

SECESSION CRISIS IN PAPUA NEW GUINEA: THE PROCLAIMED REPUBLIC OF BOUGAINVILLE IN INTERNATIONAL LAW

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I. INTRODUCTION

The ongoing secession crisis in Bougainville is perhaps the most convulsive episode that Papua New Guinea has encountered since its independence. It is one of those new states that has emerged through the process of decolonization with plural societies and illogical boundaries demarcated by colonial powers. Consistent with the dilemma of national integration in many third world multi-racial states, the political unity and nation-building of Papua New Guinea are now interrupted by separatist sentiments. Dissidents in Bougainville, [FN1] one of the nineteen provinces of Papua New Guinea, have demanded secession from the rest of the country, constituted their own armed forces and launched a full-scale guerrilla war against the national government. In a bid to preserve national solidarity, the government of Papua New Guinea has been attempting, through both persuasive and coercive means, to defuse the break-away aspiration, so far with limited success.

Bougainville is one of Papua New Guinea's most resource-rich provinces, having the world's biggest copper mine. A multinational mining company, the Bougainville Copper Limited (BCL), a subsidiary of the Conzinc Rio Tinto of Australia (CRA), was commissioned to exploit the deposits pursuant to an agreement in 1967. [FN2] This was followed by a renegotiated agreement in 1974 with provisions for reviews after seven years to cope with upgraded claims for compensation and development. Mineside landowners were unhappy about the amount of compensation and the pace of development. Dissatisfaction has grown at an alarming rate, especially among emerging younger landowner leaders who are not the direct beneficiaries of the mine.

The leader of the disgruntled landowners, Ona, tapped these deeply-rooted economic grievances and frustrations. He announced in April 1988, that they would revolt unless the Government met their demands for the permanent closure of the BCL open-pit mine at Panguna which was located on their ancestral land. He also sought \$11.5 billion in compensation for environmental and social damages, and a referendum for the Bougainvilleans to decide whether to secede from Papua New Guinea. [FN3] These seemingly immodest claims were largely ignored until November 1988, when the mine closed temporarily. Due to substantial damage caused to the mine by rebel land owners, the mine was temporarily closed on May 15, 1989. The government initially regarded the crisis as a law and order problem and attempted in vain

to rectify the situation by declaring a state of emergency on Bougainville on June 26, 1989, followed by police and troop reinforcements. This action sparked off violent retaliation by dissidents. The Bougainville Revolutionary Army (BRA) was organized to initiate and conduct guerilla resistance against government troops. The BRA recruited a large number of villagers and retired and defected police and army personnel. Difficult terrain and bushy hills were used as sanctuaries to train, rest and organize the BRA to fight government troops stationed in Bougainville. A civil war situation thus emerged with both sides convinced that the cause they were fighting for was just.

However, in early March 1990, the government and the BRA agreed on a cease fire. The government withdrew all police and troops from Bougainville as a precondition to the cease fire and peace negotiations. [FN4] Following this cease fire, an international observer team went to Bougainville to observe the surrender of all BRA arms and ammunition. Bilateral peace talks between the government and BRA have yet to commence. Mutual mistrust, insecurity and a lack of confidence resulted in a deadlock in the attempt to agree upon a venue for peace talks. Since the complete withdrawal of troops and police, the entire province has been under the absolute control of the BRA. The writ of the government ceased to run in the province. The functions and effectiveness of the provincial government have been totally paralyzed. In fact, the BRA has been running a parallel administration, if not a parallel government, in Bougainville. Recently, the government imposed a partial economic blockade around the province in a bid to regain control. [FN5] The BRA responded on May 17, 1990, by proclaiming the island a Republic with a new interim government. [FN6] The national government formally rejected the Unilateral Declaration of Independence (UDI) of Bougainville. [FN7]

This paper examines the international legal status of the secession of Bougainville through the UDI. It reveals that international law does not prevent the BRA from proclaiming their UDI as a revolutionary act. Nor does international law forbid the national government of Papua New Guinea from suppressing the UDI if it can. International law simply accepts the final outcome of the conflict that emanated from the UDI of Bougainville, which, if successful, will acquire legitimacy and recognition.

II. SECESSION IN INTERNATIONAL LAW AND THE UDI OF BOUGAINVILLE

The Wilsonian notion of self-determination received considerable boost and international blessing following the First World War. [FN8] Despite the consistent proclamation of self-determination as a right of "all people," [FN9] it has generally been emphasized as a right of colonial peoples. The idea is that colonial peoples, should they so desire, are entitled to gain independence by exercising their right to self-determination. Once independence is achieved, their right is fulfilled and no further resort to self-determination is tenable within that state. [FN10] In other words, there is no room left for a dissident group in an independent state to break away. The inviolability of territorial integrity and political unity of the existing state is at the root of this presumption. Since secession involves the disintegration of a state, understandably no incumbent government will allow its constituent peoples and territory to secede. Similarly, no organization of states will prescribe any such principle to be followed by its members in case of an internal demand for secession. This explains why the United Nations is extremely discrete so as not to take a decision inimical to its power-base member states. [FN11] Therefore, the present state-oriented world order and its forum -- the U.N. -- are reluctant to extend the right to self-determination beyond the traditional colonial context.

However, claims to secession in non-colonial situations are growing alarmingly both in quantity and intensity. [FN12] The state solidarity for territorial integrity under circumstances at any cost has not succeeded in solving the problem. Historically, separation on the basis of incompatibility as a means of restoring security and peace has been pursued as an effective remedy to situations where there is little or no likelihood that two groups of people will ever live together in harmony. [FN13] Separation appears to be the ultimate remedy to restore security of a subservient group when confronted with an irretrievable discrepancy between itself and the dominant group. [FN14] It has been argued that secession does not "automatically justify buttressing the existing order, for it may indicate a genuine associational desire and help transform an unstable situation into a more equitable new order." [FN15]

It has been claimed that the post First World War peace settlement, on the strength of which self-determination became operative, prescribed secession as a means of realizing the right and that "it is nonsense to concede the right to 'all peoples if secession is excluded.'" [FN16] Self-determination is described as "a two-edged concept which can disintegrate as well as unify [.]" [FN17] Secession from an existing state either to constitute an independent state or to join another existing state is recognized as one of the modes of exercising self-determination in the 1970 U.N. Declaration on Friendly Relations. [FN18] The new era of self-determination in post colonial times is exemplified by the independence of Bangladesh in 1971. The response of the world community to Bangladesh's bid for secession from the Federation of Pakistan was noticeably warm, which contributed significantly to the birth of Bangladesh. [FN19]

The Bangladesh experience for the first time disproved the presumption that self-determination has no relevance in this decolonized era. There is still room for the creation of new states through secession under certain circumstances. The secession of Bangladesh also indicates that dogmatic adherence to the territorial integrity of a state is counter-productive without the allegiance of the people who live within that territory. Widespread international support for Bangladesh is indicative of the world community's willingness to recognize self-determination as a continuing remedy ranging from internal freedom and equal rights of peoples to secession of groups as the ultimate remedy in extreme cases. This shift in the international legal status of secession and the influence of the Bangladesh precedent are easily discernable in the statement of the U.N. Secretary-General in the post-Bangladesh period which is a marked deviation from his opinion on secession in the post-Biafra period. [FN20]

The principle of equal rights and self-determination of peoples has become an international legal right. Secession is a form of self-determination. There is no rule of international law which proscribes secession in all circumstances. Secession may therefore be exercised within the existing international legal system, favoring neither secession, which is disruptive to world order, nor the ruthless suppression of just secession in the name of territorial integrity. Such a compromise in the form of a checks-and-balance between the right of peoples to secession and the right of the state to territorial integrity has been accomplished in paragraph 7 of the 1970 U.N. Declaration on Friendly Relations (Paragraph). [FN21] For the first time, though the legitimacy of secession has been previously recognized in an international instrument of this nature, the scope of secession is circumscribed by conditions and circumstances. Secession may be permissible as a last resort only in situations where such a choice becomes unavoidable due to the practical impossibility of other means of realizing the right of peoples to self-determination. A circumspect dissection of the Paragraph may be helpful in ascertaining the standard of legitimacy of post-colonial secession claims. [FN22]

The Paragraph may conveniently be divided into three interrelated sections. Dealing with

the inviolability of territorial integrity of a state, the first part provides that "[n]othing in the foregoing paragraphs [the principle of equal rights and self-determination of peoples] 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[.]" [FN23] This protection however has not been extended to all states. The ensuing parts single out the beneficiaries of this protection. Only those states which are "conducting themselves in compliance with the principle of equal rights and self-determination of peoples . . ." enjoy this protection. In its concluding part, the Paragraph explains, in the form of a savings clause, what it means by the compliance provision in the second part. To comply with the principles of equal rights and self-determination of peoples, a state must possess "a government representing the whole people belonging to the territory without distinction as to race, creed or color." [FN24]

It is evident that the right of a state to territorial integrity under the first part is not absolute but tempered by the corresponding duties under succeeding parts which require a state to comply with the principles of equal rights and self-determination of peoples in terms of providing a representative government. Admittedly, international law does not require any particular form of government. Yet there has been a growing tendency in the international community to favor forms of government based on popular support. This increasing concern for the realization of human rights and majority rule is not embodied for the first time in the Paragraph. Deeply rooted in the community expectations and the U.N. Charter, the protection of equal rights and majority rule through appropriate constitutional process has become a part of international obligations. [FN25] The idea of self-determination itself owes its origin to the "consent of the governed" principle. [FN26] The Universal Declaration of Human Rights requires that the legitimacy of governmental authority must be based on the will of the people expressed in free and periodic general elections. [FN27]

Once a colonial people attains independence and establishes its own state, it is deemed to have enjoyed its right to "external" self-determination by freely determining its future political status in the international arena. The same people, as nationals of an independent state, are now entitled to the right to "internal" self-determination by freely electing and keeping a government of their own choice and by having the right not to be oppressed or discriminated against by the government or by any other influential group. [FN28] In other words, the right to "external" self-determination is exhausted when independence is achieved, and is replaced by the right to "internal" self-determination. The former will be meaningless in the absence of the latter.

Hence, the most elementary authoritative expectation of the world community has been incorporated in Paragraph 7 as a compliance clause. In order to insulate territorial integrity under this Paragraph, the government of a state must derive its legitimacy from the will of the people. Equal rights and self-determination of its peoples cannot be construed to sanction any action that impairs the territorial integrity of that state. Because people within that state are deemed to have been enjoying both "external" and "internal" self-determination, there would be no further exercise of the right. Being free from internal and external domination, the people are debarred from any attempt aimed at total or partial dismemberment of the territorial integrity and political unity of the state to which they belong. Implicit in this protection is the corollary that if a state violates its duty owed to its people, they may not be prevented from resorting to any means of realizing their equal rights and self-determination even if such action infringes upon the territorial integrity of that state. The validity of such an action seems to flow from non-compliance with the principle of equal rights and self-determination of peoples by the state concerned. The justified end of the people in effect acts as a mitigating factor in turning the

prohibited means into a permissible one.

The formulation serves as a release mechanism in preventing abuses of rights. It poses a threat to the territorial integrity of a state having scanty regard for the aggregate wishes of its peoples and their rights. Concomitantly, it is also a threat to the people within a state who wish to contravene the political unity of that state without having adequate reasons for so doing. Neither of these situations may be able to convince the world community to support their cause. Hence, the right of people in an independent state to secede is not a natural or inherent right, but a consequential right. It becomes permissible and operative only following the denial of equal rights and self-determination of peoples by the state concerned. In other words, respect for equal rights and self-determination by one state precludes the right of people to secede.

Bougainville became a part of the German colony of New Guinea during the late 19th century. Following the First World War, Australia took over the German colony and administered it as a League of Nations trusteeship. It continued to be administered by Australia under a U.N. mandate. Bougainville, being an integral part of Papua New Guinea under the colonial administration, attained self-government in December 1973, leaving Australia in control only of foreign affairs and defense. [FN29] All Bougainvillean members of the Constituent Assembly were included in the coalition, formed in 1972 by Chief Minister Somare, which administered self-government in the territory until independence. [FN30] As a result of previous grievances and frustrations during the colonial period, Bougainville proclaimed independence on September 1, 1975, only fifteen days prior to the independence of Papua New Guinea. Yet the promise of political and fiscal autonomy by the national government persuaded the Bougainvilleans to remain with Papua New Guinea. Bougainville therefore gained independence along with Papua New Guinea from Australia on September 16, 1975, through the exercise of "external" self-determination. The Bougainville Agreement of August 1976 provided for the creation of the province of Bougainville, its provincial government and financing. [FN31]

The Constitution of Papua New Guinea envisages a quasi-federal system of government with provisions for power decentralization. It establishes nineteen provinces with their provincial governments enjoying autonomy in all matters except defense, foreign affairs and currency. [FN32] At the national level, the people and territory of Bougainville are represented in the national government and parliament through their elected representatives. At the provincial level, the provincial government is composed of the elected representatives of the Bougainvilleans who also enjoy the benefit of a local government council consisting of community leaders. [FN33] Bougainville has been governed by representative governments both at the national and provincial levels ever since the independence. The legitimacy of these governments is based on the will of the people expressed in free and periodic enfranchisements of all segments of the population within the territory. Under such constitutional regimes, the people enjoy their opportunity to exercise comprehensive control over, and participation in, the internal political power structure of the state. It also provides all groups of people with a high degree of self-government to develop their own economic, social and cultural institutions.

Given the constitutional and governmental structures referred to, it would be difficult to establish that the national government of Papua New Guinea lacks a popular base and representative character and is, as such, in violation of equal rights and self-determination of its people. Instead, a strong case can be made for saying that Papua New Guinea has persistently possessed democratic governments representing all sections of its population without any distinction whatsoever, and that it is conducting itself in accordance with the principle of equal rights and self-determination of peoples. Papua New Guinea is therefore entitled to the protection

of its territorial integrity under Paragraph 7. This entitlement in turn affords some degree of strength and sanction that may be relied on to justify any action purported to defend the territorial integrity and political unity of Papua New Guinea. Since it is possible for the Bougainvilleans to realize their equal rights and "internal" self-determination in a constitutional manner within Papua New Guinea, no further exercise of "external" self-determination by way of secession maybe permissible under Paragraph 7. The UDI of Bougainville that has undermined the territorial integrity of Papua New Guinea is arduous to subsume appropriately under, but rather appears to be a violation of, Paragraph 7.

III. THE EFFECTS OF SECESSION OF BOUGAINVILLE ON THE REST OF PAPUA NEW GUINEA

An Act of secession implies a diminution of territory and population of the parent state. The effect of secession, in particular the economic and strategic significance of the seceding part, on the parent state has assumed and will continue to assume paramount importance in weighing the legitimacy of a secession claim. Secession jeopardizing the economic base of the parent state or exposing the latter to a vulnerable position or to the aggression of a hostile neighbor is unlikely to draw sympathy from the world community. The viability of the remainder must be taken into account and a secession that places too grievous an economic burden on the remaining area may not be permissible. It has strongly been asserted that the remaining state cannot be deprived of its economic base in case of secession. [FN34]

One of the factors which militated against the secession claims of Katanga from the Republic of Congo and of Biafra from the Federation of Nigeria in the 1960s was the fear that their separation would inflict disastrous impacts on the remainder of the parent states. There was a good deal of concern for the future economic security of the Congo. Moreover, the recognition of legitimacy of the Katanga secession paralleled similar claims to legitimacy by the Congo, its parent state. [FN35] The economic viability of Nigeria excluding Biafra was never dubious, because Biafran oil was not indispensable to Nigeria. Yet there could be no doubt that oil was one of the major issues involved in the opposition to the Biafran secession. There was also widespread apprehension that this secession would induce a further break up of the federation into its ethnic components. [FN36] Such ramifications did not surface during the secession of Bangladesh, which was in a subordinate position in the wealth and political processes of Pakistan. Economically and politically, Bangladesh and the western part of Pakistan were distinct units with diverse features. The economic prosperity and political viability of West Pakistan was not dependent on Bangladesh. Just as the separation of overseas colonies had no adverse effect on their metropolitan territories, the separation of Bangladesh had no such effect on the rest of Pakistan. From all conceivable points of view, both wings of Pakistan showed signs of being able to survive as independent entities. [FN37]

The Bougainville secession is largely due to its wealth and economic frustrations. In spite of a small population (140,000), Bougainville is one of the most resource-rich provinces of Papua New Guinea. This enormous concentration of wealth has obvious political implications. The secessionist attempt by Bougainville on September 1, 1975, was perhaps influenced by the desire to make the island prosperous by disassociating itself from the remainder of Papua New Guinea. The national government, which was relying heavily on the Bougainville mine to support its economy, quickly granted the island provincial status after national independence had been achieved. [FN38] This fact tends to indicate that there was a great deal of concern even

at the time of independence of Papua New Guinea that the very economic survival of the new state would be at risk without Bougainville. Since independence, there has been an established flow of goods and services between Bougainville and other parts of Papua New Guinea which has made them interdependent economically. Since 1972, the Bougainville mine has been providing 17 percent of the national revenues and 45 percent of the national exports, earning a significant amount of foreign exchange for Papua New Guinea. In monetary terms, the mine, before closure, was providing over one million U.S. dollars a day for the national treasury. Two-thirds of the 2,950 Papua New Guinean workers at the mine were from the rest of the country and are now unemployed. [FN39]

Given the nature and features of the Papua New Guinea economy, it would be extremely difficult to demonstrate that the separation of Bougainville would not produce any adverse consequences on the remainder of Papua New Guinea. Indeed, the national economy has received a serious set back as a result of the closure of Bougainville mine. The economy is now largely dependent on additional borrowing, loans and grants from various donor countries and financial institutions. [FN40] Further, secession by Bougainville has created an unhealthy precedent for other regions to seek secession in an attempt to resolve their economic grievances. The prevailing political climate seems to contain symptoms of being further beset by similar claims by other PNG regions should Bougainville succeed. [FN41] These economic interdependencies and concern for the political unity of Papua New Guinea appear to be influential factors which are likely to challenge the wisdom and reasonableness of the Bougainville secession claim.

IV. THE DEGREE OF DEPRIVATION OF HUMAN RIGHTS IN BOUGAINVILLE

Solicitude about present and future security appears to be the cardinal aim of the Bougainvilleans' bid for secession. The UDI overtly reflects a number of such convictions. These mainly include that Papua New Guinea: (a) in 1989 "declared and fought a war against the people of Bougainville," (b) "has begun imposing an economic embargo against Bougainville," (c) "has again declared its intent to invade Bougainville and subjugate its people," and (d) "has refused to recognize the democratic rights of the people of Bougainville." [FN42] Inherent in these convictions are the assertions that numerous human rights violations and torture of civilians are being committed by Papua New Guinea discipline forces stationed in Bougainville. The BRA is convinced that the security of livelihood, properties and the very lives of the Bougainvilleans cannot be assured if they are subject to the control of Papua New Guinea. Confronted with such an insecure situation, they have asserted secession as a last resort to restoring security.

The sustenance of minimum conditions for the survival of people as dignified human beings is the common concern of all communities. The protection and promotion of, and respect for human rights in order to provide justice to the people has been acknowledged as a pre-eminent task of international law. This commitment is unequivocally reflected through continuous authoritative prescriptions of the U.N. on human rights. A denial of human rights infringes upon not only the U.N. Charter but also upon nearly all contemporary international instruments on human rights. [FN43] Where an incumbent government is responsible for the persistent violation of equal rights and internal self-determination of its own people, the aggrieved people may find it imperative to opt for secession as a last resort. Ultimately, claims to secession based on gross transgression of human rights and the lack of physical security may

be undeniable in international law. Precisely such a situation happened when Bangladesh seceded from Pakistan. The humanitarian deprivations and the physical security of the Bengalees within the Federation of Pakistan were numerous. The Bengalees became the principal target of a planned mass massacre. Faced with this genocidal act of Pakistani troops in Bangladesh, the Bengalees passionately sought and fought for secession as a last resort to restoring their present and future security. The federal government of Pakistan mistreated its own citizens in a way falling so short of the general standard recognized by civilized peoples to "shock the conscience of mankind." [FN44] Consequently, the right of Pakistan to territorial integrity was overridden by the "elementary considerations of humanity." [FN45] The plight of the Bengalees generated worldwide sympathy and support for their cause and antipathy towards Pakistan's authoritarian military rule in Bangladesh. The separation of Bangladesh thus appeared to be the only alternative left for the world community to put an end to the then ongoing massive violation of human rights of the Bengalees within Pakistan and untold human misery in Indian refugee camps. [FN46]

Quite apart from economic deprivations that have precipitated since colonial days, it is acknowledged that Papua New Guinea troops abused unarmed Bougainvilleans during the emergency imposed by the national government. There occurred indiscriminate killing of civilians by members of the defense force who alienated many Bougainvilleans by beating up suspected rebel sympathizers and conducting Vietnam-style search and clear operations in villages near the copper mine, turning thousands of villagers into refugees. [FN47] It was also alleged that homes, food gardens and jungles in the Kongara area, the militant stronghold, were sprayed with chemicals from a defense force helicopter. [FN48] This plight of the Bougainvilleans drew regional concern.

Nonetheless, the humanitarian deprivation of the Bougainvilleans is far less than that of the Bengalees in terms of the gravity and intensity of suffering. The Bengalees suffered a prolonged internal colonialism which cannot be said of the Bougainvilleans. In fact, there can be no comparison or parallel with the human tragedy in the Bangladesh situation. Moreover, it is not only the defense force members who were responsible for the violation of human rights in Bougainville. Human rights were also being violated by members of the BRA on a large scale. [FN49] These factors are likely to influence the decision making of many members of the world community in responding to the UDI of Bougainville. They may consider that the physical security of the Bougainvilleans and their humanitarian deprivation within Papua New Guinea are not grave enough to warrant secession. They may be inclined to remedy their grievances by any negotiated political or constitutional means short of outright secession.

V. WORLD ORDER AND THE SECESSION OF BOUGAINVILLE

The sustenance of a minimum world order in terms of providing peace and security is one of the prime objectives of the world community [FN50] which, as such, admits only those changes in the status quo that least threaten world order. A claim to secession is fraught with disruptive impacts on a stable world order. The secession of Bougainville involves a redelimitation of existing territorial boundaries which inflicts radical impacts on the status quo by disintegrating the recognized and established territorial boundary of Papua New Guinea. The reasonableness of the secession of Bougainville and that of the unity of Papua New Guinea therefore ought to be viewed in terms of basic community policy of minimization of disruption and disorder. In other words, the task is to decide whether the unity of Papua New Guinea or

the separation of Bougainville would comparatively be more supportive of the maintenance of optimum world order. This leads one to examine the prospect of the proposed Republic of Bougainville of becoming a viable entity in terms of its internal stability and external ability to function as a responsible member of the international community.

The viability of many mini and micro states created as a result of decolonization has been the concern of the world community. [FN51] Secession is generally opposed because it will lead to further fragmentation of existing states. It has been asserted that self-determination would give each individual human being a right to an independent state. [FN52] This is greatly exaggerated because self-determination, by its nature, it is a collective right. A distinct group of people, not each and every individual of the group, is the beneficiary of the right. [FN53] No one would assert a claim to independence of a land mass without economic and political prospects. It is *erroneous to pretend that every nationalist group would be willing or would have the ability to establish its own state by breaking away from its parent state.* [FN54] The important consideration is that the group claiming independence must possess a reasonable economic and political prospect of becoming a viable entity so that it can manage its own affairs and act as a responsible entity in the international arena.

The crucial question is: can Bougainville achieve independent statehood in any meaningful sense which is more promising for enduring world order? An absolute answer cannot be given, because arguments both for and against are so convincing that they often lead to confusion.

Ironically, large developing states do not necessarily have an advantage for political stability and economic prosperity. If a larger population and area facilitate economic stability, the most populous and vast states would be the richest in the world. However, existing records do not show that all big states have done economically better than small states; nor does the former have a greater development potential over the latter. Factually, some of the world's most populous and vast states are among the poorest; whereas some small states have a gross national product either equal to, or even greater than, some big states. [FN55]

The proclaimed Republic of Bougainville would be smaller than only three states in the South Pacific, namely Papua New Guinea, the Solomon Islands and Fiji. [FN56] Its population would be bigger than Guam, New Caledonia, Vanuatu, Kiribati, Nauru, American Samoa, the Cook Islands, Tonga, Tuvalu, Niue, and French Polynesia. [FN57] Its economic viability cannot be questioned beyond doubt in view of its big copper mine, once reopened. Tax revenues from the mine would no longer be shared across Papua New Guinea, leaving the Republic perhaps the wealthiest island state in the South Pacific. However, the prospect of the mine reopening in the near future is bleak. Long-term closing of the mine may mean that the Republic would revert to a subsistence economy. Whether such an economic state would be better or worse off is arguable in view of the indigenous life style and living standards (expectations) of the Bougainvilleans. The poor military strength of Bougainville for its security should not be unduly overemphasized. In this nuclear era and with the advent of sophisticated weapons, it has become exceedingly difficult even for the Super Powers to ensure their own security. In this interdependent world, a state's physical security from external aggressors does not lie in its own self-sufficient military strength, but in multinational cooperative arrangements. [FN58] Viewed from these perspectives, the defense strength of Bougainville may not be considered a criterion in determining its viability as an independent entity.

It may be argued that the disintegration of Papua New Guinea may exert an easing effect on continuous political unrest in Bougainville - the root cause of the crisis. There is no reason

to surmise that the proclaimed Republic is not capable of managing its own affairs, at least with as much effectiveness as are found in other small island states of the South Pacific. Being a good foreign exchange earner, the potential of the Bougainville economy for a diversified scheme of industrialization may not be gainsaid. Although the crisis inflicts adverse impacts on regional order at this juncture, the prospects are promising that the Republic of Bougainville would be friendly towards other nations of the region, thereby promoting lasting regional peace and security.

The arguments referred to, intuitively appealing though they may be, should not be taken for granted, particularly in the case of Bougainville. Response to the UDI of Bougainville by some members of the regional community is indicative of their underlying assumption used to counter the secession. [FN59] They seem to think that it would lead to the proliferation of yet another independent entity in the region too small to be politically stable. Being a fragmented part of Papua New Guinea and constrained by small national income and limited markets, the proclaimed Republic of Bougainville would be economically in a disadvantageous position to function effectively. Similar African examples tend to support the apprehension that political independence does not necessarily ensure freedom from outside control. Many black African states, due to their poverty and inefficient management ability, have had to pawn their natural resources to rich white countries, notably South Africa, France and the United Kingdom. [FN60] The same may well be said of Bougainville which appears to be ill-prepared for outright independence.

In the Bangladesh secession crisis, the world community accepted the disintegration of Pakistan to alleviate the then ongoing disruption to global and regional order. It was of paramount importance to ease regional tension and insecurity because the scale and diversity of the conflict added special urgency to prevent its escalation. There was no viable preference to the secession of Bangladesh that could ensure regional peace and security, Despotism adherence to the territorial integrity of Pakistan would have perpetuated regional disorder. Therefore, the secession of Bangladesh was judged by the international community as unavoidable and necessary for the maintenance of world order. [FN61] Nothing comparable has happened in Bougainville. A comparison between the two situations divulges that the parameters of the Bangladesh situation are not paralleled with, nor do they approach, the parameters of the Bougainville situation. Although the world community preferred the secession of Bangladesh, it would seemingly be reluctant to deviate from the Bangladesh circumstances and prefer to construe them strictly in responding to the UDI of Bougainville. Indeed, there are certain factors which are likely to influence many members of the world community to think that the proposed Republic of Bougainville would provide a poor case for future economic viability without massive international aid. The political knowledge and experience of the Bougainvilleans are not adequate enough to conduct the affairs of an independent state, and a support for the UDI of Bougainville may in turn contribute to the emergence of a non-viable entity at the expense of regional order.

VI. CONCLUSION

In view of the foregoing analysis, it appears quite difficult to contain and subsume the UDI of Bougainville as an act of secessionist self-determination permissible in international law. Paragraph 7 of the 1970 U.N. Declaration on Friendly Relations, which recognizes the legitimacy of secession under certain circumstances, does not furnish any degree of strength and

sanction that may be relied on to justify the secession of Bougainville impairing the territorial integrity and political unity of Papua New Guinea. The international support for the secession of Bangladesh may perhaps be viewed as a normative response to future secession claims. A comparative study establishes that there are certain factors which distinguish the two situations and that the Bougainville situation is somewhat different and is not as solidly founded as was the Bangladesh one. The world community, with prima facie respect for the existing state-centric order, would be inclined to interpret the Bangladesh precedent rigidly and find that the factors involved in the Bougainville situation are not sufficiently supportive of the cause.

This is, however, not to assert that the UDI of Bougainville is illegal in international law. The UDI is tantamount to a revolution from the viewpoint of the constitution of Papua New Guinea and as such it is stamped unlawful ab initio. [FN62] But the constitutionality of domestic activities is immaterial in international law. [FN63] As a result, the international legal position of the UDI is quite different. There is no rule of international law which prohibits revolution. Nor does the U.N. Charter contain any provision that forbids revolution. Historically, there has always been a right to revolution which has resulted in the breaking up of empires and making of modern states, and the breaking off of modern states and remaking of them. [FN64] The right of people to revolt exists quite independently in international law.

The emergence of new states on the world scene or the reshaping of the existing ones is a matter of obvious international concern. Emerging entities customarily make a formal statement to notify the world community of the new fact situation. The UDI of Bougainville is intended to serve this end. It is a proclamation made publicly and formally in explicit terms on a specific state of affairs - the formation of a new state and its interim government. Being a device of notification of this new state of affairs, the UDI is the starting point of the history of the Republic of Bougainville in the international arena. It therefore falls well within the category of international acts. [FN65] Through this act, the entity has purported to claim international personality and competence to speak and represent in the international arena on behalf of the territory and people concerned. To be an independent state, an entity is required to fulfill certain essential criteria of statehood. It is not possible to comply with all these conditions merely by proclaiming a UDI. It would be erroneous to say that the UDI of Bougainville itself has transformed the original status of Bougainville from that of a province of Papua New Guinea into an independent state. Whether, how far and under what circumstances the Republic of Bougainville would become an independent state and its interim government becomes its governmental authority after the UDI are issues to be ascertained independently in international law. But there is nothing in international law to suggest that it cannot assert such personality and competence. [FN66]

The nature of the UDI of Bougainville is a revolutionary act in international law which does not prohibit the acquisition of independence through revolutionary means. Nor is there any rule of international law which legalizes such an act until it is successful and recognized by other international persons. Concurrently, international law does not deny the right of a state to suppress rebellion as a police action to restore law and order. The maintenance of law and order and to compel obedience thereto by individuals is the essential task of a state. An incumbent government is free to subdue internal insurrection by force. [FN67] By virtue of this position, it is clear that international law does not take away the right of the national government of Papua New Guinea to use whatever force is necessary in putting down the revolution in Bougainville as a permissible police action in order to restore law and order. This internal resort to force by both sides does not come within the purview of international law which merely endorses the

outcome of the struggle. In this respect, international legal rules governing revolution would be applicable in determining the legitimacy of the UDI of Bougainville, that is, might determine the right and nothing succeeds like success. The UDI of Bougainville would be an international legal act following its success and recognition. The UDI of Bougainville is yet to be succeeded or crushed. Therefore, its current status in international law is neither legal nor illegal but perhaps may conveniently be seen as extra-legal.

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FN1. Bougainville is also called the Province of North Solomon, and is a mountainous island, 560 kilometers off the coast of New Guinea.

FN2. See R. WEST, *RIVER OF TEARS: THE RISE OF THE RIO TINTO-ZINE MINING CORPORATION*, pt. 2, ch. 4 (1972).

FN3. See *Asian Wall Street Journal*, Jan. 8, 1990, at 1, col. 2 (weekly ed.); Albon, *Back to Battle*, *ISLAND BUSINESS*, Oct. 1989, at 12; Callick, *Bougainville Revolutionary Army Takes Charge*, *ISLAND BUSINESS*, Apr. 1990, at 21, 24; Robie, *Bougainville One Year Later*, *PACIFIC ISLANDS MONTHLY*, Nov. 1989, at 10.

FN4. A cease fire which was to be effective from March 1, 1990, was signed by the Deputy Controller of the state of emergency and the commander of the BRA. See Senge, *Round One for the Militants*, *PACIFIC ISLANDS MONTHLY*, Apr. 1990, at 16-17; Callick, *Bougainville Revolutionary Army Takes Charge*, *ISLANDS BUSINESS*, Apr. 1990, at 21.

FN5. See *Faxionalism: Bougainville is free—at least on paper*, *TIME (Australia)*, May 28, 1990, at 16; *PNG Backed on Bougainville*, *TIME (Australia)*, May 21, 1990, at 32; *Post Courier (PNG)*, May 3 and 9, 1990, at 2.

FN6. For the text of this proclamation, see *Times of Papua New Guinea*, May 17, 1990, at 1, col. 1; *Times of Papua New Guinea*, May 24, 1990, at 4, col. 1; *Faxionalism: Bougainville is free—at least on paper*, *TIME (Australia)*, May 28, 1990, at 16.

FN7. See *Times of Papua New Guinea*, May 17, 1990, at 2, col. 3; *Post Courier (PNG)*, May 18, 1990, at 1; the *Times of Papua New Guinea*, May 31, 1990, at 4.

FN8. For a discussion on the Wilsonian concept of self-determination in the form of the fundamental urge to self-government, see Pomerance, *The United States and Self-Determination: Perspectives on the Wilsonian Conception*, 70 *AM. J. INT'L L.* 1 (1976).

FN9. See *Declaration on the Granting of Independence to Colonial Countries and Peoples*, G.A. Res. 1514 (XV) art. 2, 15 U.N. GAOR Supp. (No. 16) at 66, U.N. Doc. A/4684 (1960) (hereinafter *Decolonization Declaration*); *International Covenants on Economic, Social and Cultural Rights*, G.A. Res. 2200 (XXI) art. 1, 21 U.N. GAOR Supp. (No. 16) at 49, U.N. Doc. A/6316 (1966); *Declaration on Principles of International Law Concerning Friendly Relations and Cooperation Among States in Accordance with the Chapter of the U.N.*, G.A. Res. 2625

(XXV) principle V para. 1, 25 U.N. GAOR Supp. (No. 28) at 121, U.N. Doc. A/8028 (1970) (hereinafter Declaration on Friendly Relations).

FN10. See Friedlander, *Self-Determination: A Legal-Political Inquiry*, 1975 DET. C.L. REV. 71, 80 (1975); Emerson, *Self-Determination*, 65 AM. J. INT'L L. 459 (1971); Mustafa, *The Principle of Self-Determination in International Law*, 5 INT'L LAW. 479, 486 (1971); Green, *Self-Determination and Settlement of the Arab-Israeli Conflict*, 65 AM. S. INT'L L. PROC. 40, 44 (1971); P. TRUDEAU, *FEDERALISM AND THE FRENCH CANADIANS* 151-55, 187, 190 (1968).

FN11. It has been argued that "the UN would be in an extremely difficult position if it were to interpret the right of self-determination in such a way as to invite or justify attacks on the territorial integrity of its own members." HUMAN RIGHTS, THE US AND WORLD COMMUNITY 102 (V. Von Dyke ed. 1970).

FN12. At present, no region of the world is free from secessionist demands. For various self-determination claims in existing states, see Connor, *Self-Determination: The New Phase*, 20 WORLD POL. 30 (1967-68).

FN13. The united India was partitioned in 1947 on the basis of this notion. The partitions of Ireland, Korea, Germany, Palestine, and Vietnam (which is now reunited), may be cited to the same effect. See *THE PROBLEM OF PARTITION: PERIL TO WORLD PEACE* (T. Hachey ed. 1973).

FN14. See T. GURR, *WHY MEN REBEL* 22-58 (1970).

FN15. For an excellent analysis of the rationales of secession, see *The Logic of Secession*, 89 YALE L.J. 802, 820 (1980).

FN16. Emerson, *supra* note 10, at 464.

FN17. Eagleton, *Excesses of Self-Determination*, 31 FOREIGN AFF. 592, 593 (1952- 53).

FN18. See *Declaration on Friendly Relations*, *supra* note 9, at principle V, para. 4.

FN19. For a thorough international legal analysis of the Bangladesh case, see M. ISLAM, *THE BANGLADESH LIBERATION MOVEMENT: INTERNATIONAL LEGAL IMPLICATIONS* (1987).

FN20. In response to a question on the secession of Biafra, U.N. Secretary U. Thant maintained that the U.N. "has never accepted and does not accept and I do not believe it will ever accept the principle of secession of a part of its Member State." Emerson, *supra* note 10, at 464 and n.14 (quoting 7 U.N. Monthly Chronicle 36 (Feb. 1970)). Secretary Thant made a similar statement at the Accra Press Conference on Jan. 9, 1970. 7 U.N. Monthly Chronicle at 39 (Feb. 1970). In contrast, Secretary Thant changed his views on secession following the Bangladesh incident. In his 1971 Annual Report to the general assembly, he said: "A problem which often

confronts us . . . is the conflict between the principles of the territorial integrity of sovereign states and the assertion of the right to self-determination, and even secession . . . within a sovereign state" 26 U.N. GAOR Supp. (no. 1A) at 1, 18 (1971).

FN21. See Declaration on Friendly Relations, *supra* note 9.

FN22. For the text of the Paragraph, see 9 INT' LEG. MAT. 1292, 1296 (1970). This Declaration has been described as "the most authoritative statement of the principles of international law relevant to the questions of self-determination and territorial integrity." See THE EVENTS IN EAST PAKISTAN, 1971: A LEGAL STUDY BY THE ICJ SECRETARIAT, 8 THE REVIEW 67 (1972). For an exposition of the legally binding effects of the Declaration, see M. SAHOVIC, PRINCIPLES OF INTERNATIONAL LAW CONCERNING FRIENDLY RELATIONS AND COOPERATION (M. Sahovic ed. 1972); Note, Toward Self-Determination--A Reappraisal As Reflected in the Declaration on Friendly Relations, 3 GA. J. INT'L COM. L. 145, 155 (1973) (authored by C.D. Johnson); Rosenstock, The Declaration of Principles of International Law Concerning Friendly Relations: A Survey, 65 AM. J. INT'L L. 713, 714 (1971).

FN23. 9 INT'L LEG. MAT. 1292, 1296 (1970).

FN24. *Id.*

FN25. See H. LAUTERPACHT, RECOGNITION IN INTERNATIONAL LAW 172-73 (1947); H. LAUTERPACHT, INTERNATIONAL LAW AND HUMAN RIGHTS 178 (1973); K. MAREK, IDENTITY AND CONTINUITY OF STATES IN PUBLIC INTERNATIONAL LAW 53 (1954); B. BOT, NONRECOGNITION AND TREATY RELATIONS 24 (1967); Comment, Recognition of De Facto Governments: Old Guide Lines and New Obligations, 63 AM. J. INT'L L. 98 (1969) (authored by C. Fenwick); Note, The Development of An Inter-American Policy For The Recognition of De Facto Governments, 62 AM. J. INT'L L. 460, 464 (1968) (authored by C. Cochran).

FN26. This idea was first enunciated on March 11, 1913 by President Wilson in relation to the recognition of the Huerta regime in Mexico. See G. Hackworth, 1 DIG. INT'L L. 174, 181 (1940).

FN27. Universal Declaration of Human Rights, G.A. Res. 217A (III), art. 21(3), 3(1) U.N. GAOR Resolutions 71, U.N. Doc., A/810 (1948).

FN28. For a discussion of "external" and "internal" phases of self-determination, see M. Islam, The Proposed Constitutional Guarantee of Indigenous Government Power in Fiji: An International Legal Appraisal, 19 CALIF. W. INT'L L. J. 107, 120-21 (1988-89).

FN29. For a historical evolution of the political status of Bougainville, see R. WEST, *supra* note 2; Trouble in Paradise, SUNDAY TIMES MAGAZINE (London), June 10, 1973, at 32, 41-52; A. MAMAK & R. BEDFORD, BOUGAINVILLE NATIONALISM (1974) (NZ: Christchurch: special pub. no.1).

FN30. See generally supra note 29; also PAC. ISLANDS Y.B. 348-51 (J. Carter, ed., 15th ed. 1984).

FN31. See Griffin, Bougainvilleans: A People Apart, PACIFIC ISLANDS MONTHLY, Aug. 1989, at 26; Times of Papua New Guinea, May 24, 1990, at 4, col. 1.

FN32. Provincial governments are fully elected, formed to decentralize administration, receive revenue grants, impose and collect provincial taxes, and operate under the control of the Department of Provincial Affairs of the National Government. See PAC. ISLANDS Y.B., supra note 30, at 328.

FN33. These Councils have been set up to keep law and order, and have wider scope in the fields of health, education and commercial enterprises and in providing any public or social service for the good of the community. Id.

FN34. See Bowett, Self-Determination and Political Rights in the Developing Countries, 60 AM. S. INT'L L. PROC. 129, 131 (1966). For an application of this principle, see Suzuki, Self-Determination and World Public Order: Community Response to Territorial Separation, 16 VIRGINIA J. INT'L L. 779, 824-26 (1975-76).

FN35. Albert Kalongi, for example, declared the independence of his "Mining State" -- an area adjacent to Katanga. For a discussion of the economic and political viability concerns about the Congo, see L. BUCHHEIT, SECESSION: THE LEGITIMACY OF SELF-DETERMINATION 148 (1978).

FN36. Almost all of Nigerian petroleum reserves are located in the coastal areas of Biafra. Nigerian regions embraced secession at one time or another. For an examination of these issues, see id. at 174-75; see also Nixon, Self-Determination: The Nigerian/Biafra Case, 24 WORLD POL. 473, 490 (1971-72).

FN37. See Islam, Secession Self-Determination: Some Lessons from Katanga, Biafra and Bangladesh, 22 J. PEACE RES. 211, 214 (1985); Nations, The Economic Structure of Pakistan: Class and Colony, 68 NEW LEFT REV. 3-27 (1971); Misra, Intra-State Imperialism: The Case of Pakistan, 9 J. PEACE RES. 27-39 (1972); Morris-Jones, Pakistan Post-Mortem and the Roots of Bangladesh, 43 POL. Q. 187-200 (1972).

FN38. See supra note 29 and accompanying text.

FN39. For a detailed analysis of the dependence of Papua New Guinea on Bougainville mines, see Robie, Bougainville One Year Later, PACIFIC ISLANDS MONTHLY, Nov. 1989, at 10, 14; Callick, Bougainville's Lessons For Pacific Leaders, ISLANDS BUSINESS, Aug. 1989, at 28, 29; TIME (Australia), Jan. 22, 1990, at 24.

FN40. PNG sought and got additional Kina 14.85m Australian aid, and over Kina 700m from the Consultative Group meeting in Singapore in May 1990, see Post Courier (PNG), May 9 and 17, 1990, at 3.

FN41. Southern Highlands Premier Y. Koromba made such a threat in response to the Chevron Niugini development of the rich Iagifu-Hedinia oil reserve in his province. See Post Courier (PNG), May 2, 1990, at 11, col. 1. New Guinea Premier Pokawin also warned that New Guinea was prepared to secede as a group if there was any interference with the provincial government system. See Post Courier (PNG), May 7, 1990, at 1; The Australian, Mar. 16, 1990, at 13, col. 1.

FN42. See BRA proclamation, *supra* note 6.

FN43. The U.N. Charter embraces seven specific references to human rights, namely: preamble, arts. 1(3), 13(Ib), 55(c), 62(2), 68 and 76(c). Instruments subsequent to the U.N. Charter include, among others: the 1948 Universal Declaration on Human Rights; the 1960 Decolonisation Declaration; the 1963 Declaration on the Elimination of All Forms of Racial Discrimination; the 1965 International Convention on the Elimination of All Forms of Racial Discrimination; the 1966 Human Rights Covenants; and the 1970 Declaration on Friendly Relations. To these may be added at least 16 multilateral treaties on human rights prepared and adopted by the U.N.

FN44. L. OPPENHEIM, INTERNATIONAL LAW--A TREATISE 312 (8th ed. 1955). The Principles for International Law of the Future maintains that "each state has a legal duty to see that conditions prevailing within its own territory do not menace international peace and order, and to this end it must treat its own population in a way which will not violate the dictates of humanity or justice or shock the conscience of mankind." 39 AM. J. INT'L L., Supp. to No. 2 at 55, principle 2 (1944).

FN45. See Corfu Channel Case, 1949 I.C.J. Rep. 22.

FN46. For a complete analysis of violations of human rights in Bangladesh, see Islam, The 1971 Bangladesh Crisis: A Case Study in Violation of Human Rights and the Plea of Domestic Jurisdiction, 3 LAWASIA (NS) 45-65 (1984); Salzburg, UN Prevention of Human Rights Violations: The Bangladesh Case, 27 INT'L ORG. 115 (1973); Nanda, A Critique of the United Nation Inaction in the Bangladesh Crisis, 49 DEN. L. J. 53, 56 (1972).

FN47. An example is the unprovoked killing of 3 civilians on July 10, 1989. See Albon, The Colonel Goes After Ona, ISLANDS BUSINESS, Aug. 1989, at 24, 25. The Defense Minister of PNG promised disciplinary action against those involved in violation of human rights. The Australian Foreign Minister recognized human rights abuses and expressed concern to the Prime Minister of PNG. North Bougainville MP, Mr. Ogio, filed an application before the National Court alleging violation of human rights on Bougainville by government troops. See Post Courier (PNG), Jan. 30, 1990, at 1, 2. For more atrocities and human rights violation claims, see Post Courier (PNG), Feb. 9 and 12, 1990, at 3; Post Courier (PNG), Mar. 15, 1990, at 2; Asian Wall Street Journal Weekly, Jan. 8, 1990, at 15, col. 1; The Australian, Feb. 6, 1990, at 11; Times of Papua New Guinea, May 17, 1990, at 14.

FN48. A report to this effect was published in Post Courier (PNG), Feb. 13, 1990, at 2.

FN49. The killing of a provincial government minister, John Bika, in front of his family is just one of many similar instances. See Times of Papua New Guinea, May 17, 1990, at 3; Times of Papua New Guinea, May 24, 1990, at 12, col. 1; Albon, New Colonel In Charge of Bougainville, ISLANDS BUSINESS, Nov. 1989, at 18, 20.

FN50. Of the two broad U.N. purposes mentioned in article 1 of the Charter, the maintenance of international peace and security in providing a stable world order is one.

FN51. See D. VITAL, THE SURVIVAL OF SMALL STATES (1971); E. PLISCHKE, MICROSTATES IN WORLD AFFAIRS: POLICY PROBLEMS AND OPTIONS (1977).

FN52. See Eagleton, supra note 17, at 596.

FN53. See Chen, Self-Determination As a Human Right, TOWARD WORLD ORDER AND HUMAN DIGNITY 214 (W. Reisman & B. Weston eds. 1976); Chowdhury, The Status and Norms of Self-Determination in Contemporary International Law, 24 NETH. INT'L L.REV. 72, 74 (1977); U. UMOZURIKE, SELF-DETERMINATION IN INTERNATIONAL LAW 52 (1972).

FN54. It is possible to prepare an endless list of ethnic groups in Asia, Africa and the Pacific which lack independent political and economic viability. The Mariana Islands of the Pacific, for example, opted for closer ties with the United States through plebiscite and covenant. See Dempsey, Self-Determination and Security in the Pacific: A Study of the Covenant Between the US and the Northern Mariana Islands, 9 N.Y.U. INT'L L.P. 277 (1976-77).

FN55. For example, India is poor compared to Singapore or Hong Kong, which are rich indeed. For more examples, see Leff, Bengal, Biafra and the Bigness Bias, 3 FOREIGN POL'Y 129, 130 (1971).

FN56. Bougainville has 9,000 square kilometers in area and a population of 140,000; PNG is 461,690 square kilometers in area with a population of 3.5 million; the Solomon Islands has an area of 29,785 square kilometers with a population of 196,823; and Fiji has an area of 18,376 square kilometers with a population of 650,409. PAC. ISLANDS Y.B., supra note 30.

FN57. Guam has an area of 549 square kilometers and a population of 105,816; Nauru is 24 square kilometers with a population of 84,000; American Samoa has an area of 197 square kilometers with a population of 33,920; the Cook Islands have an area of 67 square kilometers with a population of 16,900; Tonga is 696.71 square kilometers with a population of 90,128; Niue is 258 square kilometers with a population of 3,298; and French Polynesia is 4,000 square kilometers with a population of 160,000. For a detailed comparison, see id.

FN58. Various agreements on disarmament between the NATO Allies, the Warsaw Pact members, the Non-Aligned Nations, the Super Powers, and regional states may be cited to exemplify the growing trend of collective security.

FN59. Virtually all of the neighboring countries of PNG, namely Australia, New Zealand,

Indonesia, Vanuatu, Kiribati, Fiji, and the Solomon Islands, have rejected the UDI of Bougainville. See Post Courier, (PNG), May 18, 1990, at 3; Post Courier (PNG), May 22, 1990, at 2.

FN60. There are also lessons to be learned from such smaller African countries as Kenya, Uganda, Zambia, and Sierra Leone, where tribal rivalries have been frustrating the efforts of independent governments. See Trouble in Paradise, SUNDAY TIMES MAGAZINE (London), June 10, 1973, at 52.

FN61. See Islam, The Territorial Integrity of a State Versus Secessionist Self- Determination of Its People: the Bangladesh Experience, 5 BANGLADESH INST. OF INT'L & STRATEGIC STUD. J. 27, 28-35 (1984).

FN62. According to the CONSTITUTION OF PAPUA NEW GUINEA art. 200.

FN63. See G. SCHWARZENBERGER, A MANUAL OF INTERNATIONAL LAW, 49, 69 (5th ed. 1967); D. O'CONNELL, INTERNATIONAL LAW 137 (2d ed. 1970).

FN64. See Higgins, International Law, Rhodesia and the U.N., 23 WORLD TODAY 94- 96 (1967); A. COBBAN, THE NATION STATE AND NATIONAL SELF-DETERMINATION 42-43 (Collins ed. 1969).

FN65. But see G. SCHWARZENBERGER, A MANUAL OF INTERNATIONAL LAW 160 (5th ed. 1967).

FN66. For an examination of the right of an entity to claim international personality and competence, see Islam, The Status of the Interim Government of Afghan Mujahideens in International Law, 37 NETH. INT'L L.REV. 1 (1990).

FN67. See Waldock, The Regulation of Use of Force by Individual States in International Law, 81 RECUEIL DE COURS 454, 492-93 (1952); Higgins, The Legal Limits to the Use of Force by Sovereign States--United Nations Practice, 37 B.Y. INT'L L. 269, 318 (1961); see also the arbitral award of Great Britain v. Panama, 3 R. Int'l Arb. Awards 1447 (1933).

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