

SELF-DETERMINATION AND SECESSION

A 21st Century Challenge to the Post-colonial State in Africa

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Two approaches have characterised analysis of the postcolonial state in Africa. One emphasises the territorial integrity of the postcolonial state, with inherited colonial borders being viewed as sacrosanct and state-centred rights being given primacy. The other questions the sacrosanctity of colonial borders and seeks to promote the primacy of people-centred rights. The increasing frequency in recent years of quests for self-determination and secession in Africa poses an existential challenge to the postcolonial state on that continent. This Policy Note addresses this emerging trend.

Introduction

Anticipating the political turmoil that might beset the continent, the Organisation of African Unity (OAU) took the decision early on to uphold the colonially inherited borders of emerging postcolonial states. Colonial borders were thus declared sacrosanct and were not to be tampered with. Thus, the inherited borders were transformed into international borders that would determine and define relations among states. Nonetheless, respect for colonial borders did not spare the continent festering conflict. Though border-related conflicts have not been common, identity-based conflicts with a view to seceding from the postcolonial state have become a widespread occurrence. From the outset of independence, the postcolonial state in Africa has faced challenges from secessionist movements that invoked the right to self-determination. Some of these movements had no convincing grounds for their claims, while others could advance highly legitimate reasons, yet were simply rejected. Since 1960, several instances of self-determination and secession, well known as well as lesser known, have occurred on the African continent, causing war and carnage.

The Nordic Africa Institute in cooperation with Centre for Peace and Development Studies, Juba University, convened a conference on Self-determination and Secession: Comparison of South Sudan and Somaliland between 13 and 14 August 2012 in Juba, South Sudan. Scholars, poli-

cymakers and activists gathered to discuss and analyse the challenges of self-determination and secession the continent faces. Following the deliberations in the conference, we were able to identify four types of self-determination movement in Africa since independence. These are:

- Cases that were created by colonialism but where there was forcible annexation by neighbouring countries following the end of colonialism.
- Cases of non-colonial creation involving secession from the postcolonial state.
- Cases created by colonialism whereby states voluntarily join a union, but later wished to rescind the union.
- A case that was not a colonial creation involving the right to self-determination and the achievement of independence.

The OAU's declaration of sacrosanctity of colonial borders was breached in 2011 when South Sudan was allowed to secede. Does this experience herald a new era in the history of self-determination and secession? Is this a paradigm shift from state-centred rights to people-centred rights? Is the OAU's stance on colonial borders dead? Will the change lead to greater peace, security, stability and development? These are some of the issues to which policymakers, regional and international organisations and scholars need to pay serious attention.

Conceptualising Self-Determination and Secession

Self-determination is a notion of political rights that can be traced back to ancient Greece and Rome. Nonetheless, it was during the French Revolution that self-determination was declared to be a right of nations to statehood and sovereignty. Since then, self-determination has become a political instrument in the quest by nations to determine their future destiny. Thus, the concept acquired political content.

The wave in the quest by nations for self-determination and independence indeed crested in conjunction with the First World War. Nationalist movements in Europe seeking secession from the Austro-Hungarian and Russian empires were evident all over the continent. However, between the two World Wars the notion of self-determination as a people's right to constitute their own states was confined to eastern and central Europe. The Wilsonian doctrine that popularised the notion of self-determination during the First World War perceived societies outside Europe as less qualified to exercise the right of self-determination.

In the aftermath of the Second World War, self-determination assumed universal meaning and was seen as applicable to all peoples, including those under colonial domination. This universal applicability was reinforced by provisions adopted in the UN Charter that served as political and legal instruments for peoples and nations to make demands for independence and statehood. The UN Charter referred to two groups, notably (i) colonial people and (ii) people subjected to foreign domination, as entitled to the right of self-determination. Yet, the conceptual challenge of defining the people and nation holding this right precluded clarity of implementation. Generally, however, UN Resolution 1514 (XV) of 1960 and UN Resolution 2625 (XXV) of 1970 boosted the rights of peoples and nations to constitute their own statehood.

The prioritisation of self-determination over state integrity was interpreted as an assault on the Westphalian Convention, which celebrated absolute state integrity. At the same time, the UN Charter also upholds the territorial integrity of states. Thus some sort of contradiction was apparent in the UN's stance.

The ending of Cold War prompted or enabled new secessionist movements and reinvigorated dormant separatist claims all over the world. The right of people to self-determination is invariably defined and understood to mean the right of people to freely determine their government. The variability in the forms of free determination also points to the sometimes uneasy relationship between self-determination and secession.

Self-determination centres on the free will of a people who are legally as well as politically entitled to decide their destiny. This free will could express itself in constituting an independent state (political independence); joining another state (union); or autonomy within a state (cultural independence). Secession is generally interpreted as splitting from an existing state. It involves separation of a part of that state from the rest of its territory, leading to politi-

cal withdrawal of a region from the original state. While self-determination is seen in positive terms, secession is frequently perceived negatively.

Some of the early quests for self-determination and secession have been resolved, while others linger. New instances have also surfaced. Examples of all three types are Somaliland, Puntland, Zanzibar, Niger Delta (Biafra), Western Sahara, Casamance, Cabinda, Ogaden, Ormia (Oromo Liberation Front), Tuareq (Azawa), Comoros, Darfur, South Kordofan, Blue Nile, Abyei and Mombasa. The fall of Kaddafi also reactivated old divisions in Libya, with Cyrenaica seeking to become a separate state.

Cases of Annexation: Deferred Decolonisation

One category of quest for self-determination relates to entities created by colonialism but later annexed by a neighbouring country. Here three cases are highlighted: Namibia, Eritrea and Western Sahara. While similar in some aspects, these cases also display significant differences. The UN supported the Namibian quest for self-determination and statehood, but completely ignored the Eritrean quest. Regarding Western Sahara, the UN could not pursue a decisive policy. Various big powers, focused on their geostrategic interests, frustrated the UN in its search for a solution to the Western Sahara predicament.

Eritrea was the creation of Italian colonialism. Following Italy's defeat in the Second World War, the area was federated with Ethiopia by UN General Assembly Resolution 390A (V) that was enforced in 1952. Ethiopia immediately began to dismantle the federal provisions in the union and in 1962 it formally and arbitrarily ended the federation. Eritrea was then annexed and became a simple province of the imperial state. Eritreans therefore felt compelled to launch an independence struggle in order to achieve their right of self-determination and delayed decolonisation. They finally achieved self-determination in 1991 after defeating the military occupation force in Eritrea.

Germany was divested of its colony of South West Africa after its defeat in the First World War. The territory was then placed under South African administration by the League of Nations. The UN began to become involved in the case of Namibia in 1945 when it resolved to place Namibia under South African trusteeship. In 1966, the General Assembly adopted Resolution 2145 (XXI) that reaffirmed the right of Namibia to self-determination, terminated South Africa's mandate and placed the territory under UN administration. However, South Africa ignored the UN decision and continued to occupy the territory. Powerless against South Africa's defiance of its recurrent orders to respect the right of self-determination of the territory, the UN then rescinded South Africa's mandate and gave Namibia UN "associate" membership. The South West African People's Organisation (SWAPO) was recognised as the sole representative of the people of Namibia. South Africa was emboldened to defy the General Assembly decision on self-determination on the basis of the economic interests of the big powers, specifically the US and UK, which were reluctant to put real pressure

on South Africa. UN-sponsored negotiations finally led to the independence of Namibia under the leadership of SWAPO in 1990.

Following the end of Spanish rule in Western Sahara in 1975, the region was annexed by Morocco. Although the Polisario has been recognised as the legitimate representative of the Saharawi people, its struggle to achieve self-determination has not resulted in independence. Morocco has rebuffed all efforts to resolve the problem and the UN seems to be divided and unable to resolve the problem.

Cases of Secessionism

This section deals with cases of secession not created by colonial engineering but triggered by the winding down of colonialism. These cases include Katanga in the Democratic Republic of Congo and Biafra in Nigeria. These identity-based movements invoked the right to self-determination on the grounds of differential identity. Natural resource endowments could also have played a significant role in the efforts to secede, given that both regions are resource rich. Both secessionist attempts were decisively defeated by the military of the central government and the quests for secession and statehood by these peoples came to nothing. Yet to date, peace, security and stability are evident by their absence from both countries.

As noted earlier, secession occurs when a territory splits from an existing state even though the seceding entity has no legal grounds for this course of action. The legal grounds for statehood stem from the UN Charter, which entitles a colonial people and people subjected to foreign domination to statehood. Both groups, therefore, could not invoke such legal and political instruments to underpin their claims to secession and international recognition. Despite this, Katanga declared itself a sovereign state on 11 July 1960, while the Ibo in eastern Nigeria seceded from the federation and proclaimed themselves the Republic of Biafra in 1967.

In a highly controversial move that deviated from the declared OAU stand on colonial borders and contravened the OAU Charter that celebrated territorial integrity, many African countries recognised the attempted secession of Biafra. The ensuing war thus involved not only local contestants but also their international supporters. The federal forces immediately moved against the secessionist movement and after heavy loss of life the secession was crushed.

Voluntary Union: Retrieving Sovereignty

The third case in this category of quest for self-determination and secession relates to entities that were provided the opportunity to exercise self-determination as a consequence of the wrapping up of colonisation. Consequently, they became independent but voluntarily rescinded their independence in order to join a union. The two cases of this phenomenon were Somaliland and Zanzibar. Somaliland got its independence from Britain on 26 June 1960, but four days later, on 1 July, it annulled its independence to become part of the Somali Republic. Thirty one years

late, in 1991, Somaliland declared its independence following the collapse of the Somali state. The unilateral declaration of independence is viewed by Somaliland nationalists as a self-evident assertion of their right to statehood following the collapse of the Somali Republic. They claim they are simply retrieving sovereignty that they willingly put aside. In addition, they argue that as they joined the union voluntarily, they can just as readily leave it voluntarily. The outside world, however, has been unconvinced by their argument and has so failed to recognise the claim to sovereign statehood. This denial contrasts with the recognition afforded South Sudan.

The British declared Zanzibar a protectorate in 1890, and it emerged as an independent state in 1963. Bloody conflict immediately broke out, with the African majority overthrowing the ruling Arab elite. This led to the signing of a unity agreement between the leaders of Zanzibar and Tanganyika giving rise to the United Republic of Tanzania in April 1964. Dissatisfaction and disillusionment with the union among Zanzibaris, however, soon led to increasingly vocal separatist demands.

Successful Secession

The last category relates to non-colonial entities that succeeded in creating their own statehood. In breach of the OAU/AU Charter, South Sudan's independent statehood has been recognised. South Sudan went through two civil wars (1955-72 and 1983-2005) in order to win the right of self-determination. Peace negotiations between the ruling National Congress Party and the Sudan People's Liberation Movement-Army resulted in the Comprehensive Peace Agreement. This granted the people of South Sudan the right to determine their future through popular plebiscite. The result was a resounding vote for independence and South Sudan became the newest member of the AU in July 2011.

Implications

The postcolonial state in Africa is still at a crossroads. The choices are aptly expressed as whether to preserve the inherited colonial borders that were declared sacrosanct in 1964 or to provide ethnic groups the right to seek self-determination and statehood. But at this crossroad there are also paradoxes and predicaments arising from seemingly irreconcilable principles or rights. Two principles are juxtaposed, one giving primacy to people's rights and the other to the state's territorial integrity. Prioritising one, it seems, will violate the other. The paradox is further demonstrated by the fact that the sacrosanctity of the inherited borders has failed to spare the continent bloody conflicts, while respect for people's rights also seems to be failing to avert such conflicts.

The principle of the state's territorial integrity is considered to lie at the epicentre of the rampant conflict Africa has witnessed. Consequently, it has been felt that dismantling colonial borders and giving primacy to the principle of rights of people would solve the problem. The presumption that self-determination and secession bring peace, se-

curity and stability, however, seems to be an illusion. You are damned if you do, and damned if you do not seems to capture the current predicament in Africa.

A critical existential situation faces Africa that needs to be addressed in the 21st century. If Africa continues to uphold colonially inherited borders it is unclear that the postcolonial state will continue to exist. Should the map of Africa be redrawn to reflect ethnic, cultural and geographic diversity, as some scholars argue, it is not clear that peace, security, stability and development will result. Hence, I recommend the following points.

Recommendations

1. Given the pervasive quests for secession and self-determination, the continent needs to boost its drive for regional integration. The creation of regional bodies will create greater space for manoeuvre. This could address some groups' cultural, ethnic, economic and political grievances.
2. Ensure inclusive and equal participation by identity groups in the national polity. Exclusion, marginalisation and neglect of identity group interests contribute to quests for self-determination and secession. Adequate remedial measures may reduce the aspiration to secede
3. Pan-Africanism and later the idea of a United States of Africa as a political project was thought to be the response to the arbitrary colonial division of the continent and its associated pathologies. Reviving, revitalising and renovating this project can bolster unity rather than secession, multiplication, conflict and war. Therefore, the continent needs to seriously pursue these critical ideals.
4. Less geostrategically driven interventions would help the continent forestall or defuse secessionist movements. Geostrategic interventions have induced secessionist movements, with Katanga being a classic example. Balanced and magnanimous external engagement with the continent will greatly contribute to unity, peace, security, stability and development.
5. To date, the theoretical and methodological principles guiding international recognition, secession and self-determination have been highly ambiguous and contradictory. Indeed, ad hoc and geostrategic interests seem to determine the granting of recognition. This has created confusion and suffering. Therefore, uniform and predictable principles regarding self-determination and secession may spare the continent unnecessary political and legal turmoil .
6. The principles of territorial integrity of the state and of the people's right of self-determination are often put in binary opposition. The dominant tendency appears to be either one or the other. There is no logical, theoretical or practical reason, however, to counterpose them. Indeed not only is it possible to reconcile them, it is also necessary. In terms of function, objectives and rights, they are complementary.
7. Regional and international organisations such as the UN, EU, AU have the power to formulate, promulgate and enact regional, continental and international laws, including those that define entitlement to the right of self-determination. Therefore these bodies have utmost fundamental responsibility to enact and promulgate clear, just and people-centred laws, principles and policies that will spare the continent devastating war, poverty and underdevelopment.

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