

Cry Biafra: Rescuing Memories of a Forgotten Country

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“Turning and turning in the widening gyre; The falcon cannot hear the falconer; Things fall apart; The centre cannot hold; Mere anarchy is loosed upon the world, The blood-dimmed tide is loosed, and everywhere The ceremony of innocence is drowned; The best lack all conviction, while the worst Are full of passionate intensity.” (W. B. Yeats)¹

Abstract

Biafra’s long struggle from conquest towards freedom has reached its crucial crossroads. The choice is between a peaceful separation from Nigeria, purged of terror and war or another *Biafran Awakening* that duplicates the tragic memories of the past. In this study, I contend that power politics is the servant of the law and not its master. I dismiss the debate to restructure Nigeria as a distraction which eclipses the central issue of whether or not Biafra is still a country in law after conquest? Objectives: to rescue the memories and status of Biafra; to clarify the law on the use-of-force in interstate relations; and, to verify the rules governing recognition of states. I warn that when the doors to justice and freedom have been closed, transitional justice today should reinvent itself with a new focus on the deconstruction of old *realist* assumptions and fallacies in order to *repair* and *restore* the damaged society and spirit. If Biafra was a recognized country before conquest and annexation, the United Nations must reverse its decision to stand aloof (in order to avoid entanglement) and recognize Biafra as a member of the committee of free nation-states.

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¹ "The Second Coming" is a poem written by Irish Poet W. B. Yeats in 1919, first printed in *The Dial* in November 1920, and afterwards included in his 1921 collection of verses.

Igbo Worlds: *nzogbu-nzogbu*, (use-of-force, power politics) *aghauche*, (diplomatic soldiering, and rational thought as opposed to *aghaegbe-na-nma* - war of guns-and-knives. **Key Words:** recognition, transitional justice, international law, international relations, human rights and self-determination.

January 15, 1966

Rescuing lost memory matters because the past is a prelude to the future. Although most of Nigeria's current population of about 190 million was not born when the country's first coup occurred 50 years ago, its legacy lingers on.² Biafran nationalists in Nigeria and diaspora are mobilizing and campaigning for the political recognition of the *Republic of Biafra*. The history of Biafra's struggle for self-determination has its roots in Nigeria's first military coup. On January 15, 1966, a group of young, idealist army majors overthrew Nigeria's democratically elected government in a violent and bloody coup. In a *Radio Nigeria* broadcast by Major Chukwuma Kaduna Nzeogwu, he assured the nation that the aim of the revolution was to establish a strong, united and prosperous nation, free from corruption and internal strife. However, instead of achieving its set goals, the coup sowed seeds of irreconcilable anger, hatred and division in the country. Since then, "Nigeria has been standing on bended knees," according to Matthew Kukah.³ The coup stripped Nigeria of its innocence, exposed its vulnerability and how easy it was to use soldiers to attack, rather than protect the government and society. A succession of increasingly repressive military governments ruled Nigeria for 29 of the next 50 years. Notable phases include; The January 1966 coup; July 1966 coup; 1975 coup; 1976 coup; 1983 coup; August 1985 coup; The alleged Vatsa coup of December 1985 and The 1990 coup. Nigeria - Africa's most populous state and leading oil producer is still affected today by the events of 1966. Military coup had driven a dagger into the 'things' that held the Nigerian federation together. January 15, 1966 continues to live in memory as a day of infamy in the political history of the Nigerian state. On that fateful day, the premiers of the northern and western regions and the Prime Minister were

² Max Siollun. <http://www.bbc.com/news/world-africa-35312370> How first coup still haunts Nigeria 50 years on January 15, 2016.

³ "Witness to Justice," An Insider's Account of Nigeria's Truth Commission
Matthew Hassan Kukah Published by Bookcraft, Ibadan, Nigeria (2011)

assassinated in an alleged eastern-region-inspired military coup. However, another eastern (Igbo) General Thomas Aguiyi Ironsi suppressed the rebellion. In May 1966, he introduced a unitary government to replace the parliamentary system. Ironsi's declaration increased Hausa-Fulani-Muslim fear and suspicion with dire consequences for the Christian-Igbo citizens living in other regions of Nigeria.

On July 29, 1966, a counter-coup considered as Africa's bloodiest coup d'état occurred. Most eastern officers were assassinated including; Lieutenant Colonel Gabriel Okonweze, the Garrison Commander, Major John Obienu, Commander of the 2nd Reece Squadron, and Lieutenant E. B. Orok, also of the Reece Squadron. It was the beginning of the Muslim-led revenge coups by the northern army officers against the eastern Christian-led first coup in which two prominent Muslim politicians were assassinated.⁴ According to Chuks Iloegbunam, within three days of the July counter coup, every Igbo soldier serving in the army outside the East was dead, imprisoned or fleeing eastward for his life. But, Africa's bloodiest mutiny did not stop with the revenge coup, despite the killing of 42 officers and over 130 other ranks who were primarily of the Igbo ethnic group. The killing of Igbo and Easterners spread rapidly across the country. This unprecedented human rights tragedy prompted Colonel Yakubu Gowon, the military Head of State, to make a radio broadcast on September 29, 1966: "You all know that since the end of July, God in his power has entrusted the responsibility of this great country of ours into the hands of yet another Northerner. I receive complaints daily that up till now Easterners living in the North are being killed and molested, and their property looted. I am very unhappy about this. We should put a stop to it. It appears that it is going beyond reason and is now at a point of recklessness and irresponsibility."⁵ In reality, Gowon's salutary intervention changed nothing. The genocide continued endlessly as northern soldiers and civilians marched into towns, fished out Easterners and flattened them either with rapid gunfire or with violent machete blows, leaving their properties looted or torched. According to the Report of the Justice G. C. M. Onyike Tribunal, between 45,000 and 50,000 civilians of former Eastern Nigeria were killed in Northern Nigeria and other parts of Nigeria from May 29, 1966 to December 1967. The Tribunal further

⁴ July 29, 1966 counter-coup: Africa's bloodiest coup d'état By Chuks Iloegbunam
<https://www.vanguardngr.com/2016/07/july-291966-counter-coup-africas-bloodiest-coup-detat/>

⁵ Ibid Iloegbunam

estimated that not less than 1,627,743 Easterners fled back to Eastern Nigeria as a result of the 1966 pogrom.⁶

In July 1966, General Ironsi, (Igbo) Head of State was assassinated in a revenge coup for the killing of the northern-born Prime Minister, Abubakar Tafawa Balewa and Premier, Ahmadu Bello, the Sarduna of Sokoto. In May 1967, the Nigerian military dictator, Yakubu Gowon announced a new gerrymandering decree which split the Eastern Region into three states - Rivers State, South-Eastern State, and East-Central State. The non-Igbo South-Eastern and Rivers States which had oil reserves and access to the sea were carved out in order to isolate the Igbo ethnic group within the land-locked East-Central State. In the aftermath of punitive creation of new states to weaken Igbo regional solidarity, Col. Chukwuemeka Odumegwu Ojukwu, on May 30, 1967, declared the independence of the *Republic of Biafra* as a sovereign nation-state. Before the declaration of independence, Northern-Muslim mob alone had killed over 30,000 Easterners, and the surviving Igbos and fellow minority easterners fled back to their ancestral homeland in Eastern Region. Nowhere in Nigeria was safe for the Easterners as the genocide escalated nationwide. Northerners living in Igbo areas were also killed in revenge attacks.⁷ Although the federal army suppressed Biafra's secession after a brutal civil war, Igbo-phobia remained strong, 50 years after the war. The killing of two prominent Muslim politicians in the January 1966 coup and the bloody revenge coup created irreconcilable mistrust between the Muslim North and Christian East which has not been resolved up till today. Ironically, Nigeria, somehow owes its continued existence to the 1966 coup, hence, the federal troops' battle to end Boko Haram's insurgency in order to avoid another war of self-determination. Max Siollun believed that the young military firebrands had mellowed and learned to talk their way out of crisis rather than blasting their way into it. However, 'things' had fallen apart since January 15, 1966. The elaborate power-sharing arrangements in Nigeria's Constitution, and the unwritten rule requiring rotation of political power between the north and south are legacies of the mistrust engendered in 1966. "Nigeria

⁶ According to the Massacre of Ndigbo in 1966: Report of the Justice G. C. M. Onyiuke Tribunal. Read more at: <https://www.vanguardngr.com/2016/07/july-291966-counter-coup-africas-bloodiest-coup-detat/>

⁷ "A Dictionary of Politics" Edited by Walter Liqueur, Pan Reference Books: London, publisher: Weidenfeld & Nicolson, 1971 p. 359

has matured. So have its former coup leaders,”⁸ Max argues. And here, I contend that Max Siollun’s evaluation of the Nigerian condition is flawed. Nigeria, which experienced 29 years of military coups had neither matured nor consolidated its democratic culture to reflect the aims of the January 15, 1966, Puritan-like revolution - to establish a strong, united and prosperous nation, free from corruption and internal strife.

There was a Country

On March 21, 2013, Chinua Achebe, the legendary author of *Things Fall Apart* died in Boston. The novelist and professor, whose full name is Albert Chinualumogu Achebe, was first, a Nigerian and later a Biafran. One year before his death, Chinua published his long awaited memoir on the Biafra-Nigeria War. The book, “There Was a Country,” seems to suggest that Biafra went into extinction after its defeat by Nigeria in January 1970. Biafran nationalists disagree with the revered professor stressing that, ‘there is still a country.’ While the integrationists claimed that Biafra was the former Eastern Nigeria and a breakaway region of the federation, the nationalists insisted that Biafra, which had existed for three years as a recognized sovereign and independent state still retained its legal status, even in captivity since political recognition does not expire in international law. If recognition does not expire, then, Biafra is still a *de facto* country. Within the international system, several political transitions can alter a state’s status like the Biafra-Nigeria scenario:

- *First scenario*, two states can merge to become one nation-state, example, East and West Germany became one Germany in 1990;
- *Second scenario*, ethnic nations or groups within an existing country can secede to create their own nation-states, example, Bosnia-Herzegovina, Croatia, Macedonia and Slovenia seceded from Yugoslavia in 1992;
- *Third scenario*, a country can peacefully separate into two distinct states, example, in 1993, Czechoslovakia split into the Republic of Slovenia and Czechoslovakia;

⁸ Max Siollun is a Nigerian historian, writer, and author of the books *Oil, Politics and Violence: Nigeria's Military Coup Culture 1966-1976* and *Soldiers of Fortune: A History of Nigeria (1983-1993)*.

- *Fourth scenario*, a former colony can become part of a state and subsequently declare independence such as the case of Eritrea in 1993 when it separated from Ethiopia.
- *Fifth scenario*, South Sudan declared independence from Sudan on July 9, 2011 as an outcome of the 2005 peace agreement that ended the continent's longest civil war.⁹

Therefore, when Chinua Achebe wrote that *there was a country* in reference to Biafra, the issue therefore, is whether or not Nigeria's acquisition of Biafra's territory through conquest or use-of-force constituted a legal act? What is the acceptable norm within the international community? Is it *might* or *right*? Was Biafra ever recognized after the declaration of independence? If so, did such recognition constitute a *de jure* recognition - a complete legal and diplomatic recognition usually followed by the membership of the United Nations and the exchange of diplomats with other countries?

Secession is the severing of one region or part of a nation-state for the purpose of obtaining the status of a statehood, example, Pakistan from India in 1947. During the 1990s, Yugoslavia broke up into five countries.¹⁰ In 1971, Bangladesh also separated from Pakistan. In International Law, self-determination is a people's right to choose how they will organize and be governed.¹¹ Biafra's fight for freedom can be seen as a reenactment of the U.S. Declaration of Independence; "We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights that among these are Life, Liberty and the pursuit of Happiness. That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed, That whenever any Form of Government becomes destructive of these ends, it is the Right of the People to alter or to abolish it, and to institute new Government, laying its foundation on such principles and organizing its powers in such form, as to them shall seem most likely to affect their Safety and Happiness."¹² Biafrans, therefore, had the right to alter or to abolish their relationship with Nigeria. If indeed, self-determination is a people's right to

⁹ "Fundamental Perspectives on International Law" 3rd Edition by William R. Slomanson; California, WEST Thomas Learning, 2000. P.68.

¹⁰ Ibid p. 70

¹¹ Ibid p. 71

¹² United States Declaration of Independence was drafted by Thomas Jefferson between June 11 and June 28, 1776. "The Declaration of Independence summarizes America's founding political philosophy. At once a cherished symbol of liberty and an expression of Jefferson's monumental talents as a writer, the document captures in unforgettable phrases the ideals of individual liberty that formed the backbone of American's Revolutionary movement. In setting forth these "self-evident truths" alongside a list of grievances against King George's Britain."

choose how they will organize and be governed, then, Biafra's quest for freedom is not a gift expected from a benevolent and kind world but a right to be recognized and restored by the United Nations. Originally, the purpose of politics (power) was to maintain security. But, people could not secure themselves except by acquiring power. After many political transitions, the promises of politics had been expanded to include - prosperity, common good, virtue, equality, justice, peace, reason and freedom.¹³ However, due to the brutish nature of leaders, sometimes, authoritarian regimes (like the Nigerian military *junta*) do wage wars on weaker societies. In such cases, citizens may invoke their natural right to life, movement, association and self-determination just as Biafra did. Self-determination is the process by which a group of people, usually possessing a certain degree of national consciousness, form their own state and choose their own government. The idea of self-determination evolved, first, as a by-product of the political ideology known as nationalism.

Biafran Nationalism

"Without a country, you have neither name...voice, nor rights...no admission...into the fellowship of [nations]...you are the bastards of humanity...Soldiers without a banner...you will find neither faith nor protection. *Mazzini to the Italians, c.1850.*"¹⁴

According to the *Merriam Webster Dictionary*, nationalism is defined as, "loyalty and devotion to a nation, especially, a sense of national consciousness exalting one nation above all others and placing primary emphasis on promotion of its culture and interests as opposed to those of other nations or groups." Most times, nationalism is an unconquerable force because it evokes the covenant between the dead and survivors. In this regard, it creates a sense of unforgettable obligation for survivors to remain tenacious in the struggle. As Edmund Burke puts it, the state becomes a partnership not only between those who are living, but between those who are living and those who are dead, and those who are to be born.¹⁵ If and when necessary,

¹³ Thomas Arnold, "An Introduction to Politics and Political Inquiry," Iowa: Kendall/Hunt Publishing Company" 1997, p. 3

¹⁴ Mazzini to the Italians, c.1850

¹⁵ "Burke's Social Contract for the Ages," by Edmund Burke "Society is indeed a contract. It is a partnership . . . not only between those who are living, but between those who are living, those who are dead, and those who are to be born. Edmund Burke, *Reflections on the Revolution in France* (1790).

nationalism requires that patriotic citizens sacrifice everything, including; family, friends, fortune and life for the freedom of the oppressed society in bondage. Biafrans, who have lived in Nigeria since the war ended in 1970, still regard themselves as politically homeless. During the Olympic Games, people marvel at the sight of so many sports men and women representing their countries, displaying their national flags and singing their national anthems. Most of the sports diplomats' national anthems have the common themes of loyalty, pride, strength and unity to their motherland or fatherland. Various national slogans speak of military glory, a call to action and sacrifice, like: *Uganda* - "Our fight for our land will never cease; it was ours and it will be ours forever and ever;" *Mexico* - "Fatherland, fatherland... thy sons swear to breathe their last on thine alter;" *France* - "Onward enfant de la patrie... the day of glory is before you;" *Germany* - "Germany above all others." According to Roy C. Macridis and Mark Hulliung,¹⁶ "ours continue to be a world of nation-states." Today, there are 193 nation-states. Within these states there are also ethnic nations, such as: The Basques, Bretons, Tamil, Catalans, Corsicans, Kurds, Azeris, Welsh and Scots, Native Americans, Igbos and Biafrans. Nationalism has proven to be one of the most divisive, yet most tenacious ideological bonds binding people together into separate political communities. Certain basic elements distinguish nationalism from other political ideologies such as: Common feeling of togetherness, common mind (obulan), common moral, social, cultural and political cultures, common-sense of community, common symbols, common language, and common patriotic loyalty to motherland or fatherland. While the geopolitical entity known as the Republic of Biafra had all the above attributes, the Nigerian federation lacked the common feeling of togetherness, common sense of community, common mind, common patriotic spirit and common love for fatherland. No doubt, the Biafran Nation was also a multi-ethnic but united nationality composed of Igbo, Anioma, Ibibio, Ijaw, Calabari, Efik and Igala. Nationalism is considered relatively a new political ideology to the so called *Third World*. It developed in Europe during the latter part of the 18th and 19th centuries. But, at the end of WW11, in 1945 the ideology had spread to the so-called *Third World*, especially Africa, Asia and Middle East.¹⁷

¹⁶ Roy C. Macridis and Mark Hulliung, p.197.

¹⁷ Roy C. Macridis and Mark Hulliung, p.198.

Nationalism: Objective and Subjective Factors

My aim in examining the objective and subjective factors associated with nationalism is to find out whether or not Biafra was theoretically and legally a State in international law. The objective factors include all the elements mentioned earlier. The ethnic peoples of Biafra shared a common past, history, and religion. Nationalists wonder, whether it was legally wrong for a group of united ethno-nationalities, like Biafrans, to live together under a common government of their choice? The subjective factor is rather an element of political *will* and purpose. It is the *will* to live together and to organize under a government of their choice. This is when the above traits combine to form a revolutionary movement with an ideology of liberation, such as the first *Biafran Awakening*. The *Awakening* was composed basically of ethnic Igbo, Ibibio, Ijaw and other Biafran freedom fighters who opposed Nigeria's military government and its presence in Biafra. The Biafran Organization of Freedom Fighters, BOFF was the brainchild of Col. Obumneme Aghanya – a typical example of an *Igbo Awakening* - a new aghauche strategy of using smart ideas in fighting a stronger enemy. The *awakening* argument is that, humanity is naturally structured into nations, that nations are known by their characteristics...and that the only legitimate type of government is national self-determination.¹⁸ Like the American founding citizens, the Biafran people did, 'hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness.' The U.S. Declaration of Independence had inspired many other countries like the Brabant Revolution in the Austrian Netherlands (modern-day Belgium). It also served as the primary model for numerous declarations of independence across Europe and Latin America, as well as Africa (Liberia) and Oceania (New Zealand) during the first half of the 19th century.¹⁹ Therefore, why did the United Nations not recognize Biafra like the other countries that followed the U.S. precedent? Why did the United States not recognize Biafra in the face of glaring similarities with its own history and experience? Why did most African, Asian and European countries refuse to recognize Biafra after 50 years of gross human rights abuses? In WWI, the Allies accepted self-determination as a peace aim. In his

¹⁸ Ibid p. 200

¹⁹ Written By The_Editors of Encyclopedia Britannica

Fourteen Points - the essential terms for peace, the U.S. president Woodrow Wilson listed self-determination as an important objective for the postwar world; the result was the 'fragmentation' of the old Austro-Hungarian and Ottoman empires and Russia's former Baltic territories into a number of new states recognized by the committee of free states. The UN's refusal to recognize Biafra, 50 years after conquest by Nigeria has created a pending political *Armageddon*. Justice delayed is justice denied. However, was the so called, *Republic of Biafra* ever recognized by any country or government?

Recognition

"We certainly cannot deny to other nations that principle whereon our government is founded, that every nation has a right to govern itself internally under what forms it pleases, and to change these forms at its own will; and externally to transact business with other nations through whatever organ it chooses, whether that be a King, Convention, Assembly, Committee, President, or whatever it be. The only thing essential is, the will of the nation."
(*Thomas Jefferson to Thomas Pinckney, 1792. ME 9:7.*)

According to the *Dictionary of Politics*, (see Laqueur) recognition lacks a generally agreed definition. Therefore, political expediency rather than legal principle or precedent is the crucial factor in determining the degree of international recognition accorded to a new country or government. This is clearly so in the cases of China, Germany, and Israel. But, where a constitutional provision had been made for the emergence of a new state or country, no problem exists, therefore, recognition is automatic, for example in Zambia and Botswana. *De Jure* recognition is the complete and diplomatic recognition usually followed by membership of the United Nations and exchange of ambassadors with other countries. *De Facto* recognition, accepts that the government concerned is in effective control of its country and provides a formula for business and low-level (no ambassadorial) political transactions without thereby implying *de jure* recognition. One type of *de facto* recognition occurs when a region or group of people have separated from the parent country and established an independent country or state. In this scenario, an entirely new country has been created and potentially qualifies to become a member of the community of nations whose membership continues regardless of subsequent changes in government. Furthermore, recognition may be either individual or collective and may be formal or informal. But, the only test of membership in the community of nations on a permanent basis is *de jure* recognition. As a general rule, recognition, once given cannot be withdrawn. Biafra had a *de jure* recognition in law which is irrevocable in law.

On April 13, 1968, the Republic of Tanzania *recognized* Biafra as an independent nation-state.

On May 8, 1968, the Republic of Gabon *recognized* Biafra.

In July 1968, the French government announced its support arguing that “through its continued survival, Biafra had demonstrated its right to exist as a separate state.”

On March 22, 1969 the Republic of Haiti *recognized* Biafra as a sovereign state.

On May 20, 1968, the Foreign Minister, Reuben C. Kamanga delivered a press statement on Zambia's recognition of Biafra as a sovereign and independent state: “The tragedy which has befallen the Federation of Nigeria is a most unwelcome event in the phase of Africa's development. The current war and the atrocious exercises committed in waging the war, the loss of human life and property have shaken this continent and there are no prospects yet that Biafra can yield to what has almost become a war of attrition. The Zambian Government has been concerned about the future of this area of Africa. We have been, and are still, most concerned about peace, stability and unity among the people of that area. We have been even more concerned about the amount of blood which is being shed for what is obviously a futile cause. War, in our opinion, will not induce surrender. It will, as had already been seen, continue to widen the gap between the two combatants and increase fear among those who are the victims of war. Even before the crisis burst into military hostilities, the Zambian Government did everything in its power to prevent the increasing tension from escalating into a shooting war. Since the outbreak of war, Zambia has employed all available means to avert further loss of life and property. But the indiscriminate massacre of the innocent civilian population has filled us with horror. Whereas it is our ardent desire to foster African Unity, it would be morally wrong to force anybody into Unity founded on blood and bloodshed. For unity to be meaningful and beneficial it must be based on the consent of all parties concerned, offering security and justice to all. This horrifying war will make it impossible to create any basis for political unity of Biafra and Nigeria.

The Zambian Government has therefore decided to recognise the Republic of Biafra as a Sovereign and independent state. We hope that the establishment of this Republic will now allow Nigeria and the people of Biafra to work out a better framework for cooperation, in order to ensure a better platform for more realistic unity among themselves, in order to live in peace and to foster African Unity in the spirit of brotherhood and mutual cooperation for the benefit of all the peoples of that region.”

In summary, the *Republic of Biafra* was recognized by: Gabon, Haiti, Ivory Coast, Tanzania and Zambia. Other countries which granted implied recognition to Biafra included; Israel, France, Spain, Portugal, Norway, Rhodesia (Zimbabwe), South Africa, and the Vatican.

Under the United Nations Charter, any group or political entity has the right to self-determination, and the right of a people to constitute itself into a state or otherwise freely determine the form of its association with an existing state. Both definitions have their basis in (Article 1, paragraph 2; and Article 55, paragraph 1). With respect to dependent territories, the Charter asserts that administering authorities should undertake to ensure political advancement and the development of self-government (Article 73, paragraphs *a* and *b* and; Article 76, paragraph *b*). After many violations of international law as evidenced in WW1 and WWII, Holocaust, Rwanda and the Biafran genocides, people began to wonder whether international law was really law or merely an utopian fantasy. If international law existed, why did it not stop Hitler, Putin, Harold Wilson and Gowon in their tracks? International law, if it is law at all, is a primitive law because unlike the nation-state, it lacks the judicial power to enforce its laws. Furthermore, each country has the right to accept or reject the rulings of an international court of justice. Political realists believe that international law is a toothless bull-dog. Regardless of these weaknesses, international law has helped extensively to promote global peace, security and to avoid WW111 since 1945.

Statehood and Status

There are various actors within the international system. These actors include nation-state (countries) and organizations such as the United Nations and other multilateral actors. Most of the actors possess a *legal personality* each. According to international law and the *Montenegro*

Convention, a group or any political entity must have four basic elements to qualify as a country with a legal *persona*:


- a) A permanent population
- b) A defined territory
- c) Government, and
- d) Capacity to enter into relations with other states, (Slomanson, p.59).


Biafra had an executive Head of State, a legislature, a judiciary, and its own currency, flag, national anthem and a Constitution. Biafra, also had a defined territory, a permanent population and the capacity to conduct its own foreign policy with other nations for three years. The above elements satisfy the criteria for Biafra's status as a recognized country under the *Montenegro Convention*. At the end of WWI, there was a massive surge of independent nation-states which became members of the United Nations. The admission of ex-colonial states was as a result of the victimized society's irrepressible consensus that colonial power politics was an act of aggression which ought to be challenged in self-defense. After the Declaration of Independence on October 1, 1960, Nigeria was inducted into the UN as a member state. If, however, colonial power politics or use-of-force was considered an aggression against the colonized societies worldwide, then, Nigeria's war of aggression against Biafra should be condemned and Biafra admitted into the UN as a member state. Why does the global community have so much fear about 'state fragmentation? What is wrong with the state numerical power in a world that is at once, globalizing and fragmenting? Biafra was a country and remains a country in law despite military defeat. The list of the world's countries in 1970 included the *Republic of Biafra* as a de-facto independent state as the typology below shows:


 **Barbados** – UN member State

 **Belgium** – Kingdom of Belgium, UN member State

Benin → **Dahomey**


 **Bhutan** – Kingdom of Bhutan, Permanent observer at the UN


 **Biafra** – Republic of Biafra (De facto independent state to 12 January)

 **Bolivia** – Republic of Bolivia, UN member State


 **Botswana** – Republic of Botswana, UN member State

 **Brazil** – Federative Republic of Brazil, UN member State

 **Bulgaria** - People's Republic of Bulgaria, UN member State

 **Burma** - Union of Burma, UN member State

 **Burundi** - Republic of Burundi, UN member State

 **Byelorussia** - Byelorussian Soviet Socialist Republic, UN member State (Republic within the Soviet Union)²⁰

Rescuing the Status of Biafra

The question of whether or not Biafra was a nation-state in international law is quite clear as described in the UN Charter, Article 4 which states that, “Membership in the United Nations is open to peace-loving states which accept the obligation contained in the present Charter and in the judgement of the organization, are able and willing to carry out these obligations....”²¹ Line ix of Biafra’s Declaration of Independence also assured the international community that, “We shall faithfully adhere to the Charter of the Organization of African Unity and of the United Nations Organization.”²² While the list of countries in 1970 recognized the Republic of Biafra as a *de facto* independent state, another study classified Biafra as an *unrecognized country* in West Africa from 1967 to 1970. However, the search for countries which existed in 1970 clearly classified Biafra at the end of war as a “country” with the following details:²³

Country: Biafra

Capital: Owerri [formally Enugu]

Founded: 1967

Area: 29,848 mi²

²⁰ List of sovereign states in 1970: <https://revolv.com/topic/List%20of%20sovereign%20states%20in%201970>

²¹ UN Charter p.60

²² "Ojukwu's Declaration of Biafra Speech" in Citizens for Nigeria, http://www.citizensforigeria.com/index.php?option=com_content&task=view&id=52&Itemid=63 (accessed June 3, 2009).

²³ Source: Wikipedia

Currency: Biafran pound

Population: 13.5 million (1967)

Government: Republic

After a critical review of the political theories and practices that qualify the state actor as a legal persona in international law, it is undisputable that the Republic of Biafra was a sovereign state before Nigeria's defeat and annexation. According to William R. Slomanson, the definition of a state is well established in International Law, "Under IL, a state is an entity that has a defined territory and a permanent population, under the control of its own government, and that engages in, or has the capacity to engage in, formal relations with other such entities."²⁴ Slomanson further clarifies that any government, however violent and wrongful in its origin, must be considered a de facto government if it was in the full and actual exercise of sovereignty over a territory and people large enough for a nation.

Acts of Aggression

International law is explicit on the use-of-force and threats to peace, breaches of the peace, and acts of aggression. The Charter of the United Nations, *Article 2.3* states that, "All Members shall settle their international disputes by peaceful means in such a manner that international peace and security, and justice, are not endangered. *Article 2.4* states 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*, (emphasis is mine) or in any other manner inconsistent with the Purposes of the United Nations," while *Article 51* is indeed an exception clause, "Nothing in the present Charter shall impair the inherent right of individual or collective self-defence if an armed attack occurs against a Member of the United Nations, until the Security Council has taken measures necessary to maintain international peace and security. Measures taken by Members in the exercise of this right of self-defence shall be immediately reported to the Security Council and shall not in any way affect the authority and responsibility

²⁴ William R. Slomanson Fundamental Perspectives on International Law, 3rd edition, California: West Thomson Learning, p.60

of the Security Council under the present Charter to take at any time such action as it deems necessary in order to maintain or restore international peace and security.”²⁵

While Article 2.3 clearly delineates the procedural path that - members shall settle their international disputes by peaceful means, the Nigerian military government violated this law when it launched an aggression against Biafra on July 6, 1966. Nigeria, also breached the provisions of the UN Charter, Article 2.4 which stipulates that members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state. Article 51 of the Charter however, creates an avenue for a state under attack to defend itself, “Nothing in the present Charter shall impair the inherent right of individual or collective self-defence if an armed attack occurs against a Member of the United Nations. In this case, Nigeria was not under attack by Biafra. Rather, Nigeria attacked first, while Biafra defended its territory and people for a period of nearly three years.

Memories of War and Genocide

The war began on July 6, 1967 when the Federal troops launched a two-pronged offensive against Biafra at Nsukka and Garkem *sectors*. Despite earlier advances made by the Biafran armies, the better equipped Federal forces gradually conquered vast territories into the Biafran heartland. In May 1968, Port Harcourt, the most important seaport of Biafra was captured by the Nigerian soldiers. Earlier in September 1967, the Biafran capital, Enugu, had fallen into Federal troops’ hands. No doubt, the capture of the two strategic cities swung the conflict in Nigeria’s favor, such that by October 1968 Biafra’s territory had been reduced to between 8-9,000 square miles.²⁶ During the war, each side accused the other of hiring foreign mercenaries. On the Biafran side, French mercenaries were involved while on the Nigerian side, British, USSR, South African and Egyptian pilots constantly bombarded Biafran territories – markets, schools, cities, and churches. Such was the time – a period of genocide and human rights abuses when Biafra cried out loud, but the world turned its back, and looked elsewhere. According to the *Convention on the Prevention and Punishment of the Crime of Genocide*, the term *genocide* means any of the

²⁵ UN Charter Articles 2.3, 2.4, and 51.

²⁶ Ibid Walter Laqueur p.359

following acts committed with intent to destroy, in whole or in part, a national, racial or religious group:

- a. Killing of the members of the group;
- b. Causing serious bodily or mental harm to members of the group;
- c. Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole and in parts;
- d. Imposing measures intended to prevent births, within the group;
- e. Forcibly transferring children of the group to another group.²⁷

Article 1 of the Convention states that genocide, whether committed in time of peace or war, is a crime under international law, while *Article 4* makes it clear that rulers, public and private perpetrators maybe held responsible. It is common knowledge that during wars, men get killed. And such men may belong to certain national, ethnic, religious or racial typology. However, for the killing to be classified as genocide, the perpetrator must be shown to have had the intent to destroy and the victims must be a religious, national, racial or ethnic group. The Biafran charges against the Nigerian dictatorship and its armed forces were based on their behavior in five killing fields namely: the killing of civilians in markets, schools and churches by the Nigerian Air force; the mass murder of civilians, chiefs, leaders, teachers, technicians and the imposition of famine and starvation as “legitimate” weapons of warfare – an estimated 500,000 Biafran children between the ages of one and ten either died of starvation or were evacuated out of Biafra. And, such evacuees never returned to Biafra since the war ended 50 years ago. They have long been regarded as the *Lost Children of Biafra*. Cry Biafra! World opinion was horrified by the desperate plight of civilians in the civil war, particularly children of whom frightening numbers had died of starvation, *kwashiorkor* and the failure of the Nigerian military dictatorship to give priority to the

²⁷ Convention on the Prevention and Punishment of the Crime of Genocide, 9 December 1948.

“The Convention on Genocide was among the first United Nations conventions addressing humanitarian issues. It was adopted in 1948 in response to the atrocities committed during World War II and followed G.A. Res. 180(II) of 21 December 1947 in which the UN recognized that “genocide is an international crime, which entails the national and international responsibility of individual persons and states.” The Convention has since then been widely accepted by the international community and ratified by the overwhelmingly majority of States.”

relief of civilians.²⁸ 50 years after the war, the metaphor of the starving Biafran child had become a global household theme as parents warned their children to eat well, else, they could get emaciated and skinny as the starved Biafran child.

In a desperate effort to explain the inhuman air raids and massive civilian casualty, the Harold Wilson's British government argued that the best hope for reducing loss of life lay in a quick Nigerian victory. On the contrary, the British press and parliament showed increasing dissatisfaction with the British government's role in supplying arms to Nigeria. The reputations of Britain and USSR suffered a blow in world opinion and within the Organization of African Unity, OAU, for supplying Nigeria with military equipment, arms and pilots to bomb Biafra. The outcome of the war was primarily as a result of the overwhelming force deployed by the two European countries which believed in *nzogbu nzogbu* - power politics. When the war began, Biafra had a population of 12,400,000 in an area of 29,484 square miles. It is believed that over one million Igbo-Biafran refugees from northern, western, midwestern and Lagos returned to the Eastern Region (now Biafra) since 1966. No place was safe for Easterners, especially, Ndigbo (Igbo people) in Nigeria after the British-trained, Christian Igbo majors staged the first coup in which two Muslim politicians were assassinated. 50 years after, Igbo people are continuously murdered in Northern Nigeria in an endless revenge war. Recently, the incumbent President, Muhammad Buhari warned that the Muslim North would never forget the assassination of northern Muslim leaders in January 1966 by the Eastern-Christian majors. Similarly, Biafran nationalists led by Nnamdi Kanu have pledged never to forget the northern Muslim genocide that killed 50,000 Easterners and their military officers who were virtually wiped out.

Genocide

Concerning the 1966 massacres in which over 30,000 Easterners were beheaded, murdered and maimed by the northern Muslims, it was generally admitted that the scope and size of the killings reached, "genocidal proportions." There was preponderant evidence to show that the genocide against Biafrans was planned, organized and directed by the Nigerian military

²⁸ Fundamental Perspectives on International Law 3rd Edition by William R. Slomanson: California, West Thomson Learning p. 360

rulers under General Yakubu Gowon. Several years after the genocide, no Truth and Reconciliation Commission or International Criminal Tribunal had been established by the past military and civilian governments. Since 50 years, no perpetrator has been prosecuted or punished for abuses of victims' human rights. For over one half-of-a-century, no apology, reparation or restitution has been made to victims. The unwillingness of the transitional governments of Nigeria to deal with the injustices of the past compels Biafrans to presume such inaction as epuration – the purging or purification of people considered disloyal to government. After many decades, an International Committee on “The Investigation of Crimes of Genocide,” whose duty included interviews of 1,082 people representing the two sides of the conflict concluded through its Chief investigator, Dr. Mensah of Ghana who said:²⁹ “Finally, I am of the opinion that in many of the cases cited to me hatred of the Biafrans (mainly Igbos) and a wish to exterminate them was a foremost motivational factor.” Listed in the petition as methods through which the violations took place are:

- the genocidal content of Nigeria's war slogans;
- the use of starvation as an instrument of war;
- the massacre of civilians in conquered areas;
- the target of air attacks on concentrated civilian habitations
- rape, torture and dehumanization of Igbo women;
- destruction of properties; animals and everything as in a scorched earth policy, and
- torture and murder of war prisoners and civilians who surrendered. Over one million people...died during the war through these atrocities.

Lustration of Ndigbo (Igbo people)

In this study, the terms lustration and epuration are used interchangeably to refer to a form of purge of former Biafran government officials, soldiers and citizens who were collectively considered disloyal to the Nigerian military regime during the war. The term also refers to a method that victor nations use to deal with the legacy of human rights abuses through mass

²⁹ Kenneth Chigbo, “The Unheard Cry of the Igbo People,” XLibris Publication: Indiana, 2011, p.127.

disqualification of those associated with such violations. An objective lustration seeks to punish human rights violators in order to deter future abuses while a subjective lustration seeks to further punish the vanquished society by the victor nation.

Ohaneze - a Pan-Igbo cultural and civil rights organization, revealed that there was a planned policy of economic disempowerment (lustration) of the Igbo by the Nigerian authoritarian regime, during and after the war: The federal government's vindictive enactment of the abandoned property law, and the consequent dispossession of Igbo property owners of their houses and plots in Rivers State as abandoned property, in a ploy to incite the Easterners against one another; The impoverishment of Ndi Igbo (Igbo people) through payment of a flat paltry sum of £20 irrespective of individual savings at the end of the war; The intentional timing of the enactment of the indigenization decree at the height of total destruction of the purchasing power of Ndi Igbo;

The denial of the reconstruction of utilities, structures and infrastructure damaged during the war;

Excision of oil petroleum-rich areas of Igbo land, and exclusion of other mineral deposits found in Igbo land from the benefits of operations of umbrella organizations like OMPADEC or its successor, NDDC; Mass dismissal of Igbo public servants; Continuation of starvation policy and rejection of aids from foreign aid/donors; Treatment of Igbos as social pariahs in all the states of Nigeria; The exclusion of Ndi Igbo from the higher echelons of policy-making; Manipulation of census figures to reduce Igbo ethnic group to a minority status and; Igbophobia (fear of Igbo people) as the basis of creating states. Categorising what it called atrocities and disempowerment between 1975 to date.³⁰ As the Biafran epuration proves, political exclusion can lead to anger, revenge and revolution.

International Media

'Things' had fallen apart in Nigeria since the first coup on January 15, 1966. Nigeria was no longer safe for any Easterner. There were unprecedented killings of Igbo citizens resident in Lagos,

³⁰ "Igbo Losses Counted at Oputa Panel" By Emmanuel Onwubiko, The Guardian, 26 July 2001

midwestern, northern and western Nigeria. This time, the genocide was widely reported by the International media: *New York Review*, December 21, 1967: "In some areas outside the East, which were temporarily held by Biafran forces, as at Benin and the Midwestern Region, Igbos were killed by local people with at least the acquiescence of the Federal forces. About 4,000 Igbo civilians perished at Benin in this way."

Washington Morning Post, September 27, 1967: "But after the Federal takeover of Benin, Northern (Muslim) troops killed about 500 Igbo civilians in Benin after a house-to-house search."

London Observer, January 21, 1968: "the greatest single massacre occurred in the Igbo town of Asaba where 700 Igbo males were lined up and shot."

New York Times, January 10, 1969: "The code [Gowon's Code of Conduct] has all but vanished except from Federal propaganda. In clearing the Midwest State of Biafran forces, federal troops were reported to have killed or stood by while mobs killed more than 5,000 Igbos in Benin, Warri, Sapele, Agbor and Asaba."

His Holiness Pope Paul VI, Head of the Vatican State sent an envoy, Monsignor George Rocheau on a fact-finding mission to visit both Biafra and Nigeria. At Asaba, the papal diplomat talked with priests left behind. On April 5, 1968, he was interviewed by the French evening newspaper; *Le Monde*. In response to a question, the envoy said, "There has been genocide, for example on the occasion of the 1966 massacre. Two areas have suffered badly (from the fighting). Firstly, the region between the towns of Benin and Asaba where only widows and orphans remain. Federal troops having for unknown reasons massacred all the men."³¹

³¹ ICC and Biafra genocide--evidence of Yoruba, Edo, Delta massacre...
ihuanedo.ning.com/group/wazobiaisalienotnigeria/forum/topics... "Firstly the region between the towns of Benin and Asaba where only widows and ... remain, Federal troops having for unknown reasons massacred all the men. ... Asaba where only widows and orphans remain, federal troops."

According to eyewitness accounts of the genocide, the Nigerian military commander ordered the execution of every Ibo male civilian over the age of ten years. While the Lagos, northern, western and midwestern killings had nothing to do with the prosecution of the war, the genocide represented a taste of things to come if Biafra was defeated in the war.

False Transitions

For over 50 years, Nigeria could not cohere. Walter Laqueur noted that Nigeria, in 1970, had a population of 66,174,000. But, in 1966, the president of the Supreme Military Council was Major-General Yakubu Gowon. The Federal Constitution was suspended and both executive and legislative powers were vested in the military dictatorship through several authoritarian military decrees. However, in May, 1967, the Nigerian military government adopted a proposal to create a new federation of 12 states to replace the Eastern, Western, Northern and Midwestern regional structure. The Federation of Nigeria was a British colony created in 1914 when Lord Frederick Lugard “amalgamated” the Southern and Northern Protectorates into a common political entity to be known as Nigeria, without the consent of the citizens. The over 250 ethnic nations were never consulted when their ancestral homes were “amalgamated” by the use-of-force.

Nigeria, as an *amalgam* is, therefore, a forced federation of disparate ethnic nations with different culture, history and ancestry. The largest ethnic nations include; Hausa-Fulani Moslems in the North, Igbo Christians in the East and Yoruba Christian-Muslims in the West. Ethnic rivalry and politics have since sown seeds of hatred, division and war among the three major ethnic nations.

After WWII, Nnamdi Azikiwe, (Igbo) and first President of Nigeria fought and quickened the quest for self-determination. Other founding fathers included; Obafemi Awolowo (Yoruba) representing the Western Region and Sir Abubakar Tafawa Balewa representing the Northern Region. During the earlier waves of political transition, reforms followed the creation of a federal structure comprising of three regions – North, East and West. In 1946, the regions were vested with greater autonomy.

On October 1, 1960, Nigeria declared its independence from the British colonial empire. As a result of a plebiscite, the UN trust territory of British Cameroon voted to join the Nigerian

Federation. In 1963, a referendum led to the creation of the fourth region known as Mid-Western Nigeria. Characteristically, post-independent political culture was dominated by regional distrust and suspicion of each other. The leader of western region, Obafemi Awolowo was increasingly critical of the Federal Government. To Awolowo, the national government was dominated by the northern and eastern politicians. Polarizing religious ideologies, and ethnic politics culminated into serious disputes in the Western House of Assembly which resulted in the Declaration of Emergency by the Federal Government in 1962. In 1963, the *Coker Commission* of Inquiry (into the Affairs of Certain Statutory Corporations in Western Nigeria) disclosed that public funds had been misappropriated by Awolowo's *Action Group* party. In the various waves of false transition, the Nigerian amalgam woefully failed to create a proud, and patriotic citizenry. Rather, citizens' loyalty and identity go first to their ethnic nations instead of Nigeria. 'Things' had fallen apart in Nigeria, despite efforts toward national recovery and national reconciliation such that even the much anticipated catharsis from the Oputa Panel failed to heal the historical wounds of the victims.

Transitional Justice

Notable proponents of the transitional justice discipline like - Neil Kris, Ruti Teitel, Nelson Mandela, Desmond Tutu and Jose Zalaquett have laid the foundation for a more peaceful world through transitional justice. The theme of transitional justice refers to how societies, governments and individuals deal with the injustices of the past. Should perpetrators of human rights abuses be prosecuted, punished or pardoned? What about the efficacy of such transitional justice mechanisms as; Truth and Reconciliation Commission, International Criminal Tribunal, International Criminal Court, Hybrid Courts, and Gacaca? These questions become especially important for societies making the transition from dictatorship to democracy such as: South Africa after Apartheid; Germany after Nazism; Democratization in Latin America, East-Central Europe and Biafra currently in captivity under Nigeria.

Oputa Truth Commission

Background: Nigeria gained independence from the United Kingdom in 1960. Despite efforts to develop a unified democracy, ethnic, religious and social tensions led to violence and civil unrest. Thousands of ethnic Igbo were killed in 1966, leading to secession and war that lasted until 1970.

Charter: The Oputa Panel was formally inaugurated on June 14, 1999 by President Obasanjo.

Mandate: The Human Rights Violations Investigation Commission was created to establish the causes, nature, and extent of human rights violations - in particular the assassinations and attempted killings - between January 15, 1966 and May 28, 1999, to identify perpetrators (individuals or institutions), determine the role of the state in the violations, and to recommend means to pursue justice and prevent future abuses.

Findings of the Oputa Panel:

- The Nigerian military was responsible for gross human rights violations;
- Apart from the military elite, the commission mentioned the collaboration of powerful and rich civilians in preparation for numerous coups;
- The commission's report also stated that some State Counsels in the Ministries of Justice violated fundamental rights of due process in attempts to protect perpetrators in specific, named cases.

Recommendations:

1. The commission recommended combating corruption, a drastic reduction of the armed forces, a review of security forces' internal disciplinary procedures, and reform of the military intelligence, police and academic institutions.
2. Victims of human rights abuses were recommended to receive compensation.
3. The panel also recommended a broad consultation of civil society about Nigeria's constitutional structure, improved human rights education, a moratorium on the creation of further states, more local governments to avoid corruption and the fragmentation of the political system.
4. In addition, the commission recommended that funds be provided for the Ministry of Women Affairs, that the report be disseminated widely and that the government

closely monitors the social, political and environmental conditions in the Niger Delta and elsewhere. *Source:* USIP ³²

Confessions of an Unrepentant General

Despite the findings of the Oputa Panel, the report had neither been officially released nor perpetrators punished. According to an eyewitness, “I can never forget when the General Officer Commanding (GOC) Second Division of the Army during the Nigerian-Biafran War, Major General Ibrahim Haruna was called upon to testify... at the Oputa Panel for his alleged human rights abuses and role in the war..., he declared that he had no regrets for the Asaba massacre in which over 500 Igbo men (civilians) were killed by his troops.”³³ Major General Haruna who was cross-examined by the Ohanaeze Ndigbo’s counsel, Anthony Mogbo (SAN) said whatever action he or his troops took during the war was motivated by a sense of duty to protect the unity of Nigeria. Haruna confessed that, “As the Commanding Officer and leader of the troops that massacred in Asaba, Owerri and Ameke-Item, I acted as a soldier maintaining the peace and unity of Nigeria.” He went further, “If General Yakubu Gowon [former Military Head-of-State] apologized, he did it in his own capacity. As for me I have no apology, it was as barbaric as the 1966 coup..., He bereted past Muslim presidents of Nigeria, “Charge Buhari, Gowon, Babangida for not investigating the 1966 coup on the grounds of dereliction of duty.”³⁴

Ibrahim Haruna’s testimony reveals that the Muslim North might never forgive, forget or apologize to Biafrans for the human rights abuses committed by Muslim soldiers and civilian mob in May, July and September 1966 against Igbo Christians. From General Haruna’s confessions, the unresolved “barbaric 1966 first coup” has unfortunately triggered a generational war between the Muslim North and the Christian East. Since perpetrators like Haruna, seemingly, cannot be prosecuted under the present Nigerian judicial system, the ICC should prosecute all the surviving

³² Courtesy: United States Institute of Peace Website:
<https://www.usip.org/>

³³ Oputa Panel: The Tale of a Neglected Supposed Remedy for Injustices by tomakint: Nov 07, 2012

³⁴ Oputa Panel: The Tale of a Neglected Supposed Remedy for Injustices... www.nairaland.com/1096075/oputa-panel-tale-neglected-supposed. Nov 7, 2012 - 17 posts - 10 authors. He said, “Charge Buhari, Gowon, and Babangida for not investigating the 1966 coup on the grounds of dereliction of duty.”

perpetrators. Since the falcon can no longer hear the falconer, 'things' had fallen apart. And, the glue that held the core-periphery together could no longer hold, despite the hope in the Oputa Panel.

The Oputa Commission finally submitted its report to President Olusegun Obasanjo on May 28 2002 and 15years after, past governments of Nigeria had neither released the report officially nor implemented the recommendations of the Commission, even after it was surreptitiously released in the United States. Nigerians wondered what had happened to the Oputa Commission's report. Would the report fizzle out like other Commissions in the past? "To the latter question, the answer should be a categorical No. Nigerians as a people should never allow the Oputa Commission's report to continue to gather dust in some office somewhere or its recommendations to be sacrificed on the altar of political exigencies or lack of political will."³⁵

Restructuring Dilemma

The integrationist pan-Igbo group - Ohanaeze, proposed reform and the restructuring of the Nigerian federation, "If our choice is a multi-ethnic nation [Nigeria], as forward-looking patriots should prefer, then the constitution should be supported with necessary institutional arrangements which should invest more energy and resources on these areas:" A people-oriented economic development plan based on social justice and equity; A political system that protects the sovereignty of the people from the disorientation of free market forces; A genuinely progressive national ideology that replaces the recent and hypocrisy of primordial irredentism with the civic values of a modern or purposefully modernizing nation-state; The Constitution should strengthen residency and citizenship rights vis aboriginal rights; and our criminal code must be revised to establish responsibility for instigated mob, arsons and pogroms in the guise of spontaneous communal riots. There must no longer be a hiding place for unknown soldiers and anonymous thugs. The law should devise a way of laying collective responsibility, especially in reparation and restitution, for arsons and massacres, on the host communities and organisations. Ohanaeze, proposed that Nigeria should settle for a system that encouraged production, in place of consumption through a flat rule-of-the thumb approach that shares all

³⁵ Nigeria: Law & Human Rights: Where is the Oputa Commission's...
allafrica.com/stories/200402160421.html

'sharable' federal resources equally among the six zones only. While the integrationists favored a restructured Nigeria, the nationalists advocated for the political recognition of the *Republic of Biafra* and admission into the UN as a member state. Ohaneze, further described "marginalisation of the Igbo to mean the denial of right to life, right to means of livelihood, right to human dignity, right to freedom of movement, right to freedom from discrimination, right to acquire and own immovable property anywhere in Nigeria and other rights enshrined in the Constitution." To the pan-Igbo organization, "Nigeria's prosecution of the war violated all aspects of the Geneva Convention and all codes of civilized behaviour."³⁶

Realpolitik vs Nzogbu-Nzogbu

Throughout this study, I have adopted the qualitative approach as the most critical tool in pursuing the objectives of rescuing the memories and status of the long-forgotten *Republic of Biafra*. In testing verifiable legal *dictums* and interpretations of the hypotheses, I have focused on the essential themes of transitional justice, international law, international politics, human rights, recognition, self-determination and realism also known as realpolitik or power politics. I have also introduced new Igbo indigenous transitional justice metaphors, example - *aghauche*, a radical- pacifist perspective which argues that societies will reconcile and heal when the all-wise, intellectual class use ideas, diplomatic-soldiering and reason to resolve conflicts in the society. Aghauche rejects the ideology of *aghaegbe-na-nma* which promotes the use of *guns-and-knives*. The chief proponents of the aghauche viewpoint, Ugo Mgbike, Ewa Unoke and Ejike Aghanya believe that what the post-conflict society needs most is new ideas and new approaches which will promote national reconciliation instead of war which the demagoguery of prebendal leadership provokes. Aghauche, assumes that most conflicts are caused by ignorant, personal and transactional leadership. In dealing with the past, transitional justice strives most times to prosecute, to punish, or to pardon perpetrators. But, so far, transitional justice literature has not emphasized enough, the role of power politics as the root cause of most human rights abuses

³⁶ Nigeria: Igbo Losses Counted at Oputa Panel - allAfrica.com
allafrica.com/stories/200107260479.html

Jul 26, 2001 - "Nigeria's prosecution of the war violated all aspects of the Geneva Convention and all code of civilized behaviour. Indeed, the violations were ...

and violence that occur during conflict and war.

At the center of this study is my passionate aim to expose the danger of political realism (power politics) and its fatal effects on society. Power must be tamed and war abolished in the twenty-first-century. The use-of-force in international relations in this age is a primitive idea. Towards the end of this study, I give a brief summary of the unreleased report of the Oputa Truth Commission. I take a critical review of the restructuring dilemma and conclude that the remote, proximate and immediate causes of the war were rooted in the January 15, 1966 first coup, ethnic nationalism, mistrust, clashing religious ideologies and power politics. On the contrary, *nzogbu-nzogbu* is a Puritan-like, Igbo-Biafran war song and realist ideology which distinguishes itself from western realpolitik viewpoint. The war chant contains unique power and moral principles which help us to understand an important factor why Biafra lost the war:

Nzogbu nzogbu, enyimba enyi (Elephant Nation of Biafra, destroy and trample on the enemy);

Zogbua nwoke, azogbuna nwanyi na nwoke ajoka, na nwanyi amaka (Elephant Nation of Biafra, destroy and trample on the male enemy because men are evil in nature. But, do not destroy or trample on the female because women are virtuous and good in nature).

The clash between *elephant power politics* and realpolitik versions of political realism spark off memories of tragic destruction and death during the war. While realpolitik assumes that power and not morality is what matters in interstate relations, the Igbo elephant power politics ideology of *nzogbu-nzogbu* on the contrary, reveals the moral side of power which respects and protects women on both sides of the conflict. Although the elephant is the king of the jungle in the animal kingdom, it does not prey on weaker animals, rather, it adopts the principle of *egbe-beru, ugo-beru* (peaceful co-existence of: let the hawk perch, and let the eagle perch on same tree branch). However, Thucydides, the famous Greek historian of the fifth century B.C., is known as the West's founding father of realpolitik, the school of thought which believes that interstate relations should be based on *power* rather than *morality or law*. Thucydidean justice, therefore, is founded on the realist theory that, "Right" as the world goes, is only in question between

equals in power, [otherwise] the strong do what they have the power to do while the weak suffer what they (have to suffer).”³⁷

While Biafrans were guided by Igbo and Christian morality during the war, Nigerian troops, angered by the January 15, 1966 coup and Muslim ethics, unleashed terror and unthinkable misery on Biafran children, parents, villages, schools and market places through massive air raids and mass-execution. The revolution finally collapsed in January, 1967. Biafra’s military leader, Col. Chukwuemeka Odumegwu Ojukwu left on asylum in the Republic of Ivory Coast, now known as Cote d’Ivoire. On January 15, 1970 at Dodan Barracks, Lagos, in the presence of General Gowon and other top Nigerian military leaders, Major-General Philip Effiong, announced the end of the Biafran Revolution, “I, Major-General Phillip Effiong, Officer Administering the Government of the Republic of Biafra, now wish to make the following declaration: That we affirm that we are loyal Nigerian citizens and accept the authority of the Federal Military Government of Nigeria. That we accept the existing administrative and political structure of the Federation of Nigeria. That any future constitutional arrangement will be worked out by representatives of the people of Nigeria. That the Republic of Biafra hereby ceases to exist.” Biafra’s Acting Head of State, Philip Effiong was forced to surrender.

Conclusion

Transitional justice seeks to address the constant clashes between law and power politics. Imagine that you witnessed the January 21, 1968 executions reported as, “the greatest single massacre...in the Igbo town of Asaba where 700 Igbo males from the age of 10 years were lined up and shot;” Imagine that your mother’s sister survived and safely returned clutching to what seemed a very important calabash bowl. When opened, it contained the severed head of her only daughter; imagine that your younger sister and three brothers were among the thousands of children deliberately starved to death under the Nigerian strategy that, *starvation is a legitimate weapon of war*. After these atrocities, survivors realized that without a country, Biafra, they had neither name, voice, nor rights. Without Biafra they had become the bastards

³⁷ This quotation is part of the Melian dialogue (Strassler (1996), 352/5.89).

of humanity and soldiers without a banner. In Nigeria, Biafrans will find neither faith nor protection as *Mazzini warned*.

If your friend or family member was a victim in any of the above real life cases, how would you like to see justice done to the perpetrators of these heinous human rights abuses. The world needs new ideas, new methods and new preemptive approaches to transitional justice. The human rights community, therefore, should re-invent itself and focus more on the deconstruction of old realpolitik false assumptions in order to repair and restore the damaged society and spirit.

In this work, my objectives have been: *First*, to rescue the memories and status of Biafra, with the hope that sparking memories of the past would be a reminder and renewal of the covenant between the dead, the survivor and the future generation. *Second*, is to clarify the law regarding the use-of-force in interstate relations. In this respect, the study proves that military power is the servant of law (Constitution) and not its master. In the twenty-first-century, acquisition of title to a territory through military conquest should not give title to the conqueror. On self-determination, the hard fact is that conquest involves the use-of-force, and force is antithetical to international law. Yet, no matter how sympathetic one may be with the above viewpoint, to deny conquest is to deny the reality of war. In the past, international jurisprudence recognized title based on conquest. But, there is a global trend against the use of raw power instead of law to acquire new territories. One must hope that in future, the transitional justice community will take a stand and initiate a global campaign to abolish war and conquest. *Third*, is to verify the rules and regulations governing the recognition of states. Under international law, a country is an entity that has: a defined territory, a permanent population, under the control of its own government that engages in or has the capacity to engage in, formal relations with other countries. The *Republic of Biafra* satisfied all the above criteria as a *de jure* state. *Fourth*, is the restructuring of the Nigerian Federation. Restructuring over 300 disparate ethnic-nations is a herculean task which can neither reconcile the Christian-Muslim mistrust nor the Igbo-Hausa xenophobia which is rooted in the January 15, 1966 first coup. A restructured federation cannot stop the surging waves of populist *Biafran Awakening* that seeks to restore victims' right to breathe freedom. I dismiss the integrationists' proposal to restructure Nigeria as a distraction.

Past civilian and military governments' efforts to restructure the *amalgam* had failed. Having tested the objectives of the study, I will conclude with the central message embedded in the poem at the beginning of this essay.

William B. Yeats's classic poem - *The Second Coming*, aptly describes the apocalyptic relationship between Biafra and Nigeria. Yeats warns that when the falcon cannot hear the falconer, things fall apart, and the center cannot hold. Such is the time. Since 50 years (1967-2017) Biafra's struggle for freedom had stumbled on closed doors. And, when the doors to truth, justice and freedom have been closed for one half-of-a-century, the struggle is presumed to have reached crucial crossroads. But, make no mistake: Biafran nationalists will cling tenaciously to their dream of freedom, picketing and chanting, *nzogbu-nzogbu enyimba-enyi*, instead of the old war song, *Cry Biafra, the orphanchild of freedom*. Transitional justice today should not only reinvent itself to focus on the deconstruction of old realpolitik assumptions but also to explore the efficacy of *recognition* and *self-determination* as preemptive mechanisms in intra-state and inter-state peacebuilding and reconciliation. Let survivors rescue memories, let governments and the United Nations do justice, then, societies will reconcile and heal.