

# **African Journal of Law and Justice System (AJLJS)**

ISSN 2753-3115 (Print) ISSN 2753-3123 (Online)

Indexed by SCOPUS, IBSS, EBSCO and SABINET

Volume 4, Number 3, December 2025

Pp 173-197

## **Effects of the Uti-Possidetis Principle on State Sovereignty in Post-African Colonial Situations**

DOI: <https://doi.org/10.31920/2753-3123/2025/v4n3a9>

**Winnie J. Chemng'orem**

*Daystar University,*

*Kenya*

*Department of Peace & International Studies*



**Eric Blanco Niyitunga**

*School of Public Management,*

*Governance and Public Policy*

*University of Johannesburg*

---

### **Abstract**

This study examines the effects of the uti-possidetis principle on state sovereignty in post-African colonial situations. African leaders embraced the doctrine of the uti possidetis principle to avoid and prevent boundary disputes and safeguard territorial integrity in post-colonial Africa. Since its adoption and application of the uti possidetis principle, the doctrine has constrained the sovereignty and autonomy of African states. The study explores features of uti possidetis and evaluates how the preservation of colonial administrative borders conflicts with indigenous African legal norms. While the principle aimed to safeguard territorial integrity, it has increasingly been criticised for entrenching artificial boundaries that ignore the ethnic, cultural, and historical realities of Africans. Using a mixed-method approach combining qualitative case analysis and quantitative survey data, framed within a positivist methodological paradigm, the research investigates how this doctrine has constrained the sovereign autonomy of African states, especially in matters of self-determination and territorial reform. The

findings suggest that although the *uti possidetis* principle contributed to initial regional stability, it has also institutionalised colonial legacies that hinder flexible governance and peaceful border reconfigurations. The study recommends a context-specific reinterpretation of the principle through regional legal instruments that respect both historical continuity and contemporary claims for sovereignty and inclusion.

**Keyword:** *Uti-Possidetis Principle, State Sovereignty, Post-African Colonial*

## Introduction

The achievement of independence in Africa with South Africa, being the last African state to achieve political independence and South Sudan being the infant state to claim self-determination from Sudan, did not bring self-governance controlled by Africans themselves without colonial interferences or involvement. Though Africa's independence was achieved through bloodshed with a lot of struggles, the inheritance of colonial borders and the principle of *uti possidetis* tied to the newly independent states to colonial ties, leading to the continuation of colonial governance with less adherence to the rule of law. Post-colonial African leaders engaged in hot debates about whether to abolish colonial borders and form a united Africa with continental governance or uphold them, which means keeping colonial ties with former colonisers. Through the then Organisation of African Unity (OAU), African leaders decided to uphold colonial borders inherited from the colonial administrations, thus inheriting colonial governance.<sup>492</sup> The right to self-governance and to continental sovereignty has been denied through the imposition of the *uti possidetis principle*, which maintains colonial borders.

The *Uti possidetis* principle brought the many rival claims of self-determination and territorial integrity that are affecting Africa. The *uti possidetis* principle has become a source of conflicts and has made it difficult for post-colonial countries that secede to achieve peace and security because it intensifies border and internal conflicts.<sup>493</sup> The inherited *uti possidetis* principle weakened the continent because of the rise of secessions that were supported and funded by colonial powers, thus causing border

---

<sup>492</sup> Musau, B.M. (2022). *Uti Possidetis, Self-determination and Conflicts in the Horn of Africa: The Case of Eritrea's Secession from and Border Conflict with Ethiopia*. The Journal of Conflict Management and Sustainable Development, Volume 8(2), pp. 218-240.

<sup>493</sup> *Ibid.*

and identity-based conflicts. It is crucial to note that the *uti possidetis* principle ended conflicts between colonisers and colonised but became the origin of current intractable conflicts and problems in Africa. The principle brought about inter-state border and identity-related violent conflicts which were not common in pre-colonial Africa.<sup>494</sup> These conflicts arise because the principle provides the right to secede but did not expose to the people the criteria of secession and the associated threats secession poses to peace and security.

The pursuit of secession has threatened peace and security in Africa.<sup>495</sup> The existing tension between the right of people to self-determination and the doctrine of *uti possidetis* and the related right of states to territorial integrity has claimed several lives in Africa.<sup>496</sup> In international law literature, *uti possidetis* means a principle that converts the administrative boundaries established by colonial powers into international borders.<sup>497</sup> The aim of this study is to assess the effects of the *uti possidetis* principle on state sovereignty in post-African colonial situations. The argument is carried out in three parts. While part one was an introduction, the second part explained the research methodology that was used to collect and analyse data. Part three assessed the effects of the *uti possidetis* principle and the state sovereignty in post-African colonial situations. The part assesses the first *uti possidetis* principle and its features and characteristics; it explains the effects of the principle on the rule of law through the maintenance of colonial borders on Africa's governance and the constraints it poses on post-colonial state sovereignty. Part four consists of the conclusion and recommendations.

## Research methodology

To understand the effect of *uti-possidetis* principle on state sovereignty in the current post-African colonial situation, the study adopted qualitative research methodology. Qualitative methodology was adopted because the study aimed at collecting data that help qualify and understand the effects of the *uti-possidetis* principle on African states in their post-independence

---

<sup>494</sup> *Ibid.*

<sup>495</sup> *Ibid.*

<sup>496</sup> Mnyongani, F. D. (2008). Between a rock and a hard place: the right to self-determination versus *uti possidetis* in Africa. *The Comparative and International Law Journal of Southern Africa*, 41(3), 463–479.  
<http://www.jstor.org/stable/23253196>.

<sup>497</sup> Kurtanidze, D. (2023). Right to Self-determination, Territorial Integrity and Some Aspects of Unilateral Secession in Modern International Law.  
<https://heraldoflaw.com/read-book/?ID=3493>

status, particularly on the rule of law and exercising autonomous independence free from any external influence. Qualitative methodology has also been used to determine critical elements to developing services at a community level, including effective outreach practices and governance arrangements.<sup>498</sup> The use of qualitative methodology in this study was fitting because it made it possible to understand the social impacts of the *uti-possidetis* principle on the rule of law, self-governance and state sovereignty.

The study relied on secondary data that was gathered from existing documents in the public domain. Data collected was secondary, and it has been referred to as data that is collected from existing material or sources in the public domain.<sup>499</sup> Using secondary data enables researchers to collect data that answers their research questions and objectives.<sup>500</sup> These documents included hardcopy books and involved literature on international law, the rule of law and the *uti-possidetis* principle in Africa. These documents also included social sciences some collected from credible online sources. These documents were used to understand the effects of the *uti-possidetis* principle on post-African colonial states.<sup>501</sup> Data was analysed and interpreted through the document analysis technique. It has been stated that the document analysis technique is a systematic review of printed and electronic documents in the literature published in the public domain.<sup>502</sup>

The use of a positivistic approach to document analysis was used to understand factual evidence or corroboration to answer the research

---

<sup>498</sup> Siraj-Blatchford, I., Sylva, K., Taggart, B., Sammons, P., Melhuish, E., & Elliot, K. (2003). *The effective Provision of PreSchool Education (EPPE) Project: Intensive Case Studies of Practice across the Foundation Stage (Technical Paper 10)*. London: DfEE/Institute of Education, University of London.

<sup>499</sup> Virgillito, A., & Polidoro, F. (2017). Big data techniques for supporting official statistics. In *Data Visualization and Statistical Literacy* (pp. 253–273). IGI Global.

<sup>500</sup> Yerger, C. (2014). Nontraditional undergraduate research problems from sports analytics and related fields. *Involve, a Journal of Mathematics*, 7(3), 423-430.

<sup>501</sup> Bohannon, J. (2016). Who's downloading pirated papers? *Everyone. Science*, 352(6285), 508–512. <https://doi.org/10.1126/science.352.6285.508>.

<sup>502</sup> Fischer, C. (2006). *Research methods for psychologists: Introduction through empirical studies*.

Elsevier Inc.; see also Morgan, H. (2022). Conducting a qualitative document analysis. *The Qualitative Report*, 27(1), 64–77. <https://doi.org/10.46743/2160-3715/2022.5044>.

question of this study.<sup>503</sup> The positivistic approach confirmed facts concerning the effects of the *uti-possidetis* principle on Africa's peace and security.<sup>504</sup> The document analysis technique helped to determine the selected documents' authenticity, credibility and accuracy to the topic under investigation. After ensuring the credibility and accuracy, the documents were assessed for completeness in covering the topic under investigation.

### ***Uti possidetis* principle**

The principle of *uti possidetis, ita possidetis* is a principle that was originally introduced by Roman For law into the body of international law, which was framed into two forms; *uti possidetis* principle and *uti possidetis de facto*.<sup>505</sup> The former norm is currently applied in modern times while later traces its roots as far back as the medieval times. When possession of private property was acquired in good faith and not by forceful means the Roman Law applied the principle of *uti possidetis* principle as law.<sup>506</sup> The adoption of this norm was aimed at preserving law and order in the Roman Empire. This general practice of adopting the principle of *uti possidetis* meant that the status quo was preserved irrespective of the means by which possession of property was gained. It is this notion of status quo that inspired the application of the principle of *uti* principle to territory in international law.<sup>507</sup>

The principle of *uti possidetis* gradually evolved from private law to the international realm and has since transformed into a norm that is widely applied.<sup>508</sup> The gradual evolution of the *uti possidetis* principle from private law to the international plane, as well as its transformation into a rule of wider application, has proceeded in two directions. The evolution of the

---

<sup>503</sup> Paul, M. C., Rhodes, J. E., & Yardley, L. (2003). Qualitative research in psychology: Expanding perspectives in methodology and design. American Psychological Association.

<sup>504</sup> Denzin, N. K. (2017). The research act: A theoretical introduction to sociological methods (3rd ed.). Aldine.

<sup>505</sup> Crawford, J. (2019). Brownlie's principles of public international law (9th ed.). Oxford University Press.

<sup>506</sup> Hasani, E. (2003). Uti Possidetis Principle: From Rome to Kosovo. The Fletcher Forum of World Affairs, 27(2), 85–97. <http://www.jstor.org/stable/45289241>

<sup>507</sup> Mnyongani, F. D. (2008). Between a rock and a hard place: the right to self-determination versus *uti possidetis* in Africa. The Comparative and International Law Journal of Southern Africa, 41(3), 463–479. <http://www.jstor.org/stable/23253196>.

<sup>508</sup> Hasani, E. (2003). Uti Possidetis Principle: From Rome to Kosovo. The Fletcher Forum of World Affairs, 27(2), 85–97. <http://www.jstor.org/stable/45289241>

*uti possidetis* doctrine illustrates its shift from a legal principle originally addressing private property disputes to one that now governs issues of state sovereignty and territorial integrity.<sup>509</sup> What was once a temporary or *de facto* claim to possession in private law has been redefined into a recognized and enduring permanent legal entitlement to territorial sovereignty under international law.<sup>510</sup>

The *uti possidetis* principle is one of the doctrines of customary international law which was a key policy during colonialism when determining territorial sovereignty and borders of newly formed states.<sup>511</sup> The *uti possidetis* principle is a key figure in modern international law, and its application to customary and rule of law contradicts the principle of self-determination of peoples.<sup>512</sup> The doctrine of the *uti possidetis* principle was first invoked as a guiding principle in international law during the early 19th century, as Latin American territories transitioned from colonial rule to independent statehood.<sup>513</sup> Modern interpretation of the *uti possidetis* principle is grounded in two core principles: the right to self-determination and the principle of non-intervention in the domestic affairs of sovereign states. These concepts have their roots in early 19th-century Latin America, particularly in the aftermath of the Napoleonic Wars (1796–1815), when European powers sought to assert control over territories perceived as *terra nullius* (nobody's land) that later became colonial holdings.<sup>514</sup>

Following the wave of independence between 1810 and 1824, Latin American nations, except Brazil, embraced the *uti possidetis* principle as a mechanism to deter ongoing European interference by aligning the boundaries of newly independent states with former colonial administrative divisions, rather than with actual possession.<sup>515</sup> This legal approach aimed to solidify territorial sovereignty and minimise future

---

<sup>509</sup> Shaw, M. N. (2017). *International law* (8th ed.). Cambridge University Press.

<sup>510</sup> Crawford, J. (2019). *Brownlie's principles of public international law* (9th ed.). Oxford University Press.

<sup>511</sup> Kurtanidze, D. (2023). Right to Self-determination, Territorial Integrity and Some Aspects of Unilateral Secession in Modern International Law. <https://heraldoflaw.com/read-book/?ID=3493>

<sup>512</sup> *Ibid.*

<sup>513</sup> Mnyongani, F. D. (2008). Between a rock and a hard place: the right to self-determination versus *uti possidetis* in Africa. *The Comparative and International Law Journal of Southern Africa*, 41(3), 463–479. <http://www.jstor.org/stable/23253196>.

<sup>514</sup> Shaw, M. N. (2017). *International law* (8th ed.). Cambridge University Press.

<sup>515</sup> Crawford, J. (2019). *Brownlie's principles of public international law* (9th ed.). Oxford University Press.

border disputes. The adoption of the Monroe Doctrine in 1823 further reinforced the regional commitment to resisting external intervention.<sup>516</sup> Nevertheless, despite these legal and political strategies, both territorial disputes and foreign interventions continued. It was not until the post-World War II decolonisation period that the *uti possidetis* principle and the norm of non-interference became universally recognised principles of international law.<sup>517</sup>

The application of the *uti possidetis* principle effectively brought an end to the notion of *terra nullius* by affirming that newly independent states inherited all territories formerly administered by colonial authorities.<sup>518</sup> By relying on colonial-era administrative boundaries, the use of the *uti possidetis* principle helped to prevent or reduce disputes over territorial demarcations, ensuring that borders were clearly defined based on pre-independence governance structures.<sup>519</sup> This approach also intersected with the principle of intertemporal law, which emphasises the importance of maintaining stability over time. Together, *uti possidetis* and intertemporal law were seen as mechanisms to promote continuity and prevent territorial instability, a legal reasoning that was later extended to the decolonisation process in Africa.<sup>520</sup>

Following the end of the Second World War and the onset of decolonisation in Africa, African leaders firmly advocated for the retention of colonial-era administrative boundaries.<sup>521</sup> However, Africa's partitioning predates the often-cited Berlin-Congo Conference of 1884–1885, which is mistakenly believed to have carved up the continent.<sup>522</sup> In reality, the division had occurred earlier through informal agreements among colonial powers. The Final Act of the Berlin-Congo Conference, signed on February 26, 1885, primarily sought to abolish the slave trade and promote free trade and movement within areas already claimed by European states such as Britain, France, Germany, Portugal, and

---

<sup>516</sup> Ratner, S. R. (1996). Drawing a better line: *Uti possidetis* and the borders of new states. *American Journal of International Law*, 90(4), 590–624.  
<https://doi.org/10.2307/2203996>

<sup>517</sup> Shaw, M. N. (2017). *International law* (8th ed.). Cambridge University Press.

<sup>518</sup> Crawford, J. (2019). *Brownlie's principles of public international law* (9th ed.). Oxford University Press.

<sup>519</sup> Shaw, M. N. (2017). *International law* (8th ed.). Cambridge University Press.

<sup>520</sup> Ratner, S. R. (1996). Drawing a better line: *Uti possidetis* and the borders of new states. *American Journal of International Law*, 90(4), 590–624.  
<https://doi.org/10.2307/2203996>

<sup>521</sup> Shaw, M. N. (2017). *International law* (8th ed.). Cambridge University Press.

<sup>522</sup> Crawford, J. (2019). *Brownlie's principles of public international law* (9th ed.). Oxford University Press.

Belgium.<sup>523</sup> Sovereign claims by these colonial powers were not grounded in actual territorial control as was the practice in Europe but were instead demarcated by arbitrary longitudinal and latitudinal lines extending inland from the African coastline.<sup>524</sup>

Notably, Article 35 of the General Act emphasised the establishment of a nominal line of control along Africa's coastal areas rather than effective governance of the interior (Crawford, 2019). The European partitioning of Africa into "spheres of influence" had profound implications for the continent's indigenous populations. To manage interactions with local communities, colonial powers introduced administrative mechanisms such as protectorates, neutral zones, buffer areas, and forms of indirect rule like suzerainties, rather than establishing coherent modern political governance.<sup>525</sup> As colonialism came to an end, these often-arbitrary divisions frequently drawn as geometric lines along meridians and parallels were transformed into internationally recognised borders under the principle of *uti possidetis*.<sup>526</sup>

### **Forms of sovereignty and effects of the *uti possidetis* principle**

The term 'sovereignty' traditionally denotes the authority of a state and its exclusive control over defined territories.<sup>527</sup> Sovereignty is a major concept in modern international law and has promoted the rights of the state in the global discourse. During the colonial era, sovereignty was not adhered to nor respected, as local people were marginalised, and their rights were respected, as well as their cultures and histories. They endured severe oppression and marginalisation, and their sovereignty was eroded as well as their right to self-determination.<sup>528</sup> At its core, sovereignty means an undeniable control exerted by the state or government over its citizens and

---

<sup>523</sup> Ratner, S. R. (1996). Drawing a better line: *Uti possidetis* and the borders of new states. *American Journal of International Law*, 90(4), 590–624.  
<https://doi.org/10.2307/2203996>

<sup>524</sup> Shaw, M. N. (2017). *International law* (8th ed.). Cambridge University Press.

<sup>525</sup> *Ibid.*

<sup>526</sup> Crawford, J. (2019). *Brownlie's principles of public international law* (9th ed.). Oxford University Press.

<sup>527</sup> Biersteker, T. J. (2013). State, sovereignty and territory. *Handbook of international relations*, 245-272.

<sup>528</sup> Lâm, M. (2021). *At the Edge of the State: Indigenous Peoples and Self Determination* (Vol. 5). BRILL.

territory.<sup>529</sup> A sovereign state is not subordinate to the authority of any other state or international pressure from international organisations. Sovereignty is the exclusive right to exercise supreme political authority (legislative, judicial, and executive) over a geographical region as well as over a group of people and/or over themselves.<sup>530</sup>

International law literature shows that sovereignty regulates people and promotes legal relations within a state.<sup>531</sup> A state is made of territory, population and sovereignty with exclusive political authority.<sup>532</sup> The element of sovereignty is the exclusive, supreme authority an individual state holds over its people and territory, enabling it to pursue its common and general goals without external control.<sup>533</sup> Sovereignty is either internal, which is characterised by state power and makes it supreme in the territory, or external, which means, no power over it. It can also be external sovereignty, which is characterised by the state of being independent abroad, in relation to other states.<sup>534</sup> Sovereignty is therefore both the authority of the state to exercise control over internal matters and the elaboration of binding norms, as well as over the behaviour of the state in relation to other states.<sup>535</sup>

Sovereignty includes indigenous sovereignty, which is intimately linked to the history of colonialism and the imposition of Western legal and political systems upon indigenous peoples.<sup>536</sup> It has been further emphasised that the history of relations between indigenous peoples and colonisers reflects indigenous resistance to colonialism and its systems,

---

<sup>529</sup> Goldsmith, J. (2000). Sovereignty, International Relations Theory, and International Law [Review of Sovereignty: Organized Hypocrisy, by S. D. Krasner]. *Stanford Law Review*, 52(4), 959–986. <https://doi.org/10.2307/1229436>

<sup>530</sup> Tătar, R. G. and Moiși, A. (2022). The concept of sovereignty. *Journal of Public Administration, Finance and Law*, pp. 292- 303. Available at: [https://www.jopafll.com/uploads/issue24/THE\\_CONCEPT\\_OF\\_SOVEREIGNTY.pdf](https://www.jopafll.com/uploads/issue24/THE_CONCEPT_OF_SOVEREIGNTY.pdf).

<sup>531</sup> Shaw, M. N. (2017). *International law* (8th ed.). Cambridge University Press.

<sup>532</sup> Tătar, R. G. and Moiși, A. (2022). The concept of sovereignty. *Journal of Public Administration, Finance and Law*, pp. 292- 303. Available at: [https://www.jopafll.com/uploads/issue24/THE\\_CONCEPT\\_OF\\_SOVEREIGNTY.pdf](https://www.jopafll.com/uploads/issue24/THE_CONCEPT_OF_SOVEREIGNTY.pdf).

<sup>533</sup> *Ibid.*

<sup>534</sup> *Ibid.*

<sup>535</sup> Safta M. (2018). *Constitutional law and political institutions*, Hamangiu Publishing House, Bucharest. <https://romania.europalibera.org/a/polonia-comisia-europeana-justitie-primat-drept-european/31621557.html>.

<sup>536</sup> Watson, I. (2014). *Aboriginal peoples, colonialism and international law: Raw law*. Routledge.

claiming independence and self-determination.<sup>537</sup> Colonialism undermined both internal and external sovereignty as it induced forced relocations, and genocidal policies, and local people were said to be primitive and incapable of governing themselves.<sup>538</sup> Colonialism, employing its political, legal, and cultural power without indigenous consent or involvement, drew arbitrary boundaries that divided historically connected communities.<sup>539</sup> These groupings weakened sovereignty and brought about conflict between indigenous people and colonialists.

Indigenous people became actively involved in claiming their sovereignty, right to self-determination, and right to self-governance through various means, including legal challenges, political advocacy, and direct action.<sup>540</sup> However, colonialists, to escape conflicts between them and the indigenous people who were claiming self-determination and self-governance, brought about *uti posseditis* principle, which meant the continuation of their influence and political, legal and cultural powers through adherence to colonial borders that were established. *Uti posseditis* while professes sovereignty in theory (paper) eroded it in practice, making post-colonial African states lack both powerful internal and external sovereignty. This lack brought about a semi-sovereign state condition in Africa, which means situations in which African states possess some characteristics of sovereignty but are subject to external control and lack economic, political and cultural independence in their foreign policy. Allegiance to a superior political, economic, or cultural power eliminates the sovereignty of the people.

This brings us to the next form of sovereignty, which is sovereignty of the people. It is a shared sovereign authority circulated among people.<sup>541</sup> In a sovereign state, under no circumstance should people lose their status as sovereign.<sup>542</sup> People must have their right to conduct their domestic affairs and matters within the power of the state without any involvement

---

<sup>537</sup> Deloria, V. (2003). *God is Red: A Native View of Religion*. United States: Fulcrum Pub.

<sup>538</sup> Raja V. and Alama, S. (2023). (Re)affirming sovereignty, self-determination, and democratic rights: An analysis of evolving jurisprudence concerning indigenous peoples under international law. *Multidisciplinary Reviews*, (2023) 6: e20230045.

<sup>539</sup> Meslat, A.A. (2024). *National Sovereignty and Identity: A Theoretical Framework for Modern State Legitimacy*.

<sup>540</sup> *Ibid*.

<sup>541</sup> Raja V. and Alama, S. (2023). (Re)affirming sovereignty, self-determination, and democratic rights: An analysis of evolving jurisprudence concerning indigenous peoples under international law. *Multidisciplinary Reviews*, (2023) 6: e20230045.

<sup>542</sup> Heller, H. (2019). *Sovereignty. A Contribution to the Theory of Public and International Law*, Oxford University Press, Oxford.

by the external powers.<sup>543</sup> Moreover, sovereignty of the people places full constitutional authority in the people rather than in the hands of colonial powers.<sup>544</sup> The presence of the *uti posseditis* principle erodes the sovereignty of the people and affects the process of decision-making. For instance, during the Guinea-Bissau/Senegal arbitration border dispute, views arose to invalidate treaties concluded long before independence were put on the table. However, the arbitral tribunal used the *uti possidetis* principle to disagree and overcome those views, and border treaties established during colonialism were maintained.<sup>545</sup>

From a constructivism theoretical framework, the erosion of indigenous sovereignty and sovereignty of the people during colonialism and today under the *utis posseditis* principle in post-colonial African states have affected local norms, values and cultures that are significant in the search for peace and security. The *Utis posseditis* principle upholds colonial legacies in Africa. The principle has inhibited the growth of shared ideas, norms, values and practices among actors which shape the rule of law. The *Utis posseditis* principle therefore conflicts with constructivists theorists, which indicates that culture, ideas, institutions, discourse, and social norms and values play a key role in shaping identity and influencing behaviour.<sup>546</sup> This presents a major theoretical controversy between the *utis posseditis* principle and constructivism theory. This is because constructivism theory, which relates to the power of shared values, norms and cultures to influence shared or consensus decisions or choices that shape world politics<sup>547</sup>, is disempowered by the *utis posseditis* principle. This controversy is arguably *a major source of insoluble* problems and intractable conflicts in Africa.

### Features and characteristics of the *Uti-Possidetis Principle*

The principle of *uti possidetis* has evolved into a fundamental norm in international law, particularly regarding the territorial boundaries of newly

---

<sup>543</sup> Hent, K. (2010). *Quentin Skinner, Sovereignty in fragments: the past, present and future of a contested concept*, Cambridge University Press, Cambridge, 2010

<sup>544</sup> Kurtanidze, D. (2023). *Right to Self-determination, Territorial Integrity and Some Aspects of Unilateral Secession in Modern International Law*.  
<https://heraldoflaw.com/read-book/?ID=3493>

<sup>545</sup> *Ibid.*

<sup>546</sup> Brunnée, B & Toope, S.J. (2012). *Constructivism and International Law*" in Jeffrey L. Dunoff & Mark A. Pollack, *Interdisciplinary Perspectives on International Law and International Relations: The State of Art*. Cambridge: Cambridge University Press.

<sup>547</sup> *Ibid.*

independent states. Initially rooted in Roman law, where it regulated property disputes based on possession, the doctrine has since been transformed into a legal framework ensuring the preservation of pre-independence administrative boundaries at the moment of statehood.<sup>548</sup> This transformation underscores its central role in supporting state sovereignty, ensuring political stability, and aiding the prevention of territorial conflict throughout decolonisation stability, and the prevention of territorial conflict during decolonisation.

The *Uti possidetis* principle is its insistence on maintaining colonial administrative boundaries at the moment of independence. Rather than allowing new states to renegotiate borders based on ethnic, cultural, or historical claims, the doctrine affirms the borders established by colonial powers.<sup>549</sup> The principle of *uti possidetis* emerged as a legal mechanism aimed at minimising territorial disputes by locking in the territorial boundaries of new states at the moment they achieved independence. It effectively transformed pre-existing administrative lines into internationally accepted borders, thereby providing a spatial and temporal legal framework with strong legitimising effects.<sup>550</sup> This principle is deeply connected to the broader concept of boundary stability and interacts with several key doctrines of international law, including state consent, acquiescence, the preservation of territorial integrity, and the prohibition on the use of force against sovereign states.<sup>551</sup> This approach sought to provide immediate clarity and legal certainty during transitions to independence, particularly in Africa.

Under colonial rule, borders often separated administrative units within a single empire. Upon independence, these divisions were elevated to international frontiers between sovereign states, thus creating new international legal realities.<sup>552</sup> This shift from domestic to international status reflects the pragmatic need to prevent disputes during the fragile early stages of nationhood. Although the term *uti possidetis* principle is not explicitly mentioned in the 1964 OAU resolution, the concept itself underwent another evolution at that time. The application of *uti possidetis*

---

<sup>548</sup> Crawford, J. (2019). *Brownlie's principles of public international law* (9th ed.). Oxford University Press.

<sup>549</sup> Shaw, M. N. (2017). *International law* (8th ed.). Cambridge University Press.

<sup>550</sup> *Ibid.*

<sup>551</sup> Crawford, J. (2019). *Brownlie's principles of public international law* (9th ed.). Oxford University Press.

<sup>552</sup> Ratner, S. R. (1996). Drawing a better line: *Uti possidetis* and the borders of new states. *American Journal of International Law*, 90(4), 590–624. <https://doi.org/10.2307/2203996>

in Africa codified the principle of treaty succession, thereby managing the boundaries that had been established between territories under different colonial jurisdictions<sup>553</sup> As a result, Africa inherited both internal administrative lines and external borders established during European colonial rule, leading to the highest density of international boundaries of any continent relative to its landmass.<sup>554</sup>

The *uti possidetis* principle as a feature serves the broader goal of promoting stability in the international system. Applying the *uti possidetis* principle in Africa was controversial because it validated colonial boundaries drawn without regard for local realities and eroded people's sovereignty.<sup>555</sup> The OAU, created in 1963, supported preserving colonial borders, thus upholding the *uti possidetis* principle. However, Crawford notes that this commitment helped manage territorial integrity post-independence.<sup>556</sup> While the *uti possidetis* principle supports political independence, it simultaneously places limits on the application of the right to self-determination. It prioritises the integrity of inherited colonial borders over claims based on ethnic or cultural identity.<sup>557</sup> Consequently, numerous ethnic groups were divided across new international boundaries, particularly in Africa, as in the cases of the Maasai, Somali, and Ewe peoples. This feature demonstrates the tension between territorial stability and the aspirations of specific communities for self-governance.

### ***Uti possidetis* principle and rule of law in Africa**

Firstly, the legacy borders and the loss of territorial justice in post-colonial Africa arising from the legal enforcement of the *uti possidetis* principle in Africa have often reinforced colonial-era borders that were imposed with little understanding of indigenous territorial, cultural, or ethnic structures. Kapil explains that these boundaries were often arbitrarily drawn with straight lines, ignoring natural features, trade routes, or existing communal affiliations.<sup>558</sup> For instance, the border between Somalia and Kenya split the Somali ethnic group, contributing to irredentist claims and the Shifta War of the 1960s. Kapil further argues that such inherited borders did not

---

<sup>553</sup> Shaw, M. N. (2017). International law (8th ed.). Cambridge University Press.

<sup>554</sup> Crawford, J. (2019). Brownlie's principles of public international law (9th ed.). Oxford University Press.

<sup>555</sup> Shaw, M. N. (2017). International law (8th ed.). Cambridge University Press.

<sup>556</sup> Crawford, J. (2019). Brownlie's principles of public international law (9th ed.). Oxford University Press.

<sup>557</sup> Shaw, M. N. (2017). International law (8th ed.). Cambridge University Press.

<sup>558</sup> Kapil, R. L. (1966). On the conflict potential of inherited boundaries in Africa. World Politics, 18(4), 656–673. <https://doi.org/10.2307/2009809>

reflect Africa's traditional territorial logic, where boundaries were fluid and negotiated through kinship, trade, and cultural alliances.<sup>559</sup> The *Uti possidetis* principle has entrenched inequalities and undermined the legitimacy of African legal systems that prioritise communal justice and social cohesion. This disconnection between imposed borders and lived realities continues to frustrate efforts at national unity, local governance, and equitable development across the continent. Another defining issue is the gap between doctrinal legitimacy and local realities in African governance and the challenges it presents within the African context. African law emphasises inclusive governance, people-centred development, and restorative justice. However, the *uti possidetis* principle imposes a form of legal formalism that privileges state borders over people's rights, sometimes resulting in the legal marginalisation of minority communities. This creates a gap between formal legality and practical governance needs, particularly where communities are divided across borders.<sup>560</sup>

The complex interplay between self-determination and territorial integrity is also affected by the *uti possidetis* principle. Somaliland's quest for recognition is remarkable.<sup>561</sup> The *uti possidetis* principle, which preserves colonial-era boundaries, often conflicts with the right to self-determination, especially in cases where the parent state has failed to maintain effective governance. Somaliland's unilateral declaration of independence in 1991, following the collapse of Somalia's central government, presents a unique scenario where the principle of territorial integrity is challenged by the region's effective self-governance and stability.<sup>562</sup>

Some argue that international law must adapt to these realities, permitting exceptions to the strict preservation of borders when a region has achieved sustained governance, peace, and a clear expression of self-determination.<sup>563</sup> They advocate for a more flexible legal framework that balances the sanctity of existing borders with the legitimate claims of self-determining entities, suggesting that Somaliland's case warrants serious consideration for recognition under international law. The judicial interpretation often favours territorial integrity over people's human

---

<sup>559</sup> *Ibid.*

<sup>560</sup> Mutuma, K. W., & Ogechi, D. M. (2022). The nexus between self-determination, territorial integrity and *uti possidetis* principle: The case of Somaliland. *South African Yearbook of International Law*, 46, 1–23. <https://doi.org/10.25159/2521-2583/9621>

<sup>561</sup> *Ibid.*

<sup>562</sup> *Ibid.*

<sup>563</sup> *Ibid.*

rights. Legal decisions in African regional and international courts often interpret the *uti possidetis* principle to protect territorial integrity, even at the expense of internal self-determination or fundamental human rights. The African Commission on Human and Peoples' Rights (ACHPR) (1995), for instance, in *Katangese Peoples' Congress v. Zaire*, the African Commission upheld Zaire's sovereignty over Katanga despite claims for autonomy, indicating how the doctrine limits the human rights principle of prudence within African law.<sup>564</sup>

The *Uti possidetis* principle contradicts the rule of African law; its rigidity on borders presents a challenge to the legal flexibility in contemporary African sovereignty. The African Charter and other regional legal frameworks emphasise the need for laws to be responsive to evolving political and societal transformations.<sup>565</sup> Yet, as noted by Shaw the doctrine of *uti possidetis* principle reinforces a static model of territorial preservation by legitimising colonial-era borders that may no longer correspond to the current demographic or political realities of African nations.<sup>566</sup> Shaw further indicates the ICJ's decision in the *Burkina Faso v. Mali* case to illustrate how international courts have reaffirmed outdated colonial boundaries, even when they diverge from the lived experiences of local populations.<sup>567</sup> Likewise, the border conflict between Chad and Libya demonstrates the challenges involved in balancing legal continuity with historically grounded territorial claims. Accordingly, the *uti possidetis* principle restricts African countries from pursuing border reforms that would foster greater democratic legitimacy and inclusive governance.<sup>568</sup>

It has been posited that there exists a disconnection between African legal traditions and the *uti possidetis* principle regarded as global doctrine.<sup>569</sup> Resolving territorial disputes in Africa faces a key challenge: the fundamental conflict between local legal traditions and dominant international legal norms such as the *uti possidetis* principle. African legal systems often place significant emphasis on customary law and community-based mechanisms of conflict resolution, which value

---

<sup>564</sup> The African Commission on Human and Peoples' Rights (ACHPR) (1995) Report: *Katangese Peoples' Congress v. Zaire*, Comm. No. 75/92.  
<https://achpr.au.int/en/documents/1995-10-02/9th-activity-report>

<sup>565</sup> Shaw, M. N. (1996). The heritage of states: The principle of *uti possidetis* principle today. *British Yearbook of International Law*, 67(1), 75–154.  
<https://doi.org/10.1093/bybil/67.1.75>

<sup>566</sup> *Ibid.*

<sup>567</sup> *Ibid.*

<sup>568</sup> *Ibid.*

<sup>569</sup> Raic, D. (2002). *Statehood and the law of self-determination*. Leiden: Martinus Nijhoff Publishers.

negotiation, flexibility, and reconciliation. In contrast, international legal doctrines tend to favour rigid territorial preservation based on colonial-era boundaries. This divergence has resulted in inconsistent adjudication of territorial claims. For example, the Bakassi Peninsula dispute between Nigeria and Cameroon, though resolved by the International Court of Justice in favour of Cameroon, was met with public resistance in Nigeria due to the strong local affiliation of the population with Nigerian governance.<sup>570</sup> Similarly, in the Ethiopia–Eritrea conflict, community ties and historical interaction across colonial borders made it difficult for technical legal decisions to gain popular legitimacy.<sup>571</sup> The absence of harmonised legal frameworks undermines both the credibility and the effectiveness of institutions mandated to resolve these sensitive disputes.<sup>572</sup>

The African legal tradition, as reflected in both regional instruments and customary practices, often emphasises flexibility, reconciliation, and community engagement in addressing governance and territorial issues. However, the doctrine of the *uti possidetis* principle, which mandates the preservation of colonial boundaries, imposes a rigid territorial framework that can override these values.<sup>573</sup> This has created structural tensions between African rule-of-law aspirations and international legal standards, particularly when inherited borders divide ethnolinguistic communities or inhibit equitable local governance. The lack of congruence between domestic and international legal interpretations weakens the legitimacy of boundary decisions and limits the potential for peaceful, negotiated solutions to territorial claims.<sup>574</sup>

While the *uti possidetis* principle has helped maintain juridical stability among African states by freezing colonial boundaries, it often does so at the cost of undermining local legitimacy and inclusive state-building. Legal decisions, such as the ICJ's ruling in *Burkina Faso v. Mali*, illustrate how courts prioritise formal boundary recognition over the lived realities of affected populations.<sup>575</sup> This has made it difficult for African legal institutions to balance the need for state sovereignty with the right of communities to meaningful participation and representation.

---

<sup>570</sup> *Ibid.*

<sup>571</sup> *Ibid.*

<sup>572</sup> *Ibid.*

<sup>573</sup> *Ibid.*

<sup>574</sup> *Ibid.*

<sup>575</sup> Shaw, M. N. (1996). The heritage of states: The principle of *uti possidetis* principle today. *British Yearbook of International Law*, 67(1), 75–154.  
<https://doi.org/10.1093/bybil/67.1.75>

Consequently, the strict application of the *uti possidetis* principle sometimes contradicts the African Union's legal commitment to human rights, development, and self-determination.<sup>576</sup>

Lastly, the application of the *uti possidetis* principle within African legal frameworks has often conflicted with the principles of customary law and traditional dispute resolution systems. While international legal doctrines emphasise the sanctity of colonial-era borders to ensure state stability, many African communities historically resolved boundary and governance issues through negotiation, kinship-based consensus, and intercommunal alliances. This creates a tension in international law, as it imposes fixed territorial arrangements, while customary practices are inherently flexible and rooted in social legitimacy. For instance, in the case of South Sudan, Dersso explains that the rigid adherence to colonial boundaries under the *uti possidetis* principle was incompatible with local claims to self-determination.<sup>577</sup> The eventual independence of South Sudan was not merely a legal outcome but the result of sustained conflict, historical grievance, and a collective assertion of identity elements that the formal legal doctrine initially failed to accommodate.

Dersso further alludes to the fact that similar frictions can be observed in the Ethiopian-Eritrean border dispute, where communities straddling the colonial boundary felt alienated by the legalistic resolution imposed by international adjudication.<sup>578</sup> These cases highlight the need for African legal systems to strike a balance between formal territorial integrity and culturally resonant models of justice and governance. For the rule of law in Africa to remain relevant and legitimate, it must adapt to incorporate local realities and plural legal traditions.<sup>579</sup>

## Effects of the *Uti Possidetis* Principle on Post-Colonial State Sovereignty

The concept of state sovereignty, which refers to the supreme authority of a state over its territory and independence from external control, originated in Europe during the 17th century with the Peace of Westphalia in 1648. This treaty system marked the end of religious wars in Europe and established the foundational principle that states possess exclusive

---

<sup>576</sup> *Ibid.*

<sup>577</sup> Dersso, S. A. (2012). International law and the self-determination of South Sudan. Institute for Security Studies. <https://issafrica.org/research/papers/international-law-and-the-self-determination-of-south-sudan>

<sup>578</sup> *Ibid.*

<sup>579</sup> *Ibid.*

jurisdiction within their defined borders.<sup>580</sup> International law has gradually forced limitations on the acceptable scope of the internal and external actions of independent sovereign states.<sup>581</sup> The Westphalian model of sovereignty became a cornerstone of international law and political organisation.<sup>582</sup> In the 19th and 20th centuries, as colonial empires expanded, the sovereignty of European powers was extended over African territories without local consent. It was not until the wave of decolonisation in the mid-20th century particularly following World War II and the adoption of the United Nations Charter in 1945 that African states began asserting their own sovereign rights.<sup>583</sup> However, Post-independence African states largely adopted a form of sovereignty shaped by European legal traditions, featuring fixed borders and centralised state authority.

It has been noted that this imported model often clashed with indigenous African political systems that valued decentralised, communal governance.<sup>584</sup> Despite these contradictions, sovereignty was quickly embraced by new African states as a shield against external interference and a symbol of international legitimacy in a system still dominated by Western legal norms.

Sarvarian offers a critical assessment of the doctrine of the *uti possidetis* principle within the framework of modern international law, particularly in relation to the process of state succession, and further disputes the widely held belief that the doctrine has become a universally binding customary norm automatically governing the borders of new states.<sup>585</sup> Sarvarian further noted that it is flawed because it lacks a consistent legal foundation and undermines the essential international law principle of state consent.<sup>586</sup> Rather than being a default rule, Sarvarian maintains that international law does not prescribe a specific method for determining the

---

<sup>580</sup> Krasner, S. D. (1999). *Sovereignty: Organized hypocrisy*. Princeton University Press.

<sup>581</sup> Pentassuglia, G. (2002). State Sovereignty, Minorities and Self-Determination: A Comprehensive Legal View. *International Journal on Minority and Group Rights*, 9(4), 303–324. <http://www.jstor.org/stable/24675246>

<sup>582</sup> Jackson, R. H., & Rosberg, C. G. (1982). Why Africa's weak states persist: The empirical and the juridical in statehood. *World Politics*, 35(1), 1–24. <https://doi.org/10.2307/2010277>

<sup>583</sup> *Ibid.*

<sup>584</sup> Acharya, A. (2009). *Whose ideas matter? Agency and power in Asian regionalism*. Cornell University Press.

<sup>585</sup> Sarvarian, A. (2015). *Uti Possidetis Juris in the Twenty-First Century: Consensual or Customary?* *International Journal on Minority and Group Rights*, 22(4), 511–532. <http://www.jstor.org/stable/24676568>

<sup>586</sup> *Ibid.*

borders of successor states.<sup>587</sup> Therefore, the *uti possidetis* principle should be understood as one possible approach among others, applicable only when mutually agreed upon by the relevant states involved in succession.

Wirsing posits that the adoption of the *uti possidetis* principle has been marked by the transformation of colonial administrative lines into permanent international borders, often without input from the affected populations.<sup>588</sup> The principle institutionalised territorial divisions that denied post-colonial states the sovereign right to reconfigure borders according to their own preferences. In the case of India and Pakistan, the hurried boundary demarcation under British withdrawal contributed to the Kashmir conflict an enduring border dispute where *uti possidetis* principles have clashed with both national sovereignty and local self-determination.<sup>589</sup> This shows that the *uti possidetis* principle prioritises inherited cartography over the sovereignty of the people.

The Balkan experience introduced ethno-sovereignty conflict, despite the legal continuity of states. Following the disintegration of Yugoslavia in the 1990s, the Badinter Arbitration Committee applied the *uti possidetis* principle to uphold the internal administrative borders of former republics as new international boundaries. While this approach provided legal clarity, it severely undermined the aspirations of ethnic minorities and regional groups who sought independence or reattachment to neighbouring states. For instance, the refusal to redraw borders for ethnic Serb enclaves in Croatia and Bosnia fuelled brutal conflicts and ethnic cleansing.<sup>590</sup> The case highlights how the *uti possidetis* principle can constrain the exercise of sovereignty by privileging static legal frameworks over dynamic political identities.

Latin America was the first region to embrace the *uti possidetis* principle after Spanish decolonisation in the early 19th century, with the intent to avoid wars over territory. However, this legal continuity came at the cost of recognising indigenous territorial claims and internal autonomy. For example, in Bolivia and Peru, the doctrine helped preserve colonial boundaries but marginalised native populations whose ancestral lands were divided or denied legal recognition.<sup>591</sup> This reflects a deeper

---

<sup>587</sup> *Ibid.*

<sup>588</sup> Wirsing, R. G. (2003). *Kashmir in the shadow of war: Regional rivalries in a nuclear age*. M. E. Sharpe.

<sup>589</sup> *Ibid.*

<sup>590</sup> Raic, D. (2002). *Statehood and the law of self-determination*. Leiden: Martinus Nijhoff Publishers.

<sup>591</sup> Herzog, T. (2012). *Frontiers of possession: Spain and Portugal in Europe and the Americas*. Harvard University Press.

contradiction where state sovereignty is recognised externally while internal sovereignty, especially for indigenous groups, is sacrificed. This begs the question of doctrinal stability at the cost of indigenous sovereignty.

In the Middle East, the principle of maintaining post-Ottoman colonial borders akin to the *uti possidetis* principle has reinforced fragile and often externally designed states. The revised title underscores how imperial boundary-drawing continues to affect state establishment, sovereignty, and regional conflict in the Middle East. The Sykes-Picot Agreement (1916), though informal, served as the template for border drawing in Iraq, Syria, and Lebanon. These boundaries, preserved after independence, continue to undermine state sovereignty by disregarding tribal, ethnic, and religious complexities. The Islamic State's rise in the 2010s was partly fueled by its rejection of these imposed borders, with the group aiming to erase colonial division.<sup>592</sup> Thus, *uti possidetis*-type enforcement has constrained regional reorganisation even in the face of deep legitimacy crises. Modern Sovereignty Challenges his revised title maintains scholarly depth while emphasising how imperial boundary-drawing continues to affect state formation, sovereignty, and regional conflict in the Middle East.

In Africa, the 1964 OAU resolution endorsing the *uti possidetis* principle reflected a desire for stability, yet it also locked states into borders drawn by colonial powers without regard for ethnic or geographic realities. This has created a tension where African states are sovereign in law but lack the flexibility to restructure territories for peace or development. The Eritrea–Ethiopia war (1998–2000), driven largely by disputes over a narrow strip of colonial-era borderlands, is a stark example of how rigid border doctrines have constrained post-colonial statecraft and national reconciliation.<sup>593</sup> Africa faces a paradox under the doctrine of the *uti possidetis* principle: the attainment of legal sovereignty without the territorial flexibility needed to address its complex post-colonial realities.

While sovereignty includes the internal right to restructure governance and administration, *uti possidetis* principle has constrained this ability by rendering external borders untouchable. For instance, Nigeria has struggled to accommodate internal autonomy claims like the Biafra

---

<sup>592</sup> Gelvin, J. L. (2016). *The modern Middle East: A history* (4th ed.). Oxford University Press.

<sup>593</sup> Shaw, M. N. (1996). The heritage of states: The principle of *uti possidetis* principle today. *British Yearbook of International Law*, 67(1), 75–154.  
<https://doi.org/10.1093/bybil/67.1.75>

movement's, as altering national borders could contradict the doctrine of inviolability.<sup>594</sup> This brings to the fore the challenges Africa faces on territorial integrity versus internal self-governance. State sovereignty includes the right to resolve disputes with neighbours, but the *uti possidetis* principle often obstructs peaceful negotiations by imposing outdated colonial maps as the ultimate legal reference. In the *Burkina Faso v. Mali* case, the International Court of Justice prioritised colonial-era documentation over more recent community claims, illustrating how sovereignty is subordinated to inherited legal norms.<sup>595</sup> This illustrates that conflict resolution has been impeded by colonial cartography.

The *Uti possidetis* principle complicates sovereign rights to manage cross-border natural resources, as it legally cements territorial claims regardless of practicality or equity. In the Nile River Basin, upstream states like Ethiopia face legal constraints when attempting to develop water projects due to colonial treaties favouring Egypt, thus restricting their sovereign development goals.<sup>596</sup> The doctrine of the *uti possidetis* principle in Africa has suppressed sovereign development of shared resources. True sovereignty includes the right to shape a national identity based on the will of the people. However, the *uti possidetis* principle institutionalises colonial borders that often cut across ethnic and cultural communities, fragmenting national cohesion. The case of Somaliland illustrates this tension, as the region's unilateral declaration of independence clashes with the doctrine's requirement to maintain Somalia's inherited territorial integrity, despite its distinct colonial past.<sup>597</sup>

Nzongola-Ntalaja explains that in the Democratic Republic of Congo (DRC), the *uti possidetis* principle preserved Belgium's colonial administrative boundaries, resulting in a vast, fragmented state rich in mineral resources but weak in political cohesion.<sup>598</sup> This legal rigidity has

---

<sup>594</sup> Raic, D. (2002). *Statehood and the law of self-determination*. Leiden: Martinus Nijhoff Publishers.

<sup>595</sup> Shaw, M. N. (1996). The heritage of states: The principle of *uti possidetis* principle today. *British Yearbook of International Law*, 67(1), 75–154. <https://doi.org/10.1093/bybil/67.1.75>

<sup>596</sup> Dersso, S. A. (2012). *International law and the self-determination of South Sudan*. Institute for Security Studies. <https://issafrica.org/research/papers/international-law-and-the-self-determination-of-south-sudan>.

<sup>597</sup> Mutuma, K. W., & Ogechi, D. M. (2022). The nexus between self-determination, territorial integrity and *uti possidetis* principle: The case of Somaliland. *South African Yearbook of International Law*, 46, 1–23. <https://doi.org/10.25159/2521-2583/9621>

<sup>598</sup> Nzongola-Ntalaja, G. (2002). *The Congo: From Leopold to Kabila*. London: Zed Books.

contributed to persistent foreign interference and internal instability, especially in resource-rich eastern regions like Ituri and North Kivu. These areas, rich in coltan, gold, and cobalt, have become sites of foreign-backed militias and cross-border exploitation. Although the DRC holds nominal sovereignty, the entrenchment of colonial borders under the *uti possidetis* principle has enabled external actors including multinational corporations and neighbouring states, to continue accessing resources with limited accountability.<sup>599</sup> The doctrine thus functions as a mechanism of neocolonial resource control, shielding economic imperialism behind legal statehood. The colonial borders led to plunder of resources and undermined the sovereignty of DRC.

The split between Sudan and South Sudan in 2011 illustrates the tensions between sovereignty, natural resource control, and the legacy of colonial boundaries reinforced by the *uti possidetis* principle. At independence, South Sudan inherited borders based on British colonial rule, leaving a significant portion of oil infrastructure, especially pipelines and refineries, within Sudan. The result was a volatile relationship, where South Sudan possesses most of the crude reserves while Sudan controls the export routes, sparking conflict over transit fees and territorial claims.<sup>600</sup> Here, the doctrine of the *uti possidetis* principle froze economic asymmetry into the sovereign framework of two new states, limiting South Sudan's ability to fully control its resources or renegotiate access based on contemporary needs. The enduring disputes over the Abyei region, rich in oil and contested identity, further reveal the neocolonial entrapments embedded in rigid boundary doctrines. The Shifta War (1963–1967) between Kenya and Somali secessionist groups in the Northern Frontier District (NFD) highlights how the *uti possidetis* principle obstructed post-colonial sovereignty realignment in favour of colonial cartography. Despite a 1962 plebiscite in which the majority of ethnic Somalis in the NFD expressed a desire to join Somalia, Britain enforced the boundary that placed the region within Kenya. Upon Kenya's independence, the *uti possidetis* principle doctrine solidified this colonial decision, sparking a rebellion by Somalis who viewed the border as illegitimate and imposed.<sup>601</sup> The Kenyan state, asserting its sovereignty through military force,

---

<sup>599</sup> *Ibid.*

<sup>600</sup> Dersso, S. A. (2012). International law and the self-determination of South Sudan. Institute for Security Studies. <https://issafrica.org/research/papers/international-law-and-the-self-determination-of-south-sudan>.

<sup>601</sup> Whittaker, H. (2015). *Insurgency and Counterinsurgency in Kenya: A Social History of the Shifta Conflict, c. 1963–1968*. Brill.

suppressed the insurgency but has since faced longstanding marginalisation issues in its northeastern regions. This case illustrates how the principle facilitated state sovereignty capture by colonial lines while suppressing ethnic self-determination and fuelling intergenerational grievance and underdevelopment.

## Conclusion

The *uti possidetis* principle, which originated in Roman legal tradition and gained traction in 19th-century Latin America, was developed to solidify existing territorial claims following independence. Its core function of preserving colonial administrative boundaries as the legal frontiers of new states was intended to prevent violent border disputes. Key features of the doctrine include its emphasis on legal continuity, boundary stabilisation, and the rejection of *terra nullius*. However, when applied across post-colonial contexts, particularly in Africa, it has created significant tensions between legal sovereignty and territorial justice. For instance, the Badinter Commission upheld *uti possidetis* in the Balkans, preserving Yugoslav internal lines during its breakup, while in Africa, the 1964 OAU Resolution entrenched colonial borders to protect regional stability. However, this enforcement has limited state sovereignty, preventing nations like South Sudan or Somaliland from renegotiating borders to align with ethnic or economic realities. The result has been a legacy of artificial boundaries, internal unrest, and frozen claims over valuable resources, such as in the Nigeria–Cameroon Bakassi dispute or the oil-laden Abyei region between Sudan and South Sudan. Across the Global South, the *uti possidetis* principle has served as a mechanism for imperial entrenchment and neocolonial resource control under the disguise of international law.

## References

- Acharya, A. (2009). *Whose ideas matter? Agency and power in Asian regionalism*. Cornell University Press.
- African Commission on Human and Peoples' Rights. (1995). *Katangese Peoples' Congress v. Zaire*, Comm. No. 75/92.
- Bohannon, J. (2016). Who's downloading pirated papers? Everyone. *Science*, 352(6285), 508\_512. <https://doi.org/10.1126/science.352.6.285.508>.
- Crawford, J. (2019). *Brownlie's principles of public international law* (9th ed.). Oxford University Press.

- Dersso, S. A. (2012). *International law and the self-determination of South Sudan*. Institute for Security Studies. <https://issafrica.org/research/papers/international-law-and-the-self-determination-of-south-sudan>
- Denzin, N. K. (2017). *The research act: A theoretical introduction to sociological methods* (3rd ed.). Aldine.
- Dugard,, J (1993).“Secession: is the case of Yugoslavia a precedent for Africa? *African Journal of International and Comparative Law*.
- Fischer, C. (2006). *Research methods for psychologists: Introduction through empirical studies*. Elsevier Inc.
- Gelvin, J. L. (2016). *The modern Middle East: A history* (4th ed.). Oxford University Press.
- Hasani, E. (2003). *Uti Possidetis Juris: From Rome to Kosovo. The Fletcher Forum of World Affairs*, 27(2), 85\_97. <http://www.jstor.org/stable/45289241>
- Jackson, R. H., & Rosberg, C. G. (1982). Why Africa's weak states persist: The empirical and the juridical in statehood. *World Politics*, 35(1), 1–24. <https://doi.org/10.2307/2010277>
- Herzog, T. (2012). *Frontiers of possession: Spain and Portugal in Europe and the Americas*. Harvard University Press.
- Kapil, R. L. (1966). On the conflict potential of inherited boundaries in Africa. *World Politics*, 18(4), 656\_673. <https://doi.org/10.2307/2009809>
- Krasner, S. D. (1999). *Sovereignty: Organized hypocrisy*. Princeton University Press.
- Morgan, H. (2022). Conducting a qualitative document analysis. *The Qualitative Report*, 27(1), 64–77. <https://doi.org/10.46743/2160-3715/2022.5044>.
- Mnyongani, F. D. (2008). Between a rock and a hard place: the right to self-determination versus *uti possidetis* in Africa. *The Comparative and International Law Journal of Southern Africa*, 41(3), 463–479. <http://www.jstor.org/stable/23253196>
- Mutuma, K. W., & Ogechi, D. M. (2022). The nexus between self-determination, territorial integrity and *uti possidetis juris*: The case of Somaliland. *South African Yearbook of International Law*, 46, 1–23. <https://doi.org/10.25159/2521-2583/9621>
- Nzongola-Ntalaja, G. (2002). *The Congo: From Leopold to Kabila*. London: Zed Books.
- Paul, M. C., Rhodes, J. E., & Yardley, L. (2003). *Qualitative research in psychology: Expanding perspectives in methodology and design*. American Psychological Association.

- PENTASSUGLIA, G. (2002). State Sovereignty, Minorities and Self-Determination: A Comprehensive Legal View. *International Journal on Minority and Group Rights*, 9(4), 303\_324. <http://www.jstor.org/stable/24675246>
- Raic, D. (2002). *Statehood and the law of self-determination*. Leiden: Martinus Nijhoff Publishers.
- Ratner, S. R. (1996). *Drawing a better line: Uti possidetis and the borders of new states*. *American Journal of International Law*, 90(4), 590\_624. <https://doi.org/10.2307/2203996>
- Reisman, W. M. (1990). *Uti possidetis: Custodial sovereignty and the question of Tibet*. *Yale Journal of International Law*, 14(2), 285–289.
- Shaw, M. N. (2017). *International law* (8th ed.). Cambridge University Press.
- Shaw, M. N. (1996). The heritage of states: The principle of *uti possidetis juris* today. *British Yearbook of International Law*, 67(1), 75–154. <https://doi.org/10.1093/bybil/67.1.75>
- Sarvarian, A. (2015). Uti Possidetis Iuris in the Twenty-First Century: Consensual or Customary? *International Journal on Minority and Group Rights*, 22(4), 511–532. <http://www.jstor.org/stable/24676568>
- Siraj-Blatchford, I., Sylva, K., Taggart, B., Sammons, P., Melhuish, E., & Elliot, K. (2003). The effective Provision of PreSchool Education (EPPE) Project: Intensive Case Studies of Practice across the Foundation Stage (Technical Paper 10). London: DfEE/Institute of Education, University of London.
- Virgillito, A., & Polidoro, F. (2017). Big data techniques for supporting official statistics. In *Data Visualization and Statistical Literacy* (pp. 253–273). IGI Global.
- Whittaker, H. (2015). *Insurgency and Counterinsurgency in Kenya: A Social History of the Shifita Conflict, c. 1963–1968*. Brill.
- Wirsing, R. G. (2003). *Kashmir in the shadow of war: Regional rivalries in a nuclear age*. M. E. Sharpe.
- Yerger, C. (2014). Nontraditional undergraduate research problems from sports analytics and related fields. *Involve, a Journal of Mathematics*, 7(3), 423-430.