State Accountability to Sovereignty of the Human Person

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INTRODUCTION

This project seeks to develop ways of holding governments accountable for their failure to satisfy the requirements of conflict management, political stability, economic growth, and social welfare.[2] Since offending governments tend to resist external sources of protection and assistance for an oppressed population by pleading national sovereignty, and major international actors are less likely to act unless driven by strategic or ideological reasons, the project aims at "expounding on the normative principles of responsible sovereignty, international mechanisms and strategies for their enforcement, and empirical evidence about the performance of governments as measured by the stipulates of sovereignty."[3] Asserting "human dignity as an overarching goal to which all peoples and societies aspire and are committed, whatever the variations of their cultural perspectives on the institutional details of the concept" the project perceives this concept as "operationally or functionally translated into a quest for recognition and respect for human beings, both as individuals and as members of identifiable groups. Human dignity demands, in the minimum, equal treatment with full rights and duties of citizenship."[4]

While in agreement with the main premise and objectives of this project, I am concerned about some of its assumptions. For example, the project makes universalist claims from a liberal perspective on democracy, accountability, and human rights true.[5] To what extent and in what sense are such claims true in the present African context? In so far as the project apparently assumes the desirability and feasibility of "a system of international accountability" as necessarily following from the failure of states to live up to the responsibilities of their sovereignty, does this view take an unrealistically positive view of the role of the international community and its "humanitarian concerns to deliver needed assistance, and occasionally taking military action to facilitate that mission," and of regional and sub-regional actors in Africa?[6]

It is true that these are precisely the sort of issues the proposed research agenda is intended to address, but serious distortions may subsequently follow if the scope and orientation of this definitive initial framework does not acknowledge and address some of the conceptual and structural limitations of its own prescriptions. For example, an unquestioning acceptance of European conceptions of sovereignty, dignity, and rights may preempt the possibility of

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[2] Francis M. Deng, Sadikeil Kimaro, Terrence Lyons, Donald Rothchild, and I. William Zartman, *Sovereignty as Responsibility: Conflict Management in Africa* (Washington DC: The Brookings Institution, 1996), especially chapter 1.

[3] Deng, "Sovereignty, Responsibility and Accountability: An African Challenge," pp. 2–3.

[4] *Ibid.*, pp. 4 and 5.

[5] Claiming, for example, that "the erosion of sovereignty with the development of democratic values and institutions internally and with international accountability on the basis of human rights and humanitarian standards"; and asserting that "It is becoming increasingly recognized that it is the will of the people, democratically invested in the leaders they elect freely or otherwise accept as their representatives that entitles authorities to value and uphold the sovereignty of a nation." *Ibid.*, pp. 7 and 8.

[6] *Ibid.*, pp. 9 and 10.

serious consideration of other conceptions, which might be more appropriate for other parts of the world. A coercive system of international accountability that can be invoked by the powerful, as and when they choose to enforce it in exercise of their own national sovereignty, may be more problematic than the admittedly intolerable situations it is supposed to remedy.[7] As illustrated by the recent/current cases of Liberia, Rwanda, and Somalia, both the manner and timing of regional or international interventions can be as disastrous as, and may even aggravate, the situation they are supposed to redress. Powerful states may nonetheless insist on pursuing their own interests through the use of force, but why should they be allowed to legitimize their foreign policy objectives as humanitarian intervention or international accountability? In this light, I would place higher priority on promoting internal normative and institutional capacity of peoples to hold their own governments accountable to standards of dignity and rights over reliance on the international community for that purpose.

To say this is not to suggest that the international community has no role to play, or that Africans can or should have exclusive control over the formulation and implementation of standards of sovereign accountability in their own situations. On the contrary, substantial external support for promoting internal capacity will remain necessary for African societies, and intervention may become imperative in some situations, in the face of genocide in particular. Moreover, even if African societies and states are able to articulate and implement their own standards and mechanisms of accountability, they cannot insist on their own conceptions of sovereignty in dealing with other governments or inter-governmental organizations because international relations presuppose common understandings of sovereignty and its implications. States and their citizens need to rely on clear principles of jurisdiction and behavior of other states in diplomatic and trade relations, investment and security arrangements, and so forth.

Therefore, while arguing for stronger focus on internal accountability, I am not discounting the need for regulating international accountability with a view to increasing its credibility and consistency. On both counts, however, I urge serious consideration of African experiences and perspectives in continuing to redefine and adapt concepts of sovereignty and accountability to changing local and global circumstances. Thus, I would argue not only that human dignity and rights ought to be bases of the sovereignty of modern African states, but also that the manner and process of realizing that objective should somehow be accepted by African peoples as a legitimate and realistic way of exercising control over their lives and protecting their individual and collective human dignity and rights. In my view, the second part of this proposition is necessary for promoting the degree and quality of public engagement in the political and legal implementation of the standards and operations of the institutions and processes of making human dignity and rights bases of sovereignty.[8] This is particularly important, in my view, because it is crucial for the success of internal accountability as the preferred strategy. Although this combination of objectives can be conceptually problematic and practically difficult to achieve, I see no alternative if sovereign accountability is to be effectively realized in the present African context.

A research agenda in this area should be identified and pursued with a view to accommodating different cultural and philosophical perspectives.[9] In relation to Africa, such an inclusive approach should seek to encompass traditional African (including Islamic) as well as Western conceptions of sovereignty, human dignity, and rights. But while human dignity and rights are sought by all these traditions, there can be such differences in perceptions of these concepts, and the circumstances of their implementation, between traditional African societies and those of Western liberal societies that it becomes misleading to speak of them as shared criteria for sovereign accountability. On the other hand, to dismiss non-Western conceptions as inadequate or inappropriate may not only antagonize whole communities toward the proposed project, but also lead to the loss of valuable moral and philosophical resources for making such accountability more legitimate and effective in those societies. This paradox must somehow be resolved in order to facilitate the articulation and implementation of yet valid and applicable universal standards of sovereign accountability. Such resolution, however, requires mediation of the two perspectives rather than an imposition of one over the other.

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[7] For a critique of coercive enforcement in international relations, and an alternative model of compliance see, generally, Abram Chayes and Antonia Handler Chayes, *The New Sovereignty: Compliance with International Regulatory Agreements* (Cambridge, MA: Harvard University Press, 1995).

[8] I am not suggesting that human dignity and rights should be the sole bases of sovereignty, though other possible bases, it seems to me, can be seen as prerequisite for, or conductive to, the realization of these fundamental concerns.

[9] The focus on Africa in this article is only to illustrate a globally necessary approach for all human societies to contribute to the formulation and implementation of international standards of sovereign accountability.

In this light, my objective is an attempt to clarify *the process* through which such mediation might produce the most appropriate standards of sovereign accountability to human dignity and rights, as well as promoting the institutions and dynamics which would be conducive to their effective implementation in the present African context. While this approach indicates that one should avoid anticipating the outcome of this process by attempting to formulate the applicable standards at this stage, it would be useful to have a working hypothesis of what they might be. It is also advisable to have a realistic appreciation of the conceptual and practical limitations of the process itself. Since African societies must work in partnership with other societies throughout the world in formulating and implementing these standards under conditions of growing, though unequal, global interdependence and mutual influence, as I emphasize below, due regard must be given to prevailing international understandings of sovereign accountability to standards of human dignity and rights. Therefore, I would take these understandings as a working framework for mediation between African and other perspectives, *provided* it is a genuine process of dialogue and negotiation, with real possibilities of reformulation and change, as and when necessary. I would also expect such a process of mediation to largely confirm the validity of most of the present international standards, while seeking to rectify inconsistencies in their implementation. Despite its limitations and possible predictability of its outcome, however, I believe that it is imperative to implement this process of mediation in good faith and with an imaginatively open mind.

As I understand and share it, the objective of this project is to develop a normative and institutional framework for holding sovereignty accountable to some basic standards of human dignity and rights. This proposition, however, can be usefully broken down into three elements: First, that sovereign power should be held accountable to specific standards derived from its rational justification. Second, that the criteria of sovereign accountability should include human dignity and rights as an integral part of that justification. Third, that accountability to these standards should be adjudicated and implemented in practical and effective ways.

Since the problem is how to realize these elements in the world as we know it to be, rather than under some abstract or ideal conditions, I will focus on the conceptual and practical difficulties facing this project with a view to proposing possible ways of resolving them. Through a discussion of sovereignty in section II, I am suggesting that since the concept and its implications are being revised and adapted everywhere, there is an opportunity for taking serious account of African perspectives, concerns, and priorities in this process of renegotiation. In particular, that section will discuss the nature and dynamics of the post-colonial African state and the global realities of power relations within which sovereign accountability is supposed to operate. If such accountability is to be in terms of some universal standards of human dignity and rights, I argue in section III of the article, then the possibilities of tension that might exist within this framework itself should be identified and resolved. In the last section, I will discuss the *process* of articulating and implementing standards and mechanisms of accountability, without attempting to prescribe what they ought to be, although some examples may help clarify and illustrate the sort of outcome this process can be expected to produce. However, the conclusions, policy implications and strategies of the process I am proposing do indicate a certain substantive orientation of the standards and mechanisms I envisage for realizing meaningful sovereign accountability to human dignity and rights. But first, I wish to explore some of the issues that underlie the African perspective I seek to bring to the whole analysis.

I. RETRIEVING THE IRRETRIEVABLE AND IMAGINING THE UNIMAGINABLE

To promote a sufficiently strong sense of legitimacy and relevance, I suggest, this project must somehow tap the consciousness of African peoples, including their recollections of pre-colonial conceptions and historical experiences of sovereignty and accountability as well as indigenous conceptions of human dignity and rights. Yet, access to some of those cultural and contextual resources of legitimacy is now obstructed by the colonial intrusion into the continent, and its aftermath in the present world order, whereby Eurocentric conceptions of sovereignty and power relations tend to condition and limit the ways in which Africans (and other previously colonized peoples) perceive themselves and organize their lives.[10] This conditioning and limitation is both conceptual and structural. It is conceptual in that theoretical recollections of ideas and meaning of institutions and relationships of that past are filtered

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[10] References to European or Eurocentric conceptions in this article include North American as manifestations of the reproduction and extension of European culture, economy, political philosophy, and practice through the successful and total "displacement" of indigenous populations, in contrast to colonization in the African, Asian, and Latin American sense.

through the lenses of European historicity; and structural in that possibilities of implementing policies emerging out of such recollections are inhibited by ways in which the world today is organized and operated on the bases of European knowledge and understanding. While overcoming the conceptual difficulties involves what I call in the title of this article "retrieving the irretrievable," achieving African objectives despite structural limitations requires "imagining the unimaginable."

To avoid any confusion or misunderstanding here, I am not suggesting that Africans should strive to retrieve an "imaginary" history of complete and perfect sovereign accountability to the highest standards of human dignity and rights in a golden age of pre-colonial past. Rather, I am advocating that they should seek to clarify, adapt, and implement what they "remember" to have been (and may still continue in one form or another today) their indigenous conceptions and institutions of sovereignty, accountability, human dignity, and rights. Africans should be able to seek to retrieve, rejuvenate, and develop such conceptions and institutions, regardless of whether or not they can verify and validate their memories of that history, and current experience of its relevance and utility, in terms of Eurocentric historiography and epistemology.

The value of the Subaltern Studies approach, which challenges this notion of historiography and epistemology as briefly explained later in this section, is that it reinforces the self-confidence of Africans in the validity and relevance of their own recollections of their history and current experience. The fact that Africans may be unable today to establish, in scholarly fashion that certain conceptions and practices of sovereign accountability to human dignity and rights used to prevail in the past, or make sense of them at present, does not mean they cannot be retrieved, adapted, and developed in the direction desired by African societies today. In other words, the retrieval project I am suggesting includes a critical examination, and not blind sentimental assertion, of recollections of past concepts and institutions, and their adaptation to present day realities at home and abroad.

While these realities must be taken very seriously indeed, they should not be allowed to constitute unsurmountable barriers to the proposed retrieval and adaptation. This may require imagining the unimaginable: a continuity and evolution of African conceptions and institutions of sovereign accountability *as if* they were never interrupted by colonial intrusion. Another dimension of imagining the unimaginable relates to the process of renegotiating sovereignty under the present Eurocentric system and its hegemonic power relations at the local, regional, and international levels.

RE-CONCEPTUALIZING FOR CHANGE

Significant change will probably occur over time, by building on both the successes and failures of continuing struggles and the influence of a variety of factors and forces operating and interacting in the daily lives of individuals and communities on the ground. But this does not mean that it is unnecessary to question the conceptual assumptions and direction of the processes of incremental change. In fact, drastic reconceptualization of the issues, even a paradigm shift in this regard, may be necessary for accelerating or redirecting the processes of change in accordance with the accumulated wisdom of the community and its leaders. Tentative proposals of reconceptualization may and should be made, evaluated and accepted or rejected, tried in practice and worked or fail to work. This would be particularly valuable when existing conceptual assumptions and directions for action do not seem to be working well enough for one reason or another.

African intellectuals have been struggling with these conceptual and practical difficulties of developing and implementing indigenous models for several decades now, and linking their efforts to those in Asia and elsewhere. A recent and instructive stage in this exchange is the influence of what is known as "Subaltern Studies" on African historiography. Emerging in India as a critique of both nationalist and Marxist criticisms of colonialism, this new approach seeks to restore history to the subordinated. According to one of the proponents of this approach, nationalism sought to reverse Orientalist thought by attributing agency and history to the subjected nation, but in doing so it staked the claim of the "nation" to the order of Reason and Progress instituted by colonialism. Marxists criticized colonial exploitation, but their criticism was framed by a historical analysis of capital and class struggle that universalized Europe's historical experience. Subaltern Studies criticize both types of critiques as Eurocentric.[11] "Europe

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[11] *American Historical Review*, December 1994, p. 1475. "The term 'Subaltern,' drawn from Antonio Gramscci's writings, refers to subordination in terms of class, casts, gender, race, language, and culture and was used to signify the centrality of dominant/dominated relationships in history." *Ibid.*, p. 1477.

remains the sovereign, theoretical subject of all histories, including the ones we call 'Indian,' 'Chinese,' 'Kenyan,' and so on. There is a peculiar way in which all these other histories tend to become variations on a master narrative that could be called 'the history of Europe.' In this sense, 'Indian' history itself is [and various African histories are] in a position of subalternity."[12] Beyond this broad subalternity of non-European regions of the world, there is internal subalternity within those societies and regions. Subaltern Studies assert that "the subalterns had acted history '*on their own*, that is, *independently of the elite*'; their politics constituted 'an *autonomous* domain, for it neither originated from elite nor did its existence depend on the latter'."[13]

But subaltern histories can only be inferred from dominant history. "The aim of this strategy is not to unmask dominant discourses but to explore their fault lines in order to provide different accounts, to describe histories revealed in the cracks of the colonial archaeology of knowledge."[14] Since being subaltern in itself indicates the historical erasure of the voice of the subject of the history to be retrieved, this approach is said to be "an ambivalent practice, perched between traditional historiography and its failure, within the folds of dominant discourses and seeking to re-articulate their pregnant silence - sketching an invisible design covered over in the palimpsests."[15] It may be that earlier versions of histories cannot be clearly uncovered from under several layers of writing, and that the autonomy of the subaltern subject of history cannot be recovered as such. Nevertheless, insights drawn from the existence of its untold story are useful, I believe, in informing our understanding of the process of mediation between African and European conceptions of sovereignty and accountability.

One of the important insights of this approach for the subject of this article is an appreciation of the consequences of applying the assumptions and methodology of Eurocentric historiography to the Third World. This historiography often asks whether non-Western societies have "achieved a successful transition to development, modernization, and capitalism and frequently answer in the negative. A sense of failure overwhelms the representation of the history of these societies. Such images of aborted transitions reinforce the subalternity of non-Western histories and the dominance of Europe as History."[16] Another important insight is how anti-colonial nationalism has in fact adopted colonial frameworks for its own indigenous elite project. For example, the discourse of the Indian nation-state, which had to imagine India as a national community, pitted nationalism against communalism because it could not recognize religious, cultural, social, and local community as a political form. In this way, the "history," authorized by European imperialism and the Indian nation-state, functions as a discipline, empowering certain forms of knowledge while disempowering others.[17]

This Eurocentric discourse privileges the methodology of academic history, such as the rule that "sources must be verifiable," assuming the existence of a "public sphere, which public archives and history writing are expected to reproduce … The idea of 'public life' and 'free access to information' [in societies like India] must contend with the fact that knowledge is privileged and 'belongs and circulates in the numerous and particularistic networks of kinship, community, generated spaces [and] ageing structures.' If this is the case … how can we assume the universality of the canons of history writing: "Whose universals are they?'."[18]

However, in invoking the insights of this approach, I would also recall Fredrick Cooper's caution against reproducing the dichotomies of colonial ideologies of the civilized colonizer and the primitive colonized into new variations of modern versus traditional, or by inversion in the destructive imperialist versus the sustaining community of the victim. "The difficulty is to confront the power behind European expansion without assuming it was all-determining and to probe the clash of different forms of social organization without treating them as self-contained and autonomous."[19] He suggests opening both pre-colonial and colonial experiences of Africa to less

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[12] Dipesh Chakrabarty, "Postconloniality and the Artifice of History: Who Speaks for 'Indian' Pasts," *Representations*, 37 (Winter 1992), p. 1.

[13] Prakash, "Subaltern Studies as Postcolonial Criticism," pp. 1477–78, quoting Ranajit Guha, editor of the first six volumes of Subaltern Studies.

[14] *Ibid.*, p. 1486.

[15] *Ibid.*, p. 1488.

[16] *Ibid.*, pp. 1484–85.

[17] *Ibid.*, pp. 1482 and 1485.

[18] *Ibid.*, quoting from Dipesh Chakrabarty, "Trafficking in History and Theory: Subaltern Studies," in K.K. Ruthven, ed., *Beyond the Disciplines: The New Humanities* (Canberra, 1992), p. 107.

[19] Frederick Cooper, "Conflict and Connection: Rethinking Colonial African History," *American Historical Review*, December 1994, p. 1517.

dichotomous and less polarized analysis than that of European colonial domination (appropriated by the nationalist project after independence), and African subaltern resistance. To maintain a dichotomous and polarized analysis of dominant and dominated leads to the paradox of wanting the subalterns to have a rich and complex consciousness, to exercise autonomous agency, and yet to remain in the category of subaltern. Instead, one should appreciate the contradictions of the colonial (or other oppressive) project—how the oppressor may have to concede to the oppressed what might undermine the basis of dominance.[20] As Cooper concludes: Africa's crisis derives from a complex history that demands a complex analysis: a simultaneous awareness of how colonial regimes exercised power and the limits of that power, an appreciation of the intensity with which that power was confronted and the diversity of futures that people sought for themselves, an understanding of how and why some of those futures were excluded from the realm of the politically feasible, and an openness to possibilities for the future that can be imagined today.[21]

Despite the difficulties of predicting what it might produce in "retrieving the irretrievable" in subaltern African histories, I believe this approach to be particularly useful in generating a sense of self confidence and empowerment Africans need to participate effectively in articulating and implementing standards of sovereign accountability. The main message I draw from this approach and its insights is that African retrieval projects need not, and should not be expected to conform to predetermined specifications, least of all externally defined ones. There is no predetermined script or blueprint of the course of development of African societies, no goals of transition from one point to another that must be achieved. African societies are transforming on their own terms, not in transition, and their transformation includes their own retrieval and adaptation projects, as well as internally generated responses to current challenges and concerns. The outcome of the transformation of African societies may be characterized in one way or another by observers as stages in the development of each society, but such characterizations should not anticipate and constrain the visions and directions Africans may have about the course of their own individual and collective development.

PROBING FOR RETRIEVAL PROJECTS

My sense of what might be retrieved today regarding sovereign accountability to indigenous notions of human dignity and rights is informed by the following three elementary assumptions. First, that all human societies have some form or system of political and social organization that arises (or is claimed/believed to arise) from the need to satisfy basic individual and communal demands for security of human life and protection of freedom and dignity. In terms of the analysis of this article, I suggest, such systems include the functional equivalent of modern conceptions of sovereignty and accountability in national and international relations, even though direct similarities between the two may not be obvious. Such systems, it can be assumed, would always have external as well as internal spheres of response to the needs of security of life and protection of dignity and freedom because threats to these needs as well as resources for their satisfaction can arise from the two types of sources. Second, in view of their rationale and justification to the population in question, systems of political and social organization would need to cope with contestation of their visions and testing of their practical ability to deliver on their promises of security of life and protection of freedom and dignity. That is, such systems must remain, and be seen as, responsive to shifts in visions of how to achieve their objectives, and changes in the conditions and circumstances of their operation, both internal and external to the local situation. Third, while the magnitude of such shifts and changes may appear to bring about drastically different forms of political and social organization, there needs to be some ways of maintaining continuity with the previous order because human societies evolve and transform over time, rather than simply disappear in one form and reappear in another.

Thus, African societies must have always had their own systems of political and social organization, including the functional equivalent of modern notions of sovereignty and accountability in communal and inter-communal relations, which were related to the underlying rationale of security of life and protection of dignity and freedom. Since human societies have continued to exist in Africa from the dawn of history, indeed from its earliest beginnings,

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[20] For example, "the inability of colonial regimes to establish and maintain 'dominance' amid the uneven effects of capitalism led them to deploy the 'universalistic' conceptions of social engineering developed in Europe, only to find that their own hopes for the success of such technologies required giving up the beliefs about Africa on which a sense of 'dominance' depended." *Ibid.*, p. 1532.

[21] *Ibid.*, p. 1545.

their systems of political and social organization must have successfully adapted in response to shifts in visions of how to achieve their objectives, and survived the testing of their ability to deliver under internal and external changes in the conditions and circumstances of their operation.

However, never before in their history have African societies faced such a drastic and massive challenge to their systems of political and social organization as has been effected by European colonialism, especially since the middle of the last century. Since modern African societies and states do not appear to have successfully adopted and adapted the European systems of governance and accountability that have been universalized in the present world order, can they draw on their pre-colonial experiences to provide the above-mentioned elements of legitimacy and continuity in their systems of political and social organization? It seems that the difficulties Africans have in operating through the presently dominant system or seeking to somehow reconcile it with their pre-colonial past are due to the paradoxical outcome of their colonial and post-colonial experiences.

Basically, the paradox is in the fact that colonialism purported to change the world of Africans according to the underlying rationale of European systems of governance and accountability without seriously trying to implement those systems in Africa. Consequently, the African states of today are neither what they might have been if they were the product of "natural" evolution out of preceding stages of their own development, nor are they what they are supposed to be under the European model which was never applied in good faith by European powers who were more interested in exploiting African resources than developing African societies and states. At a fundamental or paradigmatic level, the precise notion of "nationhood" on which the European model of the sovereignty of the "nation-state" is premised was not only alien to African polities, but was in fact positively discouraged under colonial "divide and rule" policies. Moreover, the European model that Africans never had a chance to incorporate and integrate into their pre-existing situations includes specific visions of response to basic human needs for security and dignity through notions of constitutional governance and protection of equal individual rights. Yet these visions were introduced so late in the colonization process and in such a superficial manner that they could not have taken normative and institutional roots and become sufficiently internalized by their purported subjects, whether the ruling elites or the general public.

Due to the nature and dynamics of the colonial and post-colonial state formation in Africa, Africans came to be subjects, not citizens of their own states. As poor copies of European models, post-colonial African states are unable to compete in a system of empirical sovereignty, to become equal sovereigns without real equality with other states in economic, political, security, and other terms. They are expected to be equal sovereigns on European terms while lacking the human and material resources to maintain the necessary level of independent economic development, operate the institutions of government and administration of justice, exercise effective control over their own territories and defense against external aggression. Despite all these and other difficulties of realizing legitimate and effective sovereignty, African states are expected to somehow successfully implement Euro-centric notions of sovereignty at a time when these notions are being challenged on their own terms, as explained below. Yet, African societies and their states are not free to opt out of this highly problematic course of development. Being part of the world, and connected with other regions and countries by an increasingly dense network of economic, trade, political, security, and other arrangements, Africans must somehow continue to work with the rest of the world, while struggling to as much as possible adjust the terms and dynamics of that interaction in their favor.

Therefore, in developing my argument along these lines, I do not wish to imply a dichotomy between so-called internal African conceptions and dynamics, on the one hand, and "foreign" external ones, on the other. The African perspective I seek to bring to this subject is a product of a complex dialectical process of self-definition interacting with definition by others, in a context shaped by indigenous factors and forces as impacted upon by external influences and pressures. And there is no point in time or place when or where either the self or its context are wholly internal and local or completely determined by or free from the other.[22] Not only have various parts of Africa

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[22] As Mikhail Bakhtin said: "To be means to communicate… To be means to be for another, and through the other for oneself. A person has no sovereign internal territory, he is wholly and always on the boundary; looking inside himself, he looks into the eyes of another or with the eyes of the other." "Toward a Reworking of the Dostoevsky Book," in *Problems of Dostoevsky's Poetics*, 1963 edition, edited and translated by Caryle Emerson (Minneapolis: University of Minnesota Press, 1984) Appendix 2, pp. 283–302. The same is true of communities, I suggest, to the extent that one can speak of collective

been molded to varying degrees by their recent colonial experience, but African efforts to retrieve pre-colonial self definition are necessarily colored by colonial, post-colonial, and other encounters with external influences. Even in defiant rejection, Africans are responding to concepts, institutions, relationship, and processes partly defined, initiated or controlled by external factors and forces. It would therefore be misleading to either speak of an internal or external perspective in exclusive categorical terms, discount the distinction completely, or fail to appreciate the nature and dynamics of interaction and mutual influence between the two.

Consequently, although I am advocating the promotion of an African sense of sovereignty and accountability to indigenous conceptions of human dignity and rights, I do not expect the ultimate outcome to be radically different from prevailing conceptions and mechanisms. It is true, as discussed below, there are some tensions between aspects of certain traditional African conceptions of human dignity and rights, on the one hand, and current formulations of international human rights norms and the conception of dignity on which they are premised, on the other hand. Nevertheless, I believe that a process of internal discourse within African communities, and cross-cultural dialogue among them, and between them and other societies in the world, will produce increasing consensus on international human rights standards in relation to human dignity.[23]

This belief is founded on the knowledge that all cultures evolve and adapt in response to the demands of realizing their objectives in promoting and protecting human life, dignity, and freedom within their respective communities under changing local and global circumstances. African cultures are in fact evolving and adapting to fast changing economic, political, security, and other conditions and dynamics of the modern state in regional and global contexts. Granted that consensus over sovereign accountability to standards of human dignity and rights is unlikely to emerge immediately, or be total in its scope and operation. But the proposed process of consensus building is not only integral to the moral and political rationale of human dignity and rights as a matter of principle, but also necessary for the practical implementation of the norms and operation of the institutions of sovereign accountability to standards of human dignity and rights in practice. What is the current state of global consensus regarding these key concepts, to what extent is it changing, and in which direction?

II. THE RENEGOTIATION OF SOVEREIGNTY

As commonly understood today, sovereignty signifies the state's claim to exclusive control over its territory and people, subject to its jurisdiction, including the monopoly of the competence and capacity to set and implement policy, enact and enforce laws, permit or prohibit activities by any type of actors, whether internal or external.[24] At the domestic level, this exclusive claim is founded on the state's constitutional order,[25] as recognized and acted upon by other states and actors at the international level. Sovereignty is therefore established and regulated by international as well as national or domestic law. But these two "foundational sources" of sovereignty are not only interdependent and mutually reinforcing, but the distinction between the domestic and international is becoming increasingly blurred in ways that call for the reformulation of this conception of sovereignty. To place such renegotiation and reformulation in context, it may be useful to reflect on the current status of the European understanding of sovereignty as the dominant paradigm that is being challenged on its own terms.[26]

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self definition or identity, since it is individual members of community who experience and articulate consciousness of self identity in relation to the "collective other."

[23] On this process and its possible implications see, generally, Abdullahi A. An-Na'im and Francis M. Deng, editors, *Human Rights in Africa: Cross-Cultural Perspectives* (Washington DC: The Brookings Institution, 1990).

[24] See generally F.H. Hinsley, *Sovereignty* (New York: Cambridge University Press, 1986).

[25] To speak of a state's constitutional order does not mean that it has a written constitution, or assumes a certain quality of conformity with the principles of modern constitutionalism and protection of fundamental rights. In this functional minimal sense, every state has a constitutional order at any given point in time, though judgment can be reserved about its legitimacy and efficacy.

[26] See, for example, Joseph Camilleri and Jim Falk, *The End of Sovereignty?: The Politics of a Shrinking and Fragmenting World* (Brookfield, VT: Ashgate Publishing Company, 1992): 48–53, 62–3.

Sovereignty in a Post-modernist World[27]

This European conception of sovereignty is premised on a view of the world "in which nation-states are the principle actors, the principle centers of power, and the principles objects of interest."[28] It is also "part of a more general discourse of power whose function is not only to describe political and economic arrangements but to explain and justify them as if they belonged to the natural order of things…. It is integral to the structure of Western thought with its stress on 'dichotomies and polarities,' and to a geopolitical discourse in which territory is sharply demarcated and exclusively controlled."[29]

Over time, however, the invention of the sovereign state in this sense, as a product of human expediency and practice, came to be reified and deified, whether in viewing a monarchy as sanctified by god or in the "secular deification" of a republic as conceived by the framers of the American constitution.[30] "Given the far-reaching transformation of the social and political landscape we have witnessed this century, and especially these past several decades," it has been suggested, "there is a pressing need to rethink the concept and practice of sovereignty."[31] That may not be easily done, however, not only because of the vested interest of those who are in control of the apparatus of the state seeking to retain exclusive control over its power and resources, but also due to the nature and assumptions of the state-centric international law and relations on which they operate. But calls are mounting for reconsideration of this traditional European conception of sovereignty in relation to international law, to address the push and pull of contradictory tendencies to centralization and decentralization, movements to autonomy for national units and ethnic groups, and calls for greater popular control over national sovereignty.[32]

Traditional international law itself signifies limitations on sovereignty in that it creates obligations on the state, at least toward other states; and by virtue of membership in international organizations which are created by states precisely because they recognize that there are issues which they cannot adequately address independently. To achieve their purpose, these international organizations operate in ways that intrude upon sovereignty: "The earlier principle of unanimity voting in the League of Nations became decision-making by majority in the UN, which means that sovereign states can be bound against their will by the votes of other states. The veto power of the permanent members of the Security Council vitiates the sovereignty of all other members because by definition, one state cannot be 'more' sovereign than another."[33] Yet, as highlighted in relation to post-colonial African states below, rapid decolonization has led to the creation of Third World states that are hyper sensitive to violations of their domestic jurisdiction without being capable of maintaining their own sovereignty against internal challenge or external threat.

A number of processes and actors are now challenging state power and authority, both within and across its borders. States are "becoming enmeshed in a network of interdependencies and regulatory/collaborative arrangements from which exist is generally not a feasible option."[34] Some of the communication, economic, and environmental issues and concerns that bring states in collaborations which compromise their sovereignty may also go beyond states' ability to respond even collectively. Governments benefit from recent technological developments

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[27] Postmodernism indicates a realization that the reality we experience is socially constructed; a repudiation of the Enlightenment faith in the ability of science and reason to comprehend some objective reality. It "denies the capacity of language, mind, or spirit to establish standards in an objective manner." Richard Falk, *Explorations at the End of Time* (Philadelphia: Temple University Press, 1992), p. 5. A Post-modernist perspective is suspicious of metanarratives, broad interpretations which claim to describe truth and reality or tend to marginalize other perspectives. I welcome this trend for its potential of inclusion of non-Western perspectives, and rejection of claims of conceptual hegemony by Eurocentric metanarratives.

[28] *Ibid.*, p. 2

[29] *Ibid.*, p. 11.

[30] Walter Truett Anderson, *Reality Isn't What It Used to Be* (San Francisco: Harper San Francisco, 1990), p. 39.

[31] Camilleri and Falk, *The End of Sovereignty*, p. 11.

[32] See, generally, Pauline Rosenau, *Postmodernism and the Social Sciences: Insights, Inroads, and Intrusions* (Princeton University Press, 1992); and Anthony Gidden, *The Consequences of Modernity* (Stanford University Press, 1990).

[33] Thomas G. Weiss and Jarat Chopra, "Sovereignty Under Sedge: From Intervention to Humanitarian Space," paper presented at the Conference on National Sovereignty and Collective Intervention, Dartmouth College, May 18–20, 1992, p. 18.

[34] Mark W. Zacher, "The Decaying Pillars of the Westphalian Temple: Implications for International Order and Governance," in James N. Rosenau and Ernst-Otto Czempiel, eds. *Governance Without Government* (Cambridge University Press, 1992), p. 60.

in keeping a closer watch on their citizens, but the combination of computer and communications technologies has allowed citizens and corporations to evade governmental control in a number of important ways. The globalization and de-territorialization of production, made possible by global telecommunications and changes in transportation and production technologies, is allowing transnational corporation to supersede the traditional national political jurisdiction. Governments are also losing control over their own currencies to traders whose decisions to buy and sell are based on their independent assessment of governments' financial decisions and economic policies and activities which are now instantaneously accessible to global market actors. Although global trade and speculation in national and foreign currencies can result in serious economic and political consequences for the states and their populations, there is little that governments can do about it, especially those in Africa and other Third World countries, which are most vulnerable to such pressures.[35]

Another area exposing the inadequacy of traditional notions of state sovereignty is the environment. Phenomena like the dramatic cross border effects of the Chernobyl disaster, ozone depletion, and global warming clearly illustrate both the permeability of state borders as well as its complete inability, as an autonomous sovereign entity, to deal with direct threats to its territory and population.[36] Moreover, a variety of increasingly powerful national and international non-governmental actors are challenging the sovereignty of states through their independent campaigns over environmental issues.

Social movements and calls for self-determination in various senses and degrees threaten sovereignty from within its borders. These social movements "are in process of redefining the meaning and boundaries of civil society … reaffirming the priority of civil society over the state, of popular sovereignty over state sovereignty."[37] Given recent trends of mounting tension in the context of tremendous ethnic diversity and diminishing ability of existing states to respond to rising demands for self-determination, more disintegration and weakening of state sovereignty should be expected.[38]

In one sense, these trends may be seen as merely an increase in states, as oppressed people seek the same sort of sovereignty under which they were oppressed within previously reified borders, and the further triumph of the sovereign state over other forms of political organization. But this may be so because these people have no realistic alternative to this concept of sovereignty. Moreover, these trends and the factors contributing to them should also be seen as a reflection of the push and pull of globalizing and localizing trends. The tension between economic and technological integration is decreasing the importance of borders, while calls for self determination seek to break traditional state borders through secession/independence, or to limit the exclusive control of the state within existing borders in favor of some type or degrees of autonomy and devolution of power.

SOVEREIGNTY IN POST-COLONIAL AFRICA

Paradoxically, although these trends in diminishing the traditional sovereignty of the state are likely to impact more strongly on the weaker and less developed states of the Third World, the so-called sovereignty of those states is being sustained by models of national politics and international relations which evolved under a very different European context. As argued by Jackson and Rosberg, this state of affairs has been extremely detrimental in post-colonial Africa in particular.[39] Although many African states are internally deficient and externally weak, their sovereignty is guaranteed by the world community of states in ways that stand in sharp contrast to the

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[35] Walter B. Wriston, *The Twilight of Sovereignty: How the Information Revolution Is Transforming Our World* (New York: Charles Scribner's Sons, 1992), pp. 8–9.

[36] Jessica Tuchman Mathews, "Redefining Security," *Foreign Affairs*, vol. 68 (Spring 1989), p. 168.

[37] Joseph Camilleri, "Rethinking Sovereignty in a Shrinking, Fragmented World," in R.B.J. Walker and Saul Mendlovitz, editors., *Contending Sovereignties: Redefining Political Community* (Boulder, CO: L. Rienner Publishers, 1990), p. 35–36. As to the effect of recent trends in ethnonationalism and self determination, consider the fact that 197 country delegations participated in the 1996 Summer Olympics in Atlanta, GA, compared to 172 four years earlier.

[38] In addition to this expanding number of states, there are around 800 "effective nationalism" and some 8000 "potential nationalism," which correspond to an estimated 8000 languages around the world. Ernest Gellner, *Nations and Nationalism* (Cornell University Press, 1983), pp. 44–45. This recent trend stands in sharp contrast to the dramatic decrease in the number of European states during the formative era of modern sovereign statehood, as indicated in footnote 23 below.

[39] Robert H. Jackson and Carl G. Rosberg, "Sovereignty and Underdevelopment: Juridical Statehood in the African Crisis," *The Journal of Modern African Studies*, vol. 24 (1986), pp. 1–31.

"classical historical pattern [of Europe] in which external recognition is based on empirical statehood, usually achieved in alliance with other states under strenuous conditions of international rivalry."[40] Thus, the modern states of Europe, and their successors elsewhere, were built with the use of force under strong pressures of disintegration—both domestic and international.[41]

The international law that emerged, which was created by statesmen who respected it only to the extent that it was to their countries' mutual advantage, and contemplated the balance of power but was never a substitute for it, came to embody Euro-centric concepts of sovereignty and standards of civility as conditions for the recognition of states. Non-European parts of the world which failed to qualify for full members, including virtually all of Africa, became vulnerable to European colonization and its consequences.

African states are direct successors of the European colonies that were alien entities to most of Africa. Their legitimacy derived not from internal African consent, but from international agreements—primarily among European states—beginning with the Berlin Conference of 1884–85. Their borders were usually defined not by African political facts or geography, but rather by international rules of continental partition and occupation established for that purpose. Their governments were organized according to European colonial theory and practice (tempered by expediency), and were staffed almost entirely by Europeans at decision-making levels. Their economies were managed with imperial and/or local colonial considerations primarily in mind. Their laws and policies reflected the interests and values of European imperial power, and these usually included strategic military uses, economic advantage, Christianization, European settlement, and so forth. Although the populations of the colonies were overwhelmingly African, the vast majority of the inhabitants had little or no constitutional standing in them."[42] The fact that African peoples were colonized until they were eventfully granted independence under the same system are now supposed to participate in as "equal sovereign" states is what I called earlier the basic paradox of sovereignty in Africa today. African people had little control even in the timing and dynamics of the process of decolonization that is supposed to have "restored" their sovereignty.

As a result of shifts in the dynamics of European domestic politics and international relations after the end of the Second World War, most African states were formed by a largely uncoerced transfer of negative sovereignty where juridical statehood ensures general legitimacy and freedom from acts and threats of foreign intervention. This came about in sharp contrast to the European tradition in which the modern conception of sovereignty was based on demonstrable capacity, or positive fact of empirical sovereignty, the capacity of states for self-government and ability to enforce their territorial jurisdiction. In the formative European context of sovereignty, a state was a credible entity that existed as such, whether recognized or not, and whose inescapableness required recognition sooner or later. Classical international law was the child not the parent of states in Europe, but in post-colonial Africa, the international law of decolonization and juridical statehood became the parent of many states, which acquired sovereignty before they were necessarily sovereign in positive, inescapable reality.[43]

However, the preservation of juridical statehood and territorial integrity, also protected by the Organization of African Unity established in 1963, does not mean that African countries are free from serious political conflict, such as Tanzania's invasion of Uganda to overthrow Amin in 1978–79, Morocco's forcible occupation of large areas of Western Sahara since 1976, wars between Ethiopia and Somalia, civil wars in Biafra, Nigeria, and Southern Sudan. "However, though rebels can carve out territories under their *de facto* control, this is not enough by itself for sovereignty to be exercised by them under normative international law. They must first be recognized and neither the O.A.U./U.N. nor the major world powers will do this, unless the rebels have received the prior recognition of the sovereign governments(s) being challenged."[44] The O.A.U. rules have been observed by African leaders in large part *because* of the weakness of African states. Lacking solid foundations of empirical statehood, and presiding

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[40] *Ibid.*, p. 2

[41] *Ibid.*, p. 4. Under those competitive conditions, the number of states decreased from over 200 in 1648 to less than 50 in 1900.

[42] *Ibid.*, pp. 5–6.

[43] *Ibid.*, p. 26.

[44] *Ibid.*, p. 11. Eritrea, the only successful case of secession/independence from an African state confirms this general rule, since it came about with the consent of the new regime in Ethiopia, as the "sovereign government being challenged," after the collapse of the Mengistu regime in 1991.

over multi-ethnic countries that offer many incentives and opportunities for subversion and annexation, African rulers are obliged to co-operate with one another out of a sense of mutual vulnerability and shared interests.[45]

Jackson and Rosberg were apparently primarily concerned with the ability of post-colonial African states to exercise effective control over their territory and demonstrate the capacity and competence to develop their countries in a competitive world. Although they do express concern with the protection of human rights,[46] that seems to be incidental to their critique of the moral-legal foundation of the collaborate states-system, and the vast new supporting international infra-structure that has been created to maintain extremely marginal states which survive primarily on juridical statehood with little internal substance and credibility. This super-structure, they argue, is a necessary component of a global society of states which is premised on the legal equality of members, but which must accommodate enormous socio-economic inequality among them. They conclude that juridical statehood is maintained in Tropical Africa to preserve ex-colonial jurisdictions regardless of potential for development.[47] While it is difficult to dispute many of the points made by Jackson and Rosberg, their analysis can be problematic in so far as it seems to favor exclusive sovereign power and a positivist view of international law which may make it harder to conceive of accountability to the sort of normative standards envisaged by the present project.[48]

Nevertheless, certain features of colonial rule and post-colonial African state formation that are significant for the subject of this article can be highlighted from some of the points made by Jackson and Rosberg.[49]

a.   The minimal colonial administration by a remarkably thin layer of European decision-makers assisted by a few educated local elites and traditional rulers, employing divide and rule tactics, came to be accepted as the "natural" order of things by Africans populations. The exercise of sovereignty was therefore seen as necessarily requiring authoritarian power structures and relations, and elitist politics, rather than popular participation in governance and the defusion of authority and powers.

b.   The fact that territorial defense was a function of *Pax Europe* among imperial powers since the conference of Berlin, and supported by *Pax African* of the O.A.U. since 1963, contributed to perceptions of state security as directing military forces inward at African populations as protection against rebellion or riot. National security came to mean the security of the regime in power, with no possibility whatsoever of transparency, and political or legal accountability in the operation of security forces.

c.   As independence came suddenly without preparation in most cases,[50] the emerging African states had little capacity and competence to cope with the responsibilities of the sovereignty that was thrust on them on short notice. Lacking the strength and genuine competence to govern effectively and humanely, post-colonial governments tended to compensate by using oppressive and authoritarian methods, a "natural" continuation of the colonial state and its administrative "traditions."

d.   The new African states were defined by political boundaries originally determined by European imperialists, whose territorial claims were made in relation to one another without regard to traditional

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[45] Robert H. Jackson and Carl G. Rosberg, "Pax African and Its Problems," in Richard E. Bissell and M.S. Radu, eds., *Africa in the Post-Decolonization Ear* (New Brunswick, NJ: Transaction Books, 1984), p. 176.

[46] For example, they criticize juridical statehood for guaranteeing the rights of sovereign rulers, whomever they may be, against foreign intervention, regardless of their internal governing actions or omissions. "In more than a few countries, sovereign rights have been purchased at the expense of human rights." Jackson and Rosberg, "Sovereignty and Underdevelopment," p. 27.

[47] "Few if any compelling international pressures on governments to engage in state building - to unite voluntarily to create more promising jurisdictions, to poor scare resources, to rationalize and economize governing practices - in order to avoid losing juridical statehood. On the contrary, in so far as it will not cost them their sovereignty and the significant privileges and prerequites which go with it, they are at liberty to neglect development." *ibid.*, p. 28.

[48] My objection to their analysis include their uncritical view of external aid, and the implication that [Western] donors could (should) control national decision-making in at least some African countries. *ibid.*, pp. 24–25. This view apparently contradicts the general thrust of their argument in favor of empirical sovereignty for African states.

[49] *Ibid.*, pp. 12–18.

[50] According to the 1960 United Nations Declaration on the Granting of Independence to Colonial Countries and Peoples "Inadequacy of political, economic, social or educational preparation should never serve as a pretext for delaying independence." What this meant in practice was that "by the late 1950s, under increasing international moral and political pressures, the juridical right of self-determination has been separated from the empirical capacity for self-government in deconlisation.... Nominal sovereignty and normative international law replaced substantive sovereignty and positive international law in the relations between states." *ibid.,* p. 9.

African rulers or their peoples. This state of affairs was hardly conducive to the development of a strong sense of political community ("nation") among the diverse populations united by external force.

e. The political parties established by African leaders in their struggle for independence were often an expedient for gaining independence and control of the new state, which failed to provide indigenous structures or gain the deeply rooted loyalties of Africans. For decades after independence, the majority of ruling parties remained auxiliary institutions of personal power rather than authentic organizations of public opinion or expressions of popular sovereignty.

Since the empirical state was usually less extensive than its territorial jurisdiction, African elites tended to focus on controlling the government apparatus and patronage system, and to strive to retain the support of key ethnic leaders, instead of seeking genuine legitimacy and accountability to the population at large. Ironically, those short-sighted political strategies in fact facilitated the loss of power by the independence leaders of most African countries to military usurpers who succeeded in controlling the government, and the rest of the country, by simply physically holding a few officials and key government installations in the capital. Once they were in "effective control of the government," military usurpers gained automatic recognition by "the international community" in almost every single case. In this way, both the domestic and international sources of sovereignty in post-colonial Africa tend to be exclusively concerned with sovereignty of the government, not of the people.

Most significant in relation to issues of accountability to normative and institutional frameworks is the failure of independence constitutions and the general weakness of the principle of constitutionalism itself in most African states. Although the reasons for this are complex and vary from one country to another, part of the expla-nation is that those constitutions were alien frameworks that had little meaning for most Africans and were usually established too late in the colonial period to become a familiar part of the political landscape after the Second World War. "African rulers who accepted them in order to gain independence were not necessarily prepared to stick by them at the risk of losing power afterwards."[51] Regardless of their own legitimacy and accountability under the con-stitutions of their respective countries, those elites managed to retain power and enjoy all the benefits of sovereignty, and so did the military usurpers who took over from them, thereby emphasizing to all, elite and the general popu-lation alike, that any form or degree of accountability is immaterial to the attainment and exercise of absolute political power.

CONTEXT, ACTORS AND PROCESS OF RENEGOTIATION

The above analysis of the theory sovereignty and realities of its exercise in the modern world strongly suggest, in my view, the problematic nature and consequences of Eurocentric sovereignty for a variety of reasons, especially in relation to the post-colonial African state. Throughout the world, sovereignty is being chal-lenged and diminished by a wide variety of trends and forces, which are widening the discrepancy between its theory and practice. Given the additional problems that accompanied the transplantation of this traditional Eurocentric conception of sovereignty into Africa, and continuing difficulties of operating it on the continent since independence, the present crisis should present a special opportunity for Africans to participate in the renego-tiation and reformulation of the concept, its institutions and practice, to better suit their own circumstances. To assess whether the product of this process is likely to be much different, from what prevails now, and to what extent will it be responsive to African perspectives, one needs to consider the nature of the participants, and their power relations, the context and process in light of some criteria for evaluating the outcome.

To begin with the criteria, the validity and legitimacy of a state's claim to sovereignty should be evaluated in accordance with its own rational justification as a human institution, *whatever that may be*. That is, since sovereignty is supposed to achieve certain objectives of public policy or protect certain interests of the state and its population, its conception and operation at any given point in time should be judged by its ability to fulfill those expectations. To the extent that, as indicated above, the realities of national politics and practice, international relations, global economic, political and security trends, and so forth, are such that the traditional conception of sovereignty can no longer mean what it is claimed to be, or to achieve what it is purported to do, then the concept should be modified and adjusted to better serve the objectives of public policy and protection of the interests as it is supposed to do.

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[51] *Ibid.*, p. 16.

Granted that human dignity and rights as such are unlikely to be the sole justification of sovereignty, past, present or future, those who exercise sovereign powers always assert the human dignity and rights of the population to be their central concern and the fundamental foundation of the legitimacy of their claims to the allegiance of that population and demands for compliance with the laws and directives of the state. Such assertions must never be taken at face value, of course, but they should at least dispense with the need to "make a case" for the inclusion of human dignity and rights in the rationale of sovereignty anywhere in the world today. What is at issue is the extent to which the rhetoric of justification is consistent with the realities of the operation of sovereignty, and how to promote and sustain such compliance in practice.

One of the obvious difficulties of achieving this, however, is the fact that those in control of the apparatus of the state everywhere are the same actors whose compliance is at issue. That is, they are judges in their own cause with respect to both the internal and external dimensions of sovereignty. The best way to break this monopoly, and open the practice of ruling elites to scrutiny and accountability is to conceptually and institutionally link the operation of sovereignty to its asserted or admitted rational justification, including the achievement and sustenance of human dignity and rights. This is an aspect of what I call, "imagining the unimaginable," that is, to conceive of a theory and practice of sovereignty by which ruling elites become accountable in institutional and practical terms. I will return to this theme in the last part of this article, and attempt to conclude with some concrete proposals and strategies for achieving sovereign accountability to human dignity and rights.

The point I wish to emphasize here is that since the conception and operation of sovereignty are currently being modified and adjusted, that process should include reflection on ways to effectuate the promotion and protection of the human dignity and rights of the population in question. Moreover, the scope and manner of such modification and adjustment should be conditioned by the fundamental justification of sovereignty as a political, social, and legal institution operating in the particular context in which it is supposed to achieve its desired objectives, rather than be limited by preconceived notions of what it ought to be or supposed to do. This "self-determination" dimension of sovereignty should neither be a once and for all "event" nor accepted as a foregone conclusion.

Granted that international relations presuppose an agreed understanding of sovereignty and its practical implications, it would be a contradiction in terms to deny a purported sovereign a meaningful possibility of negotiating with other sovereigns over what the concept entails. But since sovereignty will always be exercised by a few ruling elites on behalf of the population at large, the proposed renegotiation of sovereignty, as well as the consequent modification and adjustment of its operation, will be implemented through this agency. However, a sovereign does not exhaust its capacity to act for itself by exercising it once, or subsequently lose that capacity to the agents its appoints to execute its independent will. If sovereignty is conceptually and institutionally held by the population at large, as I argue in the last section, then the people should always have the means of checking its exercise on their behalf by ruling elites, whether internally or externally in international relations. There is, however, a further contextual difficulty in relation to Africa.

As indicated earlier, the basic paradox of sovereignty in Africa today, whether at domestic constitutional or international law and relations levels, is that African states and societies are supposed to operate on concepts and principles that are the product of modern European history since the Peace of Westphalia ending the Thirty Years War in 1648, regardless of the historical experience and local context of African peoples and their conception of sovereignty and its limitations or safeguards. Some of the concrete negative features of the colonial and post-colonial state in Africa have also been highlighted above. Thus, the "sovereignty" of modern African states has not yet been fully consistent with its purported nature and rationale, whether in its origins, development or operation. This state of affairs must be rectified in order to strengthen the indigenous legitimacy and accountability of the sovereignty of the modern African state.

If a normative and institutional framework for accountability to standards of human dignity and rights is to be part of this re-conceptualization of sovereignty, it might be useful at this stage to reflect on how to identify, articulate, and implement those standards in the present African context. Whereas ruling elites will not openly deny that sovereignty should be accountable to the human dignity and rights of the population, they will probably seek to manipulate every pretext available to them in order to avoid the consequences of such accountability. To what extent can the concepts of human dignity and rights lend themselves to being manipulated in this way, and how to minimize this risk?

III HUMAN DIGNITY AND RIGHTS IN THE AFRICAN CONTEXT

If sovereignty is to be accountable to standards of human dignity and rights as integral to its rational justification, these concepts must be capable of operating as coherent and categorical standards of accountability. However, while human dignity and rights usually overlap and reinforce each other, some notions of the former can be perceived to be in conflict with normative implications of the latter. To the extent that this is true in a given society at any point in time, these two concepts would not readily provide the coherent and categorical standards by which sovereignty is to be held accountable. Indeed, it is conceivable that differing understandings of these two concepts may yield contradictory standards of accountability. For example, one understanding might postulate group solidarity and gender, religious or ethnic differentiation as expressions of human dignity, while the other emphasizes equality and non-discrimination on such grounds as human rights principles.

In my view, however, such tensions and conflicts can and must be mediated with a view to mobilizing the moral and political force of both human dignity and rights toward protecting the vital interests of individuals and communities. While striving to maintain, promote, and effectuate the international human rights system and movement,[52] *an additional* paradigm should be deployed to address the combined concerns of human dignity and human rights. This effort should neither confuse human dignity with human rights, if the two are perceived to be in conflict, nor undermine or weaken the existing normative and institutional strength of human rights.

The term "human dignity," in one form or another, appears in a variety of international instruments and national constitutions,[53] without authoritative definition or elaboration. While this is to be expected in such documents, there is also little explanation of the term by way of jurisprudential and scholarly exposition, probably because its meaning is assumed to be self-evident or it has not been the subject of judicial deliberation as such. According to Oscar Schachter, the "intrinsic meaning [of human dignity] has been left to intuitive understanding, conditioned in large measure by cultural factors. When it has been invoked in concrete situations, it has been generally assumed that a violation of human dignity can be recognized even if the abstract term cannot be defined."[54] Looking for lexical guidance, one finds that the word dignity in this general context means "intrinsic worth." To him, it follows from this that to respect a person's human dignity is to treat her with proper regard for or due recognition of her intrinsic human worth, as an end, not as a means, that individuals are not to be perceived or treated merely as instruments or objects of the will of others.[55]

This line of thinking leads Schachter to interpreting human dignity in political and psychological terms that uphold the main assumptions of a wide range of internationally recognized human rights—economic, social, and cultural as well as civil and political—while acknowledging a collective dimension to individual autonomy and choice. "The idea of human dignity involves a complex notion of the individual. It includes recognition of a distinct personal identity, reflecting individual autonomy and responsibility. It also embraces a recognition that the individual self is a part of larger collectivities and that they, too, must be considered in the meaning of the inherent dignity of the person."[56] Yet he conceded that the derivation of human rights from human dignity is "neither truistic nor neutral.

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[52] By the international human rights system I mean the complex and dynamic set of norms, institutions, mechanisms, and processes concerned with the promotion and protection of human rights at the inter-governmental level through the United Nations and regional organizations. Human rights movement refers to the wide variety of non-governmental organizations, groups, and individual activists and scholars concerned with the protection and promotion of internationally recognized human rights. The objectives and operation of the system and movement clearly overlap and interact, and are increasingly becoming interdependent, but it is useful to maintain the distinction between the two.

[53] See, for example, the ILO Declaration of Philadelphia, May 10, 1944; second clause in the Preamble of the Charter of the United Nations, 1945; Rule 60 of the UN Standards Minimum Rules for the Treatment of Prisoners, 1955; Article 1 of the Universal Declaration of Human Rights, 1948; Article 10 of the International Covenant on Civil and Political Rights and Article 13 of the International Covenant on Economic, Social and Cultural Rights, both of 1966; the UN Declaration on the Use of Scientific and Technological Progress in the Interests of Peace and for the Benefit of Mankind. It is also found in a growing number of national constitutions. Article 1 of the German Federal Constitution of 1949 is probably a pioneer in this regard, but several recent African constitutions have used the term.

[54] Oscar Schachter, "Editorial Comment: Human Dignity as a Normative Concept," *American Journal of International Law*, vol. 77, no. 4 (1983), p. 849.

[55] *Ibid.*

[56] *Ibid.*, pp. 851–52.

It has two corollaries that challenge conceptions prevalent in some societies and ideologies. The first corollary is the idea that basic rights are not given by authority and therefore may not be taken away; the second is that they are rights of the person, every person."[57] Of particular importance to the mediation I am suggesting here is his conclusion:

> Respect for human dignity may be realized in other ways than by asserting claims of rights. In many cases, the application of a 'rights approach' to affronts to dignity would raise questions involving existing basic rights such as free speech. In other cases, respect for dignity may be more appropriately and effectively attained through social processes such as education, material benefits, political leadership and the like …. Simply making people aware of language and acts that would be considered disrespectful of the worth of others could have a beneficial effect. Steps may be taken to foster better understanding by those in power and in the information media of the sensitivities of persons and groups to slurs and belittling comments. Informal channels for dealing with alleged affronts to dignity might be more suitable and effective than litigation in many cases.[58]

In contrast to this understanding of human dignity which is clearly designed to reconcile it with liberal conception of human rights embodied in the Universal Declaration of Human Rights, 1948, and elaborated in subsequent international and regional instruments and national constitutions that follow that model, other conceptions of human dignity, and its implications, might be quite different while still perceiving themselves as treating others with "proper" regard or "due" consideration, as people and societies vary in their understanding of what is proper or appropriate in treating persons of different race, gender, religion, and so forth. The ultimate meaning of human dignity, in a practical concrete sense, can therefore be quite different, depending on the culture and context as well as the personal and psychological orientation of the person making the determination.

The possibilities of tension and conflict between human dignity and rights are emphasized by Rhoda Howard. She argues that whereas human dignity often entails some form or type of stratification and is usually conditional upon membership, status or fulfillment of obligations, and so forth, human rights are due to every human being by virtue of the person's humanity, and without distinction on grounds of gender, race, religion or other status.[59]

Since there are great variations in conceptions and implications of justice among different societies, reflecting fundamental conflicts in world views, to confuse all world views of morality and justice with the human rights world view is to erode the meaning of the latter. "The principle of human rights represents one particular way of looking at morality, justice, and human dignity … Human Rights, in fact, imply a particular form of relation of the individual to society and the state that differs from what most cultures mean by human dignity."[60] In her view, human rights are inherent, individual, and autonomously exercised, "unmediated by social relations … They are not merely a set of values expressed in religious or secular culture but also a set of rights that the law, government, and all other social institutions are organized to defend."[61]

In contrast, Howard explains, the social order of many cultures stratifies individuals (and groups, I would add) in ways that enhance dignity for some categories of people but leave other categories dishonored, without dignity or respect, some deserve honor, others do not. "Such different conceptions of human dignity are rooted in particular understandings of the inner moral worth of the human person [or group] and his proper relations with society … Most cultures give precedence to the community or the collectivity over the individual … and individual desires are considered to be illegitimate claims upon the group … Most people's claims, privileges, powers, and obligations (not human 'rights') are dependent on their social status, reflected in ascribed social roles."[62]

In this light, she criticizes the Preamble to the Universal Declaration of Human Rights (and presumably subsequent instruments premised on its assumptions) for obscuring the fact that the principle of human rights represents one particular way of looking at morality, justice, and human dignity by implying that human rights and human

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[57] *Ibid.*, p. 853.
[58] *Ibid.*, pp. 853–54.
[59] Rhoda E. Howard, *Human Rights and the Search for Community* (Boulder, CO: Westview Press, 1995), chapter 4.
[60] *Ibid.*, p. 79.
[61] *Ibid.*, p. 80.
[62] *Ibid.*, citing Orlando Patterson, *Slavery and Social Death, A Comparative Study* (Cambridge, MA: Harvard University Press, 1982), p. 63.

dignity are, if not synonymous, then at least very closely linked.[63] While her points about conditionality of rights in some cultures on membership in groups, gender, and other social stratefication, and/or fulfillment of duties, are well taken, I can see two types of objections to her line of thinking and its implications.

First, her characterization of human rights as a culturally-neutral "given" is misleading since these rights, as presently expressed in international instruments, have actually evolved out of political struggles and intellectual developments within specific cultural contexts. That is, it is not as if human dignity is culturally defined while human rights are culturally neutral. If the cultural foundation of conceptions of human dignity are problematic, so should be those of human rights. Conversely, if there are or can be universal standards of human rights despite the cultural foundation of the concept, the same should be possible regarding human dignity. Moreover, to characterize human rights as an already accomplished non-negotiable "given" is exclusive of non-Western cultures who are thereby offered a choice of either "take or leave" human rights as developed by Western cultures.

Howard's approach, it seems to me, also fails to take into account the conceptual evolution of the human rights idea since 1948, especially from non-Western perspectives that added collective rights, such as the right to self-determination and so-called "solidarity" or third generation rights like a right to development.[64] In its own words, the Universal Declaration was proclaimed as "a common standard of achievement for all peoples and all nations," a normative vision to be struggled for rather than an expression of the reality of human rights in any society in 1948, or even now nearly fifty years later. The struggle for human rights has already achieved some success in integrating different notions of human dignity into a common understanding that is supportive of, rather than antagonistic to, the human rights framework of the Universal Declaration, as clarified and elaborated upon by subsequent instruments and practical developments. Non-Western societies have already made their contributions in this process, and should be expected to play an even more active role in the near future.

Second, as Howard herself emphasizes in rejecting what she calls the African traditionalist school, African societies are changing and adjusting to new, including social-psychological aspects of modernization, especially an increasing trend toward individualism. "Nothing in the present political economy of Africa suggests that a move back to a simpler, more communitarian time is possible …. Human rights are meant to protect individuals - either on their own or in groups - against such abuses as state-induced starvation, deprivation of means of livelihood, or torture. These protections are necessary in any state society."[65] If these transformations require the protection of human rights, the same need exists for human dignity in present day African state societies. It therefore follows that, as happened in the case of human rights, it is necessary now to formulate standards of human dignity in normative terms that "the law, government, and all other social institutions are organized to defend." One may expect these standards and their implementation to be conceptually and institutionally different from those pertaining to human rights, but not with regard to the need for protection and promotion under the same conditions that made such protection for human rights necessary.

In this way, culturally specific formulations of human rights are becoming increasingly accepted by diverse cultures and supported by their respective conceptions of human dignity. The same should be true for human dignity in relation to human rights. Since conceptions and implications of dignity in any culture are neither monolithic nor static, it should be possible to achieve an increasing degree of compatibility with human rights which are, in turn, also open to re-conceptualization and adaptation in response to different contexts and challenges. This does not mean, however, that adjustment and adaptation should always be by transforming communitarian notions of dignity into individual human rights in the liberal sense, though that may well be necessary in some situations. Nor should this process seek to specify in detail how universal standards of human dignity and rights must apply in each society because there will always be need for adaptation and specification of broad formulations of standards to prmote consensus to the concrete circumstances of time and place, cultural perspective, and local priorities of each society.

Emerging modes of such adaptation and specification should, in turn, be evaluated in terms of agreed universal standards of human dignity, and may also give rise to ideas for refining and expanding the standards. For

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[63] *Ibid.*, p. 79. See also p. 82.

[64] As to be expected, however, these "new human rights" raise serious conceptual and practical difficulties for traditional liberal approaches to human rights. On the right to development, for example, see Henry J. Steiner and Philip Alston, editors, *International Human Rights in Context: Law, Politics, Morals* (Oxford: Claredon Press, 1996), pp. 1110–1146.

[65] Howard, *Human Rights and the Search for Community*, pp. 89 and 90.

example, there will probably be a need to negotiate the meaning and implications of human dignity in the context of the relationship between the individual and the community in the particular situation. While clearly concerned about the costs of a rigorous rights approach to the human quality of life, noting some of these costs and wondering whether the price of autonomy and freedom is too high, Howard concludes: "But this is not an inevitable price. Community is possible in modern society. It is a community based on mobility, choice, and voluntary commitment to strangers rather than one based on stasis [status?] and involuntary commitment to family."[66] Surely, there are other conceptions of community, even within the same cultural and intellectual tradition,[67] which may not value these criteria highly enough to make them pre-requisite to the possibility of community. On the other hand, it is clear that Howard's formulation is intended to overcome certain human rights problems associated with community-based conceptions of human dignity. Since this approach may only succeed in facing vulnerable persons with tragic and difficult choices, clearly illustrated by the following case, I believe that it is better to seek imaginative ways of reconciling human dignity and human rights, rather than pitting them in permanent and irreducible opposition to each other.

Shah Bano, an Indian Muslim woman, was divorced by her husband after 43 years of marriage, and received maintenance for only the four months following divorce, known as the *idda* period, as required by *Shari'a* (Islamic Law) personal law which applies to Muslim marriage and divorce in secular India. Under section 125 of the Indian code of Criminal Procedure, however, a man of sufficient means (like the husband in this case who was a prosperous attorney) is obliged to maintain his wife, expressly defined by the Code to include divorced wife, if she is unable to maintain herself. The court of first instance, High Court as well as the Supreme Court of India all upheld the wife's claim to maintenance under this provision against the husband's defense that his obligations to her terminated with the end of the four months *idda* period.[68] The Muslim community of India was divided on the issue, but the more vocal and better organized voices were in opposition to the ruling by Indian courts, claiming to "defend" *Shari'a* against secular law and to uphold the integrity of the community and its right to be governed by its religious personal law. The Government of India retreated in the face of that pressure and amended the law to appease those vocal voices.

But what is significant for our purposes here is that the applicant, Shah Bano, declined to enforce her rights under this "secular" judicial decree. When the human rights activists who championed her cause all the way to the Supreme Court asked her why, she is reported to have replied to the effect that: "I am a woman, but I am a *Muslim* woman."[69] Rather than face her with a choice between her human rights as a woman, and her human dignity as a member of a Muslim community, I urge the mediation process indicated earlier. Instead of insisting on an inherent and permanent dichotomy between conceptions of human dignity and human rights, the issue should be how to build conceptual and institutional bridges between the two. If this sounds inconceivable and difficult to achieve, that was also initially thought of as international human rights.[70] This is part of what I mean by "imagining the unimaginable."

In conclusion to this section, there appear to be two polar positions regarding the role of human dignity and rights in a normative framework for sovereign accountability. One would subject conceptions of human dignity in all social and political life to liberal standards of individual human rights, including economic, social, and cultural rights according to the modified liberal view of scholars like Schachter and Howard as noted above. The other polar position, held by the critics of liberal emphasis on the rights of the individual would uphold traditional or communitarian

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[66] *Ibid.*, p. 104.

[67] Contrast Howard's views with those of her fellow Canadian scholar Michael McDonald, "Should Communities Have Rights? Reflections on Liberal Individualism," in Abdullahi A. An-Na'im, editor, *Human Rights in Cross-cultural Perspective: Quest for Consensus* (Philadelphia: University of Pennsylvania Press, 1992), pp. 133–161.

[68] Mohd. Ahmed Khan v. Shah Bano Begum and others. *All India Reports*, 1985, Supreme Court, p. 945. For comments on the case its human rights implications and the political controversy that followed see Abdullahi A. An-Na'im, "Islam, Islamic Law and the Dilemma of Cultural Legitimacy for Universal Human Rights," in Claude E. Welch Jr. and Virginia A. Leary, editors, *Asian Perspectives on Human Rights* (Boulder, CO: Westview Press, 1990, pp. 43–46; and Barnett R. Rubin, "India," in Jack Donnelly and Rhoda Howard, editors, *International Handbook of Human Rights* (New York: Greenwood Press, 1987), p. 154.

[69] My emphasis. I was told this part of the story by Professor Upendra Baxi, the prominent Indian scholar and human rights activist, who was present at that meeting.

[70] See, for example, the Executive Board of the American Anthropological Association, "Statement on Human Rights," *American Anthropologist*, vol. 49 (1947), p. 539.

conceptions of dignity, even where inconsistent with international human rights standards. An issue that should be addressed by the present project, I suggest, is whether it is possible to sustain the conceptual and institutional integrity and efficacy of international human rights, which include collective as well as individual rights in my view, while striving to articulate and implement a supplementary paradigm for human dignity.

The view I am proposing to mediate between the above-mentioned two polar positions would be necessary for those who want to be able to use *both* of these two positions, rather than have to choose between them. A mediatory position may be worthwhile for those who are committed to a view of human rights that is not confined to liberal notions of individual rights, while refusing to compromise or undermine individual rights as their communitarian critics might want to do. The possibility of mediation may also be attractive to those who see so much value in developing a human dignity paradigm beyond that wholly limited by the scope and conceptualization of individual human rights that they would want to give it more conceptual and institutional strength than the usual operation of informal cultural and social mechanism.

A research agenda for such a project should include, it seems to me, an understanding of dialectics of indigenous notions of human dignity, rights, and sovereign accountability in African cultures, with due regard to the impact of colonialism and the post-colonial conditions of modernity and globalization. The discussion in section I of this article about retrieving the irretrievable may be helpful in this regard. Another possibly useful avenue of inquiry is an examination of the role of competing normative bases of sovereignty in state formation, and in state-civil society relations, since independence. Issues regarding the re-negotiation of sovereignty raised in section II may be relevant to this line of inquiry. In the following final section, I wish to explore how the whole process of articulating standards and implementing mechanisms of sovereign accountability might work in the present context.

IV. REALIZING THE CONDITIONALITY OF SOVEREIGNTY: POLICY AND STRATEGY

As noted at the begining of this article, this project seeks to develop ways of holding governments accountable for their failure to satisfy the requirements of conflict management, political stability, economic growth, and social welfare. The task set for this article is to address conceptual and practical difficulties facing the development of a normative and institutional framework for holding the sovereign accountable to standards of human dignity and rights. But if human dignity and rights are to be bases of sovereign accountability, these concepts must be capable of operating as coherent and categorical standards of accountability. As discussed in section III of the article, however, there can be serious tensions between these two concepts as commonly understood today. Moreover, there are serious structural and practical difficulties facing the process of articulation and legitimation of necessary standards and institutions under currently dominant understandings of sovereignty and international power relations. In relation to Africa in particular, these difficulties are compounded by the consequences of colonialism and the problematic nature of the post-colonial state.

The premise of the model I am proposing here is that both as a matter of principle as well as practical expediency, the desired framework of sovereign accountability must build on the existing relevant norms and institutions of the society in question. However, since there is also an existing international human rights system and movement to which many societies subscribe, and which have already influenced local conceptions of human dignity and rights, these standards and institutions should be included in the promotion of standards and institutions of sovereign accountability. As noted earlier, I propose an additional paradigm to address the combined concerns of human dignity and rights. While the present international human rights system and movement can provide normative guidance and intellectual and activist leadership for the proposed additional paradigm, the two lines of development should not be confused.

Since attempting to articulate specific substantive standards and institutions of sovereign accountability would contradict my thesis in this article, and preempt the process of discourse and dialogue I propose for articulating the necessary standards and establishing appropriate institutions, I will focus here on the practicalities of that process. But, as indicated in the Introduction, the conclusions of the above analysis on which I am basing the proposed process, its policy implications and strategies for realizing its objectives all indicate at least a certain substantive orientation for the standards and mechanisms I envisage for sovereign accountability to human dignity and rights. While hoping that I have made a prima facie case for most of the conclusions and recommendations I am making here, I expect that further research under the auspices of the present project will either substantiate and elaborate, or refute and substitute my analysis and conclusions.

A foundational conclusion I draw from the above analysis (or rather an assumption I am making) is that sovereignty is necessarily conditional upon its underlying rationale. In whatever form that rationale may be articulated in each society, it is safe to assume that it includes safeguarding the human dignity and rights of the population. None of the authoritarian or totalitarian regimes of modern history has ever repudiated or rejected human dignity and rights as a normative basis of its sovereignty. Though there are different views as to where sovereignty resides or is vested (in a monarch, corporate entity like a nation or the people, or in God as claimed by Islamic and other religious fundamentalist groups), it is commonly said to be exercised by its holder or his/its agent for the benefit of the population at large.

A corollary to this conclusion/assumption is that, given this association between sovereignty and human dignity and rights, and in view of the risks and limitations of external intervention to "enforce" sovereign accountability, it is better to give higher priority to promoting local measures and implementation mechanisms. It is hardly consistent with a people's human dignity and rights, even if they are not deemed to be the sovereign as such, for their life and liberty to be protected by others. External intervention may remain necessary in extreme cases, but its credibility and legitimacy are more in its potential possibility than its actual use the will and ability to protect the human dignity and rights of the population is integral to those values themselves. The more outside forces intervene in the affairs of a society in the name of protecting the human dignity and rights of segments of, or groups within, that society, the less likely will that population believe in its individual and collective human dignity and rights.

A relevant issue which I did not expressly address in the above discussion is the question of the economic and material foundation of any concept of human dignity and rights. That is, whatever these concepts mean in any society, their protection and promotion requires material resources. Even so-called "negative" civil and political rights that are said to simply require absence of state encroachment on individual freedom, like freedom of expression and the right to fair trial and due process of law, all require material resources for their protection in daily life. Yet, no society today has complete control over its own economy and unlimited material resources to pursue the protection of the human dignity and rights of its own population. This fundamental reality, and the various phenomena and trends highlighted above which are diminishing the sovereignty of all nation-states of the traditional European model, emphasize the urgent need for cooperation among all societies and states in the international community if the human dignity and rights are to be fully and securely protected anywhere in the world.

The realities of increasing, though unequal, global interdependence and interaction—in economic, political, security, cultural and other spheres—mean that no society can be unaffected by what is happening in other societies, despite great distance or apparent differences in level of development, political stability, and so forth. As can be seen from recent/current events in all parts of the world today (from the Africa and the Middle East to Central and Latin America, Eastern Europe and the former Soviet Union to Central and Southeast Asia), persistent and grave violations of the human dignity and rights are bound to lead to political instability and rebellion, often civil war. Neighboring countries will be affected by the influx of refugees, disruption of food production, transport and trade activities. Whether because of the originally affected country, or the broader ramifications of the conflict, other countries will be affected. In time, serious consequences to the economy and security of major countries in the world will follow from the spread and consequences of a local conflict, however remote or insignificant its location may appear to be.

The issue is therefore how to diminish the need for external intervention, and to regulate it when it happens, rather than how to encourage the outside world to remain concerned and responsive to humanitarian crisis in Africa or other parts of the world. The need for intervention will be diminished by strengthening the internal development and implementation of the standards and institutions of sovereign accountability to human dignity and rights. Though this should primarily be done by the intellectuals and activists of the society itself, it cannot be, and should not be seen as, an isolated process. With due regard to the relevance and legitimacy of internal efforts at building normative and institutional resources for sovereign accountability, external bilateral or multilateral influence should be accepted and coordinated with a view to reinforcing and promoting this internal process, rather than either replacing or weakening it.

Moreover, there should be a dialectic relationship between local and international protection of human dignity and rights. Standards and mechanisms should either emerge from local practical and cultural context, or be incorporated into the popular consciousness of the people concerned and integrated into their daily experience which are, in turn, informed by regional and international debates of the issues, normative implications and institutional arrangements for the protection of human dignity and rights. This is the process of internal discourse and cross-cultural dialogue referred to earlier.

Both dimensions of this interaction between the local and global processes of dialogue and discourse, however, draw on their respective history and record of achievements. While local communities are anchored in their own current experience and recollections of the history of ideas and institutions of accountability of their own culture, the international community has developed a body of principles and jurisprudence around shared commitments to human dignity and rights. Such shared commitments, however, are to broad formulations about the meaning and implications of human dignity which can hide, rather than resolve or permanently overcome, serious differences about these concepts and their application.

In exposing and mediating these differences, the universalist claims of current international standards of human dignity and rights should not be taken to mean that this system is culturally neutral because every normative system must necessarily emerge from a specific cultural context. Acknowledging this fact is important for the credibility and efficacy of discourse and dialogue which should be seen as an effort to promote understanding and consensus among human cultures, rather than an attempt to propagate a culturally-neutral normative system among the cultures of the world.

For any consensus to develop on concrete and specific, yet truly universal, standards of human dignity and rights, there must be the will to mediate in good faith and with mutual respect, our respective culturally-based conceptions in relation to those of others. Concepts like justice and respect are accepted by all human cultures as desirable goals, but that can hardly mean that most human societies, indeed different people and groups within the same society, agree on specific operational definitions of these terms. Yet, normative clarity on the meaning of human dignity and rights is necessary for promoting the institutional capacity to implement the consequences of that meaning.

An issue that illustrates the application of this whole process is whether the concepts of justice and respect that are universally associated with human dignity necessarily entail equality between men and women, people of different race, color or ethnicity, believers and non-believers in a particular religion, adults and young persons in the same way that international human rights norms require equality and non-discrimination. It may not be helpful, and perhaps counterproductive in some situations, to simply proclaim one's personal answer to this question, claiming it to be the universal norm, without regard to the opinion and immediate situation of the oppressed group or persons whose human dignity one is purporting to protect. To fail to act on one's convictions in this regard in the name of respecting the cultural integrity of other societies is to concede the status quo which the oppressed group or persons is by definition unable to challenge and change.

Two arguments, one on each side of the issue, should be noted here. On the one hand, an outside advocate of equality as essential for human dignity can argue that while the precise nature and circumstances under which communal norms and institutions relevant to the relationship between justice, respect, and equality were originally conceived and applied would have probably drastically changed, groups and persons suffering inequality and discrimination are unlikely to have the means of knowing of such change and self-confidence to assert it in challenging the invocation of such norms and institutions under radically transformed conditions. A well-informed and concerned outside observer may be able to perceive such drastic sociological and economic changes in the situation of women or young persons, as a result of the urbanization and economic development of traditional rural societies, for example, that claims that these groups are treated with justice and respect, though still not accepted as equal to adult men, are no longer tenable. That is, assuming that formal or legal equality for these groups was unnecessary in the past because their human dignity was sufficiently safeguarded through a variety of mechanism and social relationships within local communities, that will no longer be the case when those mechanisms and relationships cease to exist under urban conditions.

Nevertheless, the community in question, including oppressed groups, will probably resent the fact that an outside observer is making such a determination on their behalf, telling them what to do with their social norms and institutions. Moreover, even the best intentioned and most determined external advocates are unlikely to have the capacity, resources, and stamina to effect lasting change in a society regarding the issue in question. If such advocates succeed in encouraging oppressed group to rebel, promising or being taken to promise sustained sufficient support for change, only to abandon the cause for one reason or another, their failed beneficiaries will probably feel betrayed and may be "punished" by the oppressor for "siding with the enemy."