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POST-DECOLONIZATION SECESSION:
THE RIGHT OF SELF-DETERMINATION AND THE NATION-STATE
IN CONTEMPORARY POSTCOLONIAL/WORLD LITERATURE

by

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ABSTRACT OF THE DISSERTATION
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This dissertation presents the phenomenon of post-decolonization secession and its literature as important new topic and genre for postcolonial studies. It draws on legal documents from international law, human rights law and UN doctrines to examine the paradox within the presumably inalienable, yet context-confined, right of peoples to self-determination. Although in UN's 1960 *Declaration on the Granting of Independence to Colonial Countries and Peoples*, the first introduction of the right of self-determination in international law, it was set up to be the right of *all peoples*, it is only practiced as a binding, legal right in the context of decolonization. The UN-assisted decolonization process insists that self-determination happen along colonial borders, and newly independent postcolonial states inherit colonial territories. Postcolonial independence achieved in this manner retains the racial fault lines from the colonial era, which facilitates the reenactment of the dialectics of the settler and the native, hindering the

development of a sense of national consciousness. This dissertation reads post-decolonization secession as delayed decolonization endeavor emerging out of strong (ethno)nationalist sentiment. It argues that post-decolonization secession lays bare the conditions and terms of the decolonization process, and of becoming/being postcolonial itself.

This study discusses four post-decolonization secession movements— Biafra/Nigeria, Gorkhaland/India, Tamil Eelam/Sri Lanka, and South Sudan/Sudan— alongside five secession literary texts: Chinua Achebe’s *There Was a Country*, Chimamanda Adichie’s *Half of a Yellow Sun*, Kiran Desai’s *The Inheritance of Loss*, Michael Ondaatje’s *Anil’s Ghost* and Dave Eggers’s *What Is the What*. It traces the evolution of the concept of the self-determination right after 1960 and the world’s changing response to these secession crises in postcolonial regions. The literature not only bears testimony to these shifts but also examines aspects of the situation that the political and legal processes cannot resolve. While politically and legally, secession aspiration is always conflated with state-building, secession literature reminds us that secession movements are first and foremost anti-state projects, especially in the post-decolonization context. Secession literature dwells on this anti-state sentiment and pre-state phase, and suggests “non-state nationalism” as an alternative mode of a people’s political being and a new type of sovereignty.

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Introduction

The basis of statehood, and of unity, can only be general acceptance by the participants.

You cannot kill thousands of people, and keep on killing more, in the name of unity.

There is no unity between the dead and those who killed them.

Julius K. Nyerere, "Why We Recognized Biafra"

I. An Overview of the Historical Developments of the Right of Self-Determination in International Law

Separatism and secession are complex and contested topics that have long interested legal scholars and political theorists. Discussions and debates of separatism and secession center around sensitive issues such as the right of self-determination, the model of nation-state, nationalism, international recognition, implementation of democracy, and more recently secessionist referendum. The definition of secession, like the studies of the practice itself, is also still up for debate. The broadest and most literal definition of secession is basically leaving or breaking away. The use of the word secession in political context could refer to a breakaway from *any sovereignty*, or only the breakaway from a state by which the new state was previously governed. Peter Radan gives a broad and inclusive definition of secession as “the creation of a new state upon territory previously forming part of, or being a colonial entity of, an existing state” (2008, 18). Under this definition, secession would be one of the most common ways of creating a new state throughout history: from the first wave of nation-building—the decolonization of the Americas in the late eighteenth and early nineteenth centuries, secession of Greece from the Ottoman Empire (1822), the secession of Belgium from the Netherlands (1831),

Finland from the Russian Empire (1917)—to the second wave of nation-building that witnessed the decolonization of Africa and Asia in the mid twentieth century from western superpowers, and then to another wave of nation-building in the late twentieth and early twenty-first century, which I will call the third-wave, that sees ethnic groups within an existing state seeking political independence.

The establishment of the United Nations in 1945, which, by way of membership, consolidated the political model of nation-state and state identity, is usually viewed as the watershed in the transition of the definition of secession: from a broad one to a narrow one. While the establishment of new states taken place prior to 1945 is considered “a matter of fact and not law,” political scientists generally agree that the international community post-1945, more established with solid sense of geography, borders and power dynamics, deals with secessionist movements after 1945 with more reservation and scrutiny (James Crawford, 108), although at the same time enshrines the right of self-determination of peoples in international law. Aleksandar Paković and Peter Radan also state in their co-edited book *Creating New States* that the reason why the year 1945 was a decisive moment in the genealogy of secessionist movement is first and foremost the fact that “until the establishment of the UN in 1945, the right of self-determination was recognized neither as a political nor a legal right” (2007, 20). In the foundational document of the United Nations, *Purposes and Principles* of the Charter of the United Nations, it is stated as early as in Article 1 that one of the purposes of the UN is “to develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples” (Article 1(2)). Since the UN’s founding in 1945, the

right to self-determination became, as the term itself makes it clear, a right, a right of “peoples”.

However, the applicability of this principle upheld in the Charter of the United Nations has been the center of debate for decades, and the conditions under which such a right of peoples can be claimed and justified has remained unclear. James Crawford makes the observation that “since 1945 the international community has been extremely reluctant to accept unilateral secession of parts of independent States if the secession is opposed by the government of that State” and that “since 1945 no State which has been created by unilateral secession has been admitted to the United Nations against the declared wishes of the government of the predecessor State” (390).¹ Many post-1945 examples of movements of self-determination, especially those unilateral and outside of the context of decolonization—the only UN practice where self-determination achieved the stature of an applicable legal right—are largely contested and gain little recognition or support from the world community and the UN. Therefore, postcolonial secession is significant because, while the first introduction of the right of self-determination in the international law set it up as a universal right for all “peoples,” it is only practiced as a binding, legal right in the context of decolonization.

While there are many different kinds of secession—Radan divides them into five categories: colonial, unilateral, devolutionary, consensual and dissolving—my project here focuses on one of the most contested types of secession: those unilateral and outside

¹ Crawford lists all cases of secession and dismemberment after 1945 in non-colonial context here: “Since 1945, the only new states emerging from situations which were not formally recognized as colonial, i.e. as covered by Chapters XI or XII of the Charter, have been: Senegal (1960); Singapore (1965); Bangladesh (1971); the three Baltic States: Latvia, Lithuania, Estonia (all 1991); the eleven successor States of the former Soviet Union: Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kirgizstan, Moldova, Tajikistan, Turkmenistan, Ukraine, Uzbekistan (all 1991) the five successor States of the former Yugoslavia: Slovenia, Macedonia, Croatia, Bosnia-Herzegovina, Federal Republic of Yugoslavia (Serbia and Montenegro) (1991-2); Czech Republic and Slovakia (1993); and Eritrea (1993)” (391).

of, as well as subsequent to, the decolonization context. I refer to them as postcolonial secession or post-decolonization secession in this dissertation. When public sentiment against colonization gained significant headwind shortly after the founding of the UN, the United Nations General Assembly passed the monumental *The Declaration on the Granting of Independence to Colonial Countries and Peoples* in 1960, which not only paved the way for many colonized countries to gain consented independent statehood, but also formally introduced the idea of a “right to self determination” to international law. With Article 2 in the declaration clearly stating that “[a]ll peoples have the right to self-determination; by virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development,” formerly colonized countries became one of the first beneficiaries of this right ratified, sanctioned, and made into law by the UN. Following the 1960 *Declaration*, in 1966 the United Nations adopted another doctrine, the *International Covenant on Civil and Political Rights* (ICCPR), as one of the documents under the International Covenants on Human Rights, which, though not binding, officially viewed self-determination not only as a human right, but the first and fundamental human right. It states that it recognizes “the inherent dignity and [...] the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world” and also enshrines the right of self-determination in its very first Article with the same words: “All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.” Joshua Castellino and Jérémie Gilbert are right to point out that shortly after the establishment of the United Nations, with the drafting and adopting of these documents concerning basic human

rights, the United Nations has made the right of self-determination “essential before any other rights can be recognized” (155).

Nevertheless, although the right of self-determination was “the vehicle of choice” of the UN to achieve decolonization (Castellino and Gilbert 158), UN’s stance has always been more ambiguous, if not outright hostile, toward secession outside of this specific setting. While both the UN Charter and the 1960 Declaration glorify the inalienable right of *all* peoples to determine their own political future, the 1960 *Declaration* also clearly sets up a precondition that these secessions or independences not disrupt or redraw the colonial borders. The last clause (Clause 6) in the 1960 *Declaration* plainly emphasizes 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.” In other words, when a secessionist attempt, colonial or postcolonial/post-decolonization, threatens to challenge the political geography established by the time of 1945—thus a geography drawn mostly by former colonial superpowers—self-determination as a legal right is quickly overridden by the principle of territorial integrity.

From this perspective, for the United Nations, the right of self-determination of “peoples” only constitutes a right under the context and condition of decolonization. Outside of this colonial context, throughout the past decades, the UN has largely blocked the establishment of every new state especially in the previously colonial world, arguing that these demands for self-determination are “redundant” as such right has already been addressed in the process of decolonization. The UN reacted to post-decolonization secessionist movements either with active military intervention in a separatist conflict

(for example, in the Katanga vs. Congo case), or with passive denial of the breakaway nation's nationhood, thus withholding any international recognition to the new state and effectively rendering the independence invalid (for example, in the Biafra vs. Nigeria case). In view of this contradiction and oscillation between the principle of all peoples' right of self-determination and the principle of territorial integrity, Joshua Castellino remarks that "self-determination was thus viewed as the concept that exclusively freed people from 'salt-water' colonialism" (118)². In a similar way, Paković and Radan also conclude that in this right of self-determination sanctioned to colonial countries, there is a general insistence that "newly independent states inherited the territories and borders of the former colonial entities from which they emerged" (2007, 22). Secessions that are outside of the specific colonial setting or that threaten to break down colonial borders are generally not considered legitimate, or legal, under international law. The right of self-determination of the "people" seeking postcolonial secession is not considered one of the inalienable "human rights" that "derive from the inherent dignity of the human person" (ICCPR), or a right "of all peoples, and of universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language or religion" (1960 *Declaration*).

There is, however, another side to this story that further adds to the ambiguity surrounding the concept of the right of self-determination. In 1970, the United Nations adopted another non-binding resolution, *the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations*. In this declaration, it stipulates that "every state has

² See Joshua Castellino's chapter "The UN Principle of Self-Determination and Secession from Decolonized States; Katanga and Biafra" in *The Ashgate Research Companion to Secession*, Aleksandar Paković and Peter Radan ed, Burlington, VT: Ashgate (2011).

the *duty* to promote, through joint and separate action, realization of the principle of equal rights and self-determination of peoples, in accordance with the provisions of the Charter” and that “subjection of peoples to alien subjugation, domination and exploitation constitutes a violation of the principle, as well as a denial of fundamental human rights, and is contrary to the Charter” (emphasis added). And although it reiterates that the principle of territorial integrity should not be violated in any way, its strong words that urge every state to respect and safeguard equal rights and self-determination of peoples seem to indicate a possible de-legitimization of the state’s sovereignty should it breach such duty to achieve equality. This implied message resurfaced again in the *Vienna Declaration* of 1993 adopted by the World Conference on Human Rights. The *Declaration* states in its first Article that “human rights and fundamental freedoms are the birthright of all human beings; their protection and promotion is the first responsibility of Governments,” and then in its second Article, when affirming that the denial of the right of self-determination is a violation of human rights, it states

In accordance with the Declaration on Principles of International Law concerning Friendly Relations and Cooperation Among States in accordance with the Charter of the United Nations, this shall not be construed as authorizing or encouraging any action which would dismember or impair, totally or in part, the territorial integrity or political unity of sovereign and independent States *conducting themselves in compliance with the principle of equal rights and self-determination of peoples and thus possessed of a Government representing the whole people belonging to the territory without distinction of any kind.* (emphasis added)

It seems clear from this clause that in the scenario that the government fails to protect the right of equality and self-determination of its “people,” or that the government does not represent the “whole people” in the territory without discrimination, the “people” suppressed would have a case to challenge the principle of territorial integrity and political unity of the state. Throughout the history of the United Nations though, this line

of interpretation has never really been officially adopted or practiced by the international community.³

In many ways, the debate around the right to self-determination is the result of the clash *between* the Charter's definitive Article 2(7), which respects the exclusive and overriding sovereignty of a state over its internal affairs, *and* the human rights agenda and laws developed subsequently, which can potentially, and did, erode the sovereignty of the state. Article 2(7) of the "Purposes and Principles" of the Charter of the United Nations states that "nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state or shall require the Members to submit such matters to settlement under the present Charter." Under Article 2(7), the deciding factor in the UN's (and/or its members') involvement in any secessionist movement depends on whether the matter is considered domestic or international affairs. A secessionist war that takes place on the territory of a recognized nation-state (a recognized UN member state) is only considered an international affair if the aggression on either side amounts to the degree of genocide—an international crime against humanity—or if the unrest spills over the borders of the affected state, hence violating its neighboring states' right to territorial sovereignty and affecting international peace and security, the most common example of this being the refugee problem. Other than these few exceptions, the international

³ The most well-known of this line of interpretation of the right of self-determination is Allen Buchanan's Remedial Right Only Theory, where he proposes the "remedial right" to secession and self-determination of sub-state entities—or "cultural groups" as Buchanan puts it, suffering from injustice and inequality. Buchanan argues that the right to self-determination is a remedial, not primary, right; yet a right it is. And there should be morally defensible circumstances that would justify a right to unilateral secession to redress legalized inequalities. For Buchanan, a right to secede is "analogous to the right to revolution as understood in mainstream of liberal political theory: as a remedy of last resort for persistent and grave injustices" (2003, 217). See his seminal work, *Secession: The Morality of Political Divorce from Fort Sumter to Lithuania and Quebec* (1991) and more recent *Justice, Legitimacy and Self-Determination: Moral Foundations for International Law* (2003).

community typically upholds Article 2(7) over any other international or human rights law. As the determination of genocide proves to be anything but clear-cut despite the signing of the Genocide Convention in 1948, and as the refugee problem generally receives more humanitarian response—emergency reliefs operated by UNHCR, for example—than military action directly addressing the secession conflict, in most unilateral, post-decolonization secessionist war the international community silently gives the host government its legal license to carry out “police action” targeting part of its own people.⁴

As mentioned earlier, among all categories of secession, my project here focuses on the unilateral postcolonial or post-decolonization secession—the following four body chapters examine the secessionist movements of Biafra/Nigeria (1967-1970), Gorkhaland/India (1986), Tamil Eelam/Sri Lanka (1983-2009), South Sudan/Sudan (1983-2005). As mentioned earlier, postcolonial secession is significant because it is the direct opposite of secession under decolonization, the only scenario where the right of self-determination is practiced as a binding, legal right. Post-decolonization secession thus challenges the decolonization process assisted by the United Nations, and, more importantly, the efficacy and applicability of such a right in postcolonial context. If the right to self-determination is the right before all human rights, and if it is a right for all peoples to attain political, cultural and economic independence, post-decolonization secession and its struggle for legitimacy is the living evidence of the flaws of the decolonization process, the lingering problems of colonization, as well as the paradoxes

⁴ As far as humanitarian intervention is concerned, anthropologist Sharon E. Hutchinson argues in her essay on humanitarian activities in Sudan that “international humanitarian interventions are never neutral” (55). She quotes Michael Ignatieff that “states will accept an intervention only ‘if the intervening party takes no steps to encourage insurgents against the ruling regime,’” which inevitably means “‘taking the state party’s side in the conflict’ (2003:68)” (55).

and limitations within the concept and practice of the universal right to self-determination in international law. Postcolonial secession is categorically significant also because, among all categories of secession, unilateral post-decolonization secession has had the least support and recognition from the international community (the argument of redundancy), and has the least examples of success—only Bangladesh (1971) and South Sudan (2011) gained recognized statehood in the past five decades.

The project here discusses the ambiguities within the concept and practice of the right to self-determination through the lens of post-decolonization secession. This approach allows the project to trace the evolution of the right from the peak of its implementation (decolonization), to the outright denial of the right when claimed in a non/post-decolonization context, to the non-involvement stance taken by the UN toward subsequent attempts of postcolonial peoples to claim such right, and then to the recent development of encouraging regional interference when such right is believed to be violated. This history not only shows important shifts in the development of the right of self-determination, but also illustrates how colonization and decolonization practices obscure the meaning of “peoplehood,” “citizenship,” “minority,” “sovereignty” and “nation-state” in the postcolonial world, which in turn complicates the conditions under which such right can be claimed and deemed legitimate. This fact further highlights the ambiguous attitude of the international community and the United Nations towards a supposedly universal right of self-determination, which makes this right one of the most romantic and lasting political myths in today’s liberal democracy.

II. Ambiguities in the Concept and Practice of the Right of Self-Determination

i. Nation-state and human rights

One of the chief reasons for the uncertainty surrounding the legal concept of the right to self-determination and secession is that, the United Nations, as an international institution and network among “nations” as its name indicates, inevitably follows the parameters of the nation-state when deciding and interpreting international affairs. To legitimize any secessionist movement by ruling that the right to self-determination is compliant to basic human rights and should be entitled by all peoples is to put the sovereignty of its own state members in constant challenge. UN’s denial and disavowal to most post-decolonization secession movements makes it clear that, first, under the United Nations, the right to self-determination, as “inalienable” or “inherent” as it is, is in fact only inalienable and inherent when, in UN’s words, the principle of territorial integrity is upheld. This indicates that the principle of territorial integrity—in other words, state sovereignty—always comes *before* the right to self-determination (another example of the supremacy of Article 2(7)), and as this right is the right of all human rights according to the United Nations, it is fair to say that under the UN, the state-territory-sovereignty trinity always supersedes and overwrites human rights. This makes it obvious that a human person’s entitlement to *human* rights in today’s state-based liberal democracy is in fact more tightly related to his or her being a law-abiding citizen of a nation state than simply a human being. Within UN documents, one can easily see a constant oscillation between birthright and citizen-right. The first Article of the 1993 *Vienna Declaration* states that “human rights and fundamental freedoms are the birthright of all human beings; their protection and promotion is the first responsibility of Governments.” From birthright to the protection and promotion of the state, this article implies the compulsory

link between human rights and the state's power over them—whether or not to protect and promote, and whose rights to protect and promote.

This switch from human to citizen in the 1993 *Vienna Declaration*, and the ambiguous switches between the terms “humans” and “peoples”—as state-specific citizens—in many UN documents concerning human rights may help explain why the United Nations seldom interfered to defend the rights of “all human beings” in cases of militarized post-decolonization secession conflict. If the nexus between human rights and nation-state is unbreakable, a group of people breaking away from an UN member state would not be considered entitled to “human rights” any more. Furthermore, needless to say, if such a link is unquestionably upheld, the protection and promotion of human rights is strictly a matter of internal affair that allows little ground for foreign intervention. Throughout history, the UN involved itself militarily only in one post-decolonization secession, the Katanga/Congo secession war in 1960, the first post-decolonization secessionist movement shortly after the passing of the 1960 *Declaration on the Granting of Independence to Colonial Countries and Peoples*, fighting, of course, on the side of its member state. While the new 1960 *Declaration* should likely have validated such “people's” quest for self-determination—at least partially—UN's troops ironically brought a decisive end to the Katanga secession. This example of the UN's first and only military intervention in a secessionist conflict is in fact rather a defense of its principle of territorial integrity emphasized in the 1960 *Declaration* just declared than a willing interference in the internal affair of its member state. After Katanga, the UN involves itself mainly in providing “humanitarian aides” to countries in secessionist crisis, though these aides to maintain basic human rights have never included assistance to achieve the

most fundamental human right claimed by the UN itself, namely the right to self-determination.

The compulsory link between human rights and nation-state coupled with the international community's almost unconditional observance of Article 2(7) of the UN Charter gives the state enormous power as to when and to whom to grant or suspend human rights. An extreme consequence of such an all-encompassing supremacy of the state power is that under such circumstances, it is legal for a state to suspend the "protection and promotion" of basic human rights to its people or part of its people simply through its right to declare a "state of emergency" in response to domestic crisis of war, insurgency or revolt. In fact, implementing a state of emergency is one of the most common strategies a postcolonial state adopts when facing post-decolonization secessionist challenges: Sri Lanka had been in a constant state of emergency from the 1970s till 2011; Nigeria also declared a state of emergency when the Biafran War broke out in 1967. As Giorgio Agamben reminds us, by means of the state of emergency, or the state of exception, modern totalitarian nation-states are able to establish "a legal civil war that allows for the physical elimination not only of political adversaries but of entire categories of citizens who for some reason cannot be integrated into the political system" (2005, 2). If physical elimination can be justified and legalized under the state of emergency, it goes without saying that all basic human rights entitled to a targeted group of people—not because they are human beings, but more because they are citizens of the host state—can be easily and justifiably eradicated, especially when they show desire to defect from the state. A state of emergency sanctioned by the international community as a response to secessionist conflict regarded as a domestic affair, legitimizes the host state

to quell separatist revolt regardless of, and in spite of, human rights law; it also confirms again the paradoxical link between human rights and the nation-state. As Agamben rightly argues, “rights are attributed to the human being only to the degree to which he or she is the immediately vanishing presupposition of the citizen” (2000, 21) precisely because the category of the “human being” in itself is “inconceivable in the law of the nation-state” (20).

ii. Nation-state and the peoples

Secondly, what is less than clear in these documents that enshrine the right to self-determination in international law and set it up as human rights agenda is the definition of “people.” In the Charter of the UN where the term “self-determination of peoples” first appears, a “people” simply refers to a population of a recognized member state. And this clause (Article 1(2)) means nothing but that the population of a state has the exclusive right to decide the country’s political future without any interference from any foreign powers. In the 1960 *Declaration*, where Article 2 states “all peoples have the right to self-determination,” the “peoples” here plainly and strictly refers to peoples under colonization, as this declaration was designed and intended specifically for the purpose of decolonization. However, since the principle of territorial integrity comes *before* this right of the people, the “people” here can only mean a collective “whole people” residing in a previously colonized political unit with arbitrary borders that often do not reflect cultural, religious, or ethnic fault lines. In other words, it is fair to say that the term “the right of the peoples to self-determination” in a decolonization context is partially an oxymoron because if the “people” here applies to only the formerly colonized people as a

whole in the arbitrarily drawn colonized space without the possibility of sub-dividing and without the possibility of returning back to its ethno-geographical makeup before colonization —therefore very much a “people” only in a political, didactic and still colonial sense—this right to self-determination of peoples in fact achieves decolonization only on a limited, if not nominal, level.

This fact that the “people” in the most important document legitimizing the right to self-determination refers narrowly only to the formerly-colonized “whole people” may explain why later UN documents saw the need to address a possible outcome of such an un-negotiated decolonization that insisted on colonial borders. That is when the newly-independent postcolonial government fails to “represent the *whole* people belonging to the territory without distinction of any kind” (1993 *Vienna Declaration*, emphasis added), thus bringing about internal discrimination toward and subjugation of certain groups of people within the People, limiting their equal share to basic human rights and fundamental freedom. Here the 1993 *Vienna Declaration* attempted to redefine or open up the idea of the people by questioning the viability and practicality of the concept of the postcolonial unitary People. The 1993 *Declaration* then introduced the possibility of granting the right of self-determination to peoples who refuse or are refused to be integrated into the national body politics. Although the appeal to apply the right of secession to discriminated peoples within a postcolonial nation-state, or what Buchanan advocates, to apply the remedial right of self-determination to subjugated sub-state cultural groups, never gained much traction in a politically significant way, this line of argument undoubtedly exposes some of the major problematics in the definition of

“people” in international and human rights laws concerning the issue of self-determination.

It is also worthwhile noting that although Article 1 of the 1960 *Declaration* states that “the subjection of peoples to alien subjugation, domination and exploitation constitutes a denial of fundamental human rights, is contrary to the Charter of the United Nations and is an impediment to the promotion of world peace and co-operation” (1960 *Declaration*), the meaning of the term “*alien* subjugation” also becomes ambiguous when the unclear definition of a “people” is taken into consideration—especially so in the postcolonial world where the formation of a national whole people lacks a sense of national consciousness. Obviously, in the context of decolonization, the “alien” here in the 1960 *Declaration* means Western colonial powers. However, the convoluted history of colonization and decolonization has it that although during colonization, the colonial master tended to form a closer tie with a dominant minority in order to prevent a universal anticolonial front, during the process of decolonization, the same master often supported the ethnic majority to take over the government, since the introduction of democracy and general election in the post-decolonization era would inevitably favor the majority. When a national “imagined community” fails to form after independence and when one certain ethnic group, usually previously disprivileged, takes over the new multi-ethnic postcolonial country, and initiates revenge on the formerly privileged pro-colonial minority for former wrongs, the meaning “*alien* subjugation” can become complex and multi-layered.

The concept of the people in the theories and legislation of the right to secession/self-determination is thus a contested concept that highlights the tension

between what is always already included (peoples) and what is yet to become (a People). The debates arisen from these UN legal documents are the result of the fact that the international community takes postcolonial People as a given and non-negotiable political body rather than considers them as free political entities (peoples)—or simply human persons in the first place, what Giorgio Agamben would call “naked life”. They are a People because of the normalized process of decolonization and because of the emergence of popped-up postcolonial nation-states that are in need of a unitary people as its citizenry. The peoples have to become a People because of the demand of the nation-state, so yet again the state comes *before* the peoples, the People before the peoples. And just like the unbreakable nexus between human rights and the state, where there is no human rights outside of the state, the right to self-determination is not applicable to any “people” outside of the state-based political identity.

iii. International Recognition of A Breakaway State

Thirdly, the ambiguity in the concept of the right of self-determination lies not only in the theoretical but also in the practice. Despite the vagueness in the international human rights legal documents, many peoples *have* resorted to secession movements to address internal inequality in the postcolonial world; yet only two breakaway states have since gained recognized statehood. This speaks to the international community’s power in deciding what defines the right of self-determination (theoretical level) and also what *counts* as one (practice level). Since the UN’s military intervention in the first-ever post-decolonization secession war between Katanga and Congo, the UN has retreated from an active military role and taken on a presiding role. Throughout the past five decades, the

UN's decisions in legitimizing/recognizing or denouncing secessionist sovereignty has corresponded solely with the outcome of the war: when there is a clear winner in the secessionist war. As Castellino argues in his essay on the Bangladesh secessionist war, the major difference between the secessionist attempts of Biafra and Bangladesh—one only a few months apart from the other—and their outcomes is that, and only that, Bangladesh won the war and its statehood, while Biafra lost the war and was never recognized. Tamil Eelam lost the secessionist war to the Sri Lankan Sinhalese government and never had their declared statehood recognized; the same applies to the fate of the Katanga secession as well. This rule by the effectiveness of force indirectly puts violence before legality and human rights; it is also one of the very few examples where the UN would bypass the supremacy of Article 2(7) to recognize a breakaway state without the consent of the host government.

Another factor that should be taken into consideration when discussing international recognition of postcolonial secessionist states is the correlation between the effectiveness and the timing of the recognition. It is true that the success of Bangladesh's independence can be attributed to India's recognition of its nationhood only ten days before Bangladesh's victory over Pakistan in 1971, but Biafra had also garnered recognition from countries such as France, who was sympathetic to the cause and provided arms to the Biafrans through Gabon and Ivory Coast. It can be argued that compared to the timing of India's recognition of Bangladesh, the recognition of Biafra from these five countries was premature—Biafra surrendered to Nigeria in January 1970—and therefore might have been regarded as unlawful interference in Nigeria's domestic affairs by the international community at large, thus diminishing its

effectiveness. And the moral support expressed by French President Charles de Gaulle virtually did nothing but reconfirm the dominance of Article 2(7) over human rights concerns or humanitarian sympathy: “She [France] has not performed the act which, to her, would be decisive, of recognizing the Biafran Republic, because she regards the gestation of Africa as a matter for the Africans first and foremost. [...] This means that, where France is concerned, the decision which has not been taken is not ruled out for the future.”⁵ Had France offered active assistance (like India in the Bangladeshi independence) and formal recognition, it is hard to predict what the outcome of the Biafran war would have been. Whether or not a breakaway state can earn its legality simply through the recognition of a significant member of the international community may not be conclusive. In other words, whether it was India or the effective timing of recognition that brought Bangladesh to its final success, or whether it was the lack of the French support or the premature recognition from other African countries that brought defeat to Biafra, is a question hard to answer. Yet it remains clear that, as far as the practice of the United Nations is concerned, a breakaway state can only and will surely gain effective recognition if and when it first wins the secessionist war.

iv. Self-determination through Referendum, a New Alternative?

Other than militarized uprising or peaceful power hand-over, a few examples of postcolonial countries with a more controversial colonial status went through the process of UN-supported-and-overseen referendum to gain independence. For example, the General Assembly suggested that Spain hold a referendum under the supervision of the

⁵ Remarks made at a press conference, Paris, on 9 September 1968. (Text by courtesy of the French Embassy, London.)

UN to decide the political future of Western Sahara as early as 1966 (Resolution 2229). Western Sahara was a Spanish colony, but both Morocco and Mauritania claimed sovereignty over it before and after the Spanish colonization. The International Court of Justice ruled in 1975 that although Western Sahara's legal status at the time of colonization was ambiguous, since Western Sahara was once a Spanish colony, independent of Morocco and Mauritania, it was eligible for the right to self-determination for the purpose of decolonization specified in the 1960 Declaration.⁶ The independence of East Timor in 2002 was made possible by an UN-supervised popular referendum in 1999, in which the majority of East Timorese voted against the occupation of Indonesia. East Timor was a Portuguese colony till 1974; in 1975 Indonesia invaded East Timor and claimed sovereignty over it till 1998. The UN objected to Indonesian sovereignty over East Timor and had long considered East Timor a "non-self-governing territory under Portuguese administration," a status qualified for a path to decolonization and the right to self-determination.

An interesting question to ask is whether this process can be applied to resolve post-decolonization secessionist crisis, as some observers and scholars are touting this option as a solution to heightened postcolonial secessionist sentiment.⁷ It should be noted that whether it is the referendum in Western Sahara, Eritrea (former Italian colony till 1941, controlled by Ethiopia since 1962, and held an UN-supervised referendum in 1993) or East Timor, these territories were considered either colonies, though some ambiguous, or "non-self-governing territories," hence "self-determination units," at the time a popular

⁶ This referendum never took place, and Western Sahara has been controlled by Morocco since 1957. The proposal for a popular referendum has been revived in 1992 and 1997, but both have failed to take place.

⁷ See, for example, Amardeep Singh's proposal for a popular referendum in Kashmir, India, in his "The Right of Self-Determination: Is East Timor a Viable Model for Kashmir?" *Human Rights Brief* 8.3 (2001): 3.

plebiscite was proposed or implemented. Thus these examples are not contradictory to the 1960 Declaration, in which the right to self-determination is granted specifically and solely to territories under “salt-water colonialism.” Therefore, practically speaking, none of these examples serves as a repeatable precedent in the context of strict post-decolonization secession. However, there is one recent example that may stand out as a precedent for future postcolonial secession—the successful referendum of Southern Sudan in 2011.

What sets the referendum of Southern Sudan apart from other referenda is that the entire Sudan was a British colony and was already decolonized following the 1960 *Declaration*. Southern Sudan was not considered a colony independent of northern Sudan nor was it ever listed as a non-self-governing territory by the United Nations. The secessionist demand of southern Sudan had always been in the category of the unilateral, postcolonial, post-decolonization secession, deemed “redundant” and unlawful by the United Nations. The entire Sudan gained independence from Britain in 1956 with a huge developmental gap and inequality between the north and south. The first separatist war broke out between 1961 and 1972. Southern Sudan accepted the Addis Ababa Agreement in 1972, which promised to give them autonomy. The Addis Ababa Agreement was breached by leaders from the North shortly after a decade, which then led to the second separatist war. The second separatist war lasted 22 years, killed and displaced millions of civilians, with refugees spread over to its neighboring Ethiopia and Kenya where huge UN refugee camps were in operation for many years. The North and South eventually signed an agreement initiated by the Intragovernmental Authority on Development (IGAD)—an organization, or trading block, based in Eastern Africa—with the

involvement and consent of the UN and other international observers (especially Norway, the US, and the UK) in 2005. The Comprehensive Peace Agreement states that the Southerners can exercise their right to self-determination through a referendum at the end of an interim period of six-and-half years, during which the north and the south should aim to make the unification of Sudan “attractive to the people of South Sudan.” The 2011 referendum saw 98.83% of southern Sudanese favor independence over unification. South Sudan became an independent country in July 2011 and has been a recognized and indisputable member of the United Nations ever since.

The case of South Sudan’s successful referendum is worth perusing because it is contradictory to the UN’s 1960 *Declaration* and to many subsequent legal documents regarding the right to self-determination, where not only is the self-determination right *not* applicable to cases outside of the decolonization context, but the principle of territorial integrity is absolute and inviolable, with the influence of Article 2(7) of the Charter looming in the background. It should be noted that this referendum was not initiated by the UN, unlike other referenda in the context of decolonization mentioned earlier. In the case of South Sudan, the regional IGAD played a much more active role in bringing peace to Sudan, when the UN simply “closely followed and supported the IGAD initiative.”⁸ When the IGAD brokered the landmark 2005 Comprehensive Peace Agreement, the UN Security Council established a special political mission—the United Nations Advance Mission in the Sudan (UNAMIS)—by resolution 1547 to “support the implementation of the Comprehensive Peace Agreement.” Thus the UN’s role in this unprecedented referendum is secondary, or administrative, at best; at such a role, it

⁸ UNMIS (United Nations Mission in the Sudan)
<http://www.un.org/en/peacekeeping/missions/past/unmis/background.shtml>

manages not to violate Article 2(7) in principle and delegates the responsibility of presiding disputes to regional organization, similar to de Gaulle's strategy in 1968 regarding Biafra's secession—"the gestation of Africa [is] a matter for the Africans first and foremost." In other words, through the handling of Sudan, the United Nations might have already, yet so slightly, shifted its non-involvement policy from one that reveres the overriding position of the states to one that relies on regional co-ordinations and determinations. Although a small move, this may already have opened up a possibility for the international community to legitimately intervene in domestic human rights violations and for secessionist group to follow a path to independence.

The question to ask therefore is if this example serves as a new model for future post-decolonization secession to come, if it sets up a new standard whereby the United Nations could resolve the ambiguities surrounding the right to self-determination of all "peoples" and the incompatibilities between this right and Article 2(7). It should not be overlooked that the enthusiastic involvement of the regional IGAD may well be a result of the outspread refugee problem in the region, especially given that two of the members of the IGAD, Ethiopia and Kenya, had refugee camps operated on their territories.⁹ Similar to the circumstances in Bangladesh's successful independence—where refugee spilled over to neighboring India, the refugee problem may have also pushed the secessionist crisis in Sudan from being a domestic affair to an international one, which then in turn justified a certain level of international intervention. Whether subsequent unilateral postcolonial secessionist movements that meet these similar criteria would be

⁹ Launched in 1996, the IGAD had seven members before the admission of South Sudan in 2011: Djibouti, Eritrea, Ethiopia, Somalia, Sudan, Kenya and Uganda.

able to garner international support and warrant the UN's silent consent to a popular referendum for independence more easily than before remains to be seen.

Overall, Bangladesh's and South Sudan's paths to independence, the only two successful examples and thus two significant milestones in the history of post-decolonization secession, do shed light on what it takes to make "one of the most romantic of rights within the human rights agenda" (Castellino and Gilbert 155)—the right to self-determination—applicable and possible to secession movements outside of the decolonization context. Their different paths—one only possible through military triumph, the other through popular referendum—also mark the changes in the atmosphere and attitude in the international community toward ethnic secession.

III. Historical Background—Who are the “people”?

The causes behind all violent secession conflicts to be discussed in this project are closely related to colonial practices, as is the reason behind some of the major ambiguities within the concept of the right to self-determination itself, particularly in the areas concerning the definitions of the “people” and “alien subjugation.” As journalist of international affairs Brian Beary observes, one of the major motivating factors in separatist movements remains “the actions of a former colonial ruler” (8). On the one hand, the colonial ruler “favored one ethnic minority over another, [and] when the colonial power left, the favored minority lost its privileged position, sparking resentment” (8), and on the other hand, the same ruler might choose a successor—usually the ethnic majority—other than his favored ethnic group out of post-independence economic and political calculations, thus further disrupting a social structure long established under

colonial control. By all accounts, in order to prevent a unified rebellion against colonial control under colonization, colonial powers made good use of the ethnic fault lines in these conglomerated territories, politicizing and institutionalizing ethnic divides. In colonial Sri Lanka (then Ceylon) and Darjeeling India, one sees the impact Britain's close relationships with the Tamil and the Nepali, respectively, has on subsequent disquiet in the region. And in Sudan and Nigeria, colonial policy of divide-and-rule further alienated different ethnicities and regions from one another than they already had been before colonization. The fault lines along which secessionist discontents erupt already existed during the colonial period; they were either old conflict lines fortified or new ones set up by the colonial rulers. Ethnonationalism and secession movements *are* results of tensions and unbalanced distribution of power and resources among ethnic groups, but tribes and ethnic groups have long existed in these postcolonial regions. Ethnic heterogeneity itself alone does not create intolerance; it is the politicization and artificial recategorization of this heterogeneity that pits one group against another. Similarly, colonial policies of regionalization, divide-and-rule, and ethnic favoritism all contribute to convoluted ethnic relations in the postcolonial world. By amalgamating different regions and "peoples" into one colonial unit and administering them relatively separately to avert a united anti-colonial force, the colonial power encouraged, among these regions and peoples, differences rather than integration, which remained in place well after the very colonial unit transformed into a postcolonial state, and an artificial, supposedly unitary People. These policies aggravate the discrepancy between the "people" and "People," complicate the determination of minorities and the indigenous, and anticipate "a dialectics of the foreigner and the native" (Mahmood Mamdani 109). All of these challenge, and further

the debates on, the efficacy and appropriateness of how the right of self-determination is stipulated in international and human rights law, and practiced in the international community.

i. The Igbos in Nigeria

In Nigeria, the British administration amalgamated the Protectorate of Northern Nigeria and the Colony and Protectorate of Southern Nigeria, two previously separately-administered territories, into one colonial state on January 1, 1914. And in 1939, British governor Arthur Richards further divided the southern territory into the Eastern and Western groups of province, following what he regarded as the “natural divisions.” At the eve of its independence from colonialization, Nigeria was an unlikely nation of three regions controlled by three major ethnic groups—the Northern region controlled by ethnic Hausa, predominantly Muslims; the Western region ethnic Yoruba; and the Eastern region ethnic Igbo, both predominantly Christians. Under the British government’s “divide-and-rule” policy, these three regions had their own regional assemblies and their own political parties and leaders. While the North kept itself out of Western influence, Christian missionary activities and schools flourished in the South. Ethnic groups in the south such as the Igbo thus had more university graduates than the Northern Hausa, which in turn also gave them more advantages in socio-economic activities and public service. The high percentage of ethnic Igbo in government sectors created deep fear in the North, the largest of the three groups in terms of land and population. Because the three regions had different levels of development in infrastructure, political involvement, and education, a sentiment of regionalism—“a

system in which citizens who are not originally from a region are discriminated against in, and excluded from, the provision and enjoyment of public goods. In other words, the government of the region makes public goods exclusive to citizens whose origins are from the region” (Eghosa E. Osaghae 7)—took root rapidly and steadfastly throughout the country, before and after the granted independence.

The secessionist civil war that lasted from 1967 to 1970 was a war between the elected Hausa-controlled government and the ethnic Igbos, who were fighting for a separate country of the Republic of Biafra in the eastern region of Nigeria after the mass killing of Igbo officers and civilians in the North. In this second post-decolonization secession war, although the UN did not get involved with its military forces to aid the host country as it did in the Katanga/Congo crisis (1960-1963), it adhered to its non-involvement policy and regarded the crisis as an internal affair of Nigeria. Determining the legality of the Igbo’s right to self-determination raises two important questions with respect to alien subjugation and minorities. Since the three regions are different in culture, language and religion, and since the first post-independence government relied on regionalism to care for its own northern interests, thus failing to create a sense of unity within this artificial federation, was the inequality and social, political suppression the Igbos experienced under the Hausa-controlled government tantamount to alien subjugation? Secondly, were the Igbo a minority, a people?

While the argument of alien subjugation can be raised in many of the post-decolonization secession cases, the Igbo’s status as a minority (or not) is a unique one. The best working definition of a minority in the international law is the one offered by Special Rapporteur Francesco Capotorti in 1977. He defines a minority as

[a] group numerically inferior to the rest of the population of a State, in a non-dominant position, whose members—being nationals of the State—possess ethnic, religious, or linguistic characteristics differing from those of the rest of the population and show, if only implicitly, a sense of solidarity, directed towards preserving their culture, traditions, religion or language.¹⁰

Many scholars agree that although this is not a perfect definition, the requirement that a minority be in a non-dominant position is fundamental. At question here in the example of the Igbo therefore is whether the highly-educated, widely-represented and internationally visible, comparatively wealthy Igbos were in a “non-dominant” position in Nigeria—a question that can be applied to the people of the Katango region in Congo as well. After Nigeria’s independence, the Igbo might have become “non-dominant” politically, as the government was controlled by ethnic Hausas, but they were far from economically or socially non-dominant. This may be one of the reasons why although the Igbo’s high-profiled intellectuals and politicians toured overseas on behalf of the new nation to lobby for their right to self-determination and seek international support, the majority of the international community never found a legitimate ground to formally rally for a Biafran independence.

ii. The Nepalis in India

Besides the question of minorities, the right of indigenous peoples is another question frequently debated. While both minorities and indigenous peoples are not considered “whole peoples” entitled to self-determination in the 1960 *Declaration*, as

¹⁰ <http://www.ohchr.org/EN/Issues/Minorities/Pages/Internaitonallaw.aspx>. Source: *Minority Rights: International Standards and Guidance for Implementation (HR/PUB/10/3)1/E/CN.4/sub.2/384/Rev.1*, para. 568.

mentioned earlier, the 1970 and 1993 *Declarations* might have provided alternative interpretative possibilities for the right of discriminated “cultural groups.” In addition, human rights laws have usually been more vocal for the right of self-determination to “all peoples” than most binding laws, although the UN’s concern for an overly-liberal stance on this subject can force the Human Rights Council to make their laws more conservative in order to be adopted by the UN General Assembly. In 2006, the General Assembly adopted a resolution recommended by the Human Rights Council, the *Declaration on the Rights of Indigenous Peoples*. Article 3 in this declaration states that “indigenous peoples have the right to self-determination;” however, Article 4 immediately restricts the implication of this statement by stating that “indigenous peoples, in exercising their right to self-determination, have the right to autonomy or self-government *in matters relating to their internal and local affairs*” (emphasis added). It is interesting to note that the draft of this declaration prepared by the Human Rights Council in 1994 did not include this clause that limits the ways in which indigenous peoples’ right of self-determination can or should be exercised. Therefore, overall, within the parameters of the UN, not only are minorities and indigenous peoples not entitled to self-determination under international law (1960 *Declaration*), human rights laws adopted by the UN have also undergone shifts in regards to the application of such a right. Indigenous peoples’ claims to self-determination remain largely illegitimate and a matter of internal affairs under international law as well as human rights law.

The Nepali/Gorkha population in the Indian Darjeeling Hills is a good example to examine the definition and rights of indigenous people. The history of the Darjeeling, Kurseong and Kalimpong sub-divisions in modern-day state of West Bengal, India, is a

complex one that involves the kingdoms of Sikkim, Nepal, Bhutan, and the British East India Company. Through friendly treaties and wars, the entire Darjeeling Hills was under British control by 1865.¹¹ When the British East India Company received Darjeeling Hills from Sikkim in 1835, it claimed that there were only “a hundred of Lepcha families” residing in these hills (Romit Bagchi 285). Although the number in this statement is generally thought of as a miscalculation, the earliest settler of Darjeeling Hills is unanimously believed to be the Lepcha—“there is evidence that the Lepcha community had settled in the Kalimpong region, under Bhutanese thralldom since 1706, much earlier” (Bagchi 285). After 1865, the British rule encouraged people of Nepalese origin to immigrate to the Darjeeling region to, first, participate in the labor force much-needed for the burgeoning tea plantation industry, and, second, join the British army force to help control rebellions inside India. Since the Gorkha army assisted the British in quashing the Indian Rebellion of 1857 (or the Sepoy Mutiny), the British rulers, impressed by the Gorkha’s gallantry and loyalty, “decided to bring as many people from the community as possible from Nepal and to have them settled around in the [now] British-inhabited hill [Darjeeling Hills]” (Bagchi 30). In all manner of ways, the British ruler had a close relation with the ethnic Nepali/Gorkha. This close and friendly relation largely contributed to the rapid growth of Nepali/Gorkha population in the Darjeeling region. Nowadays, the Gorkha population is the majority community in Darjeeling, outnumbering the dwindling indigenous Lepchas.

Ever since the British rulers left India, the status of the Gorkhas under the newly independent Indian government has been a touchy subject. Michael Hutt points out in his

¹¹ Britain received some part of the Darjeeling Hills through the Grant Deed with Sikkim in 1835 and took over the area completely after the Sinchula Treaty with Bhutan was signed in 1865.

study of the Nepali diaspora that “whether they are of Nepalese birth, or Gorkhas born in India, all ethnic Nepalis in India are liable to be assumed to be foreign nationals or immigrants” (122). After the British rulers left India without negotiating with the Indian government for a separate state for the Nepali immigrants in the Darjeeling Hills, the area was incorporated into the state of West Bengal, under the jurisdiction of the Bengali-controlled Calcutta government in the plains. Although the Nepalis are the ethnic majority in Darjeeling, Nepali was not a recognized state language until 1961, Nepalis/Gorkhas were not granted full citizenship by the Indian government until 1988, after the violent Gorkhaland rebellion in the July of 1986, and the Nepali language was not recognized in the Indian Constitution until 1992. If, as mentioned earlier, Lepchas were the first inhabitants of these hills, and Nepalis/Gorkhas immigrated to Darjeeling around mid nineteenth century, well before the independence of India, and well before the influx of Bengalis to this area, to consider Nepalis/Gorkhas as “foreigners,” and their language as “foreign language,”¹² in contrast to Bengalis/Indians as “natives” is more a matter of nationalist ideology than reality.

Under this exclusion on the national level, the Nepali/Gorkha may exercise their right of self-determination on the ground of being subject to “alien subjugation,” but what is more intriguing is the implication of the status of the Nepali/Gorkha as a minority or an indigenous people when they claimed “Gorkhaland for Gokhas.” Special Rapporteur Martinez Cobo defines indigenous populations as those “having a historical continuity with pre-invasion and pre-colonial societies that developed on their territories.”¹³ Strictly

¹² The Indian Prime Minister Morarji Desai in 1979 made a public statement that he would not consider including Nepali into the Eighth Schedule of the Indian Constitution because it was a foreign language.

¹³ *Study on the Problem of Discrimination against Indigenous Populations*. UN Doc. E/CN.4/Sub.2/1986/7 and Add. 1-4

speaking, since most of the Nepali population settled down in Darjeeling during British colonization, they would not be considered a proper indigenous people of the hills, as the Lepchas would. However, for many decades the numerically inferior Lepchas have been registering themselves as Nepali and many supported the Gorkhaland Movement so as to form a stronger counterforce against the dominating Indian government. In addition, for these hill peoples who neither participated in the fight for independence of India, nor enjoy equal right and representation on the national stage of post-independent India, the Indian government can be like another colonial power for them just as the British were. All these give the Nepali people a role akin to the representative of the indigenous peoples of the hills that existed before the “colonization” of the Indian/Bengali government, a role greatly different from how the ethnic Nepali/Gorkha are perceived in India. Gorkhaland Movement’s slogan “Gorkhaland for Gorkhas” was therefore intended to be read as a call from an oppressed indigenous people demanding to regain their “homeland” and exercise their right to self-determination, instead of a “foreign” people disrupting the territorial integrity of its host country.

iii. The Tamils in Sri Lanka

The dialectics of the “foreigner” and the “native” played an important role in post-independence violence across postcolonial regions. Ethnic favoritism, implemented by the colonial power to prevent universal anti-colonial resistance, created or strengthened social fault lines that could set off internal xenophobia, justifying resentment toward an ethnic group (re)cast as an (internal) “alien presence.” It could quickly turn the favored group into pro-foreigner non-natives themselves after

colonization ended, thus traitors to the new country. Formerly privileged minorities replaced the departed foreign rulers as the new foreign presence in the new country vis-à-vis the majority “natives” who now gained indiscriminate political power, thanks to the introduction of Western democracy. Britain’s close relationship with the Tamil minority in colonial Sri Lanka (then Ceylon) turned into a complete reversal of power when Ceylon gained its independence and democracy (universal suffrage) was introduced. As Beary remarks in his case study on the Tamil secession, due to fewer agricultural opportunities in the north of the island where Tamils inhabited, Tamil people pursued more non-agricultural professions and were more educated than the Sinhalese majority; as a result, up until the end of British colonialism, Tamils “became disproportionately well-represented in the civil service” (238),¹⁴ which means closer ties to the colonial ruling power. When the Sinhalese majority gained political power after the independence due to their majority population, they set up the notorious Language Policy, making Sinhala the only official and civil language of the country—it used to be, no surprise, English and Tamil—thus practically barring Tamils from public service ever since. This refusal to include the Tamil language as one of its official languages means an exclusion of that very ethnic group from Sri Lankan national identity.

As the Tamil faced an ethnically-different ruling government that does not acknowledge their existence or language, does not extend social welfare to them, but

¹⁴ Regarding Britain’s strategic favoring of the Tamil minority, Sri Lankan-American writer Ru Freeman (herself of Sinhalese origin) includes the following passage in the prologue of her most recent book *On Sal Mal Lane: A Novel*:

“Before that day [when Tamils launched the civil war against the Sinhalese government] this island country had withstood a steady march of unwelcome visitors. Invaders from the land that came to be known as India were followed by the Portuguese, the Dutch, and finally, British governors, who deemed that the best way to rule this new colony was to elevate the minority over the majority, to favor the mostly Hindu Tamils over the predominantly Buddhist Sinhalese” (3).

claims sovereignty over them, what counts as “alien subjugation”? One of the arguments the Bangla held to justify their fight for secession was that Bangladesh (then East Pakistan) was treated like a de facto colony of Pakistan, with Banglas having no rights, no recognition and no role to play on the national stage of Pakistan. When the Sinhalese government excluded the Tamil from the imagined national community of post-independent Sri Lanka, they regarded the Tamil as foreign just as they considered themselves as *alien* to them. This government therefore does not represent “the whole people belonging to the territory,” which is ground enough, according to the 1993 *Vienna Declaration* and indicated in the 1970 *Declaration*, for the discriminated group to challenge the state sovereignty that subjects them to “alien subjugation, domination and exploitation.”¹⁵

iv. The Dinkas in Sudan

The policy of divide-and-rule during Britain’s reign in Sudan also complicates South Sudan’s path to self-determination. Before the entire Sudan was granted its independence in 1956, it was co-administered by Britain and Egypt—the Anglo-Egypt Condominium (1899-1956), and while Egypt maintained a minor presence in Sudan through the Egyptian Army, Britain held influential political, economic and judicial

¹⁵ The UN, however, maintained its non-involvement policy, consistent with Article 2(7), throughout the 26-year Sri Lanka/Tamil war. It withdrew its staff from Colombo in 2008, during the last and the bloodiest phase of the war, when the Sri Lanka government warned that their safety in Sri Lanka could no longer be guaranteed. Merely one month after the war ended with a large-scale offensive of the government against rebel forces in the north that brutally killed many civilians, the UN held a special session (June 2009) announcing that the UN “welcome[es] the conclusion of hostilities and the liberation by the Government of Sri Lanka of tens of thousands of its citizens that were kept by the Liberation Tigers of Tamil Eelam against their will as hostages, as well as the efforts by the Government to ensure the safety and security of all Sri Lankans and to bring permanent peace to the country” although accusations of war crime on both sides abounded. The UN’s swift recognition of Sri Lankan government’s success in the long civil war reconfirms its commitment to the principle of territorial integrity in the face of human rights violations, and its hidden reliance on the effectiveness of force to rule on matters of recognition.

powers over this vast region. Just as in its other colonies, Britain controlled Sudan through its divide-and-rule policy, uniting *and* dividing Sudan's larger Arab north and Christian/Animist south at the same time. From early on, British colonial rule adopted the "Southern Policy," also known as the "Closed District Ordinances" (1914-1946), which was "a colonial policy designed to exclude the Arabs from the administration, trade, and settlement in the southern part of the country," a British attempt to "mitigate the disharmonious relations between the north and the south by creating a protectorate in the south." (David Nailo N. Mayo 166-167). Christian missionary activities, benefiting from the absence of Islamic proselytization, were allowed free hand in the animist south. As a result, Christianity started to flourish in the south, and missionary schools prevailed, both of which further polarized the north and south.

Although there had been plans to incorporate South Sudan to the Uganda Protectorate (1894-1962), in June 1947, the Juba Conference decided that the future of southern Sudan would be to unify with its northern counterpart. James Robertson, then Civil Secretary of Sudan, overturned the long-standing Southern Policy by stating that the south was "inextricably bound for future development to the Middle East and Arabia and Northern Sudan" (qtd. In P.M. Holt and M.W. Daly 131). This statement projected northern Sudan's dominance in the independent Sudan and would seal the fate of the south for decades to come. After the independence, the division between north and south deepened: the Khartoum government refused the south its degree of self-rule, gave all important government positions vacated by the British officers to the northern Sudanese, stipulated that all schools nationwide teach only the Arabic language and Islamic religion, and eventually imposed Sharia (Islamic) law on the entire population (1983).

These events led to the first and second civil wars between the north and south, with the south fighting for secession.

The reasoning of alien subjugation could easily be applied to southern Sudan's case for self-determination, as the south and the north are poles apart in religion, culture, ethnicity, history and language. As Sudan is a nation-state as a whole, southern Sudanese are definitely not a "whole people," nor are they a minority or an indigenous people. But, if the North's policies in depriving the south of the right to use their language and in imposing a religious law foreign to them are considered, South Sudan may appear to be like a *de facto* colony to North Sudan. From the historical point of view, that South Sudan was once an independent protectorate of Britain should have given it some negotiating power with Sudan when the British colonial power left—like Sikkim with the post-independent India—if Britain had not already drawn out a plan for it way before their departure. Furthermore, that there were once plans to incorporate the South Sudan protectorate to the Uganda protectorate may also have indicated the difference and division between the north and south. All these factors together should have given southern Sudanese enough ground to claim their "peoplehood" and the right to self-determination. However, as mentioned before, after Bangladesh's independence and up until South Sudan's unprecedented secessionist referendum in 2011, the only sure thing in international law regarding post-decolonization secession is that a people's peoplehood could only and will only be rectified when they win the secessionist war.

South Sudan's successful secessionist referendum sets up another model of how post-decolonization "peoplehood" can be recognized. Their secessionist referendum comes not from their peculiar status as a people in the history of colonization and

decolonization, nor does it come from their victory in the long secessionist war. Their peoplehood is recognized, ironically, when the “people” are dispersed into other countries, straining the territorial security of these neighboring states. It was at the point when a national ethnic “population” became international “refugees” that the significance of these refugees as a people began to emerge and be taken seriously; it was also at this point that a supposedly internal affair of a split Sudan became an international crisis entitled to regional or global intervention.

IV. Project Objectives

My project here is interested in analyzing, from a literary perspective, these parameters within the idea of the right of self-determination: the paradoxical nexus between the nation-state and human rights, the definition of “peoplehood”—a people, a “minority,” an “indigenous people”—especially in the post-colonial context, the implication of international recognition, and the meaning behind the practice of secessionist referendum. The subsequent chapters focus on five literary works on four cases of secession, Biafra/Nigeria (1967-1970), Gorkhaland/India (1986), Tamil Eelam/Sri Lanka (1983-2009), and South Sudan/Sudan (1983-2005), to look at how literary texts capture and reflect the shifts and changes in international law and human rights law regarding the self-determination right from the end of the Second World War to today. They also examine how these literary texts respond to the international community’s reaction toward post-decolonization secession movements. For each case, the project analyzes not only the historical and social texts of the secession movement, but also one to two literary texts to bring a sense of everyday reality to the discussion of

legality, and a more localized, individualized, literary response to the process of global, collective decision-making. This project attempts to illustrate why and in what ways the right of self-determination, enshrined as the fundamental right of all human rights, remains one of the continuing political myths in today's liberal democracy.

Anglophone literature in the late twentieth century and early twenty-first century witnesses a significant surge of interest in drawing on the history and trauma of postcolonial secession. To name some, Michael Ondaatje's novel *Anil's Ghost* (2000) touches upon the secessionist war between the Tamil people and the Sri Lankan Sinhalese government; Amitav Ghosh's *The Hungry Tide* (2005) has the mass murder in Sunderban as its background, an event bearing the marks of the partition of India and Pakistan, and the secession movement of Bangladesh (then East Pakistan) in the 1960s; Kiran Desai in her *The Inheritance of Loss* (2006) observes the Gorkhaland Movement, the separatist endeavor of the Nepali majority in the Bengali-minority-controlled Darjeeling Hills; American writer Dave Eggers's *What Is the What* (2006), a memoir or biography of one of the "Lost Boys of Sudan" now resettled in the US, focuses on the repercussions of the long secessionist war between the north and south Sudan; Chimamanda Ngozi Adichie's *Half of a Yellow Sun* (2006) is set in the secession civil war between the Igbo people, who established the short-lived Republic of Biafra, and the Hausa-controlled Nigerian government; Kashmir-born journalist Basharat Peer writes an account of the ongoing conflicts in his war-torn, pro-independence homeland in *Curfewed Night* (2010); Arundhati Roy writes about the Maoist guerilla resistance against the Indian government and conglomerates in her book *Walking with the Comrades* (2011); Chinua Achebe published a memoir about his life during the Biafran

war, *There Was a Country* (2012); British writer Philip Hensher's recent *Scenes from Early Life* (2013) centers on the life of a Bengali family during the tumultuous years leading up to the independence of Bangladesh from Pakistan; and Sri Lankan-American writer and journalist Ru Freeman's very recent *On Sal Mal Lane* (2013) has her readers re-live the Sri Lankan civil war through the stories of the inhabitants, especially children, on one single street in the capital of the war-torn country.

Among them, this dissertation chooses the following five literary texts to investigate the four cases of postcolonial secession: Chinua Achebe's *There Was a Country* (2012) and Chimamanda Ngozi Adichie's *Half of a Yellow Sun* (2006) for the Biafra/Nigeria secession, Kiran Desai's *The Inheritance of Loss* (2006) for the Gorkhaland/India secession, Michael Ondaatje's *Anil's Ghost* (2000) for the Tamil Eelam/Sri Lanka secession, and Dave Eggers's *What Is the What* (2006) for the South Sudan/Sudan secession. The first chapter discusses the Biafra/Nigeria secession, especially on two major themes: the recognition of the "peoplehood" of a national minority and the reaction of the international community—both recognition and silence—to the Biafran secessionist war. It looks at how the process and result of the Biafran war, being only the second post-decolonization secession movement after universal decolonization and sandwiched in between the Katanga secessionist war (suppressed by the UN military) and the Bangladesh independence war (succeeded in ceding from Pakistan), demonstrate the first turning point in the UN's interpretation of and action toward the right of self-determination outside of the colonial context. The second chapter looks at the Gorkhaland/India conflict; it analyzes the definition of the "indigenous people" by examining the indigenous-or-immigrant status of the Gorkhas in

India; and through interpreting the slogan of the Gorkhaland Movement, “Gorkhaland for Gorkhas,” this chapter delineates the development of the right for the indigenous people in international and human rights laws. The third chapter focuses on the Eelam Tamil/Sri Lanka crisis; it scrutinizes the paradoxical nexus between the nation-state and human rights by considering the long-standing state of emergency imposed in Sri Lanka, especially in areas inhabited by the Tamil. As one of the most recent post-decolonization secessionist wars, the Sri Lankan war witnessed a further retreat of the international community from its human rights ambitions in the 1960s. The UN’s internal report on its response to the Sri Lankan crisis published in November 2012 confirms and condemns a less than satisfactory enthusiasm on the UN’s part in performing more aggressive humanitarian assistance to citizens in rebel-held areas and in contradicting the wills of the Sinhalese government. The fourth chapter discusses the latest successful secession of South Sudan. It looks at the long-standing refugee question of South Sudan as one of the keys to its success in internationalizing the north-south conflict, which ultimately brought on its independence. It then examines the unprecedented referendum for self-determination agreed upon in the 2005 Comprehensive Peace Agreement brokered by a regional intragovernment organization IGAD, and asks if, after the example of Bangladesh, where military superiority was the only way to gain peoplehood, statehood and international recognition, the successful secession of South Sudan sets up another paradigm for future secession attempts (outside of the context of colonization) *and* international response to these attempts.

After the applicability of the right of self-determination has been negotiated for several decades, it has become possible to determine peoplehood by populace census and

democratic referendum instead of simple military superiority, although “peoplehood” still remains a non-a-priori and non-de-facto idea. While with military advancement, a people *become* a people at the moment of victory, peoplehood through referendum leaves a small gap between the acknowledgement of peoplehood and statehood, confirming and yet complicating the relation between the two. By deciding the lawful participants of the referendum, usually through a census, a particular group of people has always already been recognized as distinguished from the rest of the population, thus already given a de-facto “peoplehood”; a successful referendum simply warrants, legalizes and nationalizes such status of peoplehood by conferring statehood. While a peoplehood buttressed by military strength might not be sufficient to win a secessionist war, a peoplehood taken shape by and before a pending secessionist referendum approved or even brokered by the international or regional community has very little chance of failing to achieve its desired result. This shift indicates not only that a more peaceful resolution may be now available to violent, unilateral secessionist crisis, but also that secession crisis has started to be regarded not any more as an exclusively domestic affair (Article 2(7)) but a matter eligible for and sometimes even in need of foreign interference and intervention. While the United Nations still mostly maintains its non-intervention stance, it has started to rely on and encourage more regional co-governance and cooperation to mediate secessionist crisis, a shift in gesture and attitude that may indicate a move away from the absolutism of state sovereignty.

The right of self-determination is one of the most romantic and lasting myths in today’s liberal democracy, and post-decolonization secession poses one of the biggest challenges, both on theoretical and practical levels, to this myth of self-determination.

Throughout the past five decades, postcolonial secessionist groups have sought grounds to justify their aspiration for self-determination, from alien subjugation, self-defense, minority/indigenous self-determination to human rights deprivation. And the international community has responded with military intervention, recognition (or not), or, lately, approved referendum. Studying the history of five decades of struggles between the “peoples” claiming the right and the international community suspending it lays bare the long-standing hidden trinity of state-rights-territory, and projects possible steps forward for either the exercising of the right or the handling of the secession crisis. Many literary texts drawing on post-decolonization secession reflect the shifts and turns in this history; as a discursive approach to the question of self-determination, these texts together represent a more localized and individualized response to the reaction of the international community toward postcolonial secessions under international law.

V. A Few Words on the Definitions of Secession and Separation

Scholars in the disciplines of political science, law and government have contributed enormously to our understanding of the subjects of self-determination, secessionism and separatism. Two of the most vocal scholars in this area are Aleksandar Pavković and Peter Radan; together they have co-edited numerous anthologies on the theory and practice of secession. Pavković and Radan point out in the *Ashgate Research Companion to Secession* (2011) that, in the broadest sense, the political phenomenon called secession (post-1945) “involves a process of withdrawal of a territory and its population from an existing state and the creation of a new state on that territory” (1). Under this broad definition, Pavković and Radan further divide cases of secession into

five categories: colonial secession, unilateral secession, devolutionary secession—where the host state recognizes the creation of the new state and continues to exist itself—consensual secession and dissolving secession. Another scholar of international law, James R. Crawford, however, gives a much narrower and also often-cited definition of secession in his seminal work *The Creation of States in International Law* published in 2006. To Crawford, a secession is only “the creation of a State by the use or threat of force without the consent of the former sovereign” (375). Under this narrow definition, the creation of a new state through peaceful decolonization or dissolution processes is not considered a case of secession. In fact, at least up till the time of 2006 when Crawford published his work, he clearly argues that “of the new states which have emerged since 1945 outside the context of decolonization, only one case may be classified as a successful secession in the sense described above, viz Bangladesh” (415). With the independence of South Sudan in 2011, it may be the only other example of successful secession under Crawford’s strict definition to join Bangladesh to this date.

As mentioned earlier, this project is interested in the cases of unilateral and usually violent (and rarely successful) secessions in post-decolonized states; therefore the definition of secession this project adopts falls into the category of “unilateral secession” in Pavković and Radan’s model, and is closer to Crawford’s narrow definition, in which not only land-splitting, but disagreement and conflict between the original state and the breakaway people are major characteristics of the movement. In addition, all the four cases considered here are all set in a postcolonial context: a group of “people” usually of different ethnicity, culture or religion breaking away from a postcolonial state—a state usually controlled by an ethnic majority or an ethnic group handpicked and propped up

by its colonial master—that had received its independence during the process of decolonization. I call the cases examined here “postcolonial secessions,” or “post-decolonization secessions” to reflect the specific context in which they are situated and to be discussed.

Besides secession, the term separatism is also used in this project. Different from secession, which has the creation of a new state as the ultimate and exclusive goal, separatism is a broader term “based on a political objective that aims to *reduce* the political and other powers of the central government of a state over a particular territory and to transfer those powers to the population or elites representing the population of the territory in question” (Aleksandar Pavković and Jean-Pierre Cabestan 1, emphasis added). In other words, separatism may or may not develop in a secessionist direction, or the outcome of separatism may or may not be a new state entirely independent in sovereignty from its host state; some political movements may switch between separatist and secessionist paths, depending on the options and likelihood of the intended goal to be achieved. A secessionist path may be the result of a frustrated separatist attempt, and vice versa. Among the four cases discussed in this project, the Gorkhaland Movement in Northeast India is the only case that may not be exclusively secession-minded from the beginning, and that settles, without an all-out secessionist war, with a separatist outcome—more regional control—with the central government. Other three examples all take on a strictly secessionist path, both in the movements themselves and in the way the host governments respond to these insurgencies. While there is only one successful secession (Sudan) out of the three cases of full-fledged breakaway discussed here, the failed secession attempts of Tamils and Igbos eventually made do with, or accepted, a

compromised outcome closer to a separatist one: some degree of autonomy. Following Pavković and Cabestan's definition, this project uses *separatism* to refer to all movements that seek to separate from the host government, to different degrees, and *secessionism* when the goal is clearly the establishment of a new state. While often using these two terms interchangeably, the project generally refers to the sentiment or the spirit *separatist*, and the objective in most cases here (three out of four) *secessionist*.

Chapter One

“The World Was Silent when We Died”:

Biafra Secession and the meaning of People in

Chinua Achebe’s *There Was a Country* and Chimamanda Ngozi Adichie’s *Half of a Yellow Sun*

The British administration amalgamated the Protectorate of Northern Nigeria and the Colony and Protectorate of Southern Nigeria, two previously separately-administered territories, into one colonial state on January 1, 1914. And in 1939, British governor Arthur Richards further divided the southern territory into the Eastern and Western groups of province, following what he regarded as the “natural divisions.” At the eve of its independence from colonialism, Nigeria was an unlikely nation of three regions controlled by three major ethnic groups, and each competing with and resentful of another—the Northern region controlled by ethnic Hausa, predominantly Muslims, the Western region ethnic Yoruba and the Eastern region ethnic Igbo, both predominantly Christians. Although the Igbo were the most vocal and active group in securing Nigeria’s independence from Britain, the first election after independence saw the northern politician Abubakar Tafawa Balewa rise to become the first prime minister of the decolonized Nigeria, thanks to the introduction of democratic election, and to the deft manipulation of the British government, in handing over Nigeria to “its compliant friends in Northern Nigeria” (Chinua Achebe 50). His regime exacerbated the existing political regionalism and failed to bring to fruition the idea of “one Nigeria” trumpeted by Igbo leaders and intellectuals at the eve of the independence. Rampant corruption within the Nigerian government incited Igbo military officers to lead a coup in January 1966,

usually referred to as the “Igbo coup.” This provoked a counter-coup in May of the same year, which escalated into a full-blown massacre of the ethnic Igbos. After many Igbos fled back to their ancient Igboland in south-eastern Nigeria to avoid ethnic slaughter, prominent Igbo politicians, intellectuals and middle-class citizens aspired to establish their own country in Igboland. The Republic of Biafra declared its independence in May 1967, but, following a heavy onslaught from the ethnic Hausa-Fulani Nigerian army and a total blockade, collapsed after only three years.

The Biafran conflict (1967-1970), the Kantangese secession (1960-1963) and Bangladeshi independence (1972), are important cases of post-decolonization secession to examine and compare because these three are the earliest examples of such secession—secession within an already decolonized state, with different results. All three happened in the 1960s and early 1970s when the United Nations and the majority of the international community were pushing for decolonization and self-determination, an international climate that led to the passage of the *Declaration on the Granting of Independence to Colonial Countries and Peoples* in 1960, the *International Covenant on Civil and Political Rights* (ICCPR) in 1966, and the *Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations* in 1970. All of these declarations and doctrines discuss the meaning and application of the right to self-determination of all “peoples,” but it is only in the context of decolonization that self-determination is practiced as a binding, legal right. While the United Nations gave its blessing to self-determination in the form of decolonization in the 1960 *Declaration*, the world largely disapproved of self-determination within an already decolonized country, standing behind

Article 2(7) of the Charter that stipulates no interference into any UN members' domestic affairs, and defending territorial integrity over the right to self-determination of the "people" in these cases.¹⁶

When the mineral rich province of Katanga declared its independence from the decolonizing Congo in 1960, just when the UN was shaping up the 1960 *Declaration* to grant "colonial peoples" their right to self-determination. The UN reacted by first ignoring the Katanga crisis and admitting "the Republic of Congo to membership in the United Nations as a unit."¹⁷ When the situation deteriorated, the UN Security Council passed another resolution that reaffirmed "the territorial integrity and political independence of the Republic of the Congo" and "completely reject[ed] the claim that Katanga is a sovereign independent nation."¹⁸ UN troops subsequently were deployed to Congo and eventually helped the Congolese government defeat the Katangese secessionist forces. As Catherine Hoskyns points out: "From a legal point of view, the most striking aspect of this resolution was its condemnation not just of external aid to secession, but of secession itself" (445), and it is especially so since these resolutions and UN actions happened during a time when the global political atmosphere was particularly friendly to the right of self-determination. After its handling of the Katanga crisis was much criticized, the UN Security Council remained silent when, seven years later, the Nigerian Army waged a brutal war against the breakaway Republic of Biafra. This non-intervention stance adhering strictly to Articles 2(4) and 2(7) of the Charter becomes the standard reaction of the United Nations towards postcolonial secession, and the Katanga

¹⁶ Article 2(7) of the Charter states that "nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state or shall require the Members to submit such matters to settlement under the present Charter."

¹⁷ United Nations Security Council, Resolution S/4405 (July 22, 1960).

¹⁸ United Nations Security Council, Resolution S/5002 (November 24, 1961).

secession remains the only secession crisis into which the UN has intervened militarily.¹⁹ Despite the promises made in the 1960 *Declaration*, Katanga and Biafra secessions show that, in international law, self-determination is only justified if it does not compromise the territorial integrity of any state, which means, in the postcolonial region, it would only be allowed to take place along the territorial lines drawn by former colonial powers.

The Igbos as a People

However, even if the international community were to extend the right to self-determination beyond the context of decolonization, following some of the non-binding UN resolutions and principles, the definition of the term “people,” different from the colonial “whole people,” has never been explicitly established within these documents. UN decrees such as the 1966 *International Covenant on Civil and Political Rights* (ICCPR), the 1970 *Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations* and 1993’s *Vienna Declaration* all extend the right to self-determination to “all peoples” within a whole people, but while these documents point out the difference between a colonial “whole people” and sub-state “peoples,” a definition of the term “people” has never been clearly stated, let alone agreed on.

In his *Ahiara Declaration* (also known as *The Principles of the Biafran Revolution*) addressed to the Biafran people at the second anniversary (1969) of the breakaway nation, General Emeka Ojukwu stressed the legitimate right to self-determination of the Biafran as a people. He argued that the Biafran were a people not by

¹⁹ Article 2(4) of the Charter stipulates: “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, or in any other manner inconsistent with the Purposes of the United Nations.”

pointing out their differences in language and culture to other sub-state groups in Nigeria, but by emphasizing that the Biafrans were a group singled out, suppressed and mistreated by the “Nigerian people” represented by the Nigerian Federation. And as a group so discriminated against, they deserved the right to break away from the abusing government: “When the Nigerians violated our basic human rights and liberties, we decided reluctantly but bravely to found our own state, to exercise our inalienable right to self-determination as our only remaining hope for survival as a *people*” (9, emphasis added). While the 1960 *Declaration* would not find this argument justifiable, since in this declaration the right to self-determination applies to colonial whole peoples only, it could make a case for the Biafran secession under the 1970 *Declaration*, where it states clearly that “every state has the duty to promote, through joint and separate action, realization of the principle of equal rights and self-determination of peoples, in accordance with the provisions of the Charter” and that “subjection of peoples to alien subjugation, domination and exploitation constitutes a violation of the principle, as well as a denial of fundamental human rights, and is contrary to the Charter.” Since the Nigerian government failed in its “duty” to promote equal rights, especially with the ethnic pogrom they were accused of, the Biafrans might possess some rightful ground under the 1970 *Declaration* to exercise their right to self-determination and to claim their peoplehood.²⁰

²⁰ Although the 1970 *Declaration* reiterates that the principle of territorial integrity should not be violated in any way, its strong words that urge every state to respect and safeguard equal rights and self-determination of peoples seem to indicate a possible de-legitimization of the state’s sovereignty should it breach such duty to achieve equality. This implied message resurfaced again in the *Vienna Declaration* of 1993 adopted by the World Conference on Human Rights. The *Declaration* states in its first Article that “human rights and fundamental freedoms are the birthright of all human beings; their protection and promotion is the first responsibility of Governments,” and then in its second Article, when affirming that the denial of the right of self-determination is a violation of human rights, it states

Yet, what is interesting in the *Ahiara Declaration* is that whereas discussions on the Biafran conflict commonly refer to it as a war between the northern ethnic Hausa-Fulani people and the south-eastern ethnic Igbo people, the *Ahiara Declaration* never equates Biafra with only the Igbos. Not only does it avoid using the Biafran people and the Igbo people interchangeably—in fact, it seldom mentions the Igbos in the entire speech—it brings other ethnic tribes inhabiting within the boundary of Biafra into the picture. The ethnic minorities inside Biafra include tribes such as, but are not limited to, Efik, Ibibio, Ijaw and Ogoja. At the eve of the Biafran war, these minorities formed about 40 percent of the Biafran population, in comparison to the Igbo's 60 percent. To declare “the Biafrans,” not “the Igbos” as a people would be to disassociate the term “people” with ethnicity, language or culture, and associate it with geography, and shared experience such as discrimination, injustice and genocide, in Biafra's case.

The Igbos as a Minority

While the term “people” is never clearly defined in international law, as “peoplehood is constituted on bases very similar to that of minority groups” (Joshua Castellino and Jérémie Gilbert 165), these two terms are often considered compatible in the context of human rights. Within UN documents, the term “minority” has a few

In accordance with the Declaration on Principles of International Law concerning Friendly Relations and Cooperation Among States in accordance with the Charter of the United Nations, this shall not be construed as authorizing or encouraging any action which would dismember or impair, totally or in part, the territorial integrity or political unity of sovereign and independent States *conducting themselves in compliance with the principle of equal rights and self-determination of peoples and thus possessed of a Government representing the whole people belonging to the territory without distinction of any kind.* (emphasis added)

It seems clear from this clause that in the scenario that the government fails to protect the right of equality and self-determination of its “people,” or that the government does not represent the “whole people” in the territory without discrimination, the “people” suppressed would have a case to challenge the principle of territorial integrity and political unity of the state. Throughout the history of the United Nations though, this line of interpretation has never really been officially adopted or practiced.

working definitions; the most agreed-upon working definition of the term minority is the one offered by Francesco Capotorti, Special Rapporteur of the United Nations Sub-Commission on Prevention of Discrimination and Protection of Minorities, in 1977. He defines a minority as

[a] group numerically inferior to the rest of the population of a State, in a non-dominant position, whose members—being nationals of the State—possess ethnic, religious, or linguistic characteristics differing from those of the rest of the population and show, if only implicitly, a sense of solidarity, directed towards preserving their culture, traditions, religion or language.²¹

Although there are many other definitions on minorities, the criterion of being in a non-dominant position is widely agreed upon as a fundamental requirement.

Under this definition, the “Biafran people” that includes Igbos and other tribes would not qualify as one “minority,” therefore neither as one “people,” if we were to use the definition of minorities to decide what a people are, since the Biafran people as a whole would not possess just one ethnicity, religion or language desired to be preserved, nor did all these tribes share “a sense of solidarity,” as tensions among different tribes were one of the many problems facing Biafra.²² If the Igbos, not Biafrans as a whole, were the “people” claiming the right to self-determination, Capotorti’s definition would also be held against this claim of theirs. The Igbos may be an ethnic minority in Nigeria, compared to the Hausa in the north as the numerical majority, but they are far from being in a “non-dominant” position. During British colonization, while the north kept itself out of Western influence, Christian missionary activities and schools flourished in the south.

²¹ <http://www.ohchr.org/EN/Issues/Minorities/Pages/Internaitonallaw.aspx>. Source: *Minority Rights: International Standards and Guidance for Implementation (HR/PUB/10/3)1/E/CN.4/sub.2/384/Rev.1*, para. 568.

²² For ethnic tensions within Biafra, see, among others, Arua Oko Omaka’s “The Forgotten Victims: Ethnic Minorities in the Nigeria-Biafra War, 1967-1970,” *Journal of Retracing Africa* (1.1): 25-40.

Ethnic groups in the south such as the Igbos thus had more university graduates than the northern Hausa-Fulani, which in turn also gave them more advantages in conducting socio-economic activities and holding civil positions. The high percentage of the ethnic Igbos in government sectors created deep fear in the north, the largest of the three major ethnic groups in Nigeria in terms of land and population.

Therefore, contrary to being a non-dominant minority, although the Igbos are numerically inferior, they were, before the Hausa took over the post-independence government, politically, socially and economically dominant in Nigeria. Although Achebe never refers to the Igbo as a minority in his memoir *There Was a Country*, he quotes Paul Anber on the minority status of the Igbos in Nigeria and their socio-economic superiority:

[The Igbos] progressed despite being a *minority* in the country, filling the ranks of the nation's educated, prosperous upper classes.... It was not long before the educational and economic progress of the Igbos led to their becoming the major source of administrators, managers, technicians, and civil servants for the country, occupying senior positions out of proportion to their numbers. Particularly with respect to the Federal public service and the government statutory corporations, this led to accusations of an Igbo monopoly of essential services to the exclusion of other ethnic groups. (74-75, emphasis added)

On the same note, in her book *World on Fire*, scholar of law Amy Chua also refers to the Igbos as a “market-dominant minority” in Nigeria as well as in Africa. A “market-dominant minority,” a *minority* that is *dominant* at the same time, would be a self-contradictory term under international law and human rights law that follow Capotorti's definition of the minority.

There is another critical point in the minority question in the Biafra secession. While the Biafra secession is commonly thought of as a war between the minority ethnic

Igbo in south-eastern Nigeria and the majority Hausa in the north, and while the term Biafra is almost always interchangeable with the term Igbo in many discussions on the Biafra war, it is worth noting, as mentioned before, that there are many other tribes living inside the boundary of the Republic of Biafra. To these minority groups within Biafra, the Igbo would be the “dominant majority,” both in number—Igbos took up 60 percent of the population of Biafra in 1960—and status. Achebe himself mentions that the fear of “Igbo domination” was tangible among minority groups in the Eastern region (92).

All these factors on the Nigerian Igbo’s position as a “dominant minority” challenged the Igbo’s status as a “minority” and weakened the Igbo people’s claim to the right to self-determination and legal peoplehood under international and human rights laws, which see a non-dominant position as a fundamental requirement of a recognized minority. While the Igbo’s dominant position may not be the main reason why Biafra failed to garner necessary recognition from the international community and agencies, Biafran secession did receive a very similar response from the international community as the Katanga secession. Not only is Katanga’s secession the first post-decolonization secession only a few years earlier than the Biafran one—therefore the only precedent to compare and gauge the Biafran secession with—it is also a movement of the ethnic “haves” in a rich province to separate themselves from the rest of a newly emerging postcolonial state.²³ As Joshua Castellino rightly argues, “The issues with both Katanga and Biafra were less concerned with the legality of historic boundaries, but more with the issue of the extent to which ‘the haves’ within new states could secede from the ‘have-

²³ The Katanga province is rich in natural resources and has always been far more affluent and socio-politically stable than the rest of Congo. At the time of its independence, Katanga “contributed half of Congo’s total revenue, while benefitting from only 20 percent of the government’s expenditure” (Gerard-Libois, qtd. Castellino 122).

nots.’ (122). It is the prerequisite of being in a non-dominant position that makes both Biafra’s and Katanga’s claim to self-determination disputable. Therefore, although Capotorti’s definition of the “minority” was offered in 1977, that a *dominant* minority is not considered qualified for claiming the right to self-determination as a minority, even under human rights law, seems to have been the unspoken norm. In other words, the failure of Kantaga’s and Biafra’s secessions suggests that the “peoples” entitled to the right of self-determination are only imaginable as politically, economically, or culturally subordinate or disprivileged peoples. Even if the Katangese or the Igbos were a people possessing “ethnic, religious, or linguistic characteristics differing from those of the rest of the population,” the fact that they are economically superior, or “market-dominant,” immediately cancels out their status as a minority, a people, considered rightful or justified to exercise their self-determination right.

The Effectiveness of Force

Other than their debatable status as a people and a minority, the Igbos/Biafrans failed to achieve peoplehood and statehood also because of one simple fact—they lost the secessionist war. In his case study on the Biafra (1967-1970) and Bangladesh (1971) secessions, Joshua Castellino argues that the fact that Biafra lost the secessionist war to Nigeria and failed to gain international recognition for its statehood, while just one year later, Bangladesh won the war and earned its independence, points to one hidden principle for successful secession and state creation outside of the decolonization context: “a separatist movement must defend itself successfully against adverse force, if it is to

stake a claim to recognition as a state” (100). This suggests that “the outcome of international conflict is primarily determined by the effectiveness of force” (99).

Although the Republic of Biafra gained recognition from Gabon (1968), Haiti (1969), Ivory Coast (1968), Tanzania (1968) and Zambia (1968), as well as moral support from France, this international support took place before a Biafran victory was foreseeable and did not, could not, facilitate a victory that the Igbos could not win by themselves. Similarly, although India’s formal recognition of the state of Bangladesh right before its victory over Pakistan (1971) may have influenced the reaction of the international community as a whole to the Bangla cause, it is arguable that without a clear victory, Bangladesh would not have gained legality for their statehood. This hidden winner’s principle was made clear in these three earliest post-decolonization secessions. In the Katanga/Congo secession, the United Nations sent troops to help a postcolonial government defeat the secessionist forces, bringing the secession crisis to an end. In the Biafra/Nigeria secession, international recognition did not matter and a proposal for an UN-administered plebiscite was not accepted. The secession only ended when one side emerged as a clear winner. In the Bangladesh/Pakistan secession, a new state was finally recognized because the breakaway people managed to win the war.²⁴ These results would affect the course subsequent secessionist conflicts take in postcolonial regions; the effectiveness of force would be the only determining factor for decades to come until an unprecedented referendum decided the independence of South Sudan in 2011.

²⁴ At the height of the conflict, Nnamdi Azikiwe, the former president of Nigeria, proposed a 14-point peace plan to the UN and the Federal Military Government of Nigeria, which included “a UN-administered plebiscite in the war zones on whether Nigeria should remain united or Biafra become an independent country” (Africa Report, May-June 1969). This proposal was rejected “as unworkable” (Achebe 215).

There Was a Country and Half of a Yellow Sun

The Igbo's unsuccessful secessionist endeavor has over the decades continued to haunt the Igbo people, both psychologically and intellectually. Biafra, as their "heritage and symbol," figures prominently in literature produced by Nigerian, especially Igbo, intellectuals during and after the war.^{25,26} For these writers, whether Biafra is a country for the Igbo people or the Biafran people, or simply the question of who are the "Biafran" people, is not only a political conundrum but a discursive one. It is not uncommon to see Igbo writers vacillate between the terms Igbo and Biafran when referring to the "people" who have attempted to claim their right of self-determination by creating a state of Biafra. In contrast to Ojukwu's *Ahiara Declaration*, where Igbos are not singled out among other "Biafrans," in Achebe's *There Was a Country*, a memoir about the rise and fall of the Republic of Biafra, Achebe details the achievements of the Igbos in bringing about the independence of both Nigeria and Biafra; though he also mentions other Eastern minorities affected by the discrimination and genocide committed by the northern Hausa-Fulani people, he usually refers to them simply as "other Easterners" (81, 85, 87 and elsewhere), instead of specifying their ethnic identities.

When recounting the birth of Biafra, the terms Achebe uses to refer to the people of Biafra change again, from the inclusive term of "Easterners" to the specific term of

²⁵ John C. Hawley, "Biafra as Heritage and Symbol: Adichie, Mbachu, and Iweala," *Research in African Literatures*, 39.2 (2008): 16-26.

²⁶ Many Igbo intellectuals, including the world-renowned writer Chinua Achebe, have written about the secessionist endeavor and the short-lived breakaway republic. Achebe himself once served in the Biafran government, helped write its constitution, and traveled abroad on behalf of the Republic of Biafra and the Biafran people to advocate their secessionist cause during the war. Since the war he has published numerous poems and short stories related to the conflict, such as "The Mad Man" (1971) and "Girls at War" (1972). Interviews with Achebe about the Biafran war have also been published. But it was not until 2012, four decades after the collapse of the Biafra dream, that Achebe finally published a full-length book about the Biafran war, his memoir, *There Was a Country: A Personal History of Biafra*. Wole Soyinka, a Yoruba sympathetic of the Biafran cause, also has written about his time in the prison during the Biafran war in his memoir *The Man Died* (1972). Novels about the war written by the young generation of Nigerian writers include Chimamanda Ngozi Adichie's *Half of a Yellow Sun*, published in 2006.

“Igbos.” Achebe states “it is crucial to note that the decision of *an entire people, the Igbo people*, to leave Nigeria, did not come from Ojukwu alone but was informed by the desires of *the people*” (91, emphasis added). Here Achebe equates the entire “people” of Biafra to the Igbo people, and the decision to leave Nigeria to the desires of the Igbo people, rather than the inclusive “Easterners” or the “Biafran” people, as Ojukwu was careful to use. These terms would more likely include the Igbos and all other minorities in its territory. This discursive uncertainty in how to call the people of Biafra and who exactly are the “people” of Biafra further demonstrates the complexity in defining the term “people,” in contrast to the colonial “whole people,” for the purpose of determining their right to self-determination.

While Adichie does not shy away from tackling the dispute surrounding the issue of the Igbos as a people and the question of Biafran minorities in her novel *Half of a Yellow Sun*, the Igbo-centered mentality still figures large in her story. The novel follows the rise and fall of the Republic of Biafra through the lives of two twin sisters, Olanna and Kainene, daughters of a prominent Igbo businessman in Lagos. When the novel opens, they have just recently returned, after years of education in Britain, to pre-war Nigeria, where resourceful ethnic Igbos have long dominated the political, economic and intellectual spheres. Olanna then left Lagos for a job at the University of Nsukka, in the eastern region of Nigeria, where the Republic of Biafra would be established, be with her lover, Odenigbo, a professor at the university who supported the idea of revolutionizing Nigeria and later the creation of a democratic Republic of Biafra. Kainene would “oversee everything [of the family business] in the east, the factories and [the family’s] new oil interests” (39) in Port Harcourt, an oil-rich seaport in south-eastern Nigeria.

Kainene was dating a British Igbo-speaking journalist-turned-writer Richard Churchill, who was writing a book on Nigeria. He later worked for the Biafran government as its official foreign correspondent inside Biafra. During the war, Richard wrote articles on behalf of the Biafran government to major western media about the cause of Biafra and, when the situation deteriorated, about the crisis in Biafra. The story follows their lives and relationships closely; as the war proceeded, these well-to-do Igbos lost almost everything, suffering from the total blockade imposed by the Nigerian government. At the end of the novel, right before Biafra conceded defeat, Kainene, now a director of a nearby refugee camp, disappeared while trading across enemy lines in order to get provisions for her camp. The novel ends with Olanna and Odenigbo returning to Nsukka after the fall of Biafra, without a clue as to Kainene's whereabouts. And their houseboy from the village, Ugwu, not Richard, finished a book on Biafra entitled *The World Was Silent when We Died*.

It is telling that all the central characters in the novel are wealthy and powerful Igbos who dined and partied with Finance Minister and top military commander, or they are educated Igbo intellectuals who discussed tribalism and Pan-Africanism. Although Adichie writes positively about Olanna's Hausa friend (and ex-lover) in the north, Odenigbo's Yoruba colleague in his intellectual circle in Nsukka, and Kainene's British lover, in the rare occasions where Adichie writes about other minorities within Biafra, her narrative conveys a hint of exclusion, distrust and uncertainty on both sides. Once when Richard asked Kainene's friend Colonel Madu about the military progress Biafra was making, Madu replied, "Some saboteurs have been arrested and all of them are non-Igbo minorities. I don't know why these people insist on aiding the enemy" (395). To this

comment, Richard recalled his encounter with some minorities before who did not share “a sense of solidarity” with the Biafra-owning Igbo.

The sacrilege of it, that some people could betray Biafra. He remembered the Ijaw and Efik men he had spoken to at a bank in Owerri, who said the Igbo would dominate them when Biafra was established. Richard had told them that a country born from the ashes of injustice would limit its practice of injustice. When they looked at him doubtfully, he mentioned the army general who was Efik, the director who was Ijaw, the minority soldiers who were fighting so brilliantly for the cause. Still, they looked unconvinced. (395)

Ethnic tensions and the Igbo’s domination in Biafra are palpable in this passage. Here the term “Biafra” is used as a seemingly all-inclusive umbrella term; yet Madu’s comment that all of the saboteurs to Biafra were all “non-Igbo minorities” draws a line between the Igbos and the non-Igbos along the line of Biafran patriotism, casting doubts on the loyalty of non-Igbo minorities to Biafra, a loyalty the Igbo seemed to take for granted. The expectation that non-Igbo Easterners would swear loyalty and solidarity to Biafra is also expressed in Richard’s passage, where betraying Biafra is a “sacrilege.”

However, although here Richard assured the minorities of their place in a supposedly all-welcoming Biafra, in another passage when the independence of Biafra was announced in the radio, he considered the *Biafran* secession “just” because of “all that the *Igbo* had endured” (211, emphasis added), narrowing the meaning of Biafra once again to an Igbo cause and an Igbo country. Similarly, in a passage within the houseboy’s, Ugwu’s, book on Biafra *The World Was Silent When We Died*, he put, “what mattered was that the massacres frightened and united the *Igbo*. What mattered was that the massacres made fervent *Biafrans* of former Nigerians” (257, emphasis added). In both passages there is the same discursive vacillation one finds in Achebe’s *There Was a*

Country, where sometimes the two terms “Igbo” and “Biafran” are used somewhat interchangeably in quick succession.

The political and discursive question of whether Biafra belonged only to the Igbos or to all tribes in the south-eastern region of Nigeria is showcased in another incident in Kainene’s refugee camp. When a doctor arrived at the Biafra camp to treat some sick refugees, even before she introduced herself as Dr. Inyang, Richard “knew she was from one of the minority tribes.” The passage goes on to say that Richard “prided himself on his ability to recognize an Igbo person. It was nothing to do with how they looked; it was, instead, a *fellow* feeling” (401). That Adichie would have a British national, who considered himself Biafran because “he was here at the beginning; he had shared in the birth” (211), to feel a “fellow feeling” only for the Igbo, not for all the other minorities that were supposed to be Biafran as well just like himself, shows the extent to which the non-Igbo minorities were excluded from the national imaginary of Biafra, an imaginary into which though a non-black British national could possibly be included.

When the sick woman Dr. Inyang was inspecting called her a “saboteur” and shouted that “it is you non-Igbo who are showing the enemy the way! It is you people that showed them the way to my hometown,” Kainene slapped the sick woman on the face and said “We are all Biafrans! Do you understand me? We are all Biafrans!” Richard witnessed the scene thinking “There was something brittle about her [Kainene], and he feared she would snap apart at the slightest touch; she had thrown herself so fiercely into this, the erasing of memory, that it would destroy her” (402). This incident brings to the fore the question of who “Biafrans” are. Although Kainene stressed that both the Igbos and the non-Igbo minorities are all Biafrans, the fact that she had to make it a point

forcefully to correct the accusation of her fellow Igbo on non-Igbos indicates that it was not an agreed-upon, commonly-shared definition of who “Biafrans” were. Richard’s reaction to her comment right afterwards that “she had thrown herself so fiercely into the erasing of memory” further suggests that making the argument to include all non-Igbo minorities into the picture of Biafra involved an “erasing of memory”—the memory that non-Igbo minorities did turn to the Nigerian side, “betraying” Biafra, the memory that the Igbos were distinctly different from the rest of the Easterners, or the memory of when the Igbo did not have to see themselves as one with other minorities.

In both Achebe’s and Adichie’s work, therefore, the political question of who are the Biafran people that claim their right to self-determination is as intricate as the discursive question of when and how to use the terms “Biafran” and “Igbo.” The distrust the Igbo and other minority tribes in Biafra had towards each other is also carefully illustrated, and it highlights the problem of the gap between the right to self-determination and the will to self-determination. The Biafran minorities might have also been the victims under Hausa government’s massacre of the “Easterners,” but it does not mean that their will to form an independent country could be taken for granted. It is one thing to include them as the victims of the northern dictatorship, but it may be quite another to include them as the willful supporters of the creation of Biafra, especially when joining Biafra might subject themselves into another subjugation and domination. By describing the fall from prominence of the Igbos during the war, and their indictment towards the betrayal of the minorities, both books in fact demonstrate that the Igbo were far from being in a subordinate, or non-dominant position either outside or inside of the Republic of Biafra, either after or (particularly) before the war. Whether it was the

Biafran people who proposed to claim their secession right or the Igbo people, that there lacked a sense of solidarity among the “people” under the umbrella term “Biafran” and that the Igbo were obviously in a dominant position in the Nigerian society in general greatly weaken the legality of such people’s right to self-determination.

International Recognition

One of the reasons why the Republic of Biafra failed to get enough international recognition after three years of declaring its independence was its disputable “peoplehood”—it was not the type acknowledged by the international community in the 1960 *Declaration* (colonial whole people), nor was it the type safeguarded by human rights documents (minorities or indigenous groups). Another more obvious reason was that it just did not win the secessionist war. In the international climate of 1970, Biafra was facing a United Nations that had just recently disapproved of the secession of the well-endowed province of Katanga by sending troops to quash the secessionist force, and whose system was still “not utilized to help manage a systematic and multilateral response to a broad range of humanitarian disasters until about 1970,” thus “not a major player” in the Nigerian-Biafran conflict (David Forsythe 237). It was also facing a Pan-African agency, the Organization of African Unity, who upheld their “One Nigeria” policy.²⁷ At the height of the conflict, Nnamdi Azikiwe, the former president of Nigeria, presented a 14-point peace plan to the UN and the Federal Military Government of Nigeria, which proposed

²⁷ The OAU openly condemned the Biafran secession. It released The Resolution on the Situation in Nigeria in September 1967 that stated: [The OAU is] solemnly reaffirming their adherence to the principle of respect for the sovereignty and territorial integrity of Member States; Reiterating their condemnation of secession in any Member State.”

[...] (4) “official assurance from Biafra of its unqualified acceptance of the principle of the creation of states, provided it accords with the wishes of 60 percent of the inhabitants of the area or areas concerned”; and (5) a UN-administered plebiscite in the war zones on whether Nigeria should remain united or Biafra become an independent country.

This proposal was outright rejected by the Nigerian government the very next day. Biafra therefore did not have other options now, except winning the war. Some international recognitions extended to Biafra—from Zambia, Tanzania, Ivory Coast and Gabon—were due to humanitarian sympathies, rather than an imminent victory; these recognitions failed to affect not only the course of action the international community took as a whole, but also the outcome of the war.

It is little wonder that many Igbo/Biafran writers are embittered by the (non)reaction of the international community towards the suffering of the Biafran people. Achebe has several sections and passages on the indifferent inaction of the international agencies in *There Was a Country*. In his interview with *Transaction*, he also publicly condemned Britain for aiding the Nigerian government by providing them with arms, ignoring the accusation of a genocide on the Igbos, and for silently sanctioning Nigeria’s total blockade on Biafra.

In Adichie’s *Half of a Yellow Sun*, the politics of recognition is represented in an allegorical, multi-layered and more neutral fashion. The will to win the war and the realization that there was no other viable options are definitely made clear in Adichie’s narrative. Although there were several peace talks before and during the war that tried to avoid a full-blown conflict and negotiated a possible alternative—the Aburi Accord (1967), Niamey Peace Conference (1968) sponsored by the Organization of African Unity and Addis Ababa Conference (1968)—except briefly for the Aburi Accord,

Adichie's novel, which follows the history of Biafra closely, does not mention any of these negotiations for peace brokered by international agencies. When the Aburi Accord was discussed in Odenigbo's intellectual circle in the novel, these intellectuals condemned the Northern leader General Gowon for breaching the agreement in the Aburi Accord, which stipulated that the north and south would form a federation as an only and last-minute means to avoid the south from seceding. At the same time when Odenigbo adamantly proclaimed "On Aburi we stand" to express a determination to secure a free Eastern Region, Olanna, who was mysteriously paralyzed after witnessing and narrowly escaping the Igbo massacre in the northern city of Kano, miraculously regained her mobility. Olanna's mobility signifies the motivation of the Biafran population to refuse the false promise of any agreement and to accept nothing but the creation of their own country. From this moment on, all the major Igbo characters in the novel, including a very motivated Olanna, threw themselves into the "win-the-war" efforts, realizing, from the ineffectiveness and inaction of international agencies, that "Biafra would win, because Biafra *had to win*" (476).

Indeed, Biafra had to win to gain recognition of their peoplehood and statehood, but Adichie poses another question in her narrative—can defeat also serve as the reason for recognition? One of the most intriguing narrative features in *Half of a Yellow Sun* is "the book within a book"—at the end of several chapters in the novel are parts of an account of the Biafran war written by Ugwu, entitled *The Book: The World Was Silent When We Died*. This title was originally from Kainene's friend, Colonel Madu, who served in the Biafran army, as part of his argument to elicit Richard's help in reporting on the Biafran crisis to Western media: "So it is not enough to carry limp branches and

should power, power to show that you support Biafra. If you really want to contribute, this [writing for the Propaganda Directorate] is the way you can. The world has to know the truth of what is happening, because *they simply cannot remain silent while we die*” (383, emphasis added). Later, after Richard encountered two American journalists who reported on the Biafran crisis with arrogant indifference and bias, “the title of the book came to Richard: ‘The World Was Silent When We Died.’ He would write it after the war, a narrative of Biafra’s difficult victory, an indictment of the world” (469). Richard never wrote the book; instead, Odenigbo’s houseboy Ugwu was the one who eventually wrote about the history of Biafra with this title.

To indict that “the world was silent when we died,” in other words, to say that “the world should *not* remain silent when we died,” is to assert that not only should victory be acknowledged and responded to, but also death and defeat. This sentence, therefore, is the direct challenge to the “winner’s principle” secretly followed by the international community when conflicts are involved. Under the winner’s principle, in the context of post-decolonization secession, only the winner of a secession war would be and could be awarded undisputed recognition—such as Bangladesh’s victory only a year after the fall of Biafra. This sentence brings out the question of how and if the world *can* respond to defeat and suffering when the only answer to post-decolonization secession is the creation of a state, and the only way to attain this goal with any legality, since the world does not grant the right to self-determination to post-decolonization “peoples,” is to win the war at all cost, to count on only the effectiveness of force. The recognition the Republic of Biafra received from Gabon, Haiti, Ivory Coast, Tanzania, and Zambia was a response to Biafra’s defeated plight—all of these countries recognized Biafra when the

humanitarian disaster deteriorated, not when Biafran forces were gaining the upper hand over the Nigerian army. But this recognition failed to pressure the international community in large to forsake the terms of Articles 2(4) and 2(7) of the Charter and the winner's principle to intervene in the Biafran war, or to condemn Nigerian atrocities.

In the novel, Adichie's answer to the question seems to be Richard. Although a British national, a country that openly supported the Nigerian government, Richard sided with Biafra, the side he called "the moral victor" in the Biafran war (384). The character of Richard is Adichie's ambivalent response to the much-criticized role Britain played in the Nigerian-Biafran conflict; this is a character who wanted to be a Biafran despite his British nationality, who "[kept] saying *we*" when referring to Biafrans, who spoke fluent Igbo, and who had always wanted to write a book about Biafra. Yet, at the end, Richard was not the one that authored the book on the story of Biafra; instead, it was Odenigbo's houseboy, Ugwu. Right before the fall of Biafra, Ugwu started to pen his manuscript about the Biafran war. After reading Ugwu's draft, which he deemed "fantastic," Richard concluded that "the [Biafran] war isn't my story to tell, really" (530). And Ugwu thought to himself that "he had never thought that it [the war] was [Richard's story to tell]" (531).

Ugwu's authoring the Biafran book could suggest the anti-colonial message that only the Igbo themselves, especially those that have fought the war, have the authority and right to tell the Igbo/Biafran people's story. On the other hand, Richard's comment that "the war isn't my story to tell" could be another example of the international community's "winner's principle" that recognizes only the victor of the war. By switching Richard's role from an ideal Westerner to someone like a deserter, Adichie shows her optimism, skepticism and eventual acceptance at the same time towards the

(non)action of the international community. Earlier in the novel when Richard decided to write a book on the Biafran war, he stated that he would write the book after the war, “after Biafra’s difficult victory” as “an indictment of the world” (469). When Biafra failed to win the war, the victory that did not deliver silenced Richard’s book project and his indictment of the world, as it silenced the world’s recognition to the Biafran cause and disaster.

Therefore, this sentence “the world was silent when we died” and Richard’s abandonment of his book project are also Adichie’s final answer to who “we” are. Even without the controversy surrounding the difference between the Igbos and the Biafrans, who “we” are as Biafran, as who may die in this war, is not without its complexity. Throughout the novel, Richard kept referring to himself as Biafran, as part of the “we.” When the independence was announced, Richard believed that he could become a Biafran because “he was here at the beginning; he had shared in the birth” (211). However, later on, Colonel Madu reminded him that he would never be part of *we*, but always a “visitor,” and that this was not Richard’s war because “your government will evacuate you in a minute if you ask them to” (382-383). What makes one part of *we* in Madu’s sentence “the world was silent when we died” therefore is one’s inevitability to die for the *we*: it is not enough to share the birth of the *we*, but its death. This statement indicates that for the people of the *we*, while they are entitled to exercise their right to self-determination (“the world cannot remain silent”), they also have a duty to die (“when we die”).

“When we died” becomes, thus, the condition of the becoming of the *we*. In Richard’s case, it means becoming part of the Biafran people; in the larger, broader case

of the Biafran secession, this duty to die and duty to war becomes the condition of their right to self-determination. This is not only because the international community only recognizes the winner, or that there is no room for a right to secession outside the decolonization context in international law. What this condition of “the duty to die” indicates is the non-dominance requirement of the people who demand to claim their independence.

Conclusion

As only the second postcolonial secession after the establishment of the United Nations, and the signing of the 1960 *Declaration* that grants colonized peoples their right to self-determination, the Biafra secession is significant because it challenged the new *Declaration* and tested the limit of a global atmosphere at that time that was friendly to the self-determination right.

The fact that both the Katangese and Biafran secessions failed demonstrates one of the many underlying requirements that condition what constitutes a people entitled to the right to self-determination. As both Katangese and the Igbos were the dominant minorities in their countries, international community’s outright denial to their secession right makes it clear that the “peoples” imagined to be entitled to such right not only have to be colonial whole people, but, more fundamentally, they have to occupy the position of the politically and economically inferior. According to the definition offered in the UN documents, for a people to be in a dominant position would automatically cancel out their status as minority. Their dominance makes subjugation and exploitation unimaginable, leaving them very limited room and grounds to argue for their case of self-determination.

The victory of Bangladesh only a year after the fall of Biafra highlights another unspoken norm in the right and practice of self-determination. While well-endowed people and province are less likely to occupy the position of the victim to make a case for their secession aspiration, winning the war is the only means to gain recognition in unilateral secessions, at least until the example of South Sudan, who unprecedentedly gained independence through a secession referendum. In other words, these first three cases of unilateral post-decolonization secession cemented the UN's non-intervention stance towards secession conflicts for the next few decades and revealed the two unspoken principles within the discourse of right to self-determination: that the "people" have to be in a non-dominant position and that the "people" have to win.

Both Achebe's *There Was a Country* and Adichie's *Half of a Yellow Sun* make these principles clear; they stand both as the accusation and the testimony to these principles that denied their people's plea for self-determination. When "when we die" becomes the precondition of "the world cannot remain silent," the right to self-determination ceases to be a right a people are unconditionally entitled to, but a right to be granted, or won.

Chapter Two

“Gorkhaland for Gorkhas”:

The Gorkhaland Movement and the Indigenous People in

Kiran Desai’s *The Inheritance of Loss*

The Gorkhaland Movement is a secessionist movement by ethnic Gorkhas—people of Nepalese origin residing in India, also known as Gorkahli, or Nepali, or Indian Nepali—that demands a separate state of Gorkhaland be established in the Darjeeling district. The Gorkhas form the majority of the population in this region within the northeastern Indian state of West Bengal. The demand for a separate state can be traced back to as early as 1907, when India was still under the colonial rule of Britain; the movement saw its bloodiest conflict in 1986-88, in which around 1,500-2,000 people were killed before a semi-autonomous governing body, the Darjeeling Gorkha Hill Council, was created. Over the years, the separatist sentiment of the Indian Gorkhas has seen several revivals. In 2008, fresh separatist demand came back alive in the hills after an ethnic Gorkha, Prashant Tamang, became the winner of *Indian Idol Season 3*. Gorkha pride and pan-Gorkha solidarity across northeastern India, including in the states of West Bengal and Sikkim, were recharged after twenty years of silence. This sparked another round of separatist activities and eventually led to the founding of a new party, Gorkha Janmukti Morcha. In 2011, in agreement with the Indian central government, GJM formed another semi-autonomous body, Gorkhaland Territorial Administration, to replace the former DGHC. The creation of the new state of Telengana in 2013 triggered another wave of protests for the Gorkhas’ right to self-determination. To date, the Gorkhas’ demand for a separate state of Gorkhaland has not been granted by the Indian

central government. Although the goal of this secession is not independent nationhood, but an independent state within the Indian Union, similar to other secession movements discussed in this project, this movement challenges how “peoplehood” is recognized and who can exercise the right of self-determination under international law.

The History of the Land

Determining the “peoplehood” of the Indian Gorkhas requires one to look at the complex history of migration and land treaties in this region. The modern district of Darjeeling borders Nepal to the left, Bhutan to the right, the Indian state of Sikkim to the north—in the state of Sikkim, ethnic Nepalis are the majority and Nepali is the official language—and the Calcutta plains down the hills in the south, where ethnic Bengalis form the majority. Its adjacency to all the ancient kingdoms and empires in this area means an intertwined history with all of its neighbors. Darjeeling hills were once a unit of the Sikkimese Kingdom; it was later snatched and annexed by Bhutan before Nepalese Gorkhas invaded and took it under the expanding wings of the Empire of Gorkhas (1788-1816). Subsequently, the Darjeeling region, including the sub-divisions of Kalimpong, Kurseong and Siliguri, was ceded to the British under the Treaty of Sinchula, negotiated between Bhutan and the British East India Company in 1864. According to Amiya K. Samanta in *Gorkhaland Movement: A Study in Ethnic Separatism*, a great number of Gorkhas, most of them lower-caste, started migrating to the British-owned Darjeeling district during this time due to “socio-religious oppression, eviction from land, prevalence of slavery” and “harsh punishment” in Nepal (21). Other than these socio-religious concerns, Gorkhas were also encouraged by the British government to migrate

to their newly-acquired land in Darjeeling “for reclaiming wastelands, opening copper mines and working as a labor force for road construction” (45). According to Samanta, the British government preferred Gorkhas over other hill peoples in the region such as Lepchas (who resided mostly within the former Sikkim Kingdom) and Bhotias (a group of Tibetan people) because “the Gorkhas proved their loyalty and mercenary spirit in 1857” and, in the words of the British ethnographer Herbert Hope Risley, they “were friendly to our [British] government” (45).²⁸ In addition, since Gorkhas are mostly Hindus, while Lepchas and Bhotias are Buddhists, having Gorkhas outnumber Lepchas and Bhotias in a region that was, upon its annexation to the British India in 1864, becoming part of a Hindu-dominant territory was thought to promise more socio-political stability.

After the independence of India from Britain in 1947, the Darjeeling region was incorporated into the Indian state of West Bengal. West Bengal has a large population of ethnic Bengalis in the plains to the south near Kolkata, and the official languages of the entire state are Bengali and English. Nepali did not become the official language of the Darjeeling district until 2008-2010, although in the hill towns, Nepali has always been far more widely spoken than Bengali due to the large ethnic Nepali/Gorkha population that have settled there for decades.²⁹ In 1950, the Indian and Nepalese government signed a treaty, “Treaty of Peace and Friendship,” that encouraged nationals of both countries to travel, migrate, and work on each other’s territories; this treaty initiated another wave of Nepalese immigration to India. However, while the 1950 treaty granted Nepalis “the

²⁸ The year 1857 refers to the Indian Rebellion of 1857 against the British East India Company, in which the Gorkha army fought on the British side.

²⁹ In the 47th report of the Commissioner for Linguistic Minorities, which covers the period between July 2008 to June 2010, it states “Nepali is the official language in three Hill Sub-divisions of the Darjeeling District” (127), while the official languages of the entire state of West Bengal remain Bengali and English.

same privileges in the matter of residence, ownership or property, participation in trade and commerce, movement and privileges of a similar nature,” it is clear that Nepalis migrated to India after 1950 under the Indo-Nepal Treaty have no right to political activities in India; they have the right to residency but no right to citizenship.³⁰

At the time when the Gorkhaland Movement gained momentum in the 1980’s, Darjeeling hills had a large population of Indian Nepalis whose ancestors had arrived at the hills either during the East Indian Company’s rule or after the 1950 Indo-Nepal Treaty. Whatever their origin may be, “whether they are of Nepalese birth, or Gorkhas born in India,” as Michael Hutt points out in his study of the Nepali diaspora, “all ethnic Nepalis in India are liable to be assumed to be foreign nationals or immigrants” (122). The feeling of uncertainty about their citizenship status in India after decades of residency and decades of being regarded as “foreigners” or “immigrants,” was one of the reasons that sparked off the conflict in 1986. The Indian Gorkhas’ demand was to exercise their right to self-determination as a “people” distinct in language, culture and history from the rest of India by way of creating an independent state of Gorkhaland within the Indian Union. Although their history in the area predates an independent India, the Indian Nepalis still occupy the status of outsiders in India’s national imaginary. In 1979, the then-Prime Minister of India Morarji Desai made a public remark stating that

³⁰ The two clauses in the treaty that specify terms of immigration between the two countries read:

Article VI: Each Government undertakes, in token of the neighborly friendship between India and Nepal, to give to the nationals of the other, in its territory, national treatment with regard to participation in industrial and economic development of such territory and to the grant of concessions and contracts relating to such development.

Article VII: The Government of India and Nepal agree to grant, on reciprocal basis, to the nationals of one country in the territories of the other the same privileges in the matter of residence, ownership or property, participation in trade and commerce, movement and privileges of a similar nature.

he would not consider including Nepali into the Eighth Schedule of the Indian Constitution because it was a foreign language; this remark further enhanced the image of the Gorkhas as foreigners in India. At the eve of the Gorkhaland Movement in 1986, Darjeeling district, with the ethnic Gorkhas/Nepalis forming the majority, was entirely administered by the West Bengal state government. The Gorkhas faced discrimination in employment, the hills lacked basic civil infrastructure, Nepali was not a recognized language either by the state or by the central government, and the Nepali language was not taught at school.

Right of the Indigenous Peoples to Self-Determination

Being treated, regarded, ruled and discriminated against as “foreigners” makes a case for the Indian Nepalis to claim their right to self-determination under international and human rights law on the grounds of “alien-subjugation.” In the *Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations* the UN adopted in 1970, it stipulates that “every state has the *duty* to promote, through joint and separate action, realization of the principle of equal rights and self-determination of peoples, in accordance with the provisions of the Charter” and “subjection of peoples to alien subjugation, domination and exploitation constitutes a violation of the principle, as well as a denial of fundamental human rights, and is contrary to the Charter.” With a government that denies them of basic civil rights and human rights—the rights to education, medical care and employment—but rules over them nevertheless, takes advantage of their cheap labor nevertheless, the Indian Gorkhas are as “alien” to the

Indian government as they are to them, and the discriminatory rule is as much subjugation as exploitation.

The unique part of the Gorkhaland secession movement is that it is a state secession (internal secession), not a nation secession (external secession). The Gorkhas are demanding a separate state *within* the Indian union, which means the themes of both separatism and patriotism run in the movement. Therefore, through their demand for an independent state, the Gorkhas are actually also asking for legal inclusion into the national fabric of India: to be treated as citizens proper, not immigrants. To have a state of Gorkhaland established within the Indian union is, for the Gorkhas, to be recognized and confirmed as citizens of India. The leader of Gorkha National Liberation Front (GNLF), the organization that initiated a strong Gorkhaland Movement in the 1980s, Subhash Ghising made this point clear by stating that “We want Gorkhaland, because we want an Indian identity” (Partha S. Ghosh, 114). This explains why instead of the argument of alien subjugation from the Indian government, the Gorkha separatists have relied more on their claim of indigenesness to justify their demand for self-determination. While accusing the Indian government of “alien subjugation” emphasizes mutual-exclusion and alienation, and deepens the rift between the Gorkhas and the Union, claiming themselves to be the indigenous people of the hills strengthens their rightful entitlement to the land that is now part of India (“we were here before”), and incorporates themselves into the history of India (we are “indigenous” people, not “foreign” people). For the Indian Nepalis to request their right to self-determination on the grounds of their status as an indigenous people also means that state secession is the

only legitimate option for self-determination open to them under international and human rights laws.

Although a number of UN documents deliberate over the right of peoples to self-determination, it is not until 2006 that the UN General Assembly, recommended by the Human Rights Council, adopted a resolution exclusively about the rights of indigenous populations, the *Declaration on the Rights of Indigenous Peoples*. It states in Article 3 of this declaration that “indigenous peoples have the right to self-determination,” and Article 4 restricts the application of such a right to “matters relating to their internal and local affairs.” It is interesting that the draft of this declaration prepared by the Human Rights Council in 1994 did not include this clause that limits the ways in which indigenous peoples’ right of self-determination can or should be exercised. While such a supplementary limitation to indigenous peoples’ right to self-determination may prove disappointing to indigenous groups aspiring for nationhood, in the case of the Gorkhaland Movement, where not nationhood but statehood is sought, these two clauses should give the ongoing movement its much-needed blessing and legitimacy.

Yet, by adding this restriction, the international community also again stands behind the principle of territorial integrity and the Charter’s Article 2(7), which respects the exclusive and overriding sovereignty of a state over its internal affairs,³¹ since restricting the right of self-determination only to internal and local affairs is tantamount to relegating the granting of such right to domestic sphere. These two clauses literally make the right to self-determination of indigenous peoples only possible internally,

³¹ Article 2(7) of the “Purposes and Principles” of the Charter of the United Nations states that “nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state or shall require the Members to submit such matters to settlement under the present Charter.”

domestically, an example of which would be a state secession such as the Gorkhaland Movement. Just as, despite what those UN and human rights documents have promised, the demand to exercise the right to self-determination has seldom been gladly granted internationally, except in the context of decolonization, to colonial whole peoples, no nation-state would be enthusiastic in granting the right to self-governance to any self-proclaimed indigenous peoples and minorities under its dominion.

This is therefore the dilemma and paradox of internal self-determination.

Although according to 2006 *Declaration*, indigenous people is given a right to claim some degree of autonomy, the terms under which such right can be claimed remain vague. As Karl Doehring points out,

these potential bearers of the right of (internal) self-determination find themselves in a field of tension, caught between the normal duty of citizens to maintain loyalty towards the State power and the right to demand that this State power respects the characteristics of the minority and abstains from radically oppressing them. (57)

This explains why the rhetoric of Gorkhaland Movement is one of both patriotism and separatism. The fact that it is never clear how far a minority people can demand a right to “decide on a form of government” within a state, and how much autonomy a government is obliged to concede to a minority people also explains why after many years of negotiation and sometimes bloody protests, the Indian government can still refuse to give state autonomy to the Gorkhas, offering mostly nominal semi-autonomous bodies over the years. Joshua Castellino and Jérémie Gilbert argue that among all cases of request to self-determination outside of the decolonization context “indigenous peoples would seem to have the best case of all for using the decolonization rhetoric in their favor. Since indigenous peoples have all the rights of minorities; but in addition were deprived of their

land through a process of subterfuge, it would seem that any attempt to redress the balance would need to be similar to quasi-decolonization process” (174). However, when the 2006 Declaration clearly rules that such right to self-determination can only apply to “matters relating to their internal and local affairs,” the advantage that Castellino and Gilbert see in indigenous self-governance is hugely compromised. A decolonization process that can only take place within the very colonizer’s sovereignty can hardly seem able to rectify human rights and civil rights grievances.

The Gorkhas as an Indigenous People

In the Charter of United Nations, or the 1966 *International Covenant on Civil and Political Rights* (ICCPR), or in fact in every UN document referring to the right to self-determination, it only vaguely states that “all peoples” are entitled to such right, without specifying who “peoples” are. While it is clear that the “people” referred to in the only binding document of self-determination, the 1960 *Declaration on the Granting of Independence to Colonial Countries and Peoples*, means colonial whole people, in other UN or human rights documents, it is usually understood to mean a sub-state entity such as a minority or an indigenous population. For the Indian Gorkhas, contrary to what they are perceived as by the Indian population—foreigners or immigrants—the argument they have always held for their right to self-determination is their indigenesness. Although the British East India Company claimed that there were only “a hundred of Lepcha families” residing in these hills (Romit Bagchi 285) when they received Darjeeling from Sikkim in 1835, the Indian Gorkhas have been eager to prove the other way. Not only is the number generally thought to be a miscalculation (Bagchi 285), it has been argued by

Gorkhaland activists that Nepalis had already been settling in this and other adjacent areas when parts of the modern day Darjeeling were under Nepalese control (1788-1816) and that this region is part of the ceded territories of Nepal to British East India Company under the Sugauli Treaty signed after the Anglo-Nepalese War (1815).³² Even if their argument that Darjeeling region once belonged to Nepal fails to gain unquestionable validity, the claim that many of the Indian Gorkhas had been inhabiting the Darjeeling hills long before the establishment of the modern Indian nation-state is definitely indisputable. The question then is if this fact is enough to give the Gorkhas, or for the Gorkhas to claim, the status of an indigenous people entitled to the right to self-determination.

Just as with the definition of the term “minority,” there is no one official definition of the term “indigenous population” in international law in the context of self-determination. Most discussions on the issues of the right of indigenous peoples refer to a working definition offered by Special Rapporteur Martinez Cobo in his *Study of the Problem of Discrimination Against Indigenous Populations* (1976):

Indigenous communities, peoples and nations are those which, having a historical continuity with *pre-invasion* and *pre-colonial* societies that developed on their territories, consider themselves distinct from other sectors of the societies now prevailing in those territories, or parts of them. They form at present non-dominant sectors of society and are determined to preserve, develop and transmit to future generations their ancestral territories, and their ethnic identity, as the basis of their continued existence as peoples, in accordance with their own cultural patterns, social institutions and legal systems. (emphasis added)³³

³² Opponents to this argument are quick to point out that the area controlled once by the Kingdom of Nepal was the Terai part (foothills) of the territory, not the hills. The hill area covers Darjeeling, Kalimpong and Kurseong, which has been where major Gorkhaland Movement events took place over the years.

³³ *Study on the Problem of Discrimination against Indigenous Populations*. UN Doc. E/CN.4/Sub.2/1986/7 and Add. 1-4

Two key terms here are “pre-invasion” and “pre-colonial.” Under these two conditions, even if the Indian Gorkhas did indeed start populating the Darjeeling area during the time when it was under Nepalese control, given the constant invasions and sovereignty shifts before and after the Nepalese rule, it is still controversial for the Gorkhas to claim they predate all invasions and colonization in this area. The slogan of Gorkhaland Movement “Jai Hind, Jai Gorkha”—Gorkhaland for Gorkhas—thus does not seem to fit into this historical context. If Darjeeling, the center of Gorkhaland Movement, was never part of Nepal territorially, and if the Nepalese rule in this region was itself a result of invasion, under Cobo’s definition, Indian Gorkhas would not be considered the original inhabitants of the Darjeeling district, nor could Gokhaland Movement be justified as a demand to recover lost “homeland.”

What further complicates the Indian Gorkhas’ claim of indigenusness is that because of their numerical advantage, for decades many other minority tribes, some of them more “indigenous” than the Gorkhas—for example the Lepchas, who are thought to be some of the earliest inhabitants of Darjeeling hills³⁴—have been registering themselves as Gorkhas/Nepalis and have supported the Gorkhaland Movement, as this is the only way for them too to counter subjugation by people from the plains. This makes the Gorkhas’ argument of indigenusness more genuine and questionable at the same time. The inclusion of all other hill tribes does lend the much-needed validity to the movement’s demand of retrieving “lost homeland”—Darjeeling as the homeland to *all* the hill tribes who may have been there before the British colonization and the Indian nation-state. This defines an “indigenusness” that centers on ridding the “alien subjugation” imposed on the hill peoples (Gorkhas included) by non-hill peoples (the

³⁴ It is believed that the Lepchas have been living in the hills since as early as 1706.

British and the Indian alike). However, to name such a state “Gorkhaland,” and to use the slogan “Gorkhaland for Gorkhas” returns this secession movement to the question of whether the Gorkhas are an indigenous people, or on the very contrary, an immigrant population, to this part of India. This uncertainty regarding who and what the Gorkhas/Nepalis are as a people fuels the endless debate about whether the creation of a state of Gorkhaland can be justified by the hill peoples’ status as an indigenous people or it actually opens the door to “alien occupation” on Indian soil.

It should also be noted that the confusion regarding who “Indian Nepalis” (or “Gorkhas”) really are is not only caused by the blending-in of other minority hill tribes. The Indian Nepalis whose history in the hills can be traced back to the 1800s are also being confused with those that came after the 1950 Indo-Nepal Treaty. This confusion makes the relationship between these two groups of people with Nepalese origin strained from time to time. One of the requests of the GNLF in the 1986 movement was to burn the 1950 Indo-Nepal Treaty. GNLF leader Ghinsing’s argument for this demand was that if ethnic Nepalis from Nepal could enter India freely, Indian Nepalis “faced the problem of being identified as Nepali nationals and were, therefore, harassed by Indian authorities” (Ghosh 117). On the other hand, it has always been feared by the Indian government and people that Gorkhaland Movement is manipulated and supported by the Nepali government, whose goal is to facilitate Darjeeling’s merger with Nepal in the future (118). The Indian government responded to the 1986 insurgency with the release of the “Gazette Notification on the Issue of Citizenship of Gorkhas” in 1988 to clarify and confirm the citizenship of qualified Gorkhas, but still refuse their demand for an independent state. The notification states that all residents of Nepalese origin enjoy full

Indian citizenship if they (a) were born in the territory of India, (b) were born to parents either of whom was born in the territory of India, or (c) had been ordinarily resident in the territory of India from not less than five years before the commencement of the Indian constitution (January 1950). In other words, the 1988 notification validated the citizenship of those Indian Gorkhas/Nepalis who had settled down in India before 1945. It did not address the legal status of those Nepalis that migrated to India following the 1950 Indo-Nepal Treaty, who would therefore remain immigrants to India. However, with or without this official notification, the fact that the hills are inhabited by both Nepalis that are Indian nationals and those that are Nepali nationals, one indistinguishable from the other, have always brought unease and uncertainties to the Indian Nepalis' demand for independent statehood.

Who Are the People in *The Inheritance of Loss*

Kiran Desai's *The Inheritance of Loss*, the story of a Westernized community in the town of Kalimpong in Darjeeling hills during the years that led up to the 1986 Gorkhaland Movement mass violence, told "from the viewpoint of an outsider [...] of a Westernized class on the mountain side," showcases and complicates many of these issues imbedded in the Gorkhaland Movement.³⁵ While there are passages that clearly acknowledge the Gorkhas' early arrival to this part of India, far before there was an independent India, supporting their claim to self-determination on the grounds of indigenosity, there are other passages that cast doubts on such a claim. When Gyan, the Nepali mathematics tutor of the Bengali girl Sai, recounted the story of his family, the

³⁵ See Desai's interview with CNN's Talk Asia: http://articles.cnn.com/2007-04-23/world/talkasia.desai_1_book-tour-weighty-topics-man-booker-prize?_s=PM:WORLD

passage reads, “in the 1800s his ancestors had left their village in Nepal and arrived in Darjeeling, lured by promises of work on a tea plantation” (158). The 1800s was the time when the British East India Company, upon gaining this land from Bhutan through the Sinchula Treaty, started to encourage Nepalese population to migrate to this area to help establish the tea industry in Darjeeling. Since it was a time before an independent India, before the time when Darjeeling became the territory of a nation-state, the act of “[leaving] their village in Nepal and [arriving] in Darjeeling”—note that it is not “arriving in India”—could hardly count as an act of im-migration, but migration.

Other passages put forward the argument of a Gorkha homeland snatched away from them. Desai describes slogans scribbled on the walls of Kalimpong that read “We are constitutionally tortured. Return our land from Bengal,” or the GNLF supporters vowing to “fight to the death for the formation of a homeland, Gorkhaland” (139). One Gorkha National Liberation Front (GNLF) supporter spoke to a Gorkha crowd that

in *our* own country, the country we fight for, we are treated like slaves. Every day the lorries leave bearing away *our* forests, sold by foreigners to fill the pockets of foreigners. Every day *our* stones are carried from the riverbed of the Teesta to build their houses and cities. [...] We will defend *our own homeland*. This is where we were born, where our parents were born, where our grandparents were born. (176)

Here the GNLF supporter did not mention early migration, but emphasized on generations of residency, to claim Darjeeling as their “homeland.” This is a passage that both accuses the Indian government of subjugation and exploitation, and positions the Gorkhas as the indigenous people of the hills, an indigenous people for whom this land they have inhabited for generations long before the establishment of an independent India is their homeland. This is thus also a statement that contains the messages of both

patriotism and separatism—from “our country” (India) to “our homeland” (Darjeeling). As such, it clearly demonstrates the paradoxical nature of state secession such as the Gorkhaland Movement.

Yet not only did Desai refer to Indian Nepalis as “a population that has entered India as immigrant population” in her interviews,³⁶ references to Nepal are abundant in the novel, associating Indian Nepalis more with Nepal than with India, more as immigrants than fellow countrymen, despite their Indian citizenship, despite their hundreds of years of residency in Darjeeling hills. The Bengali sisters, Lola and Noni, worried that their Nepali watchman, if committed a crime, would easily “disappear *back* into Nepal” (50, emphasis added). And the rebels are described to be wearing “leather jackets from the *Kathmandu* black market” (4, emphasis added). Or there are remarks by Indian nationals such as this: “They should kick the bastards *back* to Nepal. Bangladeshis to Bangladesh, Afghans to Afghanistan, all Muslims to Pakistan, Tibetans, Bhutanese, why are they sitting in *our* country?” (251, emphasis added). The clashes in the narrative between the Indian and Gorkha perspectives on the movement mirror the ideological clashes in reality. While the Indian government (and people) regard Indian Nepalis as “immigrants-in-retrospect,” which means even if they were not technically “immigrants” to India in the 1800s, they “will always have been” immigrants at the independence of India, the Indian Nepalis, on the other hand, argue from the viewpoint of “natives-in-

³⁶ To listen to the entire interview, go to: http://www.bbc.co.uk/worldservice/arts/2009/12/091222_wbc_kiran_desai.shtml. For the transcript of her interview with CNN’s Talk Asia, see http://articles.cnn.com/2007-04-23/world/talkasia.desai_1_book-tour-weighty-topics-man-booker-prize?_s=PM:WORLD.

retrospect”: even if we did migrate to Darjeeling in the 1800s, this land “will always have been” our homeland for hundreds of years when we claim it.³⁷

The amalgamated feature of the so-called indigenous Gorkha people can also be clearly observed in *The Inheritance of Loss*; these passages cast doubts on the ingenuity of the claim of indigenesness, as well as the ingenuity of the Gorkhaland Movement as a whole. In the novel, right before a big, violent rally in 1986, Gorkha soldiers went from household to household demanding and threatening that “every family has to send a man to represent the household in our marches,” regardless of ethnicities (298); when the masses gathered, Nepalis and non-Nepalis alike, willing and unwilling participants alike, they were led to “wav[e] kukris, the sickle blades high and flashing in the light” and shouted “*Jai Gorkha! Gorkhaland for Gorkhas!*” (301-304). In another passage, Desai writes

If you were a Nepali reluctant to join in, it was bad. The MetalBox watchman [a Nepali] had been beaten, forced to repeat “Jai Gorkha,” and dragged to Mahakala Temple to swear an oath of loyalty to the cause.
 If you weren’t Nepali it was worse.
 If you were Bengali, people who had known you your whole life wouldn’t acknowledge you in the street.
 Even the Biharis, Tibetans, Lepchas, and Sikkimese didn’t acknowledge you.
 They, the unimportant shoals of a minority population, the small powerless numbers that might be caught up in either net, wanted to put the Bengalis on the other side of the argument from themselves, delineate them as the enemy. (307)

The last part of the passage that states the stance of some minority hill tribes towards Gorkhaland Movement indicates the fact, as mentioned before, that many minority hill tribes register and identify themselves as the Nepalis so as to better counter Bengali

³⁷ Kiran Desai said in her interview with BBC World Book Club that *The Inheritance of Loss* is about the question of immigration, not only in the western world, but also in India. In her interview with CNN, she talked again about the parallel she sees between immigration to the States and immigration to India, and between cheap labor in the States and cheap labor in India. For Desai, Nepali population is “a population that has entered India as immigrant population.”

domination. These passages question, if not ridicule, the validity of the slogan “Gorkhaland for Gorkhas” because they describe that the mass of people behind the banner of such a slogan, behind the banner of an indigenous people of the Gorkhas demanding the retrieval of their homeland, was in fact a mixed crowd with various ethnicities. These were also a crowd who might or might not be sympathetic to the cause, or benefit from the cause. These passages point out the impure and inevitably undeterminable nature of what a people are; these uncertainties become more problematic especially in ethnic movements where the demand of ethnic nationhood hinges on a supposedly clean-cut ethnic peoplehood, such as in the case of “Gorkhaland for Gorkhas.”³⁸

The Definition of the “People/people” by Giorgio Agamben

In his essay “What Is a People,” Giorgio Agamben observes the embedded capitalistic-democratic narrative beneath the concept of the “People/people.” According to Agamben, the political category of the people always entails the originary biopolitical

³⁸ As mentioned earlier, what makes the case of Indian Nepali/Gorkha self-determination even more complicated is the fact that the hill sides are inhabited by Indian Nepalis (Indian citizens) and Nepali Nepalis (foreigners, or immigrants from Nepal) alike. Only once does Desai comment on Nepali Nepali in her novel: “You can’t tell one from the other, Indian Nepali from Nepali Nepali” (144). The rest of the novel refers to “Nepali” characters only as Nepalis, which mirrors the confusion and difficulty in trying to tell one from the other. When the Swiss-national Father Booty was caught with expired immigration documents and had to leave Darjeeling in a short notice, forced to leave behind his property and a cheese factory, a “Nepali doctor” who planned to open a private nursing home visited Father Booty’s property and offered to buy it with a petty sum of money. When Father Booty complained about the offering price, the Nepali doctor replied, “I have arranged it and you have no choice. You are lucky to get what I am giving you. You are residing in this country *unlawfully* and you must sell or lose everything” (243, emphasis added). Although it may be inferred from this Nepali doctor’s socio-economic status, different from the servant status that the Indian Nepalis protested being kept at in Indian society, that this may be a Nepali Nepali character, there is no way to confirm in the novel, as well as in reality. The 1950 Indo-Nepal Treaty gives Nepali Nepalis “the same privileges in the matter of residence, ownership or property, participation in trade and commerce, movement and privileges of a similar nature.” It is therefore lawful for Nepali citizens to own property and reside in India, no different to the rights of Indian Nepali citizens in this respect. By referring to all the Nepali characters simply as Nepalis, Desai’s narrative represents what the reality was like and captures the uncertainties and ambiguities embedded in the Indian Nepali identity.

fracture: the “People” that is the political and the “people” that is purely “naked life;” the “People” that is always about inclusion and the “people” that is what is excluded by the “People.” The “people” therefore, are those that cannot be integrated into the political collective of the “People;” they are the “poor,” those that are excluded from the narrative of modernity and development. Agamben uses the example of the Jews in Nazi Germany to illustrate the figure of a “people”: “the Jews are the representatives par excellence and almost the living symbol of the people, of that naked life that modernity necessarily creates within itself but whose presence it is no longer able to tolerate in any way” (34). When the concept of the “people” is placed in the context of the capitalistic-democratic and development-obsessed world of our time, Agamben argues, the plan to “eliminate the poor not only reproduces inside itself the people of the excluded but also turns all the populations of the Third World into naked life” (35).

In many ways, the Indian Nepalis are such “people” excluded from the political People of India, a “people” that the development narrative of India tries to eliminate but keeps on reproducing. The Indian Nepalis are the unbearable excluded “people” created by the capitalistic-democratic India, and whose presence such an India can no longer tolerate. Therefore, the Indian Nepalis cannot be understood as an indigenous people or a minority or a people subjected to alien subjugation; they can only be understood as a “people” through the lenses of, or as those excluded from, capitalism and democracy. From these perspectives then, they will always and can only be understood as the immigrants (excluded from India’s democratic narrative) and the poor (excluded from India’s capitalistic narrative). Agamben’s philosophical definition of the “People/people” sheds light on how India’s democratic narrative persistently reproduces the excluded—

Indian Nepalis are persistently being put at the position of the “immigrants” in contrast to India’s democracy, India’s “People.” At the same token, it also explains why, as will be illustrated in the next section, the Indian Nepalis also always have to occupy the position of the “poor,” as the excluded from India’s capitalist narrative that it continues to reproduce.

Development Narrative and Development Fix

As mentioned before, the Indian government responded to the 1986 Gorkhaland insurgency only by officially authenticating citizenship to qualified Gorkhas/Indian Nepalis, and creating a semi-autonomous governing body, Darjeeling Gorkha Hill Council, to be led by Ghising and to “[have] powers, subject to central and state laws on the ‘allotment, occupation or use or setting apart of land other than any land which is reserved forest, for the purpose of agricultural or grazing or for residential or other non-agricultural purposes or for any other purpose likely to promote the interest of the inhabitants of any village, locality or towns’” (Ghosh 118). The authentication was merely a ceremonial or nominal response, since it did not address the lack of civil rights its Indian Nepali citizens received or the lack of civil infrastructure—schools and hospitals—the Darjeeling area had. With or without this verification of identity on paper, the Indian Nepalis faced the same structural and systematic inequality.

The hill council’s powers over the use of land did, however, answer part of the Gorkhas’ demand as an indigenous population. What is considered essential in Special Rapporteur Martinez Cobo’s definition of “indigenous people,” other than the “pre-invasion” and “pre-colonial” timing, is the idea of “ancestral territories.” An indigenous

population needs to have “a specific relationship to a defined territory” they consider ancestral, and thus one of the rights that they should be entitled to is their right over the ancestral land. Although the Indian government did not respond to the movement’s demand of creating an autonomous state of Gorkhaland on the Gorkha homeland (an ideological request), it did answer such a demand on the economic level—the right to the use of the land they claimed to be the homeland.

Therefore, it can be observed that despite the fact that at the center of the discontents among Indian Nepalis are ethnic discrimination, restrictions on civil and human rights, and unfair distribution of resources due to inequality and policies, demands for self-determination by many ethnic groups are more readily understood through a development narrative and given a development/economic fix. When discussing the reasons of turmoil in Northeast India in his chapter in *Beyond Counter-Insurgency*, Bodhisattva Kar aptly asks the question, “How is peace tied to the fate of being imaginable only within grids of capital and development?” (70). Although Darjeeling does not belong to India’s tumultuous Northeast where ethnic groups frequently fight for independent states and separate nations, the Gorkhaland Movement is often seen as part of the ethnic unrest in the Northeast because of its ethnic and separatist nature and also because many of the Indian Nepali population residing in the northeastern states also participate in the movement.

Providing a development/economic fix implies a development narrative underneath. In 2001, India set up Department for Development of the North Eastern Region and subsequently implemented its Look East Policy. The Policy declares that it “envisages the Northeast region not as the periphery of India, but as the centre of a

thriving and integrated *economic* space linking two dynamic regions with a network of highways, railways, pipelines, transmission lines crisscrossing the region.” The policy is established in the hope that “convincing the locals of those benefits [of regional development] would translate into reduced sympathy for the region’s rebel groups” so that “development, turbo-charged by cross-border economic ties, [would] magically trum[p] the conflict story” (Sanjib Baruah 1-2, emphasis added). Northeast India, as well as Darjeeling, *is* lacking behind in development compared to other regions in India, and the mission of DONER is precisely to bridge this region’s “development gap.” But what ethnic insurgencies attempt to address are also some fundamental problems that *cause* this impaired development. The top-down policies offered by the Indian government as solutions to ethnic discontents are only interested in *fixing* the development gap; they discount “the conflict story” and brush aside the need for more ethnic justice and equality. Dismissing the systematic and structural imbalance in the society in general is a result of, and would further reinforce, a development narrative. In other words, that the real causes of the development gap are left disregarded by the state would seem to suggest that this backwardness is somewhat “natural” or intrinsic to the region and the peoples living there—they cannot prosper or “develop,” without the assistance, i.e. capital, of the central government in the plains. In the case of the Gorkhaland Movement, Indian government’s reaction to it did not involve a civil fix—discrimination against Gorkha citizens was not addressed, lack of civil rights not rebalanced, lack of civil infrastructure not improved—or an ideological fix—Gorkha’s ancestral homeland was not returned—but a semi-political fix—the creation of the Darjeeling Gorkha Hill

Council and an economic fix—freedom to the *use* of land however they deem *benefiting* the hill inhabitants.

This development narrative also runs in Desai's novel, both in her depiction of the Indian Nepalis, and in her rendering of the movement. While Desai does not dwell much on the issue of inequality in the civil and human rights granted to the Indian Nepali residents in Kalimpong, she frequently draws upon social and economic gaps—the end-result of systematic inequality— between Indians/Bengalis and Indian Nepalis in the novel. It is telling that all the Nepali characters in Desai's novel are servants to wealthy Indians in the Westernized community Desai speaks from. Gyan, a college graduate, could not find any other job than as a math tutor to a teenage Indian girl, Sai, whose fancy home was two hours away from the poor neighborhood he family lived in. And even as a tutor, his capability was questioned by Sai's cook (non-Nepali): “‘It is strange the tutor is Nepali,’ the cook remarked to Sai when he [Gyan] had left. A bit later he said, ‘I thought he would be Bengali.’ [...] ‘Bengalis,’ said the cook, ‘are very intelligent.’ [...] ‘Nepalis make good soldiers, coolies, but they are not so bright at their studies’” (81-82). Sai herself also once stated that Gyan would only fit those women who were “‘low class family, uncultured, arranged-marriage types’” (285-286). The Bengali sisters Lola and Noni's watchman, Budhoo, also a Nepali, who, although his presence at nighttime was a comfort to the sisters, was never fully trusted by them; the sisters had always worried that he could so easily cross the border and “‘disappear *back* into Nepal’” (50, emphasis added) if he ever committed a crime against them. Their cook, Kesang was a Sherpa, also one of the Nepali-speaking hill peoples. She was portrayed to have “‘crazy brown teeth going in different directions’” and “‘shabby stained clothes and funny

topknot;” her love affair, although deeply envied by the widowed and spinstered sisters, was deemed by them as impossible because of her low class and status (76). The Indian Nepalis collectively were a “crowd of poor” crammed up in a poor part of Kalimpong, where they barely “struggled to the far edge of the middle class—just to the edge, only just, holding on desperately—but were at every moment being undone, the house slipping back [...] into something truly dismal—*modernity* proffered in its meanest form, brand-new one day, in ruin the next” (280, emphasis added).

It was in front of this kind of dilapidated, modernity-forsaken house of Gyan’s that he would admonish Sai for her view of civilization, arguing that civilization was “schools and hospitals,” not Swiss cheese and chocolate, as Sai would have it (283). This is one of the scenes where the movement’s request for civil rights comes right up against the discourse of capital and development that is used to interpret and understand it. While the Gorkhas are asking for civilization, which means civil rights such as the rights to education (“schools”) and medical care (“hospitals”), what is being acknowledged more readily is their economic inferiority (“the house slipping back [...] into something truly dismal”). In all these depictions of the Nepalis as (and *only* as) low-class servants, and the obstinately corresponding “lowness” of their life and characters is a problematic perspective of class *as* ethnicity, which means in fact a troubling absence of ethnicity. The biggest problem, as Desai seems to indicate here, is just poverty, not the social injustice of ethnicity *as* poverty, while in fact, the problem of Darjeeling lies not so much in class conflict but in ethnic conflict. The core of the problem is not that the majority population of the Darjeeling hills is poor, but that, adding an ethnic dimension to it, the majority population of the Darjeeling hills is poor *and* Nepali. Economic and social

disparities in cases such as Darjeeling should not be thought only in terms of class conflict—the rich and the poor—but more importantly, these disparities should be understood through the lens of ethnicity, and this is what Gorkhaland Movement attempted to underscore.

In a similar way, Desai's rendering of the movement itself magnifies the immaturity and inferiority of the insurgency and the rebels. The insurgency is constantly portrayed in Desai's work as ad hoc, ill-prepared, and ahead of its time, like schoolboys playing adults. The Nepali fighters are described as "com[ing] through the forest *on foot*, in leather jackets from the Kathmandu black market, khaki pants, bandanas" (4, emphases added); they were "unconvincing:" "one yelp from Mutt [the judge's much-beloved cat], they screamed like a bunch of *schoolgirls*, retreated down the steps to cower behind the bushes blurred by mist" (5, emphasis added). The Nepali rebels are referred to in the novel as "boys." The first time the rebels are mentioned in the novel reads: "Nobody noticed the *boys* creeping across the grass, not even Mutt, until they were practically up the steps" (4, emphasis added). The day when all people in the Darjeeling district became aware of the coming insurgency is described as the day when "fifty *boys*, members of the youth wing of the GNLF, gathered to swear an oath at Mahakaldara to fight to the death for the formation of a homeland, Gorkhaland" (139, emphasis added). Sai's tutor Gyan, who is the embodiment of this mass of young Nepali protesters, is also himself only twenty years old, fresh out of college, who "would find adulthood and purity in a quest for a homeland" (290). Even when the widow Lola visited the leader of the Kalimpong wing of the GNLF, Pradhan, who was obviously not a "boy," he was still given a cartoonized image by Desai: "a bandit teddy bear" (266). This almost comic, if

not ridiculing, illustration of the Nepali rebels and the movement in the novel seems to confirm Cécile Girardin's comment that "Desai's sarcasm signals her refusal to comply with the insurgents" (297). But instead of seeing Desai's description of the political immaturity of the Gorkhlaland movement as "mirror[ing] the Indian society's own immaturity" (Girardin 297), it probably mirrors more the unwillingness and unreadiness of the world, despite all the right to self-determination discourse to extend such right to peoples other than colonial whole peoples. This unreadiness translates into a narrative that describes the indigenous peoples and their requests for self-determination as immature and lagging behind in development.

Conclusion

After the UN General Assembly adopted *Declaration on the Rights of Indigenous Peoples* in 2006, indigenous peoples are granted some degree of autonomy to "matters relating to their internal and local affairs," which means a right to only internal self-determination. This right is destined to create tensions between the indigenous population and their parent state. While no nation-state would be enthusiastic in conceding too much autonomy to a sub-state entity fearing a decrease in their sovereignty, for the indigenous people eager to exercise this right, internal self-determination means an intricate balance between claiming the right to our ancestral homeland and proving loyalty to our country.

The Indian Nepalis'/Gorkhas' claim to their right to self-determination was demanded on the grounds of their being an indigenous people to Darjeeling, and as such, their secession, in international law, if accepted at all by the Indian government, could only be internal secession. Because of the long-standing discrimination against the Indian

Nepalis as immigrants, rather than citizens, to India, the reason behind the Gorkhaland Movement launched by the Indian Nepalis was not only the creation of a new state to be governed by themselves, but also, if not more importantly so, to be formally recognized as Indian citizens. Therefore, the narratives of both separatism and patriotism were very much present and palpable in their movement.

What complicates the ethnic Gorkhas' quest to independent statehood over the years is a sense of uncertainty towards their status as Indian citizens. Although the Gorkhas have settled down in the Darjeeling area since as early as the 1800s under British colonial rule, their Nepalese origin has fixed them to the position of the immigrant in the national psyche of India. In addition, the governments of India and Nepal signed a treaty in 1950 allowing nationals of both countries to travel, migrate, reside and seek employment in each other's territories. Many Nepalis immigrated to India after the signing of this treaty. Although these Nepali Nepalis have the right to residency in India, they do not enjoy the right to citizenship. However, since it is difficult to tell Indian Nepalis apart from Nepali Nepalis, the fact that there are both Indian nationals and a large number of immigrants living in a region requesting self-determination brings great unease to the Indian government and its people towards the Gorkha's demand for autonomy.

Indian government's reaction to the 1986 Gorkhaland Movement, the biggest protest so far, did not involve a civil fix—discrimination against Gorkha citizens was not addressed, lack of civil rights not rebalanced, lack of civil infrastructure not improved— or an ideological fix—Gorkha's ancestral homeland was not returned—but a semi-political fix—the creation of the Darjeeling Gorkha Hill Council and an

economic/development fix—freedom to the *use* of land however they deem *benefiting* the hill inhabitants. While ethnic unrest such as the Gorkhaland Movement is about systematic and structural inequality within a society, a development fix may relieve ethnic discontents but it does not address fundamental injustice or exclusion. As Agamben’s philosophical definition of the “People/people” makes clear, the people are those excluded from the capitalistic-democratic society; they are those that are poor and those that are unable to be integrated (the immigrant). And while the society, or nation-state, or the world as a whole, proposes development fix or democracy fix to eliminate the people within the People, these fixes would only continue to reproduce such fracture within the People. Therefore, by providing a development fix, the Indian government would always keep on reproducing or resubjecting disprivileged people such as the Indian Nepalis to the position of the immigrant and the poor. A development fix indicates a development narrative, and while the development fix does not fix the development narrative itself, answering ethnic problems with development fixes means that these problems would always only be seen and understood through such narrative.

Desai’s *The Inheritance of Loss* presents all of these issues within the Gorkhaland Movement. It touches upon the identity crisis of the Gorkhas in an India, it represents the oscillation between patriotism sentiment and separatism sentiment through GNLFF propaganda and a love relationship between a Bengali girl and her Nepali math tutor. More importantly, the narrative of *The Inheritance of Loss* itself is a testimony that ethnic problem can only be seen through the lens of development (or the lack thereof)—Indian Nepalis are poor and their secession movement immature. At the end of the novel, when patriotism wins over separatism, the question of ethnic inequality and the demand for

ethnic self-determination would again be relegated to the “not yet” of the development narrative.

Chapter Three

“The problem up here is the human problem”:

State of Emergency and the Sri Lankan Civil War in

Michael Ondaatje’s *Anil’s Ghost*

Sri Lanka gained its independence from Britain in 1948. At its independence, 74 percent of the population were Sinhala-speaking Buddhists and 18 percent of the population were Tamil-speaking Hindus. The ethnic Tamils can be further divided into two categories: the “Ceylon Tamils” and the “Indian Tamils.” The Ceylon Tamils are one of the original populations on the island; they inhabited primarily in the north province of Jaffna and along the east coast further south than Trincomalee. The Indian Tamils are the descendants of the Tamil people of Indian origin who migrated to Sri Lanka as early as 19 century to work in the islands’ many plantations in its central highlands around Kandy. Before the independence of Sri Lanka, ethnic Ceylon Tamils were at the center of the political stage in the country for a few reasons. For one, since the land in northern Sri Lanka where the Tamil have resided for centuries is poor for agriculture, many ethnic Tamils seek employment outside of agriculture, which results in a higher percentage of Tamils with higher education and more professional skills. During British colonization, many educated Ceylon Tamils served on civic posts, working closely with the British colonial personnel. Up until the end of British colonialization, Ceylon Tamils “became disproportionately well-represented in the civil service” (Brian Beary 238),³⁹ which

³⁹ Regarding Britain’s strategic favoring of the Tamil minority, Sri Lankan-American writer Ru Freeman (herself of Sinhalese origin) includes the following passage in the prologue of her most recent book *On Sal Mal Lane: A Novel*:

“Before that day [when Tamils launched the civil war against the Sinhalese government] this island country had withstood a steady march of unwelcome visitors. Invaders from the land that came to be known as India were followed by the Portuguese, the Dutch, and finally, British

means closer ties to the ruling power, acting as the “middle man” or the “middle class” between the British and the Sinhalese majority. Secondly, the Tamil minority was favored during British colonization because it was a colonial means to counterbalance the anti-colonial sentiment from the ethnic majority and to prevent a wholesale resistance from the entire colonized population. This was a strategy commonly practiced by colonial governments in the colonial era.

When the Sinhalese majority gained political power after the independence due to its larger population, they first disenfranchised the Indian Tamils in 1949, and then in 1956 passed a notorious language policy, the Sinhala Only Act, to make Sinhala the only official and civil language of the country—it used to be English and Tamil. This policy practically barred Tamils from public service ever since. This refusal to include the Tamil language as one of its official languages suggests the exclusion of the very ethnicity from the Sri Lankan national imaginary. The Sinhalese government subsequently also refused Tamil’s proposal of a fifty-fifty power-share. The militant group The Liberation Tigers of Tamil Eelam (LTTE) was the response to these multiple exclusions of Tamils from the national stage of Sri Lanka. The group demanded the Ceylon Tamils’ right to self-determination and intended to create an independent nation-state for the Tamils called Tamil Eelam in the northern and eastern parts of Sri Lanka.

The Tamils as Minority and Indigenous People

Under these circumstances, the demand of the Ceylon Tamils (heretofore referred to as Tamils in general) can be theoretically understood and justified on three grounds

governors, who deemed that the best way to rule this new colony was to elevate the minority over the majority, to favor the mostly Hindu Tamils over the predominantly Buddhist Sinhalese” (3).

under international law: the Tamils' status as a national minority, as an indigenous people, and as a people subjected to alien subjugation. Taking up merely 18 percent of the population, the Tamils are numerically inferior to the rest of the population and have been forced to a non-dominant position socially and economically since the independence, meeting two key requirements in Francesco Capotorti's definition of the term "minority" offered in 1977.⁴⁰ Not only as a minority, as the Tamils were requesting the return of a "homeland" taken away from them by the Sinhalese government, this claim would position them also as an indigenous people of the island.⁴¹ As Martinez Cobo makes clear in his definition of the indigenous people, the two essential prerequisites are, first, that this people "have a historical continuity with pre-invasion and pre-colonial societies that developed on their territories," and secondly, that they have a close relationship with a defined territory they would call their ancestral territory.⁴²

⁴⁰ The most-used working definition of a minority in the international law is the one offered by Special Rapporteur Francesco Capotorti in 1977. He defines a minority as

[a] group numerically inferior to the rest of the population of a State, in a non-dominant position, whose members—being nationals of the State—possess ethnic, religious, or linguistic characteristics differing from those of the rest of the population and show, if only implicitly, a sense of solidarity, directed towards preserving their culture, traditions, religion or language.

Many scholars agree that although this is not a perfect definition, the requirement that a minority be in a non-dominant position is fundamental.

⁴¹ It is also mentioned in Michael Ondaatje's novel *Anil's Ghost* that "The terrorism of the separatist guerrilla groups, who were fighting for a *homeland* in the north" (42, emphasis added).

⁴² Most discussions on the issues of the right of indigenous peoples refer to a working definition offered by Special Rapporteur Martinez Cobo in his *Study of the Problem of Discrimination Against Indigenous Populations* (1976):

Indigenous communities, peoples and nations are those which, having a historical continuity with *pre-invasion* and *pre-colonial* societies that developed on their territories, consider themselves distinct from other sectors of the societies now prevailing in those territories, or parts of them. They form at present non-dominant sectors of society and are determined to preserve, develop and transmit to future generations their ancestral territories, and their ethnic identity, as the basis of their continued existence as peoples, in accordance with their own cultural patterns, social institutions and legal systems. (emphasis added)

According to these definitions, the Ceylon Tamils could, without too much dispute, be regarded as the indigenous minority of Sri Lanka, and thus theoretically their demand to exercise their right to self-determination for some degree of autonomy would be justifiable and legitimate.⁴³

Human Rights as Civil Rights

Other than the Tamils' status as an indigenous minority, another fact that supports their claim to independent statehood is their subjection to alien subjugation under the Sinhalese government. The Tamils are a population with a different language (Tamil), religion (Hinduism), and history, and a distinct relation to a specified geography (primarily in the northern province of Jaffna); these factors suggest that the Tamils constitute an indigenous minority "people" separate from the rest of Sri Lankan population. As mentioned in chapter two, indigenous peoples' claim to independent statehood is considered more likely to gain support because of the similarity of its situation to the practice of colonization—a people deprived of their land and their rights to live and prosper—the context in which modern documents on self-determination are usually framed. In the only binding document of the United Nations concerning the right to self-determination, the 1960 *The Declaration on the Granting of Independence to Colonial Countries and Peoples*, it states in the first article that "The subjection of peoples to alien subjugation, domination and exploitation constitutes a denial of fundamental human rights, is contrary to the Charter of the United Nations and is an

⁴³ The 2006 *Declaration on the Rights of Indigenous Peoples*, though stipulating that "indigenous peoples have the right to self-determination," restricts the application of such a right to "matters relating to their internal and local affairs." After this declaration was adopted by the UN General Assembly, indigenous peoples are only entitled, in international law, to internal self-determination.

impediment to the promotion of world peace and co-operation.” The key argument to the misery inflicted on colonized peoples is that they are subjected to alien subjugation, the “alien” here being colonial powers who are linguistically, ethnically, religiously, and culturally different from the colonized populations, and who deprive them of their land through a process of subterfuge. To apply this argument to the case of Tamil secession, one would first need to qualify the Sinhalese government as “alien” to the Tamil population.

The Sinhalese are “alien” to the Tamils not only because of their differences in language, religion and culture, but also because of a deliberate process the Sinhalese government took that aimed to ostracize the Tamil population from the Sri Lankan mainstream society. By purposefully excluding the Tamil language from being one of the new nation’s official languages, the 1965 Sinhalese Only Act initiated a process that sought to exclude the Tamil from the national fabric of post-independent Sri Lanka. The 1972 constitution further humiliated the once-privileged Tamil minority by declaring Buddhism the state religion and Sinhalese the state language, and discarding all protective measures for minorities proposed. In addition, university admissions process was also altered; the new policy would require Tamil applicants to have higher scores than their Sinhalese peers to enter prestigious universities and competitive programs. Tamils considered this process of alienation and discrimination and especially the university admissions policy as “a crucial test of their equal rights as citizens of Sri Lanka” (qtd. in Gordon Weiss 48). It was believed by the Tamils that these tactics were aimed at decreasing their dominance in the professional and civil sectors, which, given

the lack of agricultural opportunities in the north where they inhabited, was tantamount to depriving them of the only means of living that they had known.

The language and educational inequality subjected the Tamil minority to the status of second-class citizen or even alien/non-citizen in Sri Lanka. The fact that the exclusion of the Tamils from the national fabric was executed through compromising their human and civil rights, or that stripping them of certain human and civil rights effectively marginalized the Tamils in the Sri Lankan society exposes the paradoxical but compulsory link between human rights and the nation-state, or human rights and citizenship. Giorgio Agamben argues that

In the system of the nation-state, so-called sacred and inalienable human rights are revealed to be without any protection precisely when it is no longer possible to conceive of them as rights of the citizens of a state. (2000, 20)

When a sub-state group is no longer considered the citizens of a state, their so-called inalienable human rights—rights to education, employment and simply to live—are also no longer protected or guaranteed. By stripping away the Tamils' many civil and human rights, the Sri Lankan government de facto ostracized, alienated and decitized this people, a double-edged sword that means both total subjugation of the Tamils (without any protection by their “inalienable human rights”) and a theoretical de-authorization of the Sri Lankan government as the government for the Tamils. Indeed, the Tamil people responded to this deprivation of their basic rights by revolting against the government, using the same argument in reverse: that if they are stripped of their human and civil

rights, they no longer have to consider themselves citizens of Sri Lanka, which automatically points towards secession as the only viable option.

State of Emergency

With legalized discrimination on the rise after the constitution and the University Admissions Policy in the 1970s, the Tamil people reacted by forming pro-independence political and militant organizations: first the peaceful Tamil United Liberation Front (TULF) in 1976, and later the same year the militant Liberation Tigers of Tamil Eelam (LTTE). As national disquiet grew and ethnic conflicts intensified, the Sri Lankan government introduced more restrictions and emergency regulations that imposed curfews and limited political activities. Sri Lanka began its long era of constant emergency till two years after the end of the civil war in 2011, with many restrictions particularly imposed in the Tamil rebel strongholds and numerous human rights violations committed on the Tamil population.

A state of emergency, or a state of exception, or a police action, is one of the common measures modern nation-state takes to deal with domestic crisis of war, insurgency or revolt. The notorious, non-interventionist Article 2(7) of the Charter of the United Nations gives its member states unconditional authority over its domestic affairs: “nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state or shall require the Members to submit such matters to settlement under the present Charter.” Standing behind this principle, the United Nations legalizes the implementation of a state of emergency by its member state in response to its domestic agitations. In a state of

emergency, the state government is excused to suspend the “protection and promotion” of human rights to its people or part of its people, as is mandated in human rights documents such as the 1970 *Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations*.

The unconditionality and supremacy of Article 2(7), which overrules any other international or human rights law, legalizes as well as encourages the implementation of the state of emergency, resulting in a political atmosphere in which, as Agamben rightly observes, “the state of exception has by now become the rule” (2005, 9). Agamben also reminds us that, by means of a state of emergency, or a state of exception, modern totalitarian nation-states are able to establish “a legal civil war that allows for the physical elimination not only of political adversaries but of entire categories of citizens who for some reason cannot be integrated into the political system” (2). If physical elimination can be justified and legalized under the state of emergency, it goes without saying that all basic human rights entitled to a targeted group of people—not because they are human beings, but more because they are citizens of the very state—can be easily and justifiably eradicated. A state of emergency sanctioned by the international community via Article 2(7) of the Charter as a response to secessionist conflict, regarded as domestic affair, legitimizes the host state’s use of force to quell separatist revolt regardless of, and in spite of, human rights law; it also confirms again the paradoxical link between human rights and the nation-state. Under the state of emergency, all orders, human and civil rights can be legally suspended by the state in the name of restoring those very orders and rights; in

other words, a constitutional dictatorship is allowed to take over under the banner of protecting a liberal democratic society.

Just as the Tamils were made alien, non-citizen, to the Sinhalese majority, the Sinhalese government also became the alien authority to them, which gave the Tamil some leeway to claim their right to self-determination on the grounds of *alien* subjugation. Although the 1960 *Declaration* grants the right to self-determination only to “colonial whole people,” as it has been discussed in the previous chapters and the introduction, other human rights documents continue to give “all peoples” such right, especially if the government can no longer represent them. Both the 1970 *Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations*, and the 1993 *Vienna Declaration* stress that the government of every nation-state has an obligation to protect and promote the right of equality and self-determination of its own people, and that when the government fails to “represent the whole people belonging to the territory without distinction of any kind,” the people then have a right to pursue self-determination even if it means impairing the very country’s territorial integrity.

This conditional right of self-determination is known as the “remedial right” for a repressed people. One of the most well-known supporters of this line of interpretation of the right of self-determination is Allen Buchanan. His Remedial Right Only Theory proposes granting the remedial right to secession and self-determination to sub-state entities, or “cultural groups,” who suffer from injustice and inequality. Buchanan argues that the right to self-determination is a remedial, not primary, right; yet a right it is. And there should be morally defensible circumstances that would justify a right to unilateral

secession to redress legalized inequalities. For Buchanan, a right to secede is “analogous to the right to revolution as understood in mainstream of liberal political theory: as a remedy of last resort for persistent and grave injustices” (2003, 217).⁴⁴ Throughout the history of the United Nations, however, this line of interpretation has never really been officially adopted or practiced by the international community.⁴⁵

On the practical level, only one post-decolonization secession has gained nationhood on the grounds, among others, of alien subjugation, the Bangladesh secession. Because of many legalized discriminations and its geographical location, and lack of representation in the government, East Bengal had long felt treated as a de facto colony of West Pakistan. It argued for its secessionist cause in a narrative of decolonization used

⁴⁴ See his seminal work, *Secession: The Morality of Political Divorce from Fort Sumter to Lithuania and Quebec* (1991) and more recent *Justice, Legitimacy and Self-Determination: Moral Foundations for International Law* (2003).

⁴⁵ The International Court of Justice was challenged to clarify the legality of any right of unilateral secession, primary or remedial, in 2010. One of the judges in favor of the existence of a remedial right to secession, Judge Yusuf, says in his Separate Opinion:

[It] should be observed at the outset that international law disfavors the fragmentation of existing States and seeks to protect their boundaries from foreign aggression and intervention. It also promotes stability within the borders of States, although, in view of its growing emphasis on human rights and the welfare of peoples within State borders, it pays close attention to acts involving atrocities, persecution, discrimination and crimes against humanity committed inside a State. [...] A racially or ethnically distinct group within a State, even if it qualifies as a people for the purposes of self-determination, does not have the right to unilateral secession simply because it wishes to create its own separate State, though this might be the wish of the entire group. [...] This does not, however, mean that international law turns a blind eye to the plight of such groups, particularly in those cases where the State not only denies them the exercise of their internal right of self-determination (as described above), but also subjects them to discrimination, persecution and egregious violations of human rights or humanitarian law. [...] [So] long as a sovereign and independent State complies with the principle of equal rights and self-determination of peoples, its territorial integrity and national unity should neither be impaired nor infringed upon. It therefore primarily protects, and gives priority to, the territorial preservation of States and seeks to avoid their fragmentation or disintegration due to separatist forces. However, the saving clause in its latter part implies that if a State fails to comport itself in accordance with the principle of equal rights and self-determination of peoples, an exceptional situation may arise whereby the ethnically or racially distinct group denied internal self-determination may claim a right of external self-determination or separation from the State which could effectively put into question the State's territorial unity and sovereignty.

to frame the right to self-determination in international law, the key theme of which being the subjection of the secessionist people to alien subjugation. Bangladesh's success in its secession is a paradigm in and of itself in the specific category of post-decolonization secession. It is one, and the first, of the only two successful examples in this category (and the next one, the South Sudan independence would be almost four decades later). After its military intervention in the Katanga secession, the first post-decolonization secession after the establishment of the UN, the UN has largely maintained its non-interventionist stance and abided by Articles 2(7) of the Charter when its member states are faced with secession conflicts. This stance sanctions bloody government offensive against rebel groups in the name of "police action." The Nigerian, (West) Pakistani, as well as Sri Lankan, governments, all have launched violent police action to crush secessionist activities. The major difference between Bangladesh secession and others here is that Bangladesh won the war and its statehood, while others all lost the war and were never recognized. This simple fact is telling because it reveals the "rule by effectiveness of force" secretly adopted by United Nations, who supposedly upholds anti-violence and pro-peace values. This decisive rule, more than any human rights discourse, explains the idleness of international community in secession crises and encourages full-fledged war with the determination to "fight to the end" on both sides, a tenacity that can be clearly observed in the 25 years of civil war in Sri Lanka.

The next section analyzes the narrative presentation of the Tamil secession. Of all the grounds that the Tamils could use and have used to justify their demand for self-determination, this chapter focuses on the Sri Lankan government's deliberate alienation of the Tamils from the Sri Lankan society. By stripping the Tamils of basic human rights

and civil rights, the Sri Lankan government made the Tamils into second-class citizens or non-citizens, subjected them to lawful discrimination and legalized human rights abuses. When human rights and civil rights conflate, when it takes the state sovereignty to enforce human rights as civil rights, a state of emergency legally suspends all rights entitled to people as citizens or humans. The case of the Tamil secession as represented in Ondaatje's novel is a story of the supremacy of the state and the limitations of human rights interventions.

***Anil's Ghost* as the Human Rights Novel**

In his interview with Maya Jaggi about *Anil's Ghost*, Michael Ondaatje states that “one of the things I did almost subliminally, or subconsciously recognize, was that everything in the book becomes about one thing: separations” (7). The story of *Anil's Ghost* is set during the mid 1980s to the early 1990s, when Sri Lanka witnessed a full range of insurgencies and unease following the introduction of the discriminatory constitution in 1972 that ostracized the minorities in the country. As a reaction to these unfair policies, minority Tamils started their secessionist campaign led by the militant LTTE (Liberation Tigers of Tamil Eelam) in the north. During this period, there was also insurrection orchestrated by the JVP, a violent young Marxist revolutionary organization, mainly in the south of the island. *Anil's Ghost*, with its multiple breakdowns of relationships, alienation between lovers and siblings, societal withdrawals, is in all these ways a novel on separations, but, moreover, a story set in this time cannot be *not* haunted by the political separation going on at the background of all these physical and mental separations. Yet, as Qadri Ismail argues, *Anil's Ghost* has very little to say about the

politics of Sri Lanka, and the separatist campaign launched by frustrated minority Tamils in the north is also scarcely mentioned in the novel. However, instead of reading this silence as Ondaatje's being "on the side of Sinhala nationalism," or his accepting "the majoritarian perspective" (93), one can read the silence in the novel about the Tamil question in Sri Lanka as symbolic of the question itself, as the Tamil question is precisely that the Tamils *were* being excluded from the national fabric and national imaginary of Sri Lanka. Although the political activities of the Tamil are not depicted in detail in *Anil's Ghost*, the novel carefully portrays the Sri Lankan society during the time of the beginning of the turmoil, which sheds light on the *cause* of the Tamil question. While *Anil's Ghost* may not be a work about war, it is very much a novel about human rights and the lack thereof.

The story centers around a former Sri Lankan, Anil Tissera, who, after living, studying and working first in Britain and later in the US for 15 years, returned to her native Sri Lanka on behalf of a UN Human Rights organization in Geneva to investigate Sri Lankan government's involvement in the mass murder of independence-fighting Tamils in the north and Marxist insurgents in the south. Anil was holding a British passport with "the light-blue UN bar" (9) when entering Sri Lanka. As such, Anil was more than just a citizen of a civil state in full possession of all the human and civil rights entitled to her; she embodied the concept of human rights in international law, and was the ideal, if not also romanticized, representative of an international community that supposedly values truth and equality.

In many instances in the novel, she was reminded of the lack of freedom of speech in the Sri Lanka under emergency law. Her status as an invited scientist

representing an international human rights center did not exempt her from the constraints imposed by the Sri Lankan government in the exercising of human and civil rights. Compulsory curfews are mentioned from time to time in the book. And Anil was forced to conduct her investigations under the watchful eyes of the government: “nothing is anonymous here” (72). Once when she and her Sri Lankan colleague, Sarath Diyasena, an anthropologist, were arguing about probing deeper into a skeleton they had found in a government-controlled historical site, Sarath warned Anil of the consequences of accusing the government of crime: “You’re six hours away from Colombo and you’re whispering—think about that” (53). Sarath cautioned her to “be careful what you reveal” because “international investigations don’t mean a lot [here]” (45). The story of Anil in her native Sri Lanka in a state of emergency therefore is a story of the clash between the human rights discourse and a (totalitarian) state discourse; it is the symbolic story of what happens when human rights law confronts the absolute Article 2(7) of the UN Charter that gives its member state legal license to impose emergency regulations regardless of human rights violations.

Anil’s Ghost, therefore, is not only a story about human rights, it is a story about the failure of human rights: the failure of the Sri Lankan government to keep its promise of equal human and civil rights to all of its peoples, and the failure of the international community, represented by Anil in the novel, to effectively intervene in human rights abuses in a member state. As Joseph Slaughter argues in his *Human Rights, Inc.*, Anil’s failure to tell the story of skeleton Sailor underlines that

human rights incorporation—and the human personality that it aspires to realize—presupposes an egalitarian national public sphere, a functional democratic nation-state, and a common national narrative, whose formations are the primary objects of contest in the Sri Lankan conflict. (191)

With the state-of-emergency regulations imposed in Sri Lanka, the government foreclosed the “social horizon of a legitimate, democratic, national public sphere,” (191) which is the prerequisite for the implementation and endorsement of human rights ideals, and by doing so, legally suspended its obligation as a democratic civil state to promote such rights under international law, thereby making human rights discourse impossible.

When considering Slaughter’s statement that “the obliteration of any function, open, democratic, national public sphere is partly the effect of the ‘continual emergency’ and partly the result of insurrectionary terrorism [in Sri Lanka]” (188), it is important to note that, as the history of Sri Lanka would also clarify, some suspension of human and civil rights had happened before the so-called “insurrectionary terrorism,” that although the state of emergency may be a result of the insurgencies, secessionist or Marxist, the absence of a democratic public sphere was there before the civil crisis, if not the direct cause of it. The previous quote from Slaughter makes it clear as well that the *formations* of an egalitarian and democratic public sphere are the *primary objects of contest* in the Sri Lankan civil war; in other words, if the formations of a democratic environment is the primary object of contest of the civil war, it indicates that the very *lack* of it is partially the cause of the civil unrest. The restricting civil public sphere that Anil found herself in did not apply only to Anil during her visit to the island but to the entire Sri Lankan society, and particularly to its insurgent minority, with even more punitive restrictions; these restrictions were imposed way before Anil’s arrival. It was the absence of such democratic public sphere and the consequences of such absence that prompted the investigation proposed by the human rights organization and executed by Anil. What

Anil experienced in Sri Lanka was not simply the result of but the cause of the ongoing civil war. Even though Sri Lankan politics is invisible in *Anil's Ghost*, the society the novel is set in is already the testament of such politics.

As a novel about human rights and the lack thereof, it is no surprise that hospitals and medical practices play huge roles in *Anil's Ghost*. The novel makes the connection between civilization and medical care, as well as human rights and medical care clear from the outset. Gamini, the Sinhalese emergency room doctor in the novel told Anil: “This was a civilized country. [...] By the twelfth century, physicians were being dispersed all over the country to be responsible for far-flung villages, even for ascetic monks who lived in caves” (191-92). Such widespread medical services provided by the ruling sovereignty even in the twelfth century was made in direct contrast with the lack of medical resources in northeastern Sri Lanka (the Tamil stronghold) in the 1980s and 1990s. Gamini’s description of his years of practice in a base hospital in the northeast is mainly about the lack of medical staff (“there were just five doctors working in the northeast” (227)), equipment and resources, which made the base hospital exist “like a medieval village” (243). In far-flung Tamil villages where the doctors at the base hospital visited at infrequent intervals, one village clinic “served four hundred families from the area as well as three hundred from an adjoining region” and “no one from the Ministry of Health had ever come to the border villages” (245). Reading these two passages side by side highlights the decline in medical equality and observance of human rights in Sri Lankan society. Statements such as physicians “*were being dispersed*” all over the country *by the state* and “Ministry of Health” (representing the state) was indifferent to the medical resources in small Tamil villages make clear the role of the state in

safeguarding, enforcing, and ultimately *granting* its people the right to medical care, a right to live, so to speak, The so-called inalienable human rights entitled to all human beings become civil rights bestowed to qualified and deserved citizens of the state.

This compulsory nexus between nation-state and human rights suggests that human rights discourse always presupposes the existence of the nation-state to enforce the rights; it means that the “human” in human rights is only conceivable and practicable as “citizen.” As such, the human rights documents give the state immense power to withhold certain rights from certain people; and if executing under the banner of a state of emergency, the state is allowed to commit human rights abuses with political impunity, following the supremacy of Article 2(7). Human rights documents that presuppose nation-state and citizenship, and Article 2(7) thus cancel out human rights (including the right to self-determination) all together the moment they set out to advocate them because “human” rights are essentially “citizen” rights, and a state of emergency becomes practically the suspension of human rights as civil rights. The Tamils were the target of such punitive suspension of rights in the Sri Lankan civil war. In *Anil's Ghost*, the northeast is described as lacking in medical resources—the hospitals and clinics there were operated in an impromptu manner, and Gamini, a Sinhalese, was once abducted by Tamil rebels to treat their injured. The denial of the right to health to ethnic Tamil is also subtly indicated when the novel describes a sign by the door of the chief medical officer at Colombo’s Kynsey Road Hospital. It read, “Let conversations cease. Let laughter flee. This is the place where Death / Delights to help the living,” and was only written in “Latin, Sinhala and English” (66). The exclusions of both language and health care rights join together in this passage. Leaving out the Tamil version of this

sign suggests a refusal to include the Tamil people into the Sri Lankan national imaginary. By framing this linguistic exclusion in a medical setting (a sign posted by its chief medical officer in the hospital), this linguistic exclusion also translates into a medical exclusion. The denial of both of these two rights reduced the Tamil population in Sri Lanka de facto non-citizens, a population no longer represented by the Sri Lankan state.

Anil's Ghost also suggests that the only solution to the Tamil problem as the Sinhalese majority sees it is to relinquish the Tamil identity, which means silent integration. Although Gamini and his colleagues at the northeastern base hospital are presented as moral characters in the novel, whose care for their patients seems to cross political and ethnic boundaries,⁴⁶ these passages in fact suggest a kind of healing that can only take place if the politics within it is silenced.⁴⁷ In other words, the non-politics in these passages should be read *as* politics itself. In one passage, Gamini mentioned that in the midst of heightened civil war tensions and attacks from three sides, in the midst of not knowing who the perpetrators and victims were, doctors were “coping with injuries from all political sides” and admitted patients without asking their names, profession or race (243, 125-126). The disregarding of politics in such a passage on medical care may seem an example where “ethics supersedes politics” (Gillian Roberts 970). However, the not-knowing and not-asking are in themselves the very condition under which the unconditional and universal right to health can be possible in war-time Sri Lanka. Given

⁴⁶ Critics such as Gillian Roberts and John McClure read these passages as an indication and proposal for national and individual healing.

⁴⁷ About healing, see Gillian Roberts’s “Ethics and Healing: Hospital/ity and *Anil's Ghost*,” in *University of Toronto Quarterly*, 76.3 (2007): 962-976. John McClure argues in his book *Partial Faith* that in the deserted nunnery that the characters in *The English Patient* take refuge and nurse each other in is “a place for healing and recovery” (102). Margaret Scanlan, on the contrary, argues that Ondaatje’s novel presents a place “where healing is uncertain and its consequences ambiguous” (311). See Scanlan’s “Anil’s Ghost and Terrorism’s Time,” *Studies in the Novel*, 36.3 (2004): 302-317.

that the granting or withholding of such right lies within the power of the state sovereignty, only an anti-government rebel identity would be at stake upon exposure. The “don’t ask, don’t know” therefore in fact indicates a demand that calls for an active erasure of certain identity in order to be entitled to certain rights: anonymity is the price to pay for equality and a functional society. What Gamini did may be the triumph of ethics, but it is a triumph at the expense of, rather than in spite of, politics. In other words, this “healing” can only happen with the erasure of identity, language and politics; this erasure-as-condition is already the impossibility of healing.

The Tamil Problem as The Human (Rights) Problem

Therefore, it cannot be more true when the leading doctor in the northeastern base hospital said “the problem up here is not the Tamil problem, it’s the human problem” (245). It is a human problem because the cause of the secessionist insurgency was the denial of human and civil rights entitled to the minority Tamil as citizens of Sri Lanka, because the result of the ongoing unrest was more elimination of their human rights under legalized emergency regulations, and because, although human rights infringements were both the cause and result of the Tamil problem, human rights intervention, or the *kind* of human rights intervention possible, was not the answer to the crisis. More than once does *Anil’s Ghost* comment on the futility of the human rights investigation Anil was hired to do for the human rights organization abroad.

In the Congo, one Human Rights group had gone too far and their collection of data had disappeared overnight, their paperwork burned. [...] So much for the international authority of Geneva. The grand logos on letterheads and European office doors meant nothing where there was crisis. If and when you were asked by a government to leave, you left. You took nothing with you. Not a slide tray, not a piece of film. (29)

This is exactly what happened to Anil at the end of the novel: her report discredited, vials, slides and tapes confiscated and all information lost to her. As anthropologist Sharon E. Hutchinson argues in her essay on humanitarian activities that “international humanitarian interventions are never neutral” (55) because “states will accept an intervention only ‘if the intervening party takes no steps to encourage insurgents against the ruling regime,’” which inevitably means “‘taking the state party’s side in the conflict’ (Michael Ignatieff qtd. in Hutchinson 55). A human rights investigation such as Anil’s is always compromised to honor the contract between the investigated government and the investigating agency. Anil’s disappearance and Sarath’s death at the end of the novel confirm the incompatibility between human rights and nation-state; even narratively, a novel set in Sri Lanka cannot incorporate a human rights discourse not spoken from the perspective of the nation-state. This is why, as mentioned earlier, Anil, with her undeterred determination to prove the Sri Lankan government of extrajudicial mass killing, is the embodiment of the ideal of human rights.

Other than the ineffectiveness of human rights intervention, the human (rights) problem that is the Tamil problem in Sri Lanka lies also in the fact that the very right the Tamil minority was demanding, the right to self-determination, although hailed as one of the fundamental human rights in human rights and United Nations documents, is impossible to be granted on all grounds, as long as the international community continues to uphold unconditionally Articles 2(4) and 2(7) of the UN Charter. Whether the Tamils argue their case on the grounds of a suppressed minority people, or an indigenous people demanding the retrieval of their stolen homeland, or simply a people subjected to alien

subjugation, or a people no longer represented by the government, the international law does not recognize the right to self-determination to peoples other than colonial whole peoples, in the decolonization context. Up until the Tamil's war for independence, the only example of successful post-decolonization secession was the Bangladesh secession, which was made possible not on moral, ethical, or lawful grounds, but only by effectiveness of power. This may not excuse the violence of the Tamil secessionist movement, but explain its militancy. That *Anil's Ghost*, in its very rare direct references to the activities of LTTE, always associates the insurgency with terrorism and aggression may not be a deliberate act of labeling the group "terrorists" (Ismail 26-27). References to the Tamil uprising read: "the terrorism of the separatist guerrilla groups, who were fighting for a homeland in the north" (42), "the guerrillas had international weaponry smuggled into the country by arms dealers, and they also mad homemade bombs" (118). A passage describing the Tamil rebels from the perspective of the Sinhalese emergency room doctor, Gamini, goes

He had to keep reminding himself who these people were. Bombs on crowded streets, in bus stations, paddy fields, schools had been set by people like this. Hundreds of victims had died under Gamini's care. Thousand couldn't walk or use their bowels anymore. (220)

Associations of the Tamil movement with violence and arms such as these speak to a hidden but simple rule, secretly understood by all warring parties: winning the war is the only option.

Anil's Ghost therefore is a narrative account about the failure of human rights in a globally recognized democratic state; it is also a testament to the futility and limitations of human rights intervention in post-decolonization self-determination crisis, a futility

and limitations that *both* result to, *and* result from, the winner's rule. *Anil's Ghost* is the narrative dialectics between human rights ideals and the supremacy of Article 2(7) that safeguards unconditionally the power of the state. At the end of the novel, just as in reality, human rights ideals were lost, disappeared in the state discourse. Anil disappeared from the novel after presenting her investigation results to the Sri Lankan officials and the novel ends with the restoration of a Buddha statue, signifying the final victory of constitutional exclusionism.

Conclusion

The UN had maintained its non-involvement policy throughout the 26-year Sri Lanka/Tamil war. When Sri Lanka was discussed at all in the Security Council, it only resulted in "routine condemnation of the Tamil Tigers for their use of civilians as shields, while reserving 'concern' for the reports of government use of heavy weapons" (Gordon Weiss 176). The UN withdrew its staff from Colombo in 2008, during the last and the bloodiest phase of the war, when the Sri Lanka government warned that their safety in Sri Lanka could no longer be guaranteed. Merely one month after the war ended with a bloody offensive of the government against rebel forces in the north, the UN held a special session (June 2009) announcing that the UN "welcome[es] the conclusion of hostilities and the liberation by the Government of Sri Lanka of tens of thousands of its citizens that were kept by the Liberation Tigers of Tamil Eelam against their will as hostages, as well as the efforts by the Government to ensure the safety and security of all Sri Lankans and to bring permanent peace to the country," although accusations of war crime on both sides abounded. The UN's swift recognition of Sri Lankan government's

success in the long civil war reconfirms its commitment to the principle of territorial integrity in the face of human rights violations, and its hidden reliance on the effectiveness of force to rule on matters of recognition.⁴⁸

International interventions into the Tamil crisis had been limited and ineffective because of two reasons. Since the Sri Lankan government declared a state of emergency starting from as early 1980s, human rights abuses in this context were largely ignored or silently sanctioned by the international community, as the suspension was regarded as a necessary means for the emergency state to restore law and order. The greatest human disaster in a country ruled under a state of emergency is, because human rights require the existence of a state to enforce those rights, a state of emergency means the legal suspension of all rights, human and civil. Under a state of emergency therefore, international law and human rights law become irrelevant. Any violations or abuses of human rights and(/as) civil rights are justified under the banner of “*police action*,” which gives the state a narrative of juridical authority to go beyond the juridical. Not only did the Sri Lankan government declare a state of emergency before and after the Tamil insurgency, Weiss rightly argues that by labeling the Tamil activities “terrorist” activities, the government also conveniently fit its narrative of war into a global narrative of “war on terror,” adopting the language and rationale of the West. so much so that when the Sri Lankan Secretary of Defense was confronted about human rights violations in the government’s counter-offensive against the Tamil forces, he argued that “all measures were fair to defeat ‘terrorists’” (xxii).

⁴⁸ The UN’s internal report on its response to the Sri Lankan crisis published in November 2012 confirms and condemns a less than satisfactory enthusiasm on the UN’s part in performing more aggressive humanitarian assistance to citizens in rebel-held areas and in contradicting the wills of the Sinhalese government.

Determining whether or not the LTTE was indeed a terrorist group and their activities terrorist activities is beyond the scope of this dissertation. What remains true is that nation-state worldwide practice constitutional dictatorship under various covers. In the case of Sri Lanka, it was a state of emergency declared to wage the war on terror; it compromised the human rights of part of its citizenship by declaring a state of emergency and when facing the secessionist challenge brought up by the very group that it had decitizenized, the state has turned their demand for self-determination into a narrative of terrorism.

The coming together of a human rights law that presupposes the existence of the nation-state to implement its rights and a state of emergency that legalizes state totalitarianism leaves counter-state people defenseless and the right to self-determination utopian. That *Anil's Ghost* rarely has any Tamil characters indicates that a counter-state people have no place in a society under emergency, just as the right to self-determination exercised outside of the context of decolonization has no place in a global environment governed by an international law that regulates the consequences of such act (by intervention or recognition) even if it at time implies that such right can exist. Anil's disappearance at the end of the novel suggests that the human rights ideals that she embodies are always contingent upon a larger discourse that is the state. Ondaatje may be right that *Anil's Ghost* is a novel about separation because it is in every sense a work on the impossibility of separation from the discourse and sovereignty of the state.

Chapter Four

Refugee, Referendum, and the Sudanese Civil War

Dave Eggers's *What Is the What*

Before Sudan was granted its independence in 1956, it was co-administered by Britain and Egypt—the Anglo-Egypt Condominium (1899-1956), and while Egypt maintained a minor presence in Sudan through the Egyptian Army, Britain held influential political, economic and judicial powers over this vast region. Just as in its other colonies, Britain controlled Sudan through its divide-and-rule policy, uniting *and* dividing Sudan's larger Muslim north (culturally Arabic) and Christian/Animist south (culturally sub-Saharan) at the same time. From early on, British colonial rule adopted the "Southern Policy," also known as the "Closed District Ordinances" (1914-1946), "a colonial policy designed to exclude the Arabs from the administration, trade, and settlement in the southern part of the country," a British attempt to "mitigate the disharmonious relations between the north and the south by creating a protectorate in the south." (David Nailo N. Mayo 166-167). Christian missionary activities, benefiting from the absence of Islamic proselytization, were allowed free hand in the animist south. As a result, Christianity started to flourish in the south, and missionary schools prevailed, both of which further polarized the north and south. In June 1947, in the Juba Conference where the future of southern Sudan was discussed, James Robertson, the then Civil Secretary of Sudan, overturned the long-standing Southern Policy by stating that the south was "inextricably bound for future development to the Middle East and Arabia and Northern Sudan" (qtd. in P.M. Holt and M.W. Daly 131). This statement projected

northern Sudan's dominance in the independent Sudan and would seal the fate of the south for decades to come.

After the independence, the division between the north and south deepened. The Khartoum government refused the south its degree of self-rule and gave all important government positions to northern Sudanese; this led to the first Sudanese civil war between the two regions, which ended with the signing of the Addis Ababa Agreement in 1972. Brokered by The World Council of Churches and the All Africa Council of Churches, and assisted by Ethiopian Emperor Haile Selassie at crucial times in the negotiation process, the Addis Ababa Agreement returned some degree of autonomy to the south by establishing the south as the Southern Sudan Autonomous Region with its own legislative and executive organs. It also specified that Arabic would be the official language of Sudan, English "the principal language for the Southern Region, and other languages could also be used without discrimination." Although the Agreement was incorporated into the constitution of Sudan, and a change in the agreement required a three-quarters vote in the national assembly and a two-thirds vote in a referendum of the Southern electorate, the Khartoum government breached the Accord in 1983 when it redivided southern Sudan into three regions in an attempt to weaken the political power of a unified south. Later the same year, the Khartoum government declared Islam the religion of the state, stipulated all schools nationwide teach only the Arabic language and Islamic religion, and eventually imposed Sharia (Islamic) law on the entire population, bringing a definitive end to the ailing Agreement. The end of the Addis Ababa Agreement soon led to the second civil war, this time with the south fighting not only for

more autonomy, but a full-blown secession, calling for their right to self-determination as a people.

Southern Sudanese are historically, geographically, linguistically, culturally and religiously distinct from those in the north. In a broader definition of the “right of peoples to self-determination,” southern Sudanese would qualify as a people (in a general sense as defined by their geography, and their common differences to the “people” in the north, not specifically as an ethnic minority or an indigenous people) that are entitled to the right of secession. In this sense, southern Sudanese’s entitlement to self-determination can also be justified on the grounds of alien subjugation, especially considering that the second civil war broke out when Islamic law was to be imposed in the Christian/Animist south.

In reality, however, as emphasized before, such right is only exercised without dispute or controversy in the context of decolonization. Even though some scholars endorse the “remedial right” of secession in international law, arguing that the 1970 United Nations General Assembly *Declaration on Friendly Relations* does imply partial right of secession, this remedial right theory has never really been popular in or practiced by the international community.⁴⁹ And the only principle that determines the right to secession for decolonized sub-state peoples, and the legitimacy of their peoplehood and

⁴⁹ These scholars argue that the “safeguard clause” in the 1970 *Declaration* leaves room for a right of secession by setting up a condition only under which a state can be given inviolable authority over its internal affairs and insist on its territorial integrity unchallenged. The safeguard clause stipulates:

Nothing in the foregoing paragraphs [concerning the right of peoples to self-determination] shall be construed as authorizing or encouraging any action which would dismember or impair, totally or in part, the territorial integrity or political unity of sovereign and independent States *conducting themselves in compliance with the principle of equal rights and self-determination of peoples as described above and thus possessed of a government representing the whole people belonging to the territory without distinction as to race, creed or color.* (emphasis added)

statehood remains the winner's principle. Those that manage to win the secession wars would most likely attain legality. This explains why 16 years of the first civil war and 22 years of the second civil war failed to bring the crisis in Sudan to a conclusion—no winner emerged clearly in either of these two wars, unlike the secessionist conflicts between Bangladesh and Pakistan, Tamil Eelam and Sri Lanka or between Biafra and Nigeria.

However, the case of South Sudan became a new paradigm of successful post-decolonization secession, following the Bangladesh success almost 60 years ago, when it finally gained its independence through peaceful means in 2011. Unlike Bangladesh's success, which was due to military victory, South Sudan attained its independence as a result of an unprecedented referendum on secession monitored by members of the international community. The case of South Sudan is unprecedented because no unilateral secession has ever been successful through peaceful means up until South Sudan's referendum in 2011, nor has any unilateral secession been given a chance to be resolved through a plebiscite. As James Crawford observes, from the perspective of international law, "there is no recognition of a unilateral right to secede based merely on a majority vote of the population of a given sub-division of territory" (417). It is unprecedented also because such a secession success in a non-decolonization context sponsored and supported by the international community at large can almost be considered a violation of the 1960 *Declaration*—the only binding document on self-determination—which grants the right of self-determination only to postcolonial whole people.⁵⁰

⁵⁰ It should be clarified that although postcolonial entities such as Eritrea (1993) and East Timor (1999) also attained their independence through a secession referendum, these territories were considered either colonies, though some ambiguous, or "non-self-governing territories," hence "self-determination units," at the time a popular plebiscite was proposed or implemented. Thus these examples are not contradictory to

South Sudan's referendum on secession is part of the Comprehensive Peace Agreement signed by the north (Omar Al-Bashir government) and the south (the Sudan People's Liberation Army (SPLA) led by John Garang) in 2005, after 22 years of the second civil war that killed and displaced millions of civilians, especially southerners. The Agreement was initiated and brokered by the Intragovernmental Authority on Development (IGAD)—an organization, or trading block, based in Eastern Africa, with Djibouti, Eritrea, Ethiopia, Somalia, Sudan, Kenya and Uganda as its members as of 2005—with the involvement and consent of the UN and other international observers (especially Norway, the US, and the UK) in 2005. The Comprehensive Peace Agreement requires an Interim Period of 6 years before people in southern Sudan could decide their own fate through a referendum. During this Interim Period, the north and south should work together to make the unification of Sudan “attractive to the people of South Sudan.” The two clauses in the Agreement that detail the referendum process stipulate:

2.4.2 The Parities [here referring to the government of Sudan (GOS) and SPLA] shall work with the Commission during the Interim Period with a view to improving the institutions and arrangements created under the Agreement and making the unity of Sudan attractive to the people of South Sudan.

2.5 At the end of the six (6) year Interim Period there shall be an internationally monitored referendum, organized jointly by the GOS and the SPLM/A, for the people of South Sudan to: confirm the unity of the Sudan by voting to adopt the system of government established under the Peace Agreement; or to vote for secession. (“The Comprehensive Peace Agreement” 4)

the 1960 Declaration, in which the right to self-determination is granted specifically and solely to territories under “salt-water colonialism.” This formal justification though did not apply to the referendum for South Sudan. Since the entire Sudan, a British colony, was already decolonized following the 1960 *Declaration*. Southern Sudan was not considered a colony independent of northern Sudan nor was it ever listed as a non-self-governing territory by the United Nations.

The 2011 referendum saw 98.83% of southern Sudanese favor independence over unification. South Sudan became an independent country in July 2011 and has been a recognized and indisputable member of the United Nations ever since.

Note that not only was a secession referendum unprecedentedly given to a sub-state people to secure their political legitimacy in their bid for secession, this “landmark” agreement, in terms of its proposal and the challenge the very proposal posed to international law, was brokered by a regional organization IGAD, rather than the United Nations. After the Agreement was set in place, the UN Security Council established a special political mission—the United Nations Advance Mission in the Sudan (UNAMIS)—by resolution 1547 to “support the implementation of the Comprehensive Peace Agreement.” The UN’s role in this record referendum—“closely follow[ing] and support[ing] the IGAD initiative”—is secondary, or administrative, at best.⁵¹ At such a role, the UN could manage to *not* violate Article 2(4) (on territorial integrity) and Article 2(7) (on domestic jurisdiction) in principle and delegates the responsibility of intervention and presiding over disputes to regional organization.⁵² This is a gesture not dissimilar to de Gaulle’s strategy in 1968 regarding Biafra’s secession—“the gestation of Africa [is] a matter for the Africans first and foremost.” In other words, through the handling of Sudan, the United Nations might have already, yet so slightly, shifted its non-involvement policy from one that reveres the overriding sovereignty of the states to one

⁵¹ This is the mission statement on the UNMIS (United Nations Mission in the Sudan) webpage. <http://www.un.org/en/peacekeeping/missions/past/unmis/background.shtml>

⁵² Article 2(4) of the Charter of the United Nations stipulates “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, or in any other manner inconsistent with the Purposes of the United Nations,” and Article 2(7) states “Nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state or shall require the Members to submit such matters to settlement under the present Charter; but this principle shall not prejudice the application of enforcement measures under Chapter VII.”

that relies on regional co-ordinations and determinations to possibly redress human rights grievances.

The reason why it was the regional IGAD that was more enthusiastically involved in bringing peace to Sudan, rather than the United Nations, is worth pursuing. For one, due to the restrictions Article 2(4) and 2(7) impose on the Security Council, the UN has very little room, if it is willing, to maneuver when it comes to self-determination crises. It seems reasonable then that if international intervention were needed at all to mitigate between warring parties in cases of secession, other international/regional organizations not subject to Article 2(4) and 2(7) could possibly put forward more options for all sides. Secondly, the continuing civil war in Sudan created a more and more pressing refugee problem that threatened to compromise the security and sovereignty of Sudan's neighboring countries. It is reasonable then to assume that the members of IGAD, many of them bordering Sudan and hosting refugee camps within their borders, encouraged the peace negotiations between the north and south to gain "peace benefits" (David H. Shinn 257). This was a scenario similar to the circumstances in Bangladesh's successful secession bid. In the case of Bangladesh, India militarily intervened into the war between Bangladesh and Pakistan citing security concerns, arguing that Bangla refugees spreading out of Bangladesh to the Indian territory posed threats to India's security, sovereignty and economy. India's argument also served another purpose. It internationalized a crisis that was considered domestic affair and therefore did not welcome foreign intervention. By citing refugee problem, India implicated itself into the power struggle of the secession war, thereby justified its decision to take actions to help end the conflict. The refugee problem may also have pushed the secession crisis in Sudan from being a domestic affair

to an international one, which then in turn would justify a certain level of international intervention. IGAD's members' geographical proximity to Sudan and the impacts that hosting tens of thousands of refugees had on the economy and sovereignty of these countries may well have warranted and justified their intervention into the crisis, giving them authority and international backing, including that from the UN.

Dave Eggers's *What Is the What*

The second civil war between the Islamic north and Christian south of Sudan broke out in 1983, with the militarized rebel group SPLA demanding the separation and independence of southern Sudan from the Khartoum government in the north. The civil war displaced millions of people from southern Sudan; among them were some twenty thousand orphaned boys who walked across the continent to seek refuge in neighboring Ethiopia and Kenya. Many of these boys spent more than 10 years in UN-operated refugee camps in Pinyudo, Ethiopia and Kakuma, Kenya before being resettled in Western countries, including the United States. Dave Eggers's *What Is the What* is the fictional autobiography of one of these "Lost Boys of Sudan," Valentino Achak Deng. It follows Achak's life story from his early days in his hometown Marial Bai, to his narrow escape from the attack of the murahaleen—"government-sponsored militias on horseback" (21)—to his long journey on foot to Ethiopia and Kenya, to his life in the refugee camps, and later his present resettled life in Atlanta, Georgia. It is a "novel" that recounts the recent history of Sudan from the perspective of a Dinka boy from southern Sudan; it touches upon two civil wars, two peace agreements and (at the time when the book was written) a possible independence through popular vote.

What Is the What details southern Sudan's reasons for self-determination in several occasions. Once a teacher in Pinyudo refugee camp told the boys "our independence was *stolen* from us due to the ignorance of our ancestors, and only now can we correct it" (297, emphasis added). Whether this refers to British colonization, or the hasty decolonization process (in which the British colonizers handed over the government to the northerners in exchange for their own political and economic interests), or the 1972 Addis Ababa Agreement, the statement suggests that the people of southern Sudan are entitled to independence; it was only lost to them because of subterfuge. The same argument of entitlement and inheritance can be seen when one of the SPLA leaders told the boys they were "the seeds" of "the new Sudan that [they] will *inherit*" (333-334). One of songs the boys sang in the Pinyudo refugee camp goes, "We will struggle to *liberate* the land of Sudan," "[we will] *liberate* our *home*" (332, emphasis added). The lyrics contain the message of a homeland to be liberated from suppression, a message that is both an indigenous people's claim and an accusation of alien subjugation. *What Is the What* also mentions the breach of the Addis Ababa Agreement by the Khartoum government as one of the reasons that triggered another civil war in Sudan, especially on two breaches. First is when the Khartoum government decided to divide the south into three regions. And the second is when oil was discovered in southern Sudan near the South/North border in 1974, two years after the signing of the Addis Ababa Agreement. Khartoum refused to share oil revenue with the south by fifty-fifty, as stipulated in the Agreement on revenues from all natural resources. They attempted to redraw the border so that the oil fields would fall in the northern territory. And when that

did not succeed, they drove out the southerners, mainly the ethnic Nuers, living atop the oil fields by brute force (250-252). This not only violated the Addis Ababa Agreement, but also constituted as a subjection of the people to exploitation and a violation to the people's freedom in pursuing their economic development.

Suggestions to southern Sudan as a land colonized by a different “people” are abundant in *What Is the What*. The novel's protagonist, the lost boy Valentino Achak Deng (referred to mostly as Achak in the events taken place in Sudan, and as Valentino in those in the US), describes the beginning of the second civil war when a homeless Dinka man returned from Khartoum to his hometown Marial Bai in southern Sudan. The man was punished for theft by the sharia law while in Khartoum. There was great fear among Achak's village people that the newly implemented sharia law (also known as Islamic law or September Laws) would soon be forcefully brought upon the south, although Islam was not their religion. Rebel groups were already forming all over the south to send a message to the Khartoum government that “they would not stand for the enforcement of sharia law in Dinkaland” (65, emphasis added). The theme of alien subjugation—religious suppression—is made clear in this passage.

Overall, the argument of the SPLA mostly centered on the fact that the Khartoum government could no longer represent the south Sudanese on all grounds. If, according to the 1970 *Declaration on Friendly Relations*, a people whose government fails to “represent the whole people belonging to the territory without distinction as to race, creed or color” should be granted a “remedial right” to self-determination, people of southern Sudan would most likely have a case to claim such a right. As one SPLA leader told the boys in the Kakuma refugee camp,

we can never be one with the north, with Khartoum. We can never trust them. Until there is a separate south, a New Sudan, we won't have peace. [...] To them we are slaves, and even if we are not working in their homes and on their farms, we will always be thought of as a lesser people. Think of it: the end result of their plan is to make the entire country an Islamic state. They plan to convert us all. [...] We have independence, or we will no longer exist as a people. [...] We cannot be one with them. (426)

The south cannot be one with the north because to the north they are a “lesser people,” or second class citizens; this indicates again domination and exploitation of one sub-state people over another. And the goal of creating an Islamic state means the annulment of southern Sudanese people's freedom of religion, which then constitutes a violation of basic human rights and a disqualification of the state sovereignty as a representative for the entirety of its people.

However, what is interesting in *What Is the What* is throughout the book, although justification to South Sudan secession suffices, most of the comments on and desires to secession come from SPLA commanders; Achak himself expresses very little, if at all, about his aspiration for an independent Sudan. Achak's father owned a grocery store in Marial Bai before the war broke out, and his attitude towards the rumored recruitment and second insurrection was neutral, if not critical. When Achak's father was asked about his opinion on the possible uprising, he said, “No, no. Not this time. I was part of the last rebellion, as some of you know. But this new one, I don't know.” The guest who asked the question pressed on, revealing that the south Sudanese rebels now “have the support of the Ethiopians.” To this optimism, Achak's father cautioned, “Not this time. We know the cost of that. Of civil war. We do that again and we'll never recover. That would be the end” (60-61). After Achak's father's grocery store was harassed many times by rebels demanding him to “feed the movement,” his father

decided to take part of the family to a government-held city further south than Marial Bai. He instructed his wives and children, including Achak, that “now the important thing was to stay neutral and make clear that collaboration with the SPLA was not happening or even possible” (77). Several times in Achak’s account of how the second Sudanese civil war gradually took shape and gained momentum, Achak speaks reservedly of the rebels’ activities in South Sudan, and openly of the consequences their activities had brought to the village civilians: “The rebels were not there when the people of Marial Bai reaped what they had sown” (71). When government forces attacked Marial Bai for its alleged crime of aiding the movement, Achak says bitterly, “the rebels for whom this was retribution were nowhere to be found” (76).

Collective Will—the Meaning and Implication of a Referendum

It can be surmised from these first few chapters that Achak’s thoughts on the separatist movement led by the SPLA are on the fence, to say the very least, although he does acknowledge on a few occasions the inequality and discrimination the Dinka were subjected to under the Khartoum government. *What Is the What* in fact does not include much illustration of the SPLM/A and provides somewhat murky comments (Achak’s point of view) about the self-determination of southern Sudan and the violence involved in attaining it.⁵³ When SPLA leader John Garang gave his speech among cheering boys in the Pinyudo refugee camp in Ethiopia, Achak “threw [his] hands to [his] ears to block out the sound [of boys cheering and women ululating] but Moses slapped [his] hands away”

⁵³ This is possibly also Eggers’s stance towards southern Sudan’s separatist movement led by the militant SPLA. When speaking of the SPLA movement and the separatist agenda they fought for, Eggers refers to the separatist aspiration as “the utopian dreams of a small group of well-meaning rebels” that ended up “engulf[ing] an entire country in two decades of mayhem and mass murder” (Eggers 2007).

(322). When the SPLA made another recruitment plea to the lost boys in the refugee camp of Kakuma a few years later, Achak's narrative still remains distinctly indifferent to the SPLA's endeavors in bringing about independence to southern Sudan. Achak states that "twelve others pledged their support that night" but as to himself, he declares again that "I cannot say that I ever seriously considered joining the SPLA at that time. I was busy in the camp, with my theater projects and Miss Gladys [the camp's theater and history instructor]" (426).

Achak continues to comment on SPLA's separatist ambition in an ambiguous fashion many years later when Achak again sees the SPLA leader John Garang in a gathering of resettled lost boys in the US. At this time the peace negotiation between Khartoum and John Garang's SPLA has already started.

This [John Garang] was the man who more or less began the civil war that brought war to our homes, the war that brought about the deaths of our relatives, and set in motion our journey to Ethiopia and later to Kenya, which of course led to our resettlement here in the United States. And though there were many people in that room with *mixed feelings* about John Garang, the catalyst and driving force behind the civil war and prospective independence walked into the room amid much ecstatic cheering and many bodyguards, and stepped onto the stage. (182, emphasis added)

This passage makes it clear that the "mixed feelings" Achak has towards John Garang, SPLA, and the whole secession movement that aims to attain an independent statehood for southern Sudan come from the discrepancy between "their war" and "our suffering." What is underlined here in this passage is the difference between the SPLA and the civilians of southern Sudan. This ambiguity, or "mixed feelings," towards SPLA's secession ambition poses an important question: is secession always the collective will of the entire people, entitled to it or not?

What Is the What therefore rightfully challenges the legitimacy of the secession supporters/fighters as the representatives of the entire people, and the assumption that the secession dream is a collective aspiration. This is one of the intrinsic issues at the heart of every self-determination movement, including all of the four post-decolonization secessions discussed in this project. The will of the minority tribes in eastern Nigeria to support the independence of a Republic of Biafra has been widely debated and examined. As discussed in chapter one of this dissertation, the establishment of a Biafra state might have meant another totalitarian government for the many minority tribes in its territory. The Gorkhaland Movement faces the same question about the actual will of those standing behind the slogan of “Gorkhaland for Gorkhas.” An even more obvious case is the Tamil secession war where the Tamil rebels were accused of using its own civilians as human shields and keeping them hostage in Tamil controlled territory against their will.

A referendum on secession is a partial answer to this ambiguity; it is a legal means to bridge the gap between a people’s right and will to self-determination. Although there is no doubt that, as Crawford observes, a majority popular vote itself does not give secessionist peoples recognition for a unilateral right to secede, “ascertaining the will of the relevant people [to secede] is of undoubted importance in securing political legitimacy” (Peter Radan 8). While a referendum on secession does not exert factual political leverage, it may be “a legal requirement pursuant to any agreement entered into as a means of resolving a secessionist claim” (12). The political ambiguity in South Sudan’s secession bid finds a solution in popular referendum. The 2005 Comprehensive Peace Agreement grants people of southern Sudan a chance to prove their collective will

to self-determination after six years of interim period. If the majority vote for independence, the result of the referendum would unprecedentedly and automatically grant the people their right to self-determination, hence their right to secession. When the referendum was held in 2011, the vast majority of the voters in southern Sudan voted in favor of independence (98.83%), which paved the way for the establishment of the state of South Sudan in the same year.⁵⁴

The narrative ambiguity (“mixed feelings” for the SPLM) in *What Is the What* as a result of the political ambiguity is also only resolved with (the prospects of) a (coming) referendum. There are only a few instances in the novel where Achak speaks appreciatively about the work of the SPLA, all after the Comprehensive Peace Agreement was signed. In present tense, a present-day Achak now living in Atlanta makes this statement of acknowledgement about the SPLA for the first time in the book.

I do not know anyone who wishes southern Sudan to remain the way it is. All are ready for what comes next. There are SPLA tanks parading through Juba, the capital of the south. There is pride there now, and all the doubts we’ve had about the SPLA, and all the suffering they caused, have been largely forgiven. *If the south achieves freedom* it is through their work, however muddled. (49, emphasis added)

The other instance follows after Achak learns of SPLA leader John Garang’s death in 2005. Also living in the US already, Achak states “We can be thankful only that the peace agreement was signed before his [Garang’s] death. No other leader in southern Sudan had the power to broker it” (185). SPLA’s and John Garang’s achievement in forming the peace agreement with Khartoum disentangles the uncertainly and

⁵⁴ In 2009, the SPLA and the Khartoum government agreed that the result of the referendum would only be valid if the turnout is a least 60 percent of the 3.8 million voters. If the turnout is less than required, in case of a simple majority in the first referendum, a second referendum should be held within sixty days. The turnout in the January 2011 referendum exceeded 60 percent by a large margin.

ambivalence Achak and other southern Sudanese may have towards the movement. However, note that although a referendum that would almost certainly grant southern Sudan its statehood is in sight, even till this point Achak still harbors some hesitation in the independence of South Sudan. He speaks only of “if” southern Sudan achieves independence. In another passage in the novel, Achak says

He (Achor Achor) is certain to hold office in a new southern Sudan, *should it really become independent*. There are plenty of southern Sudanese in the Khartoum government now, but Achor Achor insists that he will only return to Sudan *if* the south votes to secede in 2011, which the Comprehensive Peace Agreement allows. *Whether the National Islamic Front or Omar al-Bashir, the president of Sudan, actually allows this to occur remains to be seen.* (288, emphasis added)

All these examples show a wary and circumvent civilian who is detached from the political ambition of politicians, even if that ambition concerns the fate of the entire people. In the narrative of Achak, the voice of a civilian whose “people” are supposedly demanding for their right to self-determination, there always seems to be a step missing in between his distrust in the SPLA’s secession movement and his vow to return home to a new South Sudan (534)—the step of endorsing or simply desiring that independence.

This step, for Achak, comes late and comes outside of the novel. After South Sudan finally obtained its nationhood through the 2009 referendum, Achak posted a letter on the webpage of his foundation, The Valentino Achak Deng Foundation, stating “it is *with great happiness and pride* that I welcome the birth of my new nation, the Republic of South Sudan. After a very long struggle, July 9, 2011 marked the beginning of our independence. I have witnessed the day when my country and millions of my people are

finally free; our future is now our own.”⁵⁵ The successful referendum eliminates doubts Achak has towards the long secession movement led by the SPLA. In this way, not only does a secession referendum secure a people’s political legitimacy in claiming their right of self-determination because it represents the will of the people; more importantly, as is indicated in Achak’s story, it takes a secession referendum in fact to ascertain the will of the people *for themselves*. A successful referendum is not simply a *representation* of the people’s will to self-determination, the act and result of the voting itself cement, shape, the will of the civilians. It is through a successful referendum on secession that the gap between the rebels (their war) and the civilians (our suffering) is bridged; it is through a successful referendum that the people of southern Sudan, including Achak, *will always have desired* the independence of South Sudan.

The Refugee Question

A major part of *What Is the What* is spent in detailing Achak’s many years of life in the refugee camps in Pinyudo, Ethiopia and Kakuma, Kenya. As discussed earlier, the refugee problem resulting from the ongoing civil war within Sudan helped turn a domestic affair of secessionist conflict into an international crisis, making room for international intervention. With tens of thousands of refugees spilling over the Sudanese borders into neighboring countries, straining their economy and security, the refugee problem may be one of the reasons why the regional intragovernment body IGAD decided to step up to the challenge of negotiating peace between the north and south, which eventually brought about the independence of South Sudan through popular

⁵⁵ See the whole letter here at: <http://www.valentinoachakdeng.org/blog/2011/09/09/a-letter-from-valentino-achak-deng/>

referendum. Indeed, the Sudanese refugee problem is an international one. *What Is the What* describes how refugee problem can easily become politicized and internationalized. The Sudanese refugees were forced out of the Pinyudo camp when the Ethiopian president that harbored them was overthrown. Suddenly, these refugees were forced to flee across the river and the border back to Sudanese soil. While evacuating out of Ethiopia, they were chased and attacked by local Ethiopians who had long resented the refugees' existence on that barren land with limited resources and took their revenge at the exodus, resulting in a great number of casualties among these already battered people. After leaving Pinyudo, Ethiopia, the group spent several nomadic years within the boundary of Sudan, fearing and fleeing attacks from the Khartoum army, until under the arrangement of the UNHCR, they settled down once again in the UN-operated refugee city of Kakuma, Kenya.

Without the enormous refugee crisis, the secessionist conflict within Sudan would probably have remained an internal affair, just as other secessionist civil wars—the Biafra war, the Tamil war. In the midst of the many evacuation journeys the Sudanese refugees made in between Ethiopia, Sudan and Kenya, Achak comments on the infighting in the SPLA: “So many tens of thousands were lost this way, and the infighting, the brutality involved, allowed the world to turn an indifferent eye to the decimation of Sudan: the civil war became, to the world at large, too confusing to decipher, a mess of *tribal conflicts* with no clear heroes and villains” (349, emphasis added). Comparing this statement with this one just on the next page—“In Kenya, we were told we would be safe, finally safe, for [...] the *international community* was creating a haven for us there” (350, emphasis added)—demonstrates that while the secessionist war in Sudan is

considered tribal conflict, therefore domestic, the refugee problem has already taken on an international dimension. This problem then would finally give the international community the motive and the grounds to intervene in the Sudanese secession conflict.

The refugee question is therefore part of the complexity involved in the issue of self-determination.⁵⁶ While the problem of refugees is intrinsic to almost any crisis, humanitarian aides and human rights promised to refugees prove to be paradoxical when these refugees are the result of a rejection of the international community to recognize one of their fundamental human rights, the right to self-determination. United Nations' *Guide to International Refugee Law* explains that

It is the responsibility of States to protect their citizens. When governments are unwilling or unable to protect their citizens, individuals may suffer such serious violations of their rights that they are forced to leave their homes, and often even their families, to seek safety in another country. Since, by definition, the governments of their home countries no longer protect their basic rights of refugees, the international community then steps in to ensure that those *basic rights* are respected.

Under the framework of the right to self-determination, the first part of this statement constitutes a government that can no longer represent its entire people if it refuses or is unwilling to protect a particular group of its citizens. When this very group of "people" seek to exercise their right to self-determination due to the "serious violations of their rights" committed by their parent country and are denied, they turn into refugees whose basic rights, according to this UN document, the international community has a

⁵⁶ According to the 1951 *Convention Related to the Status of Refugees*, a refugee is someone who "owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group, or political opinion, is outside of his nationality, and is unable to or, owing to such fear, is unwilling to avail himself of the protection of that country." The Organization of Africa Convention Governing the Specific Aspects of Refugee Problems in Africa added to the 1951 definition in 1969 that a refugee is also "any person compelled to leave his/her country owing to external aggression, occupation, foreign domination or events seriously disturbing public order in either part or the whole of his country of origin or nationality."

responsibility to safeguard. The paradox in this scenario lies in the fact that the refugees here are denied of their right to self-determination by no other than their own parent country *and* the international community, since in international law, no “people” are legally entitled to the right to self-determination except the colonial whole people. Their rights as refugees therefore are defended by the very same institution that denies them of their rights as a people.

The United Nations General Assembly created the Office of the United Nations High Commissioner for Refugees (UNHCR) after World War II, as a means of the international community to step in to ensure the basic rights of refugees are respected, with a mission to “protect and find durable solutions for refugees.” One of the commonly used short-term solutions is the establishment of refugee camps, where basic human rights can be met with food and water supplies, as well as medical care and sometimes education and employment opportunities. Another often-used long-term solution is resettlement. As a refugee seeking protection in a third state, he/she is entitled to permanent residence status, which ensures

protection against *refoulement* and provides a resettled refugee and his/her family or dependants with access to rights similar to those enjoyed by nationals. Resettlement also carries with it the opportunity to eventually become a naturalized citizen of the resettlement country. (UNHCR Resettlement Handbook, Chapter One “Resettlement within UNHCR’s Mandate,” emphasis original)

All solutions provided by the UNHCR for refugees emphasize their protection of the refugees’ basic human rights. Yet, as discussed earlier, while the right to self-determination is enshrined in the 1966 International Covenant of Civil and Political Rights (ICCPR), and considered “essential before any other rights can be recognized” (Joshua Castellino and Jérémie Gilbert 155), international law and human rights law may

deny one people of this fundamental right while upholding others. When a people fall into the status of refugee because their quest for self-determination is denied (by their parent country) and ignored (by the international community), humanitarian assistance from the international community to help maintain the basic rights of these civil war refugees, but not address their self-determination claim, may prove to be conceptually and practically futile in solving the refugee problem all together.

Many scholars have argued that human rights discourse presupposes the existence of the nation-state to enforce these rights.⁵⁷ Giorgio Agamben makes the link between human rights and nation-state clear by bringing up the figure of the refugee: “the paradox is that precisely the figure that should have embodied human rights more than any other—namely, the refugee [for the pure fact of being *human*—]—marked instead the radical crisis of the concept” (19), and “inasmuch as the refugee, an apparently marginal figure, unhinges the old trinity of state-nation-territory, it deserves instead to be regarded as the central figure of our political history” (22). If Agamben is right, then without being citizens of a nation-state, refugees’ human rights will never be fully protected, even with the humanitarian assistance from the international community. That explains why the status of refugee is always considered and processed as a temporary status “that ought to lead either to naturalization or to repatriation” (20). The refugee question in the scenario of secession makes repatriation a less preferable option since it may mean persecution and further violation of rights. If naturalization (usually through resettlement) is also not a viable solution because of the lack of support from resettlement countries, or the

⁵⁷ See, besides, Giorgio Agamben, Johsep R. Slaughter’s *Human Rights, Inc.: The World Novel, Narrative Form, and International Law*, and Mira Seigelberg’s “Arendt’s Legacy Usurped: In Defense of the (Limited) Nation State, *The Current*: (December 2005).

massive number of refugees, it may push the international community to reconsider and negotiate the option of state creation.

This is how the refugee question in Sudan's civil war may have facilitated not only the internationalization of the Sudanese secession conflict but also eventually the creation of South Sudan. Both solutions of refugee camp and resettlement were deployed to deal with the Sudanese refugee crisis. Sudanese refugees such as Valentino Achak Deng were first settled in UN-operated refugee camps that provided them with food, clothing, relative security, education and employment. After their refugee status stretched to more than ten years with the secession war still ongoing without a clear winner, it became clear that the next viable solution should be set up. Most of the Lost Boys then were given the opportunity to be resettled in a Western country, where their basic human rights would be protected and they would be entitled to "rights similar to those enjoyed by nationals," as well as the possibility of naturalization.

However, Achak's resettled life in Atlanta, Georgia, is full of frustration and disillusionment. The novel opens with Achak bound and gagged and held captive by thugs that have broken into his apartment. After many years of struggling to adjust to his life in the US, Achak now works at a health club making \$1,245 a month, and attends community college after being rejected by formal colleges because, as he is told, of his age and skin color (473). In the rest of the chapters, Achak will wait several hours on the floor before his roommate finally comes home and discovers him, he will wait more hours for the police to come to inspect the crime scene only to be given a hasty investigation and a card to call if he remembers more things about the intruders. He will then spend fourteen hours at the emergency room of the hospital waiting to be treated for

his wounds only to be kept waiting because he does not have insurance. In the middle of all these events and waiting, Achak recounts his childhood in southern Sudan, and his life as a refugee after the civil war broke out until his departure for the US. His disillusionment with his resettled life in the West and with the humanitarian discourse in general is palpable throughout the whole novel.

From this perspective, Michelle Peek is probably right in categorizing *What Is the What* as a posthumanist work. In her definition, post-humanist literature “embed[s] an anti-humanitarian narrative of failure and disappointment within a larger humanitarian frame” (115). *What Is the What* “works critically inside the *humanist discourse* that shapes the life narratives of these refugees from southern Sudan,” and at the same time “occupies the space of a posthumanism that is understood as a critique working within *humanist practices*, paying critical attention to the subjects and subjectivities of humanitarian narrative” (116). *What Is the What*, or Achak’s life story, indeed presents itself at times as a critique of both the humanist discourse and practices. It is critical of the humanist discourse that shapes a humanist subject such as Achak, with promises to redress human rights grievances, and it is critical of the humanist practice that leaves these promises unfulfilled. In his resettled life in the US, Achak faces the failed promise of the institutions of employment, education, policing and medical care, which is the failed promise of human rights.

At the end of the book, as at the end of the humanist discourse and humanist practice, it needs to always go back to the nation-state for the refugee to regain his/her rights as human, as long as human rights law continues to presuppose the existence of nation-state to enforce those rights. In the context of secession, when the refugee is

protected against refoulement, and resettlement, or naturalization, proves to consist only of humanitarian rhetoric of promises, rather than the fulfillment of those promises, the nation-state that would protect their rights as its own citizens is then a nation-state of and for the refugee. As such, the refugee question returns back to the question of self-determination. At the end of *What Is the What*, after a long day of frustration at the apparatus of a state that does not belong to him, Achak says

I should be home. It seems wrong that I am not home with her [his mother]. I could leave this struggle here behind and be with her, with my father and in the cradle of the vast family I have in Marial Bai. To stay here, struggling and with my head aching so with the pressure, is, perhaps, not my destiny. (534)

The desire to return “home” closes a book about a people’s quest for their right to self-determination and a boy’s life journey as a refugee, a journey of the loss and regain of human rights and dignity. Home here is not a Sudan that would strip him of his human rights, including his people’s right to self-determination; home here is a nation-state of their own that supposedly would enforce human rights entitled to them both as humans and as citizens, and that would allow its people to “regain the ground,” rebuild their business and homes (534). After a long civil war, refugee camps and resettlement, this is a people’s final and determined plea to claim their right to self-determination—a right before any rights can be recognized.

Conclusion

Almost sixty years after the triumphant secession of Bangladesh, the world witnessed another example of a people’s successful quest to self-determination, outside of the context of decolonization. This time it was not through superiority in force, but a

peaceful means of popular referendum. The creation of an independent state of South Sudan is a significant milestone in the evolution of the concept and practice of self-determination right. A people historically, geographically, linguistically, culturally and religiously distinct from its dominating counterpart in the North, southern Sudanese could rightfully justify its claim to self-determination on the grounds of alien subjugation and distinct peoplehood. However, although the right of peoples to self-determination is a right enshrined as Article 1 in both the 1966 *International Covenant of Civil and Political Rights* (ICCPR) and *International Covenant Economic, Social and Cultural Rights*, the only binding document concerning the right of self-determination is the 1960 *Declaration on the Granting of Independence to Colonial Countries and Peoples*, which limits the application of such a right to only colonial whole people in the context of decolonization. Since 1960, all except two—Bangladesh and South Sudan—secession attempts outside of the context of decolonization have been unsuccessful. The international community has largely taken a non-intervention stance towards secession conflicts (except in the Katanga crisis where the UN militarily intervened to help the Congo government defeat the secessionist force) because of the 1960 Declaration, and has allowed affected governments to take extreme measures to quell these insurgencies citing Articles 2(4) and 2(7) of the Charter of the United Nations. Articles 2(4) and 2(7) stipulate that no member of the UN can interfere with the domestic affair of another member state, and since sub-state peoples' right to self-determination is not recognized by international law, unilateral secession conflicts are considered by the UN as domestic affairs.

Bangladesh's successful pursuit of its independence from Pakistan is the first breakthrough in how peoplehood and their right to self-determination are recognized in

international law. Bangladesh's example demonstrates that winning the war is the only means to attain legitimacy and recognition. Ever since, unilateral secession conflicts become ever more violent and protracted. Sudan's two civil wars are no exception. With the first civil war lasting for about sixteen years and second civil war twenty-two years, at the end of the second civil war, there was still no clear winner, only one breached peace agreement, two sides distrustful of each other and an international community silently watching.

The Comprehensive Peace Agreement brokered by the regional Intra-governmental Authority on Development (IGAD) in 2005 to help bring peace back to Sudan is historical in many ways. First, by brokering this agreement, the IGAD intervened in the domestic affair of an internationally recognized state and took the lead in the peace negotiations in the stead of a UN paralyzed by its own laws and principles to take action effectively. Secondly, the agreement presents (and eventually proves) secession referendum as a viable solution to a crisis of self-determination. Thirdly, it challenges the international law that does not recognize a unilateral right to secession based merely on a majority vote in a secession referendum. Fourthly, it also challenges the 1960 *Declaration* that grants the right to self-determination only to colonial whole people in the context of decolonization.

What may have pushed the IGAD based in East Africa to deal with the Sudan crisis was the large refugee population the civil war had created. The ongoing civil war displaced millions of civilians in southern Sudan; many of them walked across the continent to seek refuge in neighboring Ethiopia and Kenya. These refugees strained the security and economy of Sudan's neighboring countries and threatened to infringe their

sovereignty. Sudan's refugee problem internationalized the secession crisis that was considered a domestic affair of Sudan, and thus made a case for justifiable foreign intervention into the secession crisis.

More importantly, the refugee problem brings some extent of legitimacy to the people's quest for independence by bringing their quest back into the context of human rights. The refugee problem is a human rights problem; and a refugee problem in a secession crisis is both about the human rights abuses committed by their parent country which turn them into stateless and rightless people, and at the same time about an international community that denies them of their right to self-determination. Their plight as refugees pushes the international community to find viable humanitarian solution to protect their human rights, thereby transforming the crisis from a political one merely about legitimacy and legality to a moral one about human rights—the refugees' entitlement to basic rights and a people's right to self-determination.

Dave Eggers's *What Is the What* demonstrates the importance of a popular referendum in securing political legitimacy for the people desiring secession by presenting and forming a collective will to self-determination. Without the referendum, southern Sudanese as a whole could not prove their resolution as a people to secede, and individuals such as Valentino Achak Deng would not identify themselves with, or see themselves as part of, the aspiration of the rebels. Achak's account of the war and his many years of life as a refugee going through refugee camps and resettlement procedure comment on and critique the humanitarian discourse and practices from within. So long as human rights still presuppose the existence of nation-state to enforce these rights as civil rights, the refugee question resulting from a secession war will always be not only

about redressing human rights abuses but also about reconsidering the denial to these refugees as a people of their right to self-determination. *What Is the What* is a story about the coming-of-age of a refugee boy, a subjugated people and a rejected demand to self-determination. Towards the end of the story, as well as towards the end of a long quest to independence, “it is impossible,” indeed, for the international community to pretend that this boy, these people and this collective aspiration “do not exist” (535).

Coda

Secession movements take place around the globe in very different political contexts—the referendum of Scotland’s secession from the Great Britain is different in almost every aspect from, for example, the secession of South Sudan from Sudan. This project focuses exclusively on unilateral secessions in the post-decolonization setting because this type of secession questions most forcefully and directly the concept and practice of the right of self-determination. It also urges us to rethink some of the major issues important to postcolonial studies, such as colonial legacies, sovereignty and the nation-state. This particular type of secession is significant as a category because the right of self-determination is only practiced as a binding, legal right in the context of decolonization, although the first introduction of this right in international law set it up to be the right of *all peoples*. Therefore, secessionist movements in a postcolonial setting, or, secessionist movements taking place inside an already decolonized nation-state, serve as the direct opposite to the scenario of legal decolonization secession although, and because, the two scenarios are intimately similar.

Post-decolonization secession, and the denial or rejection of it by the international community represented and manifested by international organizations such as the United Nations, is a form of the continuation of colonial control in postcolonial regions, because the right of self-determination is only allowed and recognized along national boundaries drawn by the colonial powers and within the political makeup established when they executed the process of decolonization. The “principle of territorial integrity” often used to explain the UN’s rejection of a self-determination claim in an already decolonized country is, in this context, a forceful insistence that the newly-independent postcolonial

countries not breach its colonial legacy, or the terms of its decolonization. It should also be remembered that ethnic tensions that fuel most of the secession ambitions in postcolonial countries had been either created or exacerbated by colonial ruling policies, particularly the divide-and-rule policy, and ethnic favoritism. Post-decolonization secession conflicts, therefore, tell the story of how colonialism persists from the colonial era to the process and terms of decolonization, and how it continues to dictate the geopolitical makeup of postcolonial regions through deciding who have the right to self-determination and how. And these decisions are made as much as by law set up by these colonial powers, as by the political and economic interests these major players have in these regions.⁵⁸

Therefore, other than its significance as a category, post-decolonization secession is important to postcolonial studies because it is a phenomenon that is at the same time colonial, postcolonial and neocolonial.

Looking at post-decolonization secession from the perspectives of postcolonial studies finds it readdress and reorient some key subject-matters essential to the discipline.

While decolonization is usually thought of and discussed as a bottom-up resistance to

⁵⁸ African scholar Raphael Chijioke Njoku makes clear in his discussion on the Biafran independence that “the overriding interest of Britain was to protect its economic interests.” He quotes from the memoir of the then British high commissioner to Nigeria, David Hunt: “In fact our policy [on Nigeria’s Biafra war] would be determined not by principle but by the practical ends of defending our oil and other interests in Nigeria (of these we agreed oil was much the most important” (347). Njoku goes on to argue that world community’s response to Eritrean independence in 1991 was also triggered by calculations other than “principle”: “In May 1991, Eritrea proclaimed its independence after a plebiscite was held whose result showed that Eritreans favored secession from Ethiopia. In 1992, the UN validated the result of the plebiscite as a means of punishing Ethiopia for its former alliance with the Communist Bloc” (348). Immanuel Wallerstein also suggests world community’s often self-interested position when deciding on the fate of any postcolonial secession:

Autonomy versus secession has geopolitical consequences. And these are crucial in terms of the ongoing struggles within the world-system as a whole. All parties pursue, rather cynically, their self-interest as states. How they act can be quite opposite from one situation to the other. This is because outside powers are primarily concerned with the geopolitical impact of the decision. But it is the role of these outside powers that is often decisive. (“Commentary No. 297”)

colonialism, some examples examined in this dissertation, especially the decolonization of Nigeria and Sudan, together with the UN's 1960 *Declaration on the Granting of Independence to Colonial Countries and Peoples*, show that the decolonization process may actually have been top-down, calculated and negotiated. These are examples of the non-violence decolonization achieved on the negotiating table that Franz Fanon aptly terms as "farce of national independence," where the colonized was granted independence under the conditions that the former colonial rule continues its economic and political influence on the new state.⁵⁹ In Chinua Achebe's *There Was a Country*, in which Achebe recounts his days serving the breakaway government of Biafra that lasted from 1960 to 1964, he also laments that the independence of Nigeria from the Great Britain was greatly compromised and lacked authentic populous agency from the bottom: "In the words of Dr. Nnamdi Azikiwe, Nigeria was given her freedom 'on a platter of gold.' We should have known that freedom should be won, not given on a plate" (52). From this perspective, therefore, post-decolonization secession can be understood as resistance against colonialism and colonial legacies, and the manifestation of a genuine national consciousness. It is, in this sense, post-decolonization decolonization. As such, post-decolonization secession allows us to reexamine the limits and terms of decolonization, of being/becoming "postcolonial" itself.

Since in these cases, post-independence government is usually arranged by the departing colonial power rather than chosen by the people, the government itself faces the problem of representation, especially if it is made up of, as it almost always is, the majority ethnic group and implements self-interested policies. As Mahmood Mamdani

⁵⁹ The example Fanon uses here is the decolonization of Gabon. Fanon quotes the president of the newly-independent Gabon saying to the French president that "Gabon is an independent country, but nothing has changed between Gabon and France, the status quo continues" (28).

argues with the example of Rwanda, the same “dialectics of the settler and the native” that had created tension between the colonial presence and the colonized population as a whole is reenacted after decolonization. This time, the favored ethnic group during colonial rule—usually an ethnic minority—is positioned as the “foreigner,” and the ethnic majority, who in most cases take over the postcolonial government, as the “native”. Such reenactment is, according to Mamdani, a repetition of colonial political strategy and “a return to the vision of the colonial period” (2002, 190). The dialectics of the settler and the native and the replication of the native-against-“foreigner”-resentment played important roles in post-independence violence across postcolonial regions. Ethnic favoritism under the colonial rule could quickly turn the favored group into pro-settler non-natives themselves after independence, thus traitors of the new country. The formerly privileged minority replaced the departed rulers as the new foreign presence in the new country, vis-à-vis the majority “natives” who now gained indiscriminate political power, thanks to the introduction of democratic election and the departing powers’ endorsement in anticipation of their dominance post-independence.

This dialectics of the settler and the native weakens the already tenuous or, in some cases, non-existent national consciousness in post-independence postcolonial nation-state; it discredits the representability of the state of the entire people and shatters the nationalism just burgeoning at the eve of decolonization. Post-decolonization secession is the result of this failed nation-state, where the nation and the state no longer coincide—nationalism hails “one country” while the state practices regionalism, or nationalism hails camaraderie while the state practices totalitarianism. As former Tanzanian president, Julius Nyerere, who supported the Biafran secession, observed,

“you cannot kill thousands of people, and keep on killing more, in the name of unity.”

Post-decolonization secession conflicts expose the incompatibility between nationalism and the state in these postcolonial nations.

Since secession is about the right of a people to self-determination, and its outcome is contingent upon the recognition (or not) of a people’s peoplehood and statehood by the international community and international organization such as the United Nations, this project first draws heavily on UN documents to examine how and why a sub-state people could claim and win self-determination and nation-statehood in a post-decolonization context. This project traces the evolution of the concept and practice of the right of peoples to self-determination and the response of the international community to self-determination conflicts in the past five decades. Discussing the secession of Katanga in 1960, the secession of Biafra and Bangladesh in the 1970s, the secession of Gorkhaland in the 1980s, and lastly the secession of Tamil Eelam and South Sudan that ended just recently in the early twenty-first century, this project examines the grounds on which each of these secession cases claimed their legitimacy to an independent nation-statehood as a people, and demonstrates how the right of self-determination is one of the most romanticized rights of human rights and one of the most enduring myths in today’s liberal democracy.

The secession literature discussed at the second half of each chapter adds complexity to the legal/political aspects of post-decolonization secession and post-decolonization self-determination right because it questions the conflation of nationalism/self-determination aspiration *and* statehood, an equation taken for granted in international law and by member-based international organizations such as the United Nations.

Literature examines aspects of the situation that political and legal processes cannot resolve. The five literary texts I draw on in this dissertation reflect the shifts and turns in the concept and practice of the self-determination right; they bear witness and testimony to the complexity in each post-decolonization secession examined. But more than that, these texts qualify and reconsider the focus of the controversy surrounding postcolonial secessions—the legality and legitimacy of turning peoplehood into statehood—by suggesting “non-state nationalism” as a new mode of a people’s political being and a new type of sovereignty. Secession literature reminds us that although the goal of all secession is the creation of a nation-state of their own, that is a political answer to “the utter institutional hegemony of the nation-state as a political unit,” as James Scott puts it, and that secession is an anti-state project, first and foremost, rather than a state-making project. Secession literature, as all of the five literary texts here, competes with the language of the international law, the nation-state and the independence declaration by dwelling upon the “process” leading up to the final moment of winning the war or gaining recognition of their independence but never arriving at it; it elaborates on the “becoming” of a nation-state, but halts before the final decisive moment of being. These texts focus on the formation of the nation-state-to-come partly because indeed very few of these secessionist attempts achieved the desired political goal of independence (all except Bangladesh and South Sudan), but partly, and more importantly to the role of literature in my discussion here, because literature remains the counterpart of the absoluteness of state apparatus and mentality. Therefore, secession literature complements the customary failure of secessionist attempts (especially those in the post-decolonization context) by compromising the supremacy of the system of nation-state.

What we see from the literature here is a difficulty and reluctance for it to conform to the language of the state or the law: the language of certainty and authority. Adichie's *Half of a Yellow Sun* struggles with how to refer to the people of Biafra, sustaining the uncertainties surrounding the definition of "people" in self-determination law, and the recognition of peoplehood by international organizations. Desai's *The Inheritance of Loss* cannot let go of its urge to call the state-fighting soldiers "boys," casting doubt on the Gorkhaland Movement when it is oriented solely towards state-formation. Ondaatje's *Anil's Ghost* remains nebulous when it comes to who "we" are and who "they" are; Anil's ending remark that accuses the Sir Lankan government for "murder[ing] hundreds of us" deconstructs the colonial and postcolonial dialectics of the settler and the native. Eggers's *What Is the What* vacillates between a state-becoming present and a past filled with the suffering of state-making in the past; the memories of the cost of the state-formation process forges a palpable sense of apprehension for the state-to come.

Secession literature that is always approaching the final moment of state-establishment but never arrives helps remind us that post-decolonization secession is essentially an anti-state project, but it does not shy away from recognizing and conveying the nationalist sentiment, or the national consciousness, that mobilizes and defines secession movements. Indeed, nationalism is tangible in the narrative of all literary texts discussed in this dissertation. And if post-decolonization secession expresses a genuine national consciousness of a people after decolonization, and if secessionist aspiration is first and foremost an anti-state reaction and literature preserves both of these two sentiments before they turn into the political of the inevitable state-making, then the

underlying alternative to state-making and the hegemony of the nation-state that post-decolonization secession as well as its literature proposes is something we may tentatively call “non-state nationalism,” or “anti-state nationalism.” *Half of A Yellow Sun* illustrates a “people,” though ambiguous about the state-fighting leadership and political machinery, fervently believes in an imagined national community, the Biafran, of their own. *The Inheritance of Loss* gives us an ethnic community that requests exactly the possibility of belonging to a nation without being governed by the state as its proxy. *Anil’s Ghost* proposes a belonging that is “citizenized by friendship,” rather than by the state. *What Is the What* portrays a South Sudanese community in the refugee camps in Ethiopia and Kenya and in the United States establishing a strong sense of national consciousness before, and without endorsing, the coming-to-existence of a nation of their own.

Since the publication of books such as Joseph Slaughter’s *Human Rights Inc.* (2007), and Pheng Cheah’s *Inhuman Conditions* (2007), postcolonial scholars have been conversing about human rights and literature as a possible future line of inquiries in postcolonial studies. This project suggests that post-decolonization secession and its literature are a new area of study and genre in postcolonial studies. Post-decolonization secession movements challenge the definition and practice of the self-determination right—a right hailed in human rights law as “essential before any other rights can be recognized,”⁶⁰ and thereby put pressure not only on the international organizations and their members who enshrine and contain such right but also on the newly-independent postcolonial nation-state that is responsible for implementing (or not) such inalienable

⁶⁰ “Self-Determination, Indigenous Peoples and Minorities” by Joshua Castellino and Jérémie Gilbert in *Macquarie Law Journal* 3 (2003).

human rights. By closely reading the laws and doctrines that lay down the fundamentals of the self-determination right, this study urges us to rethink the terms of becoming and being “postcolonial” itself to suggest a complicity between the colonial and postcolonial states, and therefore understand post-decolonization secession as a decolonization endeavor. Literature of post-decolonization secession bears testimony to the evolution of the concept and practice of the self-determination right, but also complicates the debate surrounding the self-determination right by reminding us that secession is first and foremost an anti-state project, and therefore the much-contested state-formation should not be the only outcome. By lingering in the process of the becoming of a state, yet never arriving at the final moment itself, secession literature detects and conveys a non-state solution to the anti-state project. Post-decolonization secession is a phenomenon that is partially postcolonial in the sense that it is not only anti-colonial but also anti-postcolonial. Its literature lingers in between these two poles, and between the anti-state sentiment and state-formation necessity. It gives us characters and peoples that are disenchanted with the state, yet still pining for a sense of belonging. The non-state nationalist space secession literature carves out is perhaps where an inalienable self-determination right and the nation-state can meet in our time.

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