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The Role of International Law in the Twenty-First Century: An African Perspective

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INTRODUCTION

Africa's diverse political, economic, and cultural realities have provided unparalleled opportunities for lawyers to develop and apply international law to the specific problems of the African continent. The end of World War II and the creation of the United Nations have influenced this development. The devastation caused by the war, in human, environmental, and economic terms, vividly demonstrated the need for effective legal machinery in the international sphere. The United Nations was thus founded on "the principles of justice and international law."[1] Africa became a natural testing ground for the newly adopted principles of the United Nations.

Four issues serve as telling indicators of the role international law has played as it has attempted to deal with the specific problems that Africa has presented: decolonization; use of sanctions to achieve racial equality; incorporation of international human rights norms in African constitutions, including the emerging "right" of good governance; and the growing acceptance and use of "intervention" in countries where disintegration has occurred.

I. *DECOLONIZATION*

Early on in the life of the United Nations, decolonization became one of its primary goals. Concepts like "self-determination," "social progress," and "advancement of all peoples"[2] could not be reconciled with colonialism. As a result, the United Nations embarked on the decolonization process almost from its inception.

The Universal Declaration of Human Rights was adopted in

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1. U.N. CHARTER art. 1, ¶ 1.

2. *Id.* pmbl., ¶¶ 1-2.

1948.[3] While it did not deal specifically with the issue of "decolonization," it laid the groundwork for later, more explicit resolutions. More significant in this process was the adoption by the U.N. General Assembly of the Declaration on the Granting of Independence to Colonial Countries and Peoples in 1960.[4] The decolonization process was given a more formal expression in the subsequent conventions.[5]

II. *USE OF SANCTIONS TO ACHIEVE RACIAL EQUALITY*

Another element of international law that has been particularly visible since the mid-1960's is the use of U.N.-initiated sanctions to achieve racial equality. Two countries in particular, Rhodesia and South Africa, provide useful examples of the interplay of international law and U.N. sanctions. In 1968, the U.N. Security Council ("Security Council") voted for sanctions against Rhodesia.[6] The Security Council imposed an arms embargo on South Africa in 1977,[7] and urged member states to suspend new investments in South Africa.[8] In imposing the arms embargo against South Africa, the Security Council determined that the acquisition of such arms by South Africa threatened international peace and security under Chapter VII of the U.N. Charter ("Charter"). These mandatory sanctions were adopted in response to repeated calls by the African states. South African arms were acquired for the purpose of maintaining apartheid. By labeling their acquisition a threat to international peace and security, the Security Council was able to advance further the principle of racial equality.

The principle of racial equality was also applied in the Rhodesian situation in a manner that has significant implica-

3. Universal Declaration of Human Rights, G.A. Res. 217A, U.N. GAOR, 3d Sess., pt. 1, at 71, U.N. Doc. A/810 (1948).

4. G.A. Res. 1514, U.N. GAOR, 15th Sess., 947th plen. mtg., Supp. No. 16, at 66-67, U.N. Doc. A/4684 (1960).

5. International Covenant on Economic, Social and Cultural Rights, Dec. 16, 1966, art. 1, G.A. Res. 2200, U.N. GAOR, 21st Sess., Supp. No. 16, at 49, 49, U.N. Doc. A/6316 (1966), 993 U.N.T.S. 3, 5; International Covenant on Civil and Political Rights, Dec. 19, 1966, art. 1, G.A. Res. 2200, U.N. GAOR, 21st Sess., Supp. No. 16, at 49, 49 (1966), 999 U.N.T.S. 171, 173.

6. S.C. Res. 253, U.N. SCOR, 23rd Sess., Supp. No. 2, at 5-7, U.N. Doc. S/INF/23/Rev. 1 (1968), 7 I.L.M. 897 (1968).

7. S.C. Res. 418, U.N. SCOR, 32nd Sess., Supp. No. 2, at 5-6, U.N. Doc. S/INF/32 (1977).

8. S.C. Res. 569, U.N. SCOR, 40th Sess., 2062d mtg., U.N. Doc. S/RES/569 (1985).

tions for international law. After the Unilateral Declaration of Independence by the Smith regime, the U.N. Security Council immediately condemned the usurpation of power by the "racist settler minority." It called for non-recognition of Rhodesia by the international community.[9] This resulted in total non-recognition of Rhodesia, even though it had met the traditional criteria for statehood. The Security Council resolution and subsequent conduct by the international community suggest that a new principle of non-recognition has emerged with respect to new states that violate international norms of non-discrimination, self-determination, or majority rule. The non-recognition principle was also applied by the international community with respect to the "independent" black states, or bantustans, that had been created in South Africa under the apartheid system. These "states" were denied recognition because their creation violated human rights.[10]

To support actions of this magnitude, the United Nations had to interpret international law principles in a manner relevant to the situations created by Rhodesia and South Africa. It is now widely accepted that prohibition of apartheid and racial discrimination has attained the status of *ius cogens*.

III. *HUMAN RIGHTS/"RIGHT" OF GOOD GOVERNANCE*

The emergence of the African states coincided with the general recognition of human rights standards as part of international law. These human rights norms found their way into African constitutions through bills of rights. Today these rights have been expanded to embrace the emerging "right" of good governance. While a precise definition of "good governance"[11] remains elusive, its essence appears to be modeled almost exclusively on the pillars of western democracies. The legitimacy of governments in Africa is now being assessed on their ability to

9. S.C. Res. 217, U.N. SCOR, 20th Sess., Supp. No. 2, at 8-9, U.N. Doc. S/INF/20/Rev. 1 (1965).

10. *See* G.A. Res. 31/6, U.N. GAOR, 31st Sess. Supp. No. 39, at 10-11, U.N. Doc. A/31/39 (1976) (condemning "sham 'independence' " of Transkei); *see also* LOUIS HENKIN ET AL., INTERNATIONAL LAW: CASES AND MATERIALS 259 (3rd ed. 1993) (suggesting that state would be denied U.N. recognition if its establishment were found to be means to violate basic human rights).

11. For a more extensive review of this "right," see Thomas M. Franck, *The Emerging Right to Democratic Governance*, 86 A.J.I.L. 46 (1992).

achieve, at least, minimum standards of governance that exist in western democracies. Western political structures and ideals are being reinforced in Africa as donors condition their development assistance on good governance. As the African states individually and collectively refine these principles of "good governance" and "democracy," international law will play an increasing role in this new African political order.

IV. *INTERVENTION BY INVITATION: THE ISSUE OF "FAILED" STATES*

Within this decade alone, there have been three examples of "failed" states that have been the focus of international law: the former Yugoslavia, Somalia, and Rwanda.[12] Two of these states are in Africa. The existence of situations in which civil authority has collapsed will have serious implications on the concept of sovereignty, as is discussed later in this Essay. Here the analysis will be limited to the United Nations interpretation of Chapter VII of the Charter and what implications this has for the future.

United Nations Operations in Somalia ("UNOSOM") was authorized by the Security Council in 1992[13] after considerable pressure from humanitarian agencies operating in Somalia. UNOSOM was created to "alleviate hunger and starvation." Somalia, however, presented several problems for the United Nations. First, the deteriorating political situation and "humanitarian" conditions within the country immediately rendered UNOSOM's efforts ineffectual.[14] In late November 1992, Secretary-General Boutros Boutros-Ghali apprised the Security Council of UNOSOM's inability to carry out its mission under the existing conditions.[15] He recommended the use of military force

12. There are clearly numerous other "failing" States in Africa and other locations. These three, however, became particularly visible through media coverage. Burundi is likely to join this category of "failed" states.

13. HENKIN, *supra* note 10, at 983.

14. *Id.*

15. *Id.*; *see* U.N. SCOR, 46th Sess., U.N. Doc. S/24859 (1992); U.N. SCOR, 46th Sess., U.N. Doc. S/24868 (1992); S.C. Res. 733, U.N. SCOR, 46th Sess., 3039th mtg., U.N. Doc. S/RES/733 (1992); S.C. Res. 746, U.N. SCOR, 46th Sess., 3060th mtg., U.N. Doc. S/RES/746 (1992); S.C. Res. 751, U.N. SCOR, 46th Sess., 3069th mtg., U.N. Doc. S/RES/751 (1992); S.C. Res. 767, U.N. SCOR, 46th Sess., 3101st mtg., U.N. Doc. S/RES/767 (1992); S.C. Res. 775, U.N. SCOR, 46th Sess., 3110th mtg., U.N. Doc. S/RES/775 (1992).

under Article 39[16] to ensure UNOSOM's success.[17] While the United Nations is authorized to intervene if invited, Secretary-General Boutros-Ghali felt that there was no government in Somalia capable of requesting and allowing intervention.[18]

On December 3, 1992, the Security Council adopted Resolution 794[19] authorizing the use of military force to ensure UNOSOM's success. While the resolution referred to the "unique character of the present situation in Somalia,"[20] the action taken by the United Nations raises serious international law questions. If there was no government to request intervention, what standards did the Security Council apply to authorize the use of force in the absence of an invitation, and what precedent does it provide for future interventions? Second, the Security Council based its decision on Article 39. Article 39 requires a "threat to the peace." The question is whether the situation in Somalia did create a "threat to the peace" within the meaning of Article 39.

With the subsequent intervention in Rwanda and continued intervention in the former Yugoslavia, the challenge to international law to legitimize these actions becomes increasingly significant. There are several countries in Africa on the brink of disintegration. As these countries near "failure," the need to intervene will grow proportionately.

What role will international law play in Africa in the coming century? Africa today faces problems of political instability, poverty, economic stagnation, and in some cases, bad governance. Intractable social and political problems pose a threat to the political independence and territorial integrity of many African states. These problems will most likely grow as national authorities face challenges from internal ethnic, religious, and linguistic

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16. U.N. CHARTER art. 39. Article 39 states:

> The security Council shall determine the existence of any threat to the peace, breach of the peace, or act of aggression and shall make recommendations, or decide what measures shall be taken in accordance with Articles 41 and 42, to maintain or restore international peace and security.

Id.

17. HENKIN, *supra* note 10, at 983.

18. *Id.*; *see Letter Dated 29 November 1992 From the Secretary-General Addressed to the President of the Security Council*, U.N. SCOR, at 3, U.N. Doc. S/24868 (Nov. 30, 1992).

19. S.C. Res. 794, U.N. SCOR, 46th Sess., 3145th mtg., U.N. Doc. S/RES/794 (1992).

20. *Id.* at 2, ¶ 1.

forces. Unable to buy off internal opponents because of limited resources, national authorities will be tempted to use force in order to establish political stability. In the alternative, their ineffectiveness will create a political vacuum that will tempt the military to intervene for the avowed purpose of establishing law and order.

There will also be an external component to this weakness: the marginalization of Africa by the international community, or at least by the component of the international community that really matters today, the West. With the demise of the Cold War, Africa has lost whatever strategic significance it had. Recent statements from the floor of the U.S. Congress have made it clear that U.S. development assistance programs, for example, will be based on the significance of such programs to the strategic interests of the United States. The Middle East and the Commonwealth of Independent States ("CIS") countries will therefore be the major beneficiaries of U.S. development assistance in the future.

Coupled with this is the perception that the African situation is irremediable. While most states move towards closer economic co-operation (NAFTA, APEC, EU), Africa remains largely outside the international economic and political system. The African continent is, therefore, faced with two possibilities. One alternative is to continue to allow others to define it, and thus remain largely marginal. Under this scenario, Africa will continue to be marginalized and irrelevant, and will be unable to play a meaningful role in shaping the international law of the future. Alternatively, Africa will be able to play a role in the international system if it is able to exploit its tremendous natural resources positively. To achieve this, it will have to reform its economic system, encourage free enterprise, adopt laws that encourage competitiveness, mobilize and manage internal resources competently, and create effective trading blocks within the continent.

The recently created Common Market for Eastern and Southern African States ("COMESA"), the Southern African Development Community ("SADC"), and the Economic Community for West African States ("ECOWAS") are the building blocks on which future intra-Africa trade, investment and economic cooperation can be based.

These intra-African arrangements will be complemented by arrangements Africa must forge with others outside the African continent. Already many African states belong to the Commonwealth of Nations, the Francophonic, and Lusophonic blocs, and have all been active in the Lome Convention arrangement.

While the African states were largely marginalized in the Uruguay Round of negotiations, they have played an active role in global conferences and summit meetings. The African states were active at the Earth Summit in Rio de Janeiro in 1992. It became quickly apparent to the Earth Summit that effective norms for managing the global environment and achieving sustainable development can only be achieved if there is global cooperation. The African states played a similarly constructive role at the Vienna Conference on Human Rights in 1993; the Cairo Conference on Population and Development in 1994; and the Copenhagen Conference on Social Development in March 1995. They will play a similar role at the Beijing Conference on Women in September 1995, at Habitat II in Istanbul in 1996, and at future global summits.

What is emerging out of this global summit diplomacy is the realization that not only does Africa share common problems and expectations with the rest of the international community, but also a recognition that global problems can be resolved only if there is full participation by all the parts of the international community. It is in this context, therefore, that I will attempt to assess what role international law will play in Africa as we enter the twenty-first century.

Africa's problems as it enters the twenty-first century can be grouped into three categories: political instability; economic stagnation; and cultural disunity.

V. *POLITICAL INSTABILITY*

African states have, since the 1964 Cairo Resolution of the African Heads of State and Government, pledged themselves to respect existing frontiers upon their achievement of national independence.[21] The Charter of the Organization of African Unity adopted in 1963 makes reference in Article 3 to the "prin-

21. *Border Disputes Among African States*, OAU AGH/Res. 16 (1) (1964), *reprinted in* ORGANIZATION OF AFRICAN UNITY, RESOLUTIONS ADOPTED BY THE FIRST CONFERENCE OF INDEPENDENT HEADS OF STATE AND GOVERNMENT 31-32 (1964).

ciple of respect for the sovereignty and territorial integrity of every State." In the *Case Concerning the Frontier Dispute (Burkina Faso v. Republic of Mali)*,[22] a chamber of the International Court of Justice ("ICJ") affirmed the *uti possidetis juris* principle as an application of a rule of general scope in Africa.[23] The ICJ acknowledged that at least in the African context, there is an apparent conflict between this principle and the principle of the right of peoples to self-determination.[24] The ICJ was faced with one of the most explosive issues in Africa and elsewhere: how to reconcile the principle of territorial integrity with the right of peoples to self-determination.

Students of African history are aware that in their scramble to divide up Africa, participants in the 1875 Berlin Conference imposed the Westphalian concept of the nation-state by amalgamating disparate ethnic, linguistic, and ethnic groups into African colonial states. Boundaries were drawn on the basis of compromises between the various European colonial powers and for the convenience of colonial administrators. It is, in fact, the Berlin fallacy that both the Organization for African Unity ("OAU") resolution and the ICJ decision have endorsed. While conceding that the *uti possidetis juris* principle conflicts with the principle of self-determination, the ICJ justified its position by arguing that the maintenance of the territorial status quo is the wisest course because such an approach avoids disruption, which would deprive the continent of the gains achieved at great sacrifice.

As a political postulate, the ICJ may be correct. The ICJ, however, failed to address the rights of ethnic and other minorities. Does the principle of self-determination apply only in the colonial context? How should that principle be applied in Africa? To what extent should the principle of sovereignty and territorial integrity be applied in the face of ethnic persecution? What should be the rights of ethnic, religious, and linguistic minorities in Africa?

The ICJ lost an opportunity to deal with this problem. The ICJ should have balanced the two principles. In his essay, *Na-*

22. Case Concerning the Frontier Dispute (Burkina Faso v. Republic of Mali), 1986 I.C.J. 554 (Dec. 22).

23. *Id.* at 565, ¶ 21.

24. *Id.* at 565-66, ¶ 22.

tions Without States,[25] Gidon Gottlieb concedes that most of today's ethnic conflicts cannot be solved by boundary adjustments. He advocates a less territorial and more regional approach to the application of the principle of self-determination. Under his approach, groups within countries would be accorded rights in association with groups of similar identity outside the nation-state. International law will have to play a creative role in Africa and elsewhere as ethnic tensions within states become more pronounced.

The principle of sovereignty will face additional internal and external challenges in Africa. Besides demands for ethnic rights there will also be demands for democratization, good governance, and accountability. There is an emerging consensus in Africa today that people are entitled to good governance, that governments must be democratic and not corrupt, and that government leaders should be held accountable for bad governance. In some cases, these notions have been embodied in constitutions. In the 1994 Provisional Constitutional of Malawi, for example, the state is obliged to introduce measures that will guarantee "accountability, transparency, personal integrity and financial probity" of its leaders.[26]

But what will be the criteria for measuring good governance and for holding leaders or former leaders accountable for years of misrule or mismanagement and misuse of national resources? Outcomes of the current trials of the former leaders in Ethiopia for crimes against humanity, and the pending Rwanda war crime trials will highlight some of these questions. How does one ensure fair trials for over 25,000 prospective defendants in Rwanda? In a majority of cases the victims of these alleged crimes are dead. How does one identify the real perpetrators of these crimes? Where does one find the witnesses and who will have the courage to give evidence on behalf of the defendants?

Other instances of gross abuse of human rights have taken place in South Africa under apartheid; in Uganda under Presidents Idi Amin and Milton Obote; in Liberia under military rule; and in Sudan and Somalia where there were politically-caused humanitarian emergencies. International law requires the pros-

25. Gidon Gottlieb, *Nations Without States*, FOREIGN AFF., May/June 1994, at 100.

26. MALAWI, CONST. § 13(o) (1994), *reprinted in* CONSITUTIONS OF THE COUNTRIES OF THE WORLD (Blaustein & Flanz, eds. 1995).

ecution of gross abusers of human rights. The African states must create institutions that will enable them to uncover such abuses, bring the abusers to justice and ensure that there will be no repetition of such abuses in the future. International human rights law will play a very limited role in Africa if the African states fail to confront Africa's past.[27]

Finally, the principle of sovereignty will also face new challenges. This will be in the area of military intervention in Africa. In the Sudan in 1989, Somalia in 1992, and Rwanda in 1993, military intervention took place essentially at the request of private humanitarian agencies. In both Somalia and Rwanda there was a collapse of civil authority and the civilian population was faced with possibilities of mass starvation. In *Intervention Unbound*,[28] Alex de Waal addressed the question of these politically caused human emergencies and the role private humanitarian organizations played in convincing the United Nations to intervene militarily in Somalia and France in Rwanda. He described a transformation from an earlier period when these agencies operated within the framework established by these states to an era in which these states have lost the capacity to control the activities of humanitarian agencies. To whom will these agencies be accountable and on what basis will they demand military intervention? What limitations will be placed on their influence and power in the states where they operate? International law must develop new norms to deal with these issues.

VI. *ECONOMIC STAGNATION*

External and internal factors have contributed to Africa's economic stagnation. Under the former, the African states must deal with the burdens of debt servicing, unfavorable trade terms, and conditions imposed by bilateral and multilateral donors that to a considerable extent infringe on their rights to adopt economic policies of their choice. Structural adjustment programs and aid-tying are the obvious examples. Under the latter, stagnation has resulted from unchecked population growth, poverty, misguided economic policies, and bad governance.[29]

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27. *See generally* MAKAU MUTUA, CONFRONTING THE PAST: ACCOUNTABILITY FOR HUMAN RIGHTS VIOLATIONS IN MALAWI (1994).

28. Alex de Waal, *Intervention Unbound*, INDEX ON CENSORSHIP, Dec. 1994, at 40.

29. *See generally* GEORGE B.N. AYITTEY, AFRICA BETRAYED (1992).

African economic stagnation will be alleviated if the African states are able to resist aid dependency and create conditions in their countries that lead to competitiveness. Disappointed by inefficient bureaucracies, Western donors now prefer to provide development assistance directly to the people through non-governmental organizations ("NGOs"). While this approach is generally more effective, it leads to further marginalization of the African states and has accorded the NGOs enormous power and influence within the host state. New norms must be developed to ensure that these agencies act within overall host-government policy and also that they are accountable.

Beyond asserting their control over the NGOs, the African states must create structures that facilitate economic development and enhance their ability to participate in the international economic system. They must open up their economies to foreign investment and enact laws that encourage such investment. This approach will have two implications. If the African states are to attract foreign capital on a larger scale, they must create large internal markets through economic integration. COMESA, SADC, and ECOWAS, mentioned earlier in this Essay, are examples of efforts towards this integration. Such movement towards economic integration will give rise to a whole range of political and legal issues that must be addressed. These will include sovereignty, free movement of goods and people, and the creation of effective machinery for the settlement of disputes among the member states.

The principal purveyors of foreign capital will continue to be the transnational corporations. These corporations are mobile, powerful, and global in their orientation. How will the weak states of Africa exert legal authority over them? Attempts by the United Nations to complete a code of conduct for transnational corporations were abandoned in 1990, after sixteen years of disagreements among various groups of states over the fundamental issues.[30] International law will have to address this issue again.

Finally, the African states will have to deal with internal demands for efficient management and equitable distribution of national resources, and the centrality of the human person in development planning. Thus, Article 3 of the Declaration on

30. HENKIN, *supra* note 10, at 1454-59.

the Right to Development[31] provides that states have the responsibility to create national and international conditions that are favorable to the right to development. A key element of this right is the improvement of the well-being of the entire population and all individuals. Thus, there is an emerging expectation that a state shall manage national resources in a manner that achieves these objectives. With respect to the African states, the right to development has been made normative. Article 22 of the African Charter on Human and Peoples Rights[32] ("Banjul Charter") recognizes the right of all people to economic, social, and cultural development and imposes a duty, individually and collectively, on the African states to ensure the exercise of this right.[33] Over fifty African states are parties to the Banjul Charter. The right to development has, therefore, become part of African regional international law. Effective machinery will have to be developed to ensure its realization.

VII. *CULTURAL DISUNITY*

Almost every African state has within its borders diverse people with diverse languages, religions, and beliefs. Two imported religious faiths, Christianity and Islam, coexist with a whole range of African traditional religions. Samuel Huntington has argued that while the nation-states will remain powerful actors in world affairs, the principal source of conflict will in the future be cultural.[34] If this hypothesis is true, it will have serious implications for Africa's international relations. Religion, for example, will determine how a given African state views a particular international conflict. This has already happened with respect to policies towards the Bosnian and Afghanistan conflicts by some African states. Within the African states, disparity of income levels between rural and urban areas is already creating massive movements to cities. This will lead to urban dysfunction. In those African states that are not able to provide the basic needs for their people, there is already migration to the more prosperous

31. G.A. Res. 41/128, U.N. GAOR, 41st Sess., 97th plen. mtg., at 4, U.N. Doc. A/RES/41/128 (1986); Declaration on the Right to Development, art. 3, U.N. GAOR 3d Comm., 41st Sess., Agenda Item 101, at 24, U.N. Doc. A/41/925 (1986).

32. OAU Doc. CAB/LEG/67/3/Rev. 5, 21 I.L.M. 58, 62 (1982).

33. *Id.*

34. Samuel P. Huntington, *The Clash of Civilizations?*, FOREIGN AFF., Summer 1993, at 22.

African countries. This will exacerbate tensions within the African states as the new arrivals compete with the local people for limited resources. It will also exacerbate tensions between the African states. Migrations from Malawi and Mozambique to South Africa offer a good examples of this phenomenon. New inter-African arrangements will need to be structured.

This part of the Essay is concerned with cultural diversity within the African states and what implications this will have for international law. Let us take, for example, gender equality. The Convention on the Elimination of All Forms of Discrimination Against Women[35] condemns discrimination against women in all its forms. Women are, therefore, granted the same political, economic, and social rights as men. This Convention entered into force less than two years from the date of its adoption, a record time for an international convention. Many countries, including many African states, have become parties to the Convention.

There is thus broad international consensus in favor of gender equality. But let us look at some of the social rights in the Convention. Article 16 of the Convention prohibits discrimination against women in all matters relating to marriage and family relations.[36] Under this Article, a woman has the right to enter into marriage with a spouse of her choice and has the same rights as her husband during marriage and at its dissolution. In the non-urbanized communities of many African states, different ethnic communities have different rules with respect to matters relating to marriages and family relations. Men and women do not necessarily have the same rights and responsibilities during marriage and at its dissolution. Any attempt by a state to change these traditional norms in order to comply with the international norms that are outlined in the Convention could result in social upheaval.

Let us also look at Article 11(1)(f), which grants women the right to protection of health and to safety of working conditions including the safeguarding of the functions of reproduction.[37] A state party to this convention has an obligation to outlaw prac-

35. G.A. Res. 180, U.N. GAOR, 34th Sess., U.N. Doc. A/RES/34/180 (1979), 19 I.L.M. 33 (1979).

36. *Id.* art. 16, at 8-9, 19 I.L.M. at 41-42.

37. *Id.* art. 11(1)(f), at 6, 19 I.L.M. at 39.

tices that endanger the health of women. A good example of a practice that endangers the health of women is female circumcision. How does an African state outlaw a practice, which in many African states is widely followed, without causing social conflict? It is obvious that there is an inherent conflict between these international norms and the realities of African traditional culture.

Similar conflicts can be identified with respect to other social issues. Among these are population planning and the struggle against AIDS. In the future, international law must be applied in a manner that recognizes these cultural differences.

CONCLUSION

Internal forces within the African states, the dynamics of intra-African relations, and the manner in which Africa interacts with the rest of the world will affect the role of international law in Africa as we enter the twenty-first century. Because of its marginalization, Africa has generally been a recipient of, rather than a contributor to, the development of international law. This marginalization will likely continue as long as the African states remain internally weak. In a legal system in which the principal actors are still nation-states, the fragile African states will continue to play a limited role in shaping new international legal norms so long as these internal weaknesses persist. African states must, therefore, address problems of political instability, economic stagnation, and cultural disunity.

We now live in a world that is gradually accepting cultural diversity, and the Judeo-Christian value system on which modern international law is generally based may be too narrow to support the international law of the future. International law will achieve wider acceptance if it is able to embrace this diversity. The African states will be able to play a role in shaping the international law of the future if they are able to strengthen their internal political, economic, and social orders.