

ICO Online Symposium on Self-determination

Re-thinking Self-determination

International Communities Organisation, 15.11.2018

PROGRAMME PAPER

ICO Consultancy Pool Members will join us at an online symposium to address the self-determination in the 21st Century. Re-thinking Self-determination consists of one day online closed meeting. It will be held between 09:00-17:00, on 15 November 2018. There will be a 45 minutes lunch break, and short breaks. The entire meeting will be recorded and then an edited report will be published as the 1st Online Symposium on Self-determination by the ICO Research Centre.



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ABOUT US

International Communities Organisation (ICO) is a self-determination research and innovation hub, and a not for profit organisation based in London. Guided by its vision of self-determination and the values of development and human rights, ICO aims to empower communities. It strives to foster an environment where organisations within these communities can overcome the barriers they face, allowing them to fulfil their potential, develop and create positive change for their local communities through local collaboration, decision making and action.

Through ICO activities, we are establishing various regional units to advocate and support the dissemination of guidelines, and encourage public engagements to facilitate self-determination claims such as

- 1) Funding local institutions at town, country, city or regional level
- 2) The inclusion of all segments of society
- 3) Investing in local businesses and rural job creation
- 4) Education and training at community, business, non-profit bodies and local political leaders including next generations
- 5) Identification of techniques for negotiations processes

ICO Research Centre, established in 2016, constitutes a civil-rights hub comprised of more than half of the ICO staff and network who are engaged in work that has direct connection to self-determination. The group consists of a broad range of academic consultants, human rights practitioners, and activists working on thematic issues and the right to self-determination across the independent research institute. The Centre is an important part of the International Communities Organisation's social impact activities, and promotes a rigorous and vibrant research environment. ICO Research Centre encourages interdisciplinary research and prioritises international collaborations through research and fellowship activities e.g. law, anthropology, language of rights, and scholarship, connects with the law, principles and politics of human rights.

RE-thinking Self-determination

The clash between the concept of right to self-determination and territorial integrity has prevented the advancement of peace processes, but the concept is vital to international peace and security. An ICO-Consultancy Pool for research and policy development activities is necessary in order to consider the conflict between territorial integrity and self-determination.

Therefore, ICO-Consultancy Pool enlists international lawyers, experts and academics to consider the conflict between territorial integrity and self-determination. This would assist mediators, officials from international organisations, State officials and self-determination movements. ICO Consultants activities consist of in-depth analysis of self-determination issues in different continents, and highlighting performance in terms of international human rights frameworks and its implementation at local level.

The main discussion topic is to explore the conceptual contradictions between territorial integrity and self-determination. We will bring up challenging questions to discuss how the self-determination should be understood and defined, and how individuals and groups might protect their autonomy from state invasion. This discussion will include debates on the meaning of the right to self-determination, when external self-determination is justified and on the notion of territorial integrity. This wide theoretical debate will be supplemented with practical cases from around the world, ranging from Biafra in Nigeria and Northern Ireland to Tibet and Papua New Guinea. This booklet will provide a short schedule and an overview of each of the discussants.

The beneficiaries of ICO Consultancy Pool discussion and policy development activities are academic and diplomatic institutions, and civil society engagement on the topic of reconciling right to self-determination and territorial integrity. We reach out to the community of interest through producing and publishing reports, handbooks, new guidelines for right to self-determination and other advocacy materials such as audio records or info-graphics.

PROGRAMME DETAILS (London Time, GMT)

09:00-09:30	<p>Opening Remarks</p> <p>(Kübra Kalkandelen and James Holmes, International Communities Organisation)</p>
09:30-11:30	<p>Panel I. Self-determination within International Law, Human Rights and the Traces of Colonialism (Chair: Nikoletta Pikramenou, ICO Fellow)</p> <p>Dr. Thamil Venthana Ananthavinayagan, LL.M. (Maastricht University) Lecturer for International Law at Griffith College, Dublin/Ireland <i>The Emperor's New Clothes: How Internal Colonialism Paves The Way For Remedial Secession</i></p> <p>Linda Beatrice Louis, PhD in eLaw, Leiden University <i>Tracing boundaries of self-determination and sovereignty: a radical recalibration of approach may be the need of the hour</i></p> <p>Bogdan Banjac, Commission for Protection of Equality of Serbia. MA in Human Rights and Democratization, Yerevan State University. <i>The Crimea Crisis – Between Occupation And Self-Determination: Case Study</i></p>
11:30-11:45	<p>Coffee Break</p>

11:45-13:15	<p>Panel II. The paradox of change beyond the territory: the impact of intergovernmental organisations, regional units and rights of people(s). (Chair: Dr. Tanya Faye Herring, ICO Fellow)</p> <p>Dr. Adam Fusco, Department of Politics, University of York <i>Confederalism as Self-Determination: The Case of the Northern Ireland post-Brexit</i></p> <p>Lovelyn Okafor, Sources Resources Consulting. <i>Self-determination and Territorial Integrity: Current Developments and the Future of States.</i></p>
13:15-14:00	Lunch Break
14:00-15:45	<p>Panel III. New Approaches to Territorial Integrity, and Self-Determination Discussions (Chair: Irina Stepanova, ICO Fellow)</p> <p>Prof. Robert Mc Corquodale, Business and Human Rights, Inclusive Law. <i>Whose Territorial Integrity?</i></p> <p>Queeneth Ekeocha, African Heritage Institution. <i>Re-Thinking State Response to Self Determination Claims in Nigeria: The Case of Biafra</i></p>
15:45-16:00	Coffee Break
16:00-16:30	Closing Remarks
16:30-17:00	<p>Keynote Speaker: Dr. Tanya Herring, Bangor University, Wales, UK. <i>Can the Palermo Convention and its Protocols serve as a conduit to legal empowerment and peaceful self-determination?</i></p>

Dr. Thamil Venthan Ananthavinayagan, LL.M. (Maastricht University)
Lecturer for International Law at Griffith College, Dublin/Ireland

The Emperor's New Clothes: How Internal Colonialism Paves The Way For Remedial Secession

A right to external self-determination might be a remedy to serious injustices. The latest developments in international relations and differing nuances in international law do not and cannot simply leave it up to the states to entirely define fate of their populace. What is the situation when a state abuses and violates human rights of a specific “people” within its territory? How could the “people” respond to such repression, discrimination and denial of representation? The answer could be partly found in the concept of the “remedial secession.”

Those who submitted themselves to the majoritarian status quo were tolerated in a post-colonial state – despite ongoing repression, denial of internal self-determination and accommodation under the majoritarian narrative. To this end, Antony Anghie formulates: “[G]iven the formidable power of the modern state, it is through control over the state that an ethnic group may prevail against its competitors. (...) the application of liberal-democratic institutions to the political universe of competing national groups may distort the character of these institutions and the concepts which support them, producing results which are neither liberal nor democratic. Indeed, democracy itself may become a mechanism by which racial oppression is furthered.” The post-colonial majoritarian communities in Afghanistan, Sri Lanka, Algeria and Philippines are, to this end, are interesting case studies to investigate the following questions: does international law authorise the right to secession as a remedy to the violation of the right to (internal) self-determination? What is the role of international law to enhance the status of a post-colonial state and decolonise its colonial antiques – while, however, international law itself its infiltrated by colonial history?

The paper will, henceforth, answer these questions and provide legal thought to restructure and manage the repercussion of a postcolonial state through the lens of Third World Scholarship.

Key Words: post-colonial state, hegemonic and counter hegemonic histories and uses of human rights, settler colonialism, decolonizing international law, and order, external self-determination.



Dr. Thamil Venthan Ananthavinayagan, Ph.D. (NUI Galway), LL.M. (Maastricht University), is a Lecturer for International Law at Griffith College, Dublin. His research interests lie in the field of the United Nations, public international law, international humanitarian law, international human rights law, post-colonialism and Third World scholarship. He has worked for the German Labour Party, the Friedrich-Ebert-Stiftung and numerous non-governmental organizations in various European countries. Finally, he has presented papers in numerous countries and cities, inter alia Seattle, Singapore, Nottingham, Liverpool, Geneva, Padova, Dublin, Galway, Maastricht. Two of his recent publications deal with the rights of refugees and the right to self-determination.

Bogdan Banjac, *Commission for Protection of Equality of Serbia. MA in Human Rights and Democratization, Yerevan State University.*

The Crimea Crisis – Between Occupation And Self-Determination: Case Study

The recent developments in the Crimean peninsula of Crimea seem to have unwilling all the weaknesses of International Law and the necessity of making further definition of the conditions and limits of self-determination. The chain of events that occurred in Ukraine in the beginning of 2014 led to the clash of world powers and their interests thus opening a new diplomatic front on the global level. Alongside the so called “big picture” and with respect to the recent practice of the International Court of Justice, a new debate emerged. Namely, if a declaration of independence does not violate any norms of International law, as stated in the advisory opinion of the International Court of Justice on Kosovo(1), what is there to prevent any territory in the world to declare independence? Also, are there any mechanisms aside from the UN capable to ensure the sovereignty of states from the UN Security Council members? Finally, were there Human Rights violations in Crimea that could justify the secession that took place?

In order to properly understand what happened in Crimea in 2014, there needs to be a proper multidisciplinary analysis of all possible aspects. This case study will try to assess the Crimea situation through the lens of Geopolitics, History, International Law and Human Rights and subsequently attempt to reach a conclusion with recommendations on the possible solutions for the current stalemate.

(1) Accordance with International Law of the Unilateral Declaration of Independence in Respect of Kosovo, Advisory Opinion of 22 July 2010, ICGJ 423 (ICJ 2010)

Key Words: Crimea Crisis, Self-determination, Sovereignty, International Law.



Bogdan graduated from University of Belgrade Faculty of Law and Master Programme for Human Rights and Democratization of Yerevan state University and Tbilisi state University. During his Master studies he conducted an internship at the Office on the State Ministry of Georgia for European and Euro-Atlantic Integration in Tbilisi. He has been working as a legal associate since 2014. In 2016, Bogdan started working at The Commissioner for Protection of Equality of Serbia in the Sector for advancement of equality, where he works in the field of Project management, training and education, annual and special report preparation and International cooperation. Also, he is a member of the EQUINET (European Network of Equality bodies) Working group for Policy formation. At the same time, Bogdan conducted an internship at the Bulan Institute for Peace Innovations in Geneva, whose primary preoccupation is researching conflicts in Central Asia.

Prof. Robert Mc Corquodale, *Business and Human Rights, Inclusive Law.*

Whose Territorial Integrity?

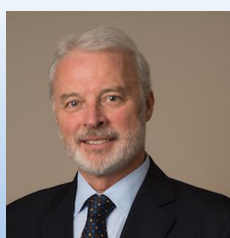
A key element of the right to self-determination is territorial integrity. This has usually been considered solely in relation to the territorial integrity of an existing State affected by people seeking the right of self-determination. However, there is a separate territorial integrity, which is that of the non-self-governing territory itself. Paragraph 6 of General Assembly Resolution 1514, being the Declaration on the Granting of Independence to Colonial Countries and Peoples, provides that: “Any attempt aimed at the partial or total disruption of the national unity and the territorial integrity of a country is incompatible with the purposes and principles of the Charter of the United Nations”.⁽¹⁾

This paper will consider whether changing the focus of territorial integrity from that of States to that of the people of non-self-governing territories can offer a new perspective on the right of self-determination. For example, if customary international law prohibits the division or merger of a non-self-governing territory, then there are consequences for the people. It will consider if the people can consent to this division or merger and, if so, what criteria is there for their consent to be lawful.

This discussion will be put in the context of Tibet and West Papua, both territories where there have been debates about whether they are still a non-self-governing people and whether the “colonial” power could lawfully act as it did with regard to their territory. Some comparative comments with other situations, such as Crimea, may also be made. This can be a (re) writing of the history of some people and territories.

(1) General Assembly Resolution 1514 (XV) “Declaration on the granting of independence to colonial countries and peoples” (A/RES/1514 (XV) of 14 December 1960), para. 6.

Key Words: Self-determination; territorial integrity; Tibet, West Papua; Chagos Archipelago; division or merger



Robert McCorquodale is a Professor of International Law and Human Rights at the University of Nottingham in the United Kingdom, as well as a barrister at Brick Court Chambers, London, and Founder of Inclusive Law (www.inclusivelaw.com), a consultancy on business and human rights issues. He has given advice to governments and peoples on a range of self-determination matters across most regions, from Lithuania to South Africa and from Tibet to Vanuatu. He has written widely on the right to self-determination and on other public international law and human rights issues, such as business responsibility for human rights and the role of non-state actors in international law.

Queeneth Ekeocha, *African Heritage Institution.*

Re-Thinking State Response to Self Determination Claims in Nigeria: The Case of Biafra

The agitations for self-determination in the South East (SE) region of Nigeria which has been on for more than 50 years occurs because of strong feelings of ethnic identity and a sense of marginalization in the region. Empirical and statistical evidences show that the Nigerian government has not shown proper responsibility in the affairs and welfare of the SE people since the end of civil war that claimed the lives of over one million south easterners.

The objective of this paper is to evaluate the territorial integrity of the Nigerian state in the light of the self-determination claims of the indigenous people of the SE. Thus, the paper argues that the main contradictions of the Nigerian territorial integrity is her inability to protect the lives and property of the SE region from political marginalization, social injustice, unlawful killings, and more so, the recent arbitrary arrest of women by state forces who were peacefully protesting for the whereabouts of Nnamdi Kalu.

Based on published empirical works and a content analysis by the author, the paper submits that self-determination claims in the SE is legal and long due. One of the major recommendations for Nigeria as a signatory of the International Covenant on Civil and Political Right, and International Covenant on Economic, Social and Cultural Rights is to learn lessons from advanced countries by reviewing the Constitution that grants a referendum for the claim of the Independence of Biafra.

Keywords: Cultural Identity, South East, Ndigbo, Self-Determination, Territorial Integrity



Queeneth Ekeocha is a researcher in Governance and Public Policy (GAPP) and Gender Politics at the African Heritage Institution (AHI). Her strengths are policy analysis, data analysis, survey research and proposal writing. She has been state coordinator for the World Bank and has set up various surveys.

Dr. Adam Fusco, *Department of Politics, University of York*

Confederalism as Self-Determination: The Case of the Northern Ireland post-Brexit

Central to the discussion of the United Kingdom's exit from the European Union is the maintenance of an open border on the island of Ireland. If not carefully managed Brexit has the potential to disrupt the terms of Northern Ireland's constitutional settlement secured in the Good Friday Agreement (GFA). Even if Brexit does not violate the terms of the GFA, it has the potential to violate its spirit if executed in a fashion which creates serious concerns for those who identify as Irish in Northern Ireland.

What is examined in this presentation is how the claim for self-determination the United Kingdom is presently making via Brexit clashes with the conditions of Northern Ireland's right to self-determination secured in the GFA. It is argued that the sources needed to reconcile these claims lie not only in complex trade and customs arrangements between the UK and the European Union, but from within the institutions of the GFA, most notably the British-Irish Council. It is argued that leaving one confederation – the European Union – should be replaced by the development of a second, between Britain, Ireland and its constituent parts. This, it is argued, is required to manage the constitutional pressures alive throughout the British Isles and moreover offers a template for considering the management of self-determination claims, in general, beyond the traditional options of clean secession and regional autonomy.

Keywords: Confederalism, Brexit, Northern Ireland, British-Irish Council, Good Friday Agreement



Dr Adam Fusco is Associate Lecturer in Political Theory at the University of York. Adam's research examines the politics of secession and national self-determination, as well as problems in republican and democratic political thought and the politics of the Northern Ireland constitutional question.

Linda Beatrice Louis, *PhD in eLaw, Leiden University*

Tracing boundaries of self-determination and sovereignty: a radical recalibration of approach may be the need of the hour

Both notions of sovereignty and self-determination are assumed to be well defined, if controversial, and capable of limited definitions. Nothing could be further from the truth. A historical narrative of the conceptualisation of the concepts of self-determination and sovereignty reveal internal paradoxes that have not been resolved in the centuries that these ideas have been mainstreamed in international political discourse. As a first step therefore, this paper argues that an accurate inquiry into the boundaries of both self-determination and sovereignty as currently understood, reveal that their original philosophical and juridical moorings envisioned ideas far more amenable to universal human rights. Secondly, there is also an overwhelming political consensus that self-determination must be subjected to sovereignty, ostensibly in the interest of territorial integrity.

As the historical narrative will demonstrate, this limitation imposed on self-determination as being bounded by the imperatives of territorial integrity is in fact a remnant of a discourse shaped by colonial powers, when self-determination was wielded as a potent but controversial weapon to present a valid argument for freedom from colonialism. To continue the subjugation of self-determination to sovereignty of the nation-state therefore, would be to continue the legacy of a political hierarchy put in place and maintained by colonial thought. In the second part of this paper therefore, an argument will be made that an articulation of self-determination that takes into account its rich philosophical origins as well as its occurrence in juridical theory that pre-empt the nation state therefore, is necessary to truly rid liberate the discourse of international law and politics from constraints imposed by the colonial distribution of power.

Keywords: history of sovereignty", "standard of civilisation" "decolonisation" and "post-colonial



After graduating with a combined Bachelor's Degree with Honours in Arts and Law from the National Law School of India University, consistently ranked first among Indian law schools, Linda Beatrice Louis started her career as a qualified advocate in India under the tutelage of a senior counsel of the Madras High Court, engaging in a wide variety of constitutional and criminal law issues. She went on to obtain an Advanced Masters, cum laude, in International Law and Human Rights from the Geneva Academy of International Humanitarian law and Human Rights, a Joint Centre of the Graduate School of International and Development Studies. She has since worked at prominent NGOs and international organisations, including the International Criminal Court, International Commission of Jurists, the Internet Society, and the International Committee of the Red Cross, among others. Currently she is pursuing a PhD at the Centre for elaw and Digital Technologies at Leiden University. As a former educator for law enforcement and other stakeholders in human rights laws, her research explores innovative means of encouraging and incentivising compliance with human rights norms. Her research thesis is titled "Towards Better Policing: Achieving Norm Internalisation and Compliance with Persuasively Designed Technology"

Lovelyn Okafor, *Sources Resources Consulting.*

Self-determination and Territorial Integrity: Current Developments and the Future of States.

The twentieth century saw the rise of two important and interconnected principles. The first is the principle of self-determination, which suggests that every “people” have the right to its own nation-state. The right to self-determination may take varying forms and range from full independence or secession to less extreme measures within a state; such as greater autonomy, respect for the rights of minority groups and political participation through representative democracy.

The second is the principle of territorial integrity, which upholds the principle that political borders must be respected. A consequence of both concepts in recent times has resulted to an increase in secessionism, a decline in conquest, and an increase of states. The right to self-determination and territorial integrity have been and still is being employed to protect the rights and interests of “peoples” around the world. This paper will examine the development of these twin principles, their interrelationship, current developments and their prospects for the future.

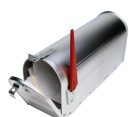
Keywords: Self-determination, Territorial Integrity, Independence, Human rights, African Politic



Lovelyn Okafor is a human rights lawyer, journalist, digital content producer, public relations practitioner, social media expert, teacher and conflict prevention and peace-making practitioner. She has worked as an Editor with Konnect Africa, an online pan-African magazine that seeks to inspire change amongst African Youths through promoting youth involvement across all sectors, and also had a stint with the New Telegraph Newspaper in Lagos, Nigeria. In addition to her Bachelors degree in law from the University of Nigeria, Nsukka, Lovelyn also holds a Masters degree in Law from the University of Lagos, a Post Graduate Diploma in Journalism from the Nigerian Institute of Journalism as well as a Professional Diploma in Public Relations from the Nigerian Institute of Public Relations (NIPR). Furthermore, Lovelyn holds an honours certificate from Yala Peace Institute (an Institute established in honour of Madiba Nelson Mandela), certification in Corporate Governance company processes efficiency and youth mentorship, certificates from the Aileen Getty School of Journalism and Yala Young Leaders Academy, where she currently serves as an Online Teaching Assistant. As a human rights advocate, Lovelyn is a firm believer in and an advocate for equal rights and opportunities. Her experience in the last 10 years spans the Development, Human Rights, Corporate Governance, Gender Advocacy, and Media sectors. Currently, she is the Chief Executive Officer for Sources Resources Consulting, a business and education-consulting



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