32, no. 3, (1994).

peoples or nations, by eliminating previously self-governing political and educational institutions, and/or by insisting that the majority language be used in all public forums. However, it is increasingly recognized that these efforts were both unjust and ineffective, and that the desire of national minorities to maintain themselves as culturally distinct and political autonomous societies must be accommodated.¹⁶⁰ Federalism is one of the few mechanisms available for this purpose. Indeed, it is quite natural that multination countries should adopt federal systems, one would expect countries which are formed through a federation of peoples to adopt some form of political federation. But, while the desire to satisfy the aspirations of national minorities is welcome, we should be aware of the pitfalls involved. Federalism is no panacea for the stresses and conflicts of multination states. The mere fact of federalism is not sufficient for accommodating national minorities. It all depends on how federal boundaries are drawn and how powers are shared. Indeed, federalism can be, and has been, used by majority groups as a tool for disempowering national minorities, by rigging federal units so as to reduce the power of national minorities. We need therefore to distinguish genuinely multinational federations, which seek to accommodate national minorities, from merely territorial federations, which do not. Second, federalism is not as flexible as its proponents often claim. Finally, even where federalism is successfully working to accommodate the aspirations of national minorities, its very success may simply lead minorities to seek even greater autonomy, through secession.¹⁶¹

¹⁶⁰ id.

¹⁶¹ Id.

MULTINATIONAL VS. TERRITORIAL FEDERALISM

Adopting federalism can solve other enduring problems in a country rather than just to accommodate ethno-cultural groups. The American federalism is a good example.¹⁶² There are several reasons why the original colonists, who shared a common language and ethnicity, nonetheless adopted federalism. Above all, federalism was seen as a way to prevent a liberal democracy from degenerating into tyranny. As Madison put it, federalism helped to prevent 'factions' (particularly an economic class or business interest) from imposing its will through legislation to the detriment of 'the rights of other citizens, or to the permanent and aggregate interests of the community'. Federalism makes it more difficult for those who 'have a common motive to invade the rights of other citizens' to 'act in unison with each other'. The 'influence of factious leaders may kindle a flame within their particular States, but will be unable to spread a general conflagration through the other States'.¹⁶³

Conversely, the existence of strong, independent state governments provided a bulwark for individual liberties against any possible aggression. Federalism was just one of several mechanisms for reducing the chance of tyranny. An equal emphasis was placed on ensuring a separation of powers within each level of government- e.g. separating the executive, judicial and legislative powers at both the state and federal levels. This, too, helped minimize the amount of power that any particular faction could command, as did the later adoption of a Bill of Rights. The adoption of federalism in the United States should be seen in the context of this belief that the power of government must be limited and divided so as to minimize the threat to individual rights.¹⁶⁴ It is important to note that Madison was not thinking of ethno-cultural groups when talking about 'factions'. Rather, he was concerned with the sorts of conflicts of interest which arise amongst 'a people

¹⁶² James Madison, *The Federalist Papers*, New York, Bantam, no. 10 (1982).

¹⁶³ Id.

¹⁶⁴ Id.

descended from the same ancestors, speaking the same language'. These include, above all else, economic divisions between rich and poor, or between agricultural, mercantile and industrial interests. Madison's preoccupations are reflected in his list of the 'improper or wicked projects' which federalism will help prevent-namely, 'A rage for paper money, for an abolition of debts, for an equal division of property'.¹⁶⁵

In some countries, then, federalism is adopted, not because it accommodates the desire of national minorities for self-government, but rather because it provides a means by which a single national community can divide and diffuse power. This is called 'territorial federalism', as distinct from 'multinational federalism'. My concern in this thesis is with multinational federations. Most scholarly discussions of federalism, however, have focused on territorial federalism. This is partly due to the historical influence of American federalism which has become the model, not just of territorial federalism but of federalism in its most 'mature' or 'classic' form. Federal systems are then categorized on the basis of how closely they conform to the basic attributes of the American system. Thus, for example, Australia is typically seen as a more truly federal system than Canada or India, since the latter deviate significantly from the American model. Since our concern is with multinational federalism, then we cannot use the United States as our model. The American federal system, offer us no guidance on how to accommodate ethno-cultural groups. More generally, territorial federalism, in and of itself, is no guarantee that ethno-cultural groups will be accommodated. Whether the allocation of powers to territorial subunits promotes the interests of national minorities depends on how the boundaries of those subunits are drawn, and on which powers are allocated to which level of government. If these decisions about boundaries and powers are not made with the conscious intention of empowering national minorities, then federalism may well serve to worsen the position of national minorities.

¹⁶⁵ James Madison, *The Federalist Papers*, New York, Bantam, No. 10 (1982).

HOW FLEXIBLE IS FEDERALISM?

For a federal system to qualify as genuinely multinational, decisions about boundaries and powers must consciously reflect the needs and aspirations of minority groups.¹⁶⁶ But to what extent can the boundaries and powers of federal units be defined. As the United States expanded westward and incorporated vast expanses of territory with very different natural resources and forms of economic development, it became increasingly difficult to conceive how a single, centralized unitary government would be workable. Some form of territorial devolution was clearly necessary, and the system of federalism adopted by the original thirteen colonies on the Atlantic coast served this purpose very well.¹⁶⁷ So there are many reasons, unrelated to ethno-cultural diversity, why a country would adopt federalism. Indeed, any liberal democracy which contains a large and diverse territory will surely be pushed in the direction of adopting some form of federalism, regardless of its ethno-cultural composition. The virtues of federalism for large-scale democracies are manifested not only in the United States but also in Australia, Brazil and Germany. In each of these cases, federalism is firmly entrenched and widely endorsed, even though none of the federal units is intended to enable ethno-cultural groups to be self-governing.¹⁶⁸

Federalism is appropriate precisely because it has great flexibility in answering these questions. Even a cursory survey of federal systems shows that there is great variety in how boundaries are drawn and powers distributed. There seem to be few, if any, a

¹⁶⁶ Donald Horowitz, *Ethnic Groups Conflict*, Berkeley: University of California Press, (1985), Joseph Rothschild, *Ethno-politics: A Conceptual Framework*, New York: Columbia University Press, p. 125 (1981); Crawford Young, *The Politics of Cultural Pluralism*, Madison: University of Wisconsin Press, p. 274 (1973).

¹⁶⁷ Mark Tushnet, *Comparative Constitutional Federalism: Europe and America*, New York, Greenwood, 77-113, (1990)

¹⁶⁸ Robert Jackson, *Plural Societies and New States: A Conceptual Analysis*, Berkeley Institute of International Studies, p. 17 (1977).

priori rules regarding the size, shape or powers of federal subunits.¹⁶⁹ Cameroon can use the example of neighboring Nigeria which has adopted federalism to deal with its ethno-cultural diversity. More states are being carved out even in states which have a common language, history and culture and this is calculated to ease the local tensions that can erupt as clusters of tribes press their claim for an autonomous state. It has been suggested that Cameroon could adopt a form of federalism that includes the ten provinces rather than revert to the federation of Anglophone and Francophone territories. I believe, however, that federalism is less flexible than many people suppose. There are significant limitations on how powers can be divided, and on how boundaries can be drawn. I will discuss these two problems in turn.

Assuming that boundaries can be drawn in such a way that national minorities form a majority in their federal subunit, as with Quebec or Catalonia. This provides a starting-point for self-government, but whether the resulting federal system is satisfactory to national minorities will depend on how powers are distributed between the federal and provincial levels. The historical record suggests that this issue may lead to intractable conflicts, because different units may seek different powers, and it is difficult for federalism to accommodate these divergent aspirations.¹⁷⁰

In a Cameroon federation, the desire of Southern Cameroon as a national minority would be to achieve a culturally distinct and politically self-governing societies while the other provinces reflect the decision of a single national community to diffuse powers on a regional basis. It is likely that Southern Cameroon would seek different and more extensive powers than the federal government dominated by the Francophones in government are likely to give without a resultant weakening of their powers. For example most Quebecois want an even more decentralized division of powers in order to sustain their cultural distinct societies.¹⁷¹ We find the same pattern throughout Europe as well.

¹⁶⁹ Id.

¹⁷⁰ Barbara Thomas and Edmond Keller, 'Majority Rule and Minority Rights: American Federalism and African Experience', *Journal of Modern African Studies*, vol. 32, no. 3, (1994)

¹⁷¹ Id.

For example, Catalonia and the Basque Country have expressed a desire for greater autonomy than is sought by other regional-based units in Spain. Corsica seeks greater autonomy than other regional-based units in France. While many European countries are engaging in forms of regional decentralization, particularly if they had previously been highly centralized states, this process is going much farther toward the most extreme assertion of self-government-namely, secession. There seems to be great resistance, particularly on the part of majority groups, to accepting the idea that federal units can differ in their rights and powers. As a result, national minorities have found it very difficult to secure the rights and recognition that they seek. Despite the Buea and Bamenda conferences aimed at negotiating on the issue of returning to federalism (often backed by rioting and civil disorder), it has proven extraordinarily difficult to negotiate federalism as an option. Most French-Cameroonians overwhelmingly reject the idea of 'special status' for the Anglophone territory. To grant special rights to one province on the grounds that it is nationality-based, they argue, is somehow to denigrate the other provinces, and to create two classes of citizens.

Disputes about the division of powers within a multinational federalism are so difficult to resolve. The problem is not simply that units differ in their preferences regarding the extent of autonomy. Reasonable people would be willing to compromise, within limits, on the precise powers they seek for their federal units. Unfortunately, the problem goes deeper than this. While the Anglophone minority may be willing to compromise on its demands for autonomy, it is not willing to compromise on what it takes to be a basic principle of federalism-namely, that its status as one of the founding peoples must be symbolically recognized through a compact.¹⁷²

¹⁷² Mark Tushnet, *Comparative Constitutional Federalism: Europe and America*, New York, Greenwood, 77-113, (1990)

CONCLUSION

There are more nations in the world than states and most states have to grapple with the intractable problems of multiculturalism and threats of territorial separation. The tendency is for states to favor the majority group over the minority multiethnic or multicultural groups within the political entity. Some minority groups have laid claims to their right to self-determination, either as internal, autonomous self-governing entity within the existing state or in the extreme, seek independence through secession.

Cameroon's Anglophone minority enjoyed a measure of autonomy as a UN trust territory before independence in 1961. In opting to re-unite with French-speaking Cameroon through a plebiscite to form a constitutional federation, that autonomy was temporarily preserved. The change to a unitary state following a referendum in 1972, resulted in Southern Cameroon forfeiting the pre-unification autonomy. In trying to recapture their cultural identity in language, education and a separate legal system which is seen to be gradually eroding, they have mounted a separatist movement to galvanize support for independence for a Southern Cameroon state. This has met with fierce resistance from the dominant French-speaking government. Most territory-wide rebellions reflected a shared experience of long-term macroeconomic deprivation or inequity vis-à-vis other regions. In some cases central government's economic inattention at least in part prevented the implementation of development programs in peripheral territories. Moreover, economic deprivation often coincided with political repression (for example, in Katanga, Oromo, Eritrea, as is the case in Anglophone Cameroon), a fact that added to a regional population's sense of exploitation. Where the extraction of precious natural resources (minerals from Katanga and Kasai and oil from southern Sudan, eastern Nigeria, south-western English-speaking Cameroon) coincided with a state's inattention to regional economic decay, the resultant pan-territorial popular outrage serves as a potent mobilizing fuel for secessionist awakening.

The separatist movement in Cameroon under the political umbrella of the Southern Cameroon National Council (SCNC) has been characterized by internal factions, intra-movement strife, personal power seeking and leadership self-interest. This has potential to degenerate into an anarchic spiral. In order to achieve a greater degree of political success, the SCNC has to create alliances with other groups or organizations outside their own political rubric. They have to focus on internal unity, reaching across a wide range of different lineages, traditional leaderships, political competitors and by organizing a coherent, coordinated pan-regional movement.

It would be overly simplistic to suggest that Cameroon separatist movement led by the SCNC ought to be measured by its impact in achieving an outright secession. A regionally assertive movement can be considered partially successful if it produces two or more of the following results: (a) it endures and expands for a considerable length of time or wields a significant political impact on state-regional relations; (b) it repeatedly demonstrates substantial organizational quality, indicated by internal coordination, technical skill, and leadership ability; (c) it galvanizes widespread backing from localities and groups throughout the state and internationally. Thus, it seems more helpful to judge a movements' relative success in terms of their durability and impact, organizational strength, regional popularity, and achievement of a degree of autonomous control. The degree of success may shift significantly from one time period to the next. The Biafran struggle nearly succeeded in breaking apart the Nigerian nation-state and provoked repeated waves of federal restructuring. Its 1967 defeat should not lead us to assume that it had no long-lasting political impact. The success of movements is relative, and it varies considerably over time. It appears that the Cameroon separatist movement has collapsed or failed in regard to its aims and demands and seems to persuade observers to falsely assume that it has failed permanently and in every respect. Military defeat, the cessation of conflict, the forging of a political agreement, or the holding of nationwide elections had led observers to assume that a regionally assertive movement had been stifled, but the rekindling of sub-nationalist fervor in later decades demonstrated that only a temporary halt in the march of territorial mobilization had been achieved.

In the meantime, it is fair to remark that Cameroon has been remarkably successful in maintaining relative peace and stability in an African continent bedeviled by the scourges of wars, pestilences, dislocations, refugees and famine. In the face of these calamities and given the examples of the horrors of secessionist war such as in Biafra, Bosnia and Sudan, most Cameroonians would prefer to rather accept the status quo as a lesser of two evils while continuing relentlessly to challenge and campaign against the social, political and economic injustices and also undauntedly strive towards a genuine federation as a viable alternative to secession; a consensual federation arrangement that will reflect and respect multicultural differences, encompassing all the regions and people groups in Cameroon and not just French-speaking and English-speaking linguistic dichotomy.

The stake in Cameroon is to build democratic institutions that has potential in mediating the complex problems of a multi-culturally diverse society. It will take time to allow such institutions to take root and can only mature under a climate of peace and political stability. As former President Sekou Toure of Guinea said, “the state makes the nation”, African countries were carved from primitive tribes that inhabited vast lands without marked territorial boundaries. The emergence of states through colonization had complex problems of multi-ethnic cleavages and displacement of tribal groups across state borders. It is left to these states to foster a climate of national unity through inter-tribal bargaining and consensus and by integrating all the ethnic groups into a functioning and democratic state with shared common national values and identities. This is a monumental task facing the leaders in Africa. It is tempting to desire secession in the midst of real social, political and economic injustices and human right abuses that are prevalent in poor countries like Cameroon. It took centuries for the rich industrialized countries to get to their current stages of development. African countries are at a period in human history of immense opportunities of varying magnitude and dimensions if only the leaders would have the wisdom and farsightedness in harnessing the inheritance of enormous resources in science and technology and tap into the flow of international cultural, economic and social exchanges that are present.

Unfortunately, a majority of the despots who have ruled Africa since independence have been mainly concerned with consolidating their hold on power. Governments have used coercive organs of the state to deny both political and civil rights to their subjects, especially minority ethnic groups. Over-centralization of power has become an impediment to effective participation of the majority of people in African countries. A secessionist war as a last resort to remedy these societal ills is fraught with dangers and anxieties arising from its perversities. Weighing all the possibilities in a country like Cameroon, I think the road towards a liberal democratic nation-state is a dream worth fighting for through peaceful and democratic means and not with weapons of warfare and internecine destruction.

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